

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

Appeal 06/25

And

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

Between

Mr 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
Dated 15 June 2026

Introduction

1. Mr A (**"the Appellant"**), has appealed a decision made by the Chair of the Investigating Committee (**"the CIC"**) of the Registration Authority (**"the RA"**) to refer a complaint made against them by Mr B (**"the Respondent"**), to an Investigating Committee under Rule 57 of the Chartered Professional Engineers Rules 2025 (**"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 the bundle are annotated **"BOD nn"**.
3. The RA is a party to the appeal but may be heard only with the permission of the Council.² The RA was granted leave by the Appeal Panel to be heard and provided submissions in this matter.
4. An online hearing was held on 15 May 2026 with appearances and submissions by the Appellant and the RA. The Respondent did not wish to be heard at the hearing.

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). Under the Act, the Appeal Panel is entitled to:
 - a. confirm, vary or reverse a decision (or part of decision) under appeal (s 37(5)(a)); or
 - 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

¹ For clarity we note that whilst the CIC decision at Bundle of Documents page 89 (BOD89) refers to Regulation 28 of the Engineering New Zealand Complaints Resolution and Disciplinary Regulations 2020, the Regulations are not within the purview of CPEC and relate to the Appellant's membership of Engineering New Zealand. The reference to the abovementioned regulations has no bearing on and is not relevant to this appeal.

² Chartered Professional Engineers of New Zealand (Appeals) Regulations 2002 (**"the Appeals Regulations"**).

- c. may make any decision that could have been made by the decision authority (s 37(5)(c)).
8. The requirements for the appeal process are contained in the Chartered Professional Engineers of New Zealand (Appeals) Regulations 2002 (“**Appeals Regulations**”).
9. 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.
10. 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.*³

11. In the initial investigation stage of a disciplinary process, the CIC⁴ has delegated authority⁵ to decide whether or not to refer the complaint to an investigating committee.⁶ The District Court provides a helpful summary of this early stage of RA’s complaints process as follows:⁷

[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.

³ Further citation omitted.

⁴ Sometimes referred to as the ‘Adjudicator’.

⁵ CPEng Rule 75.

⁶ CPEng Rule 56.

⁷ *Daniel Graeme Williamson v Eoghan O’Neill* [2025] NZDC 16964.

12. In several appeals from CIC decisions, CPEC applied the principles in *McLanahan v The New Zealand Registered Architects Boards*.⁸ *McLanahan* is relevant as:
- a. 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*”;⁹ and
 - b. The grounds for not referring a complaint to an investigation committee in *McLanahan* are virtually identical to those in the Rules.¹⁰
13. From *McLanahan*, CPEC’s settled approach with respect to considering applicable grounds of discipline 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 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]*”.¹¹
 - b. Therefore, CPEC considers the appropriate question in relation to Rule 57 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.
14. 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

15. The Respondent owns a property at Property C (“**the Property**”).¹²
16. The Respondent undertook an extension to the Property that included changes to the roof of the dwelling.¹³ The building consent plans were prepared by Company C (“**the Architect**”) in 2019 and approved by the Council (“**Council**”) in early 2020.

⁸ [2017] NZCA 458.

⁹ *McLanahan* at [22].

¹⁰ *McLanahan* at [24].

¹¹ *McLanahan* at [66].

¹² BOD4.

¹³ Notice of Appeal, p3.

17. The Appellant, who was working for Company E and a Chartered Professional Engineer at the time,¹⁴ provided engineering design services for the extension that included ‘restricted building work’, the scope of which covered the design of the foundations of the extension, and roof beams.¹⁵ The Appellant signed a *Memorandum from licenced building practitioner: Certificate of design work*, with reference to the ‘Building Consent Plans’, declaring that:¹⁶
 - a. No waivers or modifications to the Building Code were required;
 - b. They had “*applied the skill and care reasonably required of a competent design professional in carrying out or supervising the Restricted Building Work described...*”; and
 - c. The restricted building work complied with the identified Building Code clauses and any recorded code modifications or waiver.
18. A Producer Statement for the design (PS1), signed by the Appellant in 2019, was provided for the design.¹⁷ The PS1 noted the engineering services provided to the Respondent included “*Construction Supervision. (Excavation [sic] inspection pile pads, preline inspection of new roof beams*”.¹⁸
19. In 2020, the Appellant signed a *Producer Statements (PS4 – Construction Review)* which was accompanied by three site instruction and inspection records also signed by the Appellant dated June (2) and July 2020.¹⁹ Amongst other things, the site instruction and inspection records rely on “*photographic evidence received of new pile layout and connections*”,²⁰ and note that “*evidence [had been] received from CCC to “Pass” new pile layout & connections*”²¹ and:²²

1. *5 new roof beams correct as arch’s dwg & connected o.k. and in correct location.*
 2. *Post moved in satisfactory location is o.k.*
 3. *New piles installed correctly as Company E dwgs.*
- O.k to proceed.*

¹⁴ But is no longer a Chartered Professional Engineer. BOD p6, Notice of Appeal p9.

¹⁵ BOD pp46-47.

¹⁶ BOD pp46-48.

¹⁷ BOD pp49-50.

¹⁸ *Ibid.*

¹⁹ BOD pp55-58 and duplicated BOD pp59-62.

²⁰ BOD pp56.

²¹ *Ibid.*

²² BOD p58.

20. On 23 October 2024, the Council sent the Respondent a letter raising issues related to work completed by the Appellant, noting:²³

Engineering New Zealand has advised councils throughout the South Island that [the Appellant], a structural engineer previously employed by Company E has made errors when carrying out his work and when providing producer statements to councils as part of applications made under the building Act 2004.

21. The Respondent has stated that Council advised it had added a note to the Property's Land Information Memorandum ("**LIM**") which stated the:²⁴

Specific producer statements in question are PS1, PS4. This may mean that work completed on this property was not compliant with the NZ Building Code and/or building consent at the time the code compliance certificate, or certificate of acceptance or exemption, was issued. The building approval records are available for review on request.

22. Although the Council letter has not been provided to us, this action was acknowledged by the Appellant²⁵ and confirmed by the RA.²⁶
23. On 20 May 2025, Company F produced an Engineering File Note ("**Company F Report**") in response to a request from the Respondent to review the Appellant's work.²⁷ The Company F Report was approved by a Chartered Professional Engineer ("**CPEng**"). Photographs were provided to Company F by the builder for the extension works ("**the Builder**").²⁸ Whilst Company F visited the site, they did not access the subfloor space instead relying on:²⁹

The approved consented plans, dated 17th of December 2019, alongside the photos and notes within the Council Site Notices 251 (Foundation) and 204 (Subfloor), dated 03.06.2020 and 15.06.2020.

²³ BOD p7.

²⁴ *Ibid.*

²⁵ Notice of Appeal p9.

²⁶ RA Initial Submissions p7.

²⁷ BOD pp11-58.

²⁸ BOD p9.

²⁹ BOD p16.

24. The Company F Report identified specific elements of the design undertaken by others and which did not form part of their review:

- a. The subfloor framing design was undertaken by the Architect and outside the structural scope of the Producer Statement.³⁰
- b. The design of the fifth beam, which Company F states appears to have been *“the hip rafter sized by the architect, based on the RFI correspondence provided within the property file”*.³¹

25. By way of an overall conclusion, Company F formed the view that:³²

The compliance path B1/AS1 generally follows NZS3604:2011 to demonstrate compliance; however, some aspects of the design depart from NZS3604.

26. Areas of concern arising from those departures included:³³

- a. **Issue 1:** The existing rafter connections to the new beams lacked an uplift connection.³⁴
- b. **Issue 2:** An existing rafter *“above the beam 1 to beam 3 junction has been cut short and skew-nailed into the end grain of a jack stud wall above the beam”* which Company F did not consider to be a reliable load path.³⁵
- c. The junction between beams 3 and 4, which is supported by a 90 x 90 H3.1 laminated post. The two identified issues with this junction were that the:
 - i. **Issue 3:** Connection between beam 3 and the post has insufficient connection capacity.³⁶
 - ii. **Issue 4:** Design of the junction results in a lack of edge distance which is non-compliant. Whilst the as-built configuration differs from and improves upon the design, Company F assessed that the edge distance is nonetheless non-compliant.³⁷

³⁰ BOD p16.

³¹ BOD p17.

³² BOD p15.

³³ We have adopted the Appellant’s numbering of the issues for ease of reference (as set out at BOD p75).

³⁴ BOD p20.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ BOD p19.

27. The Company F Report concluded that they consider:³⁸

The majority of the SED Roof Beams and Foundation pads, as constructed/detailed, are likely to meet the requirements of B1 (structure) and B2.

28. However, Company F also identified several non-compliant areas and set out the remedial actions they consider necessary to achieve compliance with “B1”,³⁹ as follows:⁴⁰

- *The existing rafter connections to the new beams lack sufficient connection capacity. In accordance with NZS3604:2011, an uplift capacity of 4.7kN should be installed. **We recommend that ceiling ties be installed at these junctions connecting the rafters to the beams below.***^[41]
- *The existing rafter, which is currently attached to the end grain of the beam 3 jack stud wall, does not appear to be a reliable load path. **We recommend that this connection be revisited with solid blocking to the underside of the cut rafter to fix into.***^[42]
- *The post connection to Beam 3 lacks sufficient connection capacity. **We recommend a third bolt be installed centrally (with appropriate edge distances).***^[43]
- *The beam 4 to 3 connection is also non-compliant due to the lack of edge distance provided by the Bowmac bracket. **We recommend that this bracket be uninstalled and repositioned as per the detail attached.***^[44]

29. On 7 August 2025, the Respondent requested support from the RA in raising a complaint against the Appellant. The Respondent subsequently documented their concerns and submitted to a complaint to the RA on 10 August 2025.⁴⁵

30. The Complaint submission form completed by the Respondent states that they received a letter dated 23 October 2024 from Council raising concerns about the Appellant’s work and informing them a notation had been attached to their land information memorandum (LIM). As a result:⁴⁶

We engaged a CPEng from the Company F to inspect [the Appellant’s] work. The Company F found four examples of non-compliance and have [sic] recommended work to remediate them.

³⁸ BOD p22.

³⁹ Being the compliance path identified on the Producer Statement for the design (PS1), which Company F note “generally follows NZS3604:2011 to demonstrate compliance” (BOD p15).

⁴⁰ BOD p22. No change to emphasis.

⁴¹ Refer to paragraph 26.a.

⁴² Refer to paragraph 26.b

⁴³ Refer to paragraph 26.c.i.

⁴⁴ Refer to paragraph 26.c.ii

⁴⁵ BOD p2, pp 5-58.

⁴⁶ BOD, p7.

31. The Company F Report, together with the PS1 and PS4 signed by the Appellant, were attached to the submitted Complaint.

32. The Respondent is of the view that:⁴⁷

The notation on the LIM has a material impact on my property's value, and the cost to remove it is significant. So far we have spent \$4800 on the Company F inspection. We are yet to get a quote to fix the items Company F recommends.

33. In reply, the RA noted that whilst the Complaint had drawn attention to the financial implications of the issues uncovered:⁴⁸

We don't have the authority to enforce compensation or any sort of monetary penalty to be paid to a complainant as part of our disciplinary process. If that is what your desired outcome is, then looking into taking legal action would be a more appropriate channel to achieve that outcome.

34. On 14 August 2025, the Respondent approved⁴⁹ a *Summary of concerns* provided by the RA on 13 August 2025, which articulated the following grounds for the complaint:⁵⁰

Mr A provided the PS1 and PS4 for the extension on the property. By doing so he assumed responsibility for the design and construction review to ensure that it was compliant with the New Zealand building code.

Mr B believes that Mr A has breached the Engineering New Zealand Code of Ethical Conduct by failing to undertake engineering activities in a careful and competent manner.

35. The *Summary of concerns* was sent to the Appellant on 14 August 2025.⁵¹ The Appellant (at the time, the Respondent) responded on 8 September 2025, noting:⁵²

- a. Company E, where the Appellant was employed, was engaged by Company D “for the limited purpose of designing 4 roof beams” and that the brief did not extend to the design of the complete roof structure.⁵³
- b. The Appellant claims they were not responsible for the design, but for its verification and, as a then CPEng, to sign the accompanying producer statement (PS1).

⁴⁷ *Ibid.*

⁴⁸ BOD p3.

⁴⁹ BOD p63.

⁵⁰ BOD pp63-65.

⁵¹ BOD pp67-71.

⁵² BOD pp72-78.

⁵³ BOD p74.

- c. Company E was not party to the full correspondence between Council and the Architect but did provide information requested to support a Council request for information (“RFI”).
 - d. In November 2020 the Appellant “*performed a site inspection and signed the PS4*”.⁵⁴
 - e. With respect to the design:
 - i. Company E relied on the Architect’s drawings “*to show all structural items, as had been agreed at the commencement of the work*”.⁵⁵
 - ii. The design “*assumed that the architect’s specification would cover NZS3604. Importantly, this meant that it was assumed that ceiling ties would be used and that the architect would ensure that these were noted on his drawings*”.⁵⁶
 - f. With respect to the Appellant’s role on site:
 - i. Company E was not invited to discuss matters relating to the ceiling ties with the builder concerned and their input was limited to that described above.
 - ii. Company E “*was not given any notice that the builder’s work in relation to the connection between Beam 3 and the post was at variance of that designed*” and because the Appellant was not alerted to this change, they “*did not fully check the changes for compliance*”.⁵⁷
36. The Appellant also responded to the four issues identified within the Company F report as follows:
- a. **Issue 1:** The existing rafter connection to new beams lacks sufficient connection:⁵⁸

The Architect was responsible for showing ceiling ties on his drawings because he was supposed to be implementing the Company E design to NZS3604 specifications.
 - b. **Issue 2:** The existing rafter, that is attached to the end grain of beam 3 jack stud wall, does not appear to be a reliable load path.⁵⁹

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ BOD p75.

⁵⁹ *Ibid.*

The Architect was responsible for ensuring that Solid blocking [was] shown on his drawings, in compliance with NZS3604.

c. **Issue 3:** Post connection to Beam 3, lacks sufficient connection capacity.

- i. Here, the Appellant advises that they disagree with the Company F calculations and assert that the heavy roof load has been overestimated by Company F because:⁶⁰

The hip rafter avoids this area and transfers the load to the outside areas. The correct calculation for heavy roof load should be 2.39m², to give a ULS Design load of 9.9KN. This makes the current 2/M12 Bolts satisfactory (under the limit of 10.2KN).

The Appellant has provided a sketch and calculations to support this,⁶¹ which they claim demonstrates that the load paths calculated were adequate.⁶² The Appellant also notes some of the differences in the calculated load capacity arise from the application of different standards used by the Architect (NZS3604) and Company F (NZS3603). The Appellant is of the view that that Architect's connection design was "satisfactory".⁶³

- ii. The Appellant claims that the "problems with the load path were caused by the builder doing work differently to what had been designed" and that "both the Builder and the Architect ought to have notified Company E of the intention to vary the building work from that which had been designed".⁶⁴

d. **Issue 4:** Beam 4 to 3 connection is also non-compliant due to lack of edge distance provided by the Bowmac bracket. On this point, the Appellant states:

- i. The "edge distance problem would have been identified if the architect had checked the manufacturer's (Mitek) product specification against NZS3603 and that this was not the responsibility of Company E".⁶⁵
- ii. The connection is still structurally sound for the applied loads, "will not fail under the design loads from AS1170",⁶⁶ and notwithstanding this, could be resolved by "redrilling new holes for increased spacing of the M12 bolts accordingly to NZS3603".⁶⁷

⁶⁰ *Ibid.*

⁶¹ BOD pp77-78.

⁶² BOD p75.

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

37. The Appellant is of the view that their work on the project was “*completed in a careful and competent manner*”, and accepts that by signing the PS1 and PS4 they assumed responsibility for the completed work.⁶⁸ However, the Appellant again alleges that “*any shortcomings in relation to the project as a whole are attributable to the responsibilities of others (the architect and the builder)*”.⁶⁹ The Appellant also noted that Company E had been liquidated⁷⁰ and initially offered — but subsequently declined — to provide the liquidator’s details should the Respondent “*wish to seek financial redress*”.⁷¹
38. Whilst the Appellant offered to meet the Respondent to discuss his concerns, the Appellant’s response did not address the concerns of the Respondent (then the Complainant),⁷² so the matter was referred to the CIC for an initial assessment.
39. For completeness, we note that through this period the Respondent and the RA discussed the Respondent’s questions about how to remove a notice from a LIM. We do not discuss this further as this is outside the scope of this appeal.
40. On 31 October 2025, the RA issued the decision of the CIC.⁷³ The Initial Assessment Report issued by the CIC⁷⁴ recommended the case be referred to an Investigating Committee, saying that having reviewed all the relevant information provided that there were no grounds of dismissal under rule 57 of the Rules.⁷⁵ The CIC went on to note:⁷⁶

In signing producer statements, an engineer is stating that they believe on reasonable grounds that the design (PS1) and construction (PS4) are in accordance with the Building Code and relevant building consents. By signing the PS1 and PS4 in this case, Mr A was confirming he had reasonable grounds for believing the works were compliant.

I find that further investigation is required to assess whether Mr A undertook his engineering activities in a careful and competent manner and whether he met the standard expected of a chartered professional engineer. Accordingly, I have decided to refer the matter to an investigating committee.

A notice added to a LIM identifying that work on a property may not be compliant with the Building Code and/or building consents is a serious matter with financial implications for the homeowner and potentially affecting the property value. There will be costs associated with satisfying conditions to have the notice removed such as commissioning an engineering inspection of the works covered by the notice and undertaking remedial works should any non-compliances be identified.

⁶⁸ BOD p76.

⁶⁹ *Ibid.*

⁷⁰ BOD p74.

⁷¹ BOD p76, p79, p86.

⁷² BOD pp80-81, 84.

⁷³ BOD pp92-93.

⁷⁴ Dated 31 October 2025. BOD pp87-91.

⁷⁵ BOD p89. Also see Footnote 1.

⁷⁶ BOD p90.

It can be inferred from the excerpts from Council's letter provided by the complainant that similar notices may have been added to LIMs for other properties where Mr A signed producer statements for building works. This is a matter of concern. In my opinion, further scrutiny of work performed by Mr A is warranted. I recommend that the investigating committee expand its investigation to include further projects where Mr A was the responsible chartered professional engineer, in particular, projects that triggered the alert to CCC of potential issues with Mr A's work.

41. The Appellant subsequently lodged a Notice of Appeal on 5 December 2025.

Evidence and submissions received

42. Under clause 15 of the Appeals Regulations, the Council may receive any evidence that the RA would have been entitled to receive on the decision being appealed.
43. The evidence and submissions considered by this Appeal Panel in arriving at its decision included:
- a. The Notice of Appeal dated 5 December 2025 ("**Notice of Appeal**").
 - b. The paginated Bundle of Documents,⁷⁷ provided by the RA, referred to hereafter as the **Bundle**.
 - c. The Appellant's submissions dated 16 February 2026 ("**Appellant's Submissions**").
 - d. The Respondent's submissions dated 18 March 2026 ("**Respondent's Submissions**").
 - e. The RA's submissions dated 3 March 2026 ("**RA's Submissions**").
 - f. The Appellant's submissions in reply to the Respondent's Submissions and the RA's Submissions dated 17 March 2026 ("**Appellant's Reply**"). At the Panel's discretion,⁷⁸ the Appellant was afforded two extensions of time for their reply submissions.

Preliminary matters

44. The RA requested that it be recognised as a party to the appeal. Whilst we consider there to be no utility to this request, on the basis of the definition in the Appeal Regulations, we confirm the definition of "*party*" includes the RA.⁷⁹

⁷⁷ BOD pp1-93.

⁷⁸ As provided for under s26 of the CPEng Act.

⁷⁹ Regulation 3.

45. The RA states at paragraph 40 of its submissions that the Appellant has put new material before the Appeal Panel that was not available as part of the initial investigation. The RA contends that:

This appeal is a rehearing, meaning the CPEC is tasked with determining whether the decision was made correctly based on the information put before the decision maker at the time of the decision. Information not raised by the Appellant at the time [of the initial investigation] cannot be considered as a part of this rehearing.

46. Whilst appeals to CPEC are by way of rehearing, as noted above at paragraph 7, the Appeal Panel can make any decision that could have been made by the decision authority.⁸⁰ Moreover, as we have already stated, CPEC may receive any evidence that the RA would have been entitled to receive on the decision being appealed.⁸¹
47. Both the Respondent and the RA have been provided the opportunity to consider and to comment on the additional material provided by the Appellant. The Appeal Panel is of the view that the RA could have received the material provided had the Appellant chosen to provide it as part of their original response. We have therefore taken the Appendices to the Appellant's Submission into consideration and note that nothing is served by its omission.
48. For completeness, we also record that on 16 May 2026 the Appellant sent a further statement to the Appeal Panel after the adjournment of the hearing. The Appellant was reminded that no further correspondence would be accepted or considered.

Grounds of appeal and outcome sought

49. At section 5, the Notice of Appeal has four grounds of appeal:

a. Ground 1:

FIRST GROUND - ISSUE WITH PLANTTFFS [sic] 3RD PARTY ENGINEER AND REQUEST BY PLAINTIFF FOR 3RD PARTY CHECK - NOT RESOLVED

1.1) I disagree with Company F calculation, for issue 3 (See Attached), that they had used the wrong Roof Loaded area, which meant the bolted connection that I designed for issue 3, passed the design check.

1.2) I had provided remedial calculations to this effect, that ENGNZ Failed to carry out a 3'd [sic] party design check as requested by the owner.

b. Ground 2:

SECOND GROUND - ...ISSUE WITH ARCHITECT - NOT RESOLVED

⁸⁰ CPEng Act s 37(5)(c).

⁸¹ Regulation 15, Appeals Regulations.

2.1) *The Architect was responsible for designing issues 1 & 2, that ENGNZ Failed to give a conclusion if the Architect was to blame*

2.2) *There is evidence of this by referring to the Architects, PS1 & Specification that he was responsible for the design of issues 1 & 2, in accordance to [sic] NZS3604*

c. **Ground 3:**

THIRD GROUND- ISSUE WITH BUTLDER - NOT RESOLVED

3.1) *The builder was responsible for construction of this project that moved the post in issue 3, and failed to advise me that he had made minor changes to the plan by moving this post prior to my site visit on 07/07/2020. ENGNZ Failed to give a decision on this matter.*

d. **Ground 4:**

FOURTH GROUND - ISSUES WITH Council (COUNCIL.) - NOT RESOLVED

4.1) *I believe I had carried out satisfactory designs for the majority of the low rise structures that I had submitted building consents to the Council, that subsequently got code of compliances, that had a warning note on there [sic] LIMs with potential concerns.*

4.2) *Most of the designs we carried out at Company E involved Designing specific items only and the majority of the designs were the Architects [sic] Responsibility, that had total control over each project that produced code required drawings to the NZ Building Codes*

4.3) *This is a BCA issue, with the Council placing warning notes on their LIMs, I request direct mediation with Council thru [sic] ENGNZ to discuss what triggered Council to place warning notes on there [sic] LIMs, and to discuss who was at fault, if the architect or builder, then to contact respective owners, to solve remediation problems And to advise how they can apply for remediation costs through Redact professional indemnity insurance, if the company is found at fault.*

50. At section 6 of the Notice of Appeal the Appellant seeks the following outcome:⁸²

The decision to refer the complaint to an Investigating Committee or Disciplinary Committee to be reversed and the complaint to be dismissed.

51. The Appellant has also requested:⁸³

- *that Grounds 1,2 be resolved through [the RA] using their mediation service to discuss with the [Respondent] that the Architect & Builder are responsible for issues 1 & 2 from Company F's [sic] report and dismiss the need for a full investigation*
- *that CPEC make a [sic] independent calculation check for the Ground 3, through a 3rd party engineer if necessary, if my remedial calculations are correct that dispute Company F's [sic] calculations for Company F [sic]*

⁸² For this Appeal, the applicable step would be referral to an investigating committee as that is the next step in the RA's complaints process.

⁸³ Notice of Appeal, p7. Notice of Appeal numbering replaced by bullet points as the numbering does not relate directly to the Grounds of the Appeal.

issues 3 & 4, then these issues will be resolved and dismiss the need for a full investigation.

- *[that] if I'm found at fault I, request to use [the RA's] Mediation service to discuss with the [Respondent] remediation costs through Company E professional indemnity insurance for any potential remediation costs.*
- *direct mediation with Council thru [the RA] for Ground 4 because this is a [Building Consent Authority ("BCA")] issue, with the Council placing warning notes on their LIMs. To discuss what triggered Council placing warning notes on their LIMs, and to discuss who was at fault, if the architect and builder, then to contact respective owners, to solve remediation problems And [sic] to advise how they can apply for remediation costs through Company E professional indemnity insurance, if the company is found at fault. Therefore as a result of the above there is no need for a full investigation.*

Discussion – consideration of grounds of appeal

52. In the following sections, we summarise the submissions and evidence. We considered everything submitted even where not referred to in our summaries.

53. 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.

First ground of appeal - The issue with the third-party engineer and request for a third-party check has not been resolved

Appellant's Submissions

54. The Appellant's submission is:

- a. Company F used the "*wrong Roof Loaded Area*"⁸⁴ to assess issue 3 (post connection to Beam 3, lacks sufficient connection capacity) and asserts that the bolted connection they designed passes the design check.
- b. The Appellant asserts that:

There was no clear statement given by [the RA] that they had done a 3rd party check, to compare my remedial calculations for issue 3 against Company F [sic] calculations.

Therefore because No clear statement was provided by [the RA], if a 3rd Party check had been done, I believe they broke ENGNZ Rule 72(1) – That the investigator had not given full adequate reasons for its decision.

⁸⁴ Appellant's Submissions p1.

55. For the avoidance of doubt, and since the Engineering New Zealand Rules are not applicable to this Appeal (and moreover, there is no Rule 72 therein), we have taken the above to refer to the CPEng Rules (“the Rules”). However, Rule 72 is not germane to the relief sought.⁸⁵ Instead, we have taken the Appellant to mean Rule 76(1) which states:

Every person or body that carries out decision-making functions under these rules must—

a. give reasons for its decisions under these rules; and

b. observe the rules of natural justice.

56. Nothing turns on this clarification.

57. The Appellant argues that any problems with the load path for the roof are as a consequence of the Builder’s actions and “*doing work differently to what had been designed*”.⁸⁶ The Appellant also submits that:⁸⁷

- a. The Architect had taken full responsibility of the design of the extra roof members and connections and asserts that this is demonstrated by the Architect’s response to the Council RFI, and because the Appellant was not provided the full details of the RFI at the time.
- b. The Architect’s Specification confirms that the Architect “**will design** [the] *supporting roof frame members to NZS3604*” (emphasis added).⁸⁸

58. Appended to the Appellant’s Submissions were the:

- a. *Memorandum from licenced building practitioner: Certificate of design work (“Architect’s Memorandum”)* dated 18 October 2019 and signed by the Architect.⁸⁹
 - i. This records the Architect as the “*lead designer for all but specific elements of RBW*”⁹⁰ and that the memorandum only covered “*the RBW work [they] carried out or supervised and the other designers will provide their own memoranda relating to their specific RBW design*”.⁹¹

⁸⁵ CPEng Rule 72 addresses the way in which a disciplinary committee’s decision must be made.

⁸⁶ Appellant’s Submissions p2.

⁸⁷ Appellant’s Submissions p3.

⁸⁸ *Ibid.*

⁸⁹ Appellant’s Submission pp7-9.

⁹⁰ Appellant’s Submission p7.

⁹¹ *Ibid.*

- ii. The specific scope covered by the Architect's Memorandum relevant to this Appeal, is recorded in Table 1 below.

TABLE 1: SUMMARY OF ARCHITECT'S MEMORANDUM MATTERS

Restricted Building Work design	Scope	Carried out or supervised
Foundations and subfloor framing	<i>Concrete slab on ground to engineers [sic] requirements, NZBC and council approval</i>	Supervised
Roof	<i>Timber trusses to manufacturers requirements, NZBC and council approval</i>	Supervised
Bracing	<i>NSZ 3604 [sic] as per NZBC and council approval</i>	Carried out

- iii. The primary structure category of 'columns and beams' was left unchecked.⁹²

- b. Request for information letter from Council dated 18 December 2019 with response annotations that the Appellant advises were made by the Architect.⁹³ Evidence on how or if the matters raised by the RFI were clarified and finally resolved have not been provided to us. Matters from the RFI that are relevant to this Appeal are summarised in Table 2 below.

TABLE 2: SUMMARY OF RFI MATTERS

RFI Code	Council RFI Items	Architect's response
B1-017	<i>Has consideration been made for the proposed beams to take loading from the existing concrete tiled roof structure and the proposed new metal roof structure. Please refer to structural engineer for clarification of design. ADDED 18/12/2019 - No information received from engineer to date.</i>	<i>Not resolved Engineers has [sic] revised the calculations to increase the weight of the roof, see enclosed^[94]</i>
B1-055	<i>B1 - 055 Please provide size and span of ridge beam that the rafters are proposed to land on. As per sheet A2.04. ADDED 18/12/2019 - As per sheet A2.04 the rafters are indicated to connect to a "Hip Rafter" which spans approximately 5.0m. Please size this rafter. Enclosed is CHH Futurebuild LVL Residential Design Guide July 2014 for reference material (page 38).</i>	<i>Not resolved I wondered if you meant hip rafter rafters rather than ridge beam. I have added a note to sheet A2.04. I have sized this as per NZS3604 10.2.1.3.3 at 50mm deeper than the rafter it supports.</i>

- c. Annotated drawings that accompanied the RFI dated 20 December 2019.⁹⁵ Following convention, changes have been 'clouded', and on drawing A2.04 this includes the 'clouded' statement "*Hip rafter = Lumberworx 200x45 H1.2 LVL 13*".⁹⁶ Only four beams are otherwise shown on the drawing.

⁹² Appellant's Submission p8.

⁹³ Appellant's Submission pp11-13.

⁹⁴ The RFI attachments were not provided to the Appeal Panel.

⁹⁵ Appellant's Submission pp15-19.

⁹⁶ Appellant's Submission p17.

- d. Architect's Specification as approved by Council on 8 January 2020 as part of the Building Consent issued to enable the construction of the proposed works.⁹⁷ The Appellant has drawn attention to the roof framing specification, which states:

3.5.3 *Roof Framing*

Roof framing is to be in accordance with NZ Standard 3604 and the manufacturers [sic] instructions. Location and type of brace to be in strict accordance with the plans and bracing schedule that form part of this contract.

A truss certificate from the roof truss manufacturer showing the layout of the roof truss design is to be included in the set of plans included in this contract.

- e. Sketch and calculations⁹⁸ as previously attached to the Bundle.⁹⁹

Respondent's Submissions

59. We reproduce the Respondent's Submission in its entirety and have considered this against all four grounds of the Appeal:

After reviewing the CPEC Panel Letter,^[100] I believe this specific matter (the appeal of ENZ'd [sic] decision to further investigate my complaint) to be between Engineering NZ and [the Appellant]. If I've understood correctly, [the Appellant] has appealed the ENZ decision to investigate my complaint. I wish my complaint to be investigated as I have presented evidence that [the Appellant's] engineering practice with regard to my property was poor.

I have nothing more to add beside the detail included in the Bundle of documents previously shared.

60. The Respondent was provided the opportunity to be heard at a hearing but declined. The Respondent's response was "that this specific matter is between Engineering New Zealand as the RA and Mr A".¹⁰¹

RA's Submissions

61. The RA's submissions on the first ground of appeal are at paragraphs 31 to 36 of the RA's Submissions, which we summarise as follows:
- a. The RA says the Appellant states that they do not agree with the Company F calculations and that the Appellant believes that the RA failed to carry out a third-party design check as requested by the Respondent. The RA sees this as a likely

⁹⁷ Appellant's Submission pp21-25.

⁹⁸ Appellant's Submission at pp27-28.

⁹⁹ BOD pp77-78. See also paragraph 35.c.i.

¹⁰⁰ Appeal Panel letter dated 13 April 2026 (Notice of Hearing).

¹⁰¹ Respondent email dated 15 April 2026.

reference to the initial assessment report, which the RA notes included a statement that the complainant (i.e. the Respondent to this Appeal) was seeking “*an impartial third party to formally evaluate [the Appellant’s] claims against Company F’s findings*”.¹⁰²

- b. The RA goes on to say that it is unclear what the Appellant is seeking here and that whilst an investigating committee may may “*seek expert advice on the adequacy of any engineering calculations*”,¹⁰³ the disciplinary process “*does not operate to conduct technical reviews of engineering work*”.¹⁰⁴

- c. The RA asserts that the CIC:

Is tasked with assessing the matter, and deciding whether a ground for dismissal applies, or whether further investigation is needed. The CIC completed this task, and its reasoning is clearly outlined in the initial investigation report.

- d. Consequently, the RA considers there has been no failure to provide full and adequate reasoning in the initial investigation report.

62. The RA concludes by submitting that the RA decision was not “*wrong*”.¹⁰⁵

Appellant’s Reply

63. We summarise the Appellant’s Reply to the RA’s Submissions as follows:¹⁰⁶

- a. The Architect was responsible for the design as it relates to issue 3 “*because he took onus to do this design change without informing me prior to the site inspection, that I was contacted directly by the builder [sic]*”.¹⁰⁷
- b. The Architect documented that they were responsible for the design of the other roof components and that these were “*wrongfully designed*”¹⁰⁸ by the Architect to NZS3604. Moreover, Company E was only responsible for the design of four roof beams, and the Architect was at fault for issues 1-3 as identified in the Company F report.

¹⁰² RA’s Submissions p9.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ RA’s Submissions p10

¹⁰⁶ Appellant’s Reply p1.

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

- c. The RA should take the new information as presented to this Appeal Panel into account in its decision.
 - d. The Appellant seeks a third-party design check or evaluation from CPEC *“to determine that [the Appellant’s] Remedial calculations for issue 3 are correct and [Company F] had made a [sic] error, and used the wrong Roof Loaded Area”*.¹⁰⁹
 - e. The Appellant’s design was correct, and that the PS1 satisfied the requirements of the Building Code.
64. The Appellant asserts that *“in order for the CIC to proceed to a further investigation, the CIC must have evidence to prove that [the Company F] calculations were correct, and [the Appellant’s] were not”*.¹¹⁰

Appeal Panel discussion

65. We conclude the first ground of appeal is not proven.
66. At the hearing, we heard from the Appellant that the check undertaken by Company F had used an incorrect roof load area, and that his check showed the post was pass the design check. The Appellant asserted that what went wrong was that the Architect had taken responsibility for the connections and that *“it didn’t quite work out right”*.
67. Whilst the Appellant has sought a third-party check of the Company F calculations, we note that the disciplinary process to date (inclusive of this Appeal) is not to provide a forum for what would amount to a proxy peer review. We concur with the RA that an investigating committee may choose to enquire into further detail and note that that the opportunity to do so occurs at the next step of the disciplinary process.
68. The Appellant has not provided a compelling argument for why a third-party review should have occurred as part of the initial investigation. Whilst in the alternative, the Appellant might have elected to obtain an independent review of the calculations, he did not do so or if he did, it was not put before us to consider. Rather than putting information before the Panel to demonstrate that he has acted in a careful and competent manner, the Appellant has instead relied on a defence of blaming others (and we turn to that under Grounds 2 and 3, next).

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

69. Using the principles settled in *McLanahan*, if the issues set out within the Company F Report were to be proven, this Panel is of a view that these would give rise to an applicable ground of discipline as set out within s21 of the Act; in this case that the Appellant has performed engineering services in a negligent or incompetent manner. We are also of the view that, with reference to CPEng Rule 57, this is not a trivial matter or that the alleged misconduct is insufficiently grave even if only viewed through the lens of this particular case and not the wider CIC recommendations (which, like the CIC, we consider they should).

Second and third grounds of appeal - The issues with the Architect and Builder have not been resolved

70. The RA asserts, and the Appeal Panel agrees, that grounds 2 and 3 relate to substantially the same issues in principle with the CIC report, namely that:¹¹¹

The CIC failed to conclude on the responsibility of the Architects and Builders for the issues identified by [Company F].

71. We note there is a high degree of overlap in *all* the Appellant's presented submissions, particularly in the relationship between the grounds of the Appeal and the Appellant's response to the issues identified within the Company F Report. Here, the Appellant's Submission groups the Company F-identified issues as follows:

- a. Ground 2: Company F issues 1 and 2; and
- b. Ground 3: Company F issues 3 and 4.

72. The Architect is the Appellant's focus under Ground 2, and both the Architect and Builder under Ground 3.

Appellant's Submissions

73. The Appellant's submission on Grounds 2 and 3 replicate the information set out in September 2025 response the *Summary of concerns* provided by the RA as part of the initial investigation so are not summarised again here for that reason.¹¹²

¹¹¹ RA's Submission p10.

¹¹² Refer to paragraphs 34 – 35 of this Decision.

74. On Ground 2, the Appellant considers that because no clear statement was provided by the RA as to whether the Architect “*was at fault or investigated*” the RA broke the Rules¹¹³ as “*the investigator had not given full adequate reasons for its decision*”.¹¹⁴
75. On Ground 3, the Appellant considers that because no clear statement was provided by the RA as to whether a third-party check had been undertaken for Company F issues 3 and 4, the RA broke the Rules as “*the investigator had not given full adequate reasons for its decision*”.¹¹⁵
76. An overview of the appendices to the Appellant’s Submissions are given at paragraph 58 a)–e) within this Decision. Accordingly, we do not summarise them here but note they have been considered in the context of grounds 2 and 3.

Respondent’s Submissions

77. For the reason addressed above, there is no summary here.

RA’s Submissions

78. The RA’s submissions on the second and third grounds of appeal are at paragraphs 37 to 46 of the RA’s Submissions, which we summarise as follows:
- a. The RA says the Appellant contends that the CIC failed to provide adequate reasons for its decisions as required under CPEng Rule 76(1).
 - b. The RA addressed the matter of third-party checks as part of its submission on Ground 1. It says that what was meant by such a check was unclear and irrespective, is not part of the disciplinary process. The RA submits that there “*has been no failure to provide full and adequate reasoning in the initial investigation report*”.¹¹⁶
 - c. The RA says that the Appellant has put new material before the Appeal Panel that was not available as part of the initial investigation. We have already addressed this as part of the preliminary matters so take this no further.¹¹⁷
 - d. The RA states that the CIC clearly outlined the basis for the decision to refer the matter for further investigation and whether there was an applicable ground of discipline

¹¹³ See paragraph 54.

¹¹⁴ Appellant’s Submission p1.

¹¹⁵ Appellant’s Submission p2.

¹¹⁶ RA’s Submission p9.

¹¹⁷ Refer to paragraphs 44 – 46 of this Decision.

under rule 57 of the Rules. In reaching the decision, the CIC is not required to make determinations of other parties in order to meet its obligations under Rule 76.

- e. The RA submits that the CIC decision *“clearly outlines that when signing a producer statement, the engineer is confirming it’s belief, on reasonable grounds, that the work complies with the Building Code and any relevant building consents”*.¹¹⁸ They point out that the Appellant acknowledges that by signing the PS1 and PS4, they have assumed some responsibility for the work completed. They argue that it is therefore implicit that the CIC considers that by signing the Producer Statements, the Appellant’s actions *“may not have met the standard required of a chartered professional engineer, and that this warrants further investigation”*.¹¹⁹
- f. Referencing the *McLanahan case*, the RA points to the ‘jurisdictional sieve’ provided by the initial investigation and notes that it merely assesses whether the matters raised are capable of constituting a ground of discipline. The RA argues that by contrast, the Appellant is seeking a level of inquiry *“that properly belongs to the investigating committee stage”*.¹²⁰

Appellant’s Reply

- 79. The Appellant’s reply is centred around defending their submission of new material, which we have addressed earlier so take no further since we have decided it can be admitted.
- 80. Given the brevity of the Appellant’s remaining response, we reproduce the balance of the Appellant’s Reply Submissions on grounds 2 and 3:

- a. Ground 2:

There is No ground to suggest my work is faulty as the Architect is at fault for designing issues 1 to 3 wrongfully to NZS3604 and had not asked for my input because the CIC had not determined the difference between my work and the Architects work [sic].

- b. Ground 3:

This evidence [being the new information appended to the Appellant’s Submissions] shows that the architect was responsible for coordinating construction methodologies with the builder for issues 1 & 2 (Roof Elements) from [the Company F] report and is responsible for signing site inspections of these Roof Elements.

¹¹⁸ RA’s Submissions p11.

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

Appeal Panel discussion

81. We conclude the second and third grounds of appeal fall outside the scope of the CPEng Act for the reasons outlined below.
82. The Appellant has consistently maintained his position that the Architect was responsible for the design as it relates to issue 3 *“because he took onus to do this design change without informing me prior to the site inspection, that I was contacted directly by the builder [sic]”*.
83. At the hearing, the Appellant reasserted that the *“Architect was at fault”* and had taken responsibility for designing most of the job. The Appellant advised their design scope was limited to the sizing of the four beams and that they *“had orally agreed with the Architect that he was going to provide the drawings for the beam connections there”*.
84. He also stated that it was the Architect that was responsible for *“moving the post that caused most of the problems”* by a very small amount (approximately 100mm to the other side of the beam), and that the Builder had advised the Appellant of this on the day of his inspection. Consequently, we heard, that as the post had only moved by a small amount *“it seemed satisfactory to [the Appellant] that all the loads being transferred to it were all satisfactory”*. The Appellant acknowledged he had not made a sketch of the change at the time and directed us to the sketch and measurements stated within the Company F Report.
85. We have considered all the information before us, including the additional information provided by the Appellant, and found that this is not consistent with his assertion that the Architect had taken responsibility for the breadth of scope asserted by the Appellant. Notwithstanding this, it is not within the scope of CPEC and therefore this Appeal Panel to make a finding on the culpability (or otherwise) of the Architect and Builder.
86. Moreover, by signing the PS1 and PS4 the Appellant as a CPEng is giving an assurance that they believe on reasonable grounds that the design and construction are in accordance with the Building Code and the granted Building Consent. That this confers responsibility upon an engineer is not disputed by the Appellant. As noted in relation to Ground 1, we consider this meets the threshold for referral to an investigating committee.

Fourth ground of appeal - The issues with Council have not been resolved

Appellant's Submissions

87. The Appellant's submission is that this ground is "*defended*" by the explanations given in relation to Grounds 2 and 3 in relation to third party issues. The Appellant believes they:¹²¹

Had carried out satisfactory designs for the majority of the low rise that I had submitted building consents to the CCC, that subsequently got code of compliances, that had a warning note on there [sic] LIMs with potential concerns.

Most of the designs we carried out at Company E involved Designing specific items only and the majority of the designs were the Architects [sic] Responsibility, that had total control over each project that produced code required drawings to the NZ Building Codes

This is a BCA issue, with the [Council] placing warning notes on their LIMs, I request direct mediation with [Council] thru ENGNZ to discuss what triggered [Council] to [place] warning notes on there [sic] LIMs, and to discuss who was at fault, if the architect or builder, then to contact respective owners, to solve remediation problems And to advise how they can apply for remediation costs through Company E professional indemnity insurance, if the company is found at fault.

88. As with Ground 1, the Appellant also submits that:¹²²
- a. The Architect had taken full responsibility of the design of the extra roof members and connections and asserts that this is demonstrated by the Architect's response to the Council RFI, and because the Appellant was not provided the full details of the RFI at the time.
 - b. The Architect's Specification confirms that the Architect "**will design** [the] *supporting roof frame members to NZS3604*" (emphasis added).¹²³

89. An overview of the appendices to the Appellant's Submissions are given at paragraph 58 a)–e). Accordingly, we do not summarise them here but note they have been considered in the context of ground 2.

Respondent's Submissions

90. For the reason addressed above, there is no summary here.

¹²¹ Appellant's Submission, p3.

¹²² Appellant's Submissions p3.

¹²³ *Ibid.*

RA's Submissions

91. The RA's submissions on the fourth ground of appeal are at paragraphs 47 to 52 of the RA's Submissions,¹²⁴ which we summarise as follows:

- a. The RA asserts that the onus lies with the Appellant to show the CIC erred in reaching their decision and that Ground 4 of the Appellant's appeal does not demonstrate that the decision of the CIC was wrong.
- b. The RA says that under the disciplinary process, there is no power for the RA to dismiss matters in favour of facilitating mediation between a respondent engineer and a third party. The RA contends that neither can CPEC.
- c. The RA acknowledges the CIC can explore whether the complainant and respondent can be referred to an alternative dispute resolution ("**ADR**") process. However, they state that:
 - i. This can only occur with agreement from both parties and the Respondent to this Appeal did not consider this would be productive under the circumstances; and
 - ii. The CIC did not consider ADR to be appropriate given the concerns raised related to the competence of the engineer. The RA asserts that:¹²⁵

Any decision to refer a complaint to ADR over investigation must be balanced with the public interest. Where an engineer's competency is in question, it is likely not in the public interest that a matter be resolved via ADR.

- d. The RA says the disciplinary process distinguishes between an engineer's professional conduct and competency and that this is separate from any question of contractual liability.

Appellant's Reply

92. The Appellant reiterated their view that the wider issues should be addressed directly between Council and themselves because Council had failed to follow ENGNZ Practice Note 8 (Professional conduct) which states:¹²⁶

It is a professional courtesy "To continue to engage with those work you are reviewing to ensure you have access to all relevant information".

¹²⁴ RA's Submissions, p12.

¹²⁵ *Ibid.*

¹²⁶ Reply Submissions p3.

93. The Appellant says:¹²⁷

[Council] had put Notes on there [sic] LIMs, as a result of a risk assessment, and had not carried out any direct peer reviews.

I maintain from my first CPEC Submission, that my designs were competent, and all were checked off by the [Council] when I issued PS1's & PS4, and ALL RFI's were completed and checked.

If CPEC resolves Grounds 1 to 3, in my favour, then I request ADR Mediation with [Council] to resolve ground 4, first obtaining the [Respondent's] consent.

94. The Appellant asserts that the RA's submission that process decisions must be balanced with the public interest was "ill-conceived"¹²⁸ because they are no longer a practicing CPEng Engineer so "the concerns of public interest do not apply".¹²⁹

Respondent's Supplementary Submissions

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

Appeal Panel discussion

96. We conclude the fourth ground of appeal fall outside the scope of the CPEng Act for the reasons outlined below.

97. We deal with this matter very briefly as we have no ability to instruct a third party. In the event that we are wrong, that there is a wider matter to be addressed with Council in relation to the Appellant's performance underlines our view that this is not a trivial matter and one that should appropriately be referred to an investigating committee.

Decision.

98. Having found that none of the grounds of appeal are made out, the decision of the Panel is to exercise its power in s 37(5)(a) of the Act to confirm the decision of the CIC that has been appealed and dismiss the Appellant's appeal.

Costs

99. CPEC is empowered to award costs on determining an appeal.¹³⁰ If the RA wishes to seek costs, it must make submissions to the Appeal Panel within five working days of this decision

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*

¹²⁹ *Ibid.*

¹³⁰ Section 37(5)(d) of the Act.

including a tabulated breakdown of the costs sought. The Appellant may make submissions (on costs) in reply within a further five working days.

100. We note our view in previous appeal decisions that statutory steps the RA is required to take should not be included in costs sought by the RA. One such statutory step is the RA's obligation to provide the Bundle.
101. Any submissions on costs are to be no longer than five pages including any schedules or appended information.
102. If an application is made, the Appeal Panel will decide whether to make an order as to costs on the papers.

Right of appeal

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

Dated 15 June 2026

Signed by the Appeal Panel



Dr Carron Blom
Panel Principal



Simonne Eldridge



David Fennell