engineering new zealand
te ao rangahau

DISCLAIMER: This draft submission is not the final opinion of Engineering New Zealand on the occupational regulation of engineers. This draft is shared for the purposes of supporting an ongoing discussion with members and stakeholders on MBIE's *Occupational Regulation of Engineers* discussion document (May 2021).

DRAFT SUBMISSION
OCCUPATIONAL REGULATION OF ENGINEERS

Engineering New Zealand (formerly IPENZ) is New Zealand's professional home for engineers. We are New Zealand's strongest and most influential voice on engineering issues, with approximately 20,000 members who want to help shape the public policy agenda and engineer better lives for New Zealanders.

Thank you for the opportunity to provide feedback on the Ministry of Business, Innovation and Employment's (MBIE) *Occupational regulation of engineers* proposal. Thank you also for your ongoing engagement with us. We look forward to continued collaboration on the next steps.

The regulation of engineers is critically important to the public and everyone in the profession. Engineering New Zealand appreciates the Government's commitment to strengthening the way engineers are regulated to enhance public safety and the profession's public reputation.

Through this consultation MBIE is seeking feedback on a framework to regulate engineers. For this reason, we will focus the bulk of our feedback on MBIE's high-level policy questions: whether engineers should be registered and licensed. We will also focus on the structure of the system MBIE proposes.

If MBIE's proposals progress, considerable work will be needed to implement the proposals and introduce the regime. Much of the 'devil is in the detail'. Our aim in this submission is to reflect productively on

MBIE's consultation questions while highlighting interdependencies which will need to be worked through in time.

We also intend to develop an evidenced based assessment of different aspects of the proposals drawing on scenarios from different engineering disciplines and benchmarks with other jurisdictions and professions. As part of this we hope to provide the feedback that MBIE is seeking on the workability, cost effectiveness and value add of different proposals. From that analysis, we may also propose refinements to better realise the objectives of the reforms.

OVERVIEW

OUR SUBMISSION

This submission builds on **our submission** to MBIE on its occupational regulation consultation in 2019 (part of the Building System Legislative Reform consultation). In this submission we remember and reiterate what we heard from members during that consultation. We also reiterate what **we heard from members** when we consulted on the Chartered Professional Engineer (CPEng) scheme in 2020.

To support MBIE's consultation we have also encouraged individual members, CPEng holders, students and technical groups to submit independently. It is in all our best interest to ensure the weight of views across the profession, and the wider industries affected by the proposed changes, is heard.

THE BENEFITS OF OCCUPATIONAL REGULATION

Effective occupational regulation lifts professional standards, sets clear expectations around the competencies and qualifications required to perform certain work, and gives assurance to the public that they are engaging the right people for the job.

Effective regulation also allows individual engineers to be held to account for professional misconduct. The profession supports this, acknowledging that engineers' work often has significant impacts both on life-safety and the economic wellbeing of individuals and the nation. Where an engineer fails to perform their duties with appropriate care and skill, they must be held to account. This is in the interest of both the public and the profession.

The occupational regulation of engineers also provides opportunity to limit some high-risk engineering work to those who have demonstrated their competency to perform that work. We support the introduction of restrictions, recognising that there are many specialist areas of engineering where engineers acting outside their scope of practice has the potential to cause significant injury, or even death, to members of the public.

WHAT OCCUPATIONAL REGULATION CANNOT ADDRESS

Issues of quality still occur even within regulated occupations. However, occupational regulation is one lever of many that governments can use to strengthen the system that engineers work within, to better assure competence and accountability. It is for that reason that we continue to encourage the Government's review of quality across the built environment.

PRINCIPLES

In our 2019 feedback to MBIE on occupational regulation, we outlined our views on the principles that should drive work on occupational regulation. These views remain the same. It is our view that a strong regulatory framework for a profession:

- is **simple to understand and operate**. Simple frameworks are more effective than frameworks with unnecessary layers of regulation that duplicate process and cost
- pitches **government oversight at the right level** of regulation, letting the profession take an appropriate amount of responsibility as well
- **works for the whole profession (and wider industries)**. Fragmentation in regulation – for example, across building and construction, heavy vehicles, dams and amusement devices – is confusing and stretches the safety net too thin. In the interests of the public, the framework needs to make sense for the entire profession and across interdependent professions.

In this submission we will reference these principles, overlapping these with MBIE's proposals.

OVERALL, WE SUPPORT MBIE'S PROPOSALS

Like MBIE, we want a system that better protects the public and works for the profession. We agree that such a system would consist of two layers:

1. Registration of engineers, but not universal registration
2. Restriction of high-risk engineering work

We also agree that:

- governance of the registration function should be separated from Engineering New Zealand's Governance Board[1]
- registration must include a commitment to a Code of Ethical Conduct and Continuing Professional Development (CPD), and
- there needs to be greater Government restriction on who can undertake high-risk engineering work.

This submission sets out our position on registration, licensing and the system structure proposed by MBIE. It also answers each of MBIE's consultation questions (**Appendix A**).

REGISTRATION

WE DO NOT AGREE WITH UNIVERSAL REGISTRATION

We agree with the *widespread* registration of engineers, not the *universal* registration of engineers. While we understand MBIE's motivation for seeking to include all engineers in an occupational regulation scheme, we do not consider this measure, and the compliance costs involved, are proportionate to risk. Many engineers work under supervision or within systems governed by tight quality processes (eg aviation and research and development). While the work of these engineers often has life-safety implications, there is little risk of these individuals acting autonomously to the detriment of society. The systems these engineers work in address risks to the public through other means.

[1] We are currently in the process of separating the governance of Engineering New Zealand from the governance of the Registration Authority for Chartered Professional Engineers.

Enforcing universal registration

We have also observed the roll-out of 'universal' registration in overseas jurisdictions. It is our observation that the implementation of the universal registration of engineers is very challenging and does not provide benefits that justify the expense and administrative burden. Where there is little incentive for registration it is difficult to ensure and enforce universal coverage. We also foresee significant challenges in drawing a boundary around the work of a "professional engineer" as distinct from engineering technicians, technologists, and adjacent trades.

[Placeholder for international comparisons]

PROFESSIONAL REGISTRATION REQUIRES AN ASSESSMENT OF COMPETENCE

It is our view that a register of engineers holds value to the public and the profession if those engineers on the register have demonstrated their capability to undertake a minimum standard of professional engineering services. These are engineers who hold an appropriate qualification, commit to a Code of Ethical Conduct and Continuing Professional Development *and* have demonstrated an ability to competently carry out professional engineering work. This is in line with international norms, where registration of engineers is typically based on an assessment of competence after a set number of years of supervised experience. It is also in line with other professions (eg teaching, accountancy). Competency assessments before registration can include things like submitting a portfolio of work, undertaking a certain number of years of supervised practice, undertaking additional professional training, being tested on skills, referee checks, and so forth.

Such a register provides clarity and confidence to those who require the services of an engineer. The client gets assurance that the engineer has demonstrated an ability to undertake professional work without direct supervision, taking responsibility for their own work. This is in line with many other professions, whose training and registration ensures that a base standard of practice has been assessed and met.

Such a register also allows the regulator to determine the *standard* at which engineers can be registered and call themselves professionals. Like all professions, engineering is subject to changes in societal expectations and the advancement of practice requirements through changes in best practice, technology, and other developments. A competency-based register allows the regulator to be in step with these changes.

It is our view that competency assessments can be streamlined when compared to current CPEng standards. However, at a minimum we consider that an engineer must demonstrate their ability to undertake professional engineering work without direct supervision to be registered. We welcome further opportunity to discuss this with the team at MBIE.

Could CPEng provide a platform for registration?

If the regulator sets the standard of registration at an assessment of competency to undertake complex engineering work, CPEng can provide the platform for registration.

PROTECTION OF TITLE

As with other regulated professions, engineers who are registered need to be able to use a protected title, such as "professional engineer" or "registered engineer". A protected title ensures public transparency on who is, and who is not, registered. It also allows for action to be taken against non-registered individuals who are using the title.

One of the strongest international regulatory examples that we are aware of is Canada, where the term engineer is restricted to registered individuals. Adopting a similar approach would be consistent with the regulatory model for Architects. [placeholder for more information on the Canadian model]

LICENSING

WE AGREE WITH THE INTRODUCTION OF LICENSE CLASSES

As outlined above in our introduction, we support licensing of high-risk engineering work and the professionals that undertake that work. Licensing is already common practice within some high-risk engineering disciplines (eg heavy vehicle certifying engineers, recreational safety engineers and design verifiers for pressure equipment, cranes, and passenger ropeways) and this sets a precedent for further work by the regulator to define and enforce licensing classes.

A strengthened CPEng system can provide the platform for licensing

As with our comments under registration, we consider there is a case for CPEng to provide the platform for licensing. If the standard for registration were to be set at a comparable level to current chartership assessments, we consider there is a case for "CPEng with endorsements" providing licensing classes.

This said, we know there are issues with the current CPEng scheme. We have publicly acknowledged these and are working to address those things that we can change. We also know there is strong loyalty to CPEng within the profession. Therefore, if fitting, we strongly encourage MBIE not to get rid of the good and useful aspects of the established system as it attempts to get rid of the negative aspects. To achieve this, the Chartered Professional Engineers of New Zealand Act 2002 and the Chartered Professional Engineers of New Zealand Rules (No 2) 2002 would require significant overhaul. We have considered how this can be done and have already consulted with our members on options (see our **CPEng consultation feedback**).

We believe that the concerns about public confusion expressed by MBIE in the consultation document could be addressed as part of any transition process.

SYSTEM STRUCTURE

WE SUPPORT THE PROPOSED GOVERANCE ARRANGEMENTS

We support the model proposed by MBIE for the governance and accountability of the regulator. We agree that an independent board (the regulator) should oversee the work of the registration authority and that this regulator should be held to account by a Minister of the Crown. We agree with MBIE that "a new regulatory regime for engineers needs to be rigorous and independent from the engineers it regulates". As far as possible, we ourselves are working to separate governance of the Registration Authority for Chartered Professional Engineers from Engineering New Zealand's Governing Board, recognising there exists a conflict of interest between the oversight of our membership services and of the register.

ENGINEERING REPRESENTATION

In the drafting of legislation to establish the regulator, we ask MBIE to follow the precedent of other professions (notably that of the governance arrangements of medical professions pursuant to section 120 of the Health Practitioners Competence Assurance Act 2003) and ensure the majority of appointments to the regulator are engineers. This ensures professional oversight of the register and the powers and functions of the regulator.

WE AGREE TO THE PROPOSED POWERS AND FUNCTIONS OF THE REGULATOR

In principle we agree to the proposed powers and functions of the regulator, as outlined on page 23 of the discussion document. We welcome the establishment of a dedicated regulator to:

- propose new rules and regulations for registration and licensing
- administer the register (including making decisions on applications, monitoring compliance and overseeing the complaints and disciplinary process)
- set requirements for CPD
- develop a code of conduct
- share information about an engineer's conduct with any relevant agency.

It is our view that that, at a minimum, the following needs to be in defined in primary legislation:

- intent/purpose of the register of licensed engineers and protection of title
- requirements of the register (form, public accessibility, etc)
- clarification on scope of practice (or restricted work) as being defined in regulation
- requirements for addition to and removal from the register, including key obligations, powers and rights related to notifying competence concerns, investigating competence concerns, suspension, and managing risk (see below for additional detail)
- governance, oversight and accountability provisions relating to the structures and administration of the licensing system, including delegation to an authority, functions of the authority, and powers of delegation on decisions pertaining to the register.

We welcome further opportunity to discuss these with MBIE, as it progresses work to legislate an occupational regulation regime.

ENGINEERING NEW ZEALAND AS THE REGULATORY SERVICE PROVIDER

MBIE have requested feedback on who should administer the functions of the regulator, whether this should be MBIE, Engineering New Zealand or other delegations.

Historically Engineering New Zealand (IPENZ) has managed the substantive registration of engineers in New Zealand. We know first-hand what it means to regulate this diverse profession.

Effectively regulating any profession requires a systemic response. The right legal framework is only one piece of a much larger set of interdependencies that encompasses training and education, collegiality, development and maintenance of standards and guidelines, accreditation and proportionate accountability, and integration across the different professions in the industry. These pieces must mesh together as a cohesive whole.

We therefore support MBIE's proposal that Engineering New Zealand should be the regulatory service provider and welcome this opportunity.

COMPLAINTS AND DISCIPLINARY PROCESSES

When considering opportunities to shape a future complaints, disputes and enforcement process for engineers, we consider the following is important:

- **Flexibility in the early resolution processes**: Many complaints are low level and communication based and can be resolved through an early resolution process. Currently around 50 percent of the Registration Authority complaints are resolved through early resolution, meaning that the formal processes can be reserved for serious complaints. A binary process (for example a process which requires an investigation for each complaint) is not cost-effective or practical and can be at odds with the intent of an accountability system. The system needs to be flexible to allow different responses depending on the nature of the concerns raised, including a discretion to take no further action in certain circumstances.
- **Roles and responsibilities:** The current CPEng system is structured in such a way that it puts complainant against respondent – much like a court process where you have a plaintiff and defendant. While this may be appropriate for a complaint resolution regime (like a Commissioner or Ombudsman), it is ineffectual for professional accountability. It can be highly taxing and stressful for complainants discourage the public and other engineers from raising serious competence concerns. We consider an ideal professional accountability system has the Registration Authority take the lead in any action against registrants/licensed practitioners (even where this action originates from a complaint from a member of the public – for example, see the health practitioners' model where the process is led by a professional conduct committee).
- **Clear and simple:** the current formal complaints process for the Registration Authority is administratively heavy and can include up to nine different decision-makers across a three-phased process. This affects the efficiency and responsiveness of the Registration Authority to complaints and competence concerns. Ideally if a complaint is not appropriate for early resolution and needs a formal response, that process should have no more than two stages – investigation (for example, by an investigating committee or professional conduct committee) and, if appropriate, a disciplinary process.
- **Resolution powers:** Different complaints require different levels of resolution. The current system is binary and requires an investigating committee to investigate and either (1) dismiss or (2) refer to a disciplinary committee. The investigating committee has no power to make a decision to resolve a complaint. These committees should have greater powers to make negative comment and educational recommendations on matters that require a level of censure but not a disciplinary response, instead of being a step in the process (for example, see section 80 of the Health Practitioners Competence Assurance Act 2003 in relation to the recommendations and determinations of professional conduct committees).
- **Appeals should go to the District Court**: At present appeals go to Chartered Professional Engineers Council (see above). The majority of appeals in other professional disciplinary processes proceed straight to the District Court, which is appropriate.
- **Delegation powers:** At present the Registration Authority has the ability to delegate powers to make decisions on complaints to other persons. We consider this power very important.

THE REGULATORY BOARD SHOULD NOT BE THE DECISION-MAKER

In our experience, the regulatory board needs to be able to delegate the power to hold hearings and make decisions on complaints and disciplinary matters. The skills and expertise of a regulatory board are not the same as those required of a decision-maker acting in a quasi-judicial role. The two functions – that of a governance board and that of a professional disciplinary body – require different skills and expertise from members and should ideally be separated.

It is critical that decision-makers deciding whether to uphold complaints against engineers have the right attributes and qualifications to ensure a fair and robust disciplinary process.

For the same reason, we agree with the recommendation that appeals against disciplinary decisions and decisions of the regulatory board should go to the District Court.

PRIMARY LEGISLATION

Should MBIE's proposals proceed, we consider the primary legislation should include:

- Clear definition who/what is covered by the complaints and discipline powers of the Act
- Definition of who can complain
- Obligations to notify (for example, notification of convictions and notification that practice is below the required standard of competence (see sections 34 and 67 of the Health Practitioners Competence Assurance Act 2003))
- Options upon receiving complaint – no further action, refer to another body, alternative resolution or investigation
- Powers to commence an own motion
- Powers to require information – mandatory (see section 77 of the Health Practitioners Competence Assurance Act 2003)
- Powers to share risk information and respond to risk (same as Health Practitioners Competence Assurance Act 2003 – for example, see sections 35 and 39 of that Act)
- Disciplinary thresholds – for example negligence, incompetence, breach of code of ethics, criminal convictions, fraudulent disclosure of information to registration authority or licensing authority
- Types of orders – for example fines, suspensions, removal and publishing or notifying the decision
- Provisions similar to section 26 of the CPEng Act ("except as otherwise provided in this Act, a decision authority may regulate its own procedure for making decisions under this Part")
- Right of appeal (to the District Court)
- Procedure for decisions – for example natural justice, giving reasons for decisions and others
- Obligations on licensed individuals to notify the registration authority of convictions
- Power to enforce any orders made

CONCLUSION

[insert once draft is finalised]

APPENDIX A:

DETAILED RESPONSE TO MBIE'S CONSULTATION QUESTIONS

THE CASE FOR INTERVENTION

1. **Do you agree there is a case for occupational regulation of professional engineers? Why do you think so?**
    - We strongly agree there is a case for the occupational regulation of engineers. Please see our comments above.
2. **Have we identified the issues with the status quo correctly? Are there any issues that we have not included?**
    - It is our view that MBIE have correctly identified the issues with the status quo as far as the occupational regulation of engineers is concerned. As we have outlined above, occupational regulation is only one mechanism available to the Government to strengthen the quality of the systems engineers work within. In MBIE's conversations about addressing issues of quality within these systems, we continue to encourage a holistic, system view and subsequent problem definition.
3. **We are unable to verify the number of practising engineers and those who may be operating at substandard levels. Can you suggest information sources for us?**
    - MBIE's discussion document references work by PWC and Engineering New Zealand to ascertain the number of engineers in New Zealand. Based on this work it is our view that MBIE's figure of an additional 14,000 engineers to be registered is likely low. Depending on where the standard for registration is set, and whether registration is universal, it is our view that up to 40,000 engineers may be required to be registered. This number is based on the number of professional engineers (those with a four-year degree) who are practising without supervision.
4. **What is your perception of the overall performance of engineers? Does your perception depend on the engineering discipline? Do you have examples of poor engineering you can share?**
    - Engineers in New Zealand undertake world-class engineering work. We are proud of the work of the profession and honoured to represent engineers. This said, Engineering New Zealand and the Registration Authority for Chartered Professional Engineers manage the complaints and disciplinary process for the profession. This work provides us with insight of professional failures, many of these high-profile. For this reason, we know there are significant issues with the systems engineers work within. Some of these issues are a direct result of professional misconduct. It is our observation that these incidents are more likely to occur within disciplines acting outside of tight quality processes. Please see our comments above about engineers working with aviation, research and development, high-volatile electrical, academia and others.

PROPOSAL 1: ESTABLISH A NEW REGISTRATION REQUIREMENT FOR PERSONS WHO PRACTISE PROFESSIONAL ENGINEERING

5. **Does our working definition of professional engineer and professional engineering services adequately reflect the profession? Can you suggest any changes?**

- MBIE's definition of "professional engineer" is too broad in that it currently captures engineering technologists, engineering technicians, engineering geologists and (arguably) a range of other allied professions. Differentiating between these engineering roles is inherently difficult and any definition is likely to provide significant scope for differences in interpretation and make it very difficult to achieve a regulatory regime that is clearly understood, predictable and transparent. Building on our response to question 1 above, our knowledge of engineering regulatory schemes overseas does not throw up examples of regulatory schemes based on a general restriction of all engineering work. A good example of a registration scheme with widespread coverage is Canada, where registration is based on protection of the term "Engineer" and restrictions on the ability to advertise engineering services to the public (rather than a general restriction on undertaking any engineering work).
- In our view, narrowly defined licensing requirements provide a more practical and achievable mechanism for placing restrictions on particular types of engineering work. The current proposal attempts to restrict engineering work both generally (through registration) and specifically (through licensing).

6. **Do you agree that the regime should cover all professional engineers? Are there any disciplines that should be exempted and why?**
   - It is our view that the regime should not cover all professional engineers. As per our comments above, there is limited risk of professional misconduct and an inability to hold individuals to account in tight quality systems such as aviation, research and development, high-volatile electrical and academia. The same applies to graduate engineers working under supervision and not yet taking responsibility for their own work.
7. **Do you agree with establishing a new protected title? Do you have a preference for what it is?**
   - In principle we agree to establishing a protected title. If this title is not CPEng, "professional engineer" may be fitting. However, we have significant concern about the number of titles and public confusion. It has also been our experience that the term "professional" is problematic because of its inherent exclusion of some allied professions who are "professional". Further clarification from MBIE on the exclusiveness or inclusiveness of this title would support work going forward.
   - Protection of the term Engineer (as per Architecture and the engineering profession in Canada) would provide greater clarity for the public and potentially a strong driver for registration.
8. **Is a qualification enough for registration? Should we also include experience and an assessment of competence?**
   - Please see our comments above. It is our view that registration must include a minimum assessment of experience and competency. To demonstrate an ability to take responsibility for (at least) their own work.
9. **Would limiting registration to those with an engineering qualification (such as a Washington Accord level degree or equivalent) exclude some engineers in the profession? How can we recognise those engineers?**
   - Yes, consistent with international norms, our current competence assessment processes provide alternative assessment routes for candidates who do not hold a formally recognised academic qualification to demonstrate that they have gained an equivalent level of knowledge and skill.
   - Limiting registration would also exclude other engineering professionals (notably engineering technologists, engineering technicians and engineering geologists). We consider additional registers

could address this concern. We note that the phrase "professional qualifications" is problematic because it implies that other qualifications are not "professional".

10. **Do you engage engineers from overseas? Would requiring them to be registered affect your ability to engage their services? Or would overseas engineers be able to work under the supervision of a local engineer?**
    - [further advice from industry needed]
11. **Do you agree that all engineers should be subject to a code of conduct and continuing professional development obligations? Please share your reasons if you disagree.**
    - Yes, we agree with MBIE that commitment to a code of conduct and continuing professional development needs to be essential for the ongoing registration of professional engineers.
12. **Do you agree with the proposal for a practising certificate? Do you have any other suggestions for how we can link registration to continuing professional development?**
    - We agree with this proposal and it is something that we have proposed as part of our current CPEng review. Engineering New Zealand can provide further advice on linking registration to CPD if MBIE progresses this recommendation.
13. **How often should an engineer need to renew their practising certificate?**
    - Annually. This is something we have proposed as part of our CPEng review work.
14. **Should issuing a practising certificate be contingent on an engineer completing their continuing professional development commitments?**
    - Yes. This is also something we have proposed as part of our CPEng review work.
15. **Should electrical engineers registered by the Electrical Workers Registration Board continue under that regime rather than the new one proposed?**
    - It is our view that electrical engineers should not be exempt from the new registration and licensing scheme proposed.
16. **Are there other engineering practice fields that should also be recognised for similar reasons? What are they, and why should they be recognised?**
    - It is our view that the regulator should determine whether there are disciplines exempt from registration. As above, it is our view that some disciplines pose limited risk to the public and where compliance costs may not be proportionate to risk. Registration should confer an ability to certify engineering outputs, offer services to the public and use the protected title. Licensing classes should be identified by the regulator and approved by the Minister.
17. **Should we include engineering associates, engineering technologists, engineering technicians and/or engineering geologists in the new regime?**
    - It is our view that allied professions should be included in the regime but that there should be separate registers for these professionals (engineering technologists, engineering technicians and engineering geologists). Again, the standard for registration should be commensurate with an ability to take responsibility for their own engineering work.
18. **If we expand the scope, should we make registration mandatory for those practising in these additional areas?**
    - We do not consider registration should be mandatory for engineering technologists, engineering technicians and engineering geologists. We think registration for these professionals should be voluntary.

19. **Is a recognised statutory credential of value for engineering associates, technologists, technicians, and engineering geologists? Why?**
    - We support a statutory credential for engineering technologists, engineering technicians and engineering geologists.

PROPOSAL 2: RESTRICT WHO CAN CARRY OUT OR SUPERVISE HIGH RISK ENGINEERING WORK

20. **Do you support the Minister being able to decide what practice fields should be licensed? Or would you prefer greater certainty by setting out licensed practice fields in the primary legislation?**
    - We agree with MBIE that the Minister should be able to decide, on the advice of the regulator, what practice fields should be licensed. To embody license practice fields in primary legislation does not allow for the regulator to remain current with changes in the profession.
21. **Do you agree with the proposed list of criteria that the Minister would use to prioritise the development of licence classes? Are there other criteria that should be considered?**
    - We agree with the proposed list of criteria, as outlined on page 26 of the consultation document.
22. **What sort of eligibility requirements for licensing would provide a suitable level of assurance on an engineer's expertise? Should they differ depending on the practice field?**
    - It is our view that the setting of eligibility requirements for licensing should be managed by the regulator with the relevant technical society (for example the Structural Engineering Society of New Zealand or the New Zealand Geotechnical Society). With this approach we would expect that eligibility requirements for licenses to differ.
23. **Should licensed engineers undergo regular checks of their continued competency?**
    - It is our view that licensed engineers should undergo regular checks of their continued competency.
24. **How often should the regulator check a licensed engineers' competency?**
    - The frequency of competency checks should be determined by the regulator and the relevant technical group. This frequency may differ between license classes.
25. **What tools would be most useful to check competency in your practice field?**
    - We have discussed this with technical groups and consider interviews, referee checks, portfolios and written work are possible tools to check competency. Another option is the introduction of exams (this happens in some jurisdictions).
26. **Would you prefer using the Chartered Professional Engineering (CPEng) credential for licensing classes rather than creating a new credential? Why?**
    - Please see our comments above. We consider there is a case for the CPEng credential providing the platform for license classes (CPEng with endorsement).
27. **Do you prefer the option of licensing companies instead of individuals? Why?**
    - We continue to encourage MBIE to take a systems view of identifying and addressing risk. One option to address risk is to licence companies, although this comes with compliance costs that will have significant implications for small to medium engineering businesses. As an alternative to licencing companies, MBIE may wish to restrict the ability of businesses to advertise engineering services to those whose engineers are registered or hold a licence.

PROPOSAL 3: ESTABLISH A NEW TWO-TIERED REGULATOR COMPRISED OF AN INDEPENDENT REGULATORY BOARD AND A REGULATORY SERVICE PROVIDER

28. Do you agree with the proposed two-tier regulator model of a regulatory board and a regulatory services provider? Are there any other models we should consider?

- Yes, we agree with the two-tier regulator model of a regulatory board and a regulatory service provider.

29. Do you have a preference for who the regulatory service provider should be?

- Yes. It is our view that Engineering New Zealand should be the regulatory service provider.

30. Do you agree with the proposed functions of the regulator and regulatory service provider? Can you suggest any different functions?

- Yes, we agree with the proposed functions of the regulator as set out on page 30 of the discussion document. As outlined above, one caveat to this is that the regulatory board needs to be able to delegate the power to hold hearings and make decisions on complaints and disciplinary matters. The skills and expertise of a regulatory board are not the same as those required of a decision-maker acting in a quasi-judicial role. The two functions – that of a governance board and that of a professional disciplinary body – require different skills and expertise from members and should ideally be separated. It is critical that decision-makers deciding whether to uphold complaints against engineers have the right attributes to ensure a fair and robust disciplinary process.

31. Have we missed any other grounds for discipline? Have we proposed grounds for discipline that you think should be modified or removed?

- We agree with MBIE's proposed grounds for discipline as set out on page 32. Please see our comments above for further thoughts on the complaints and disciplinary process.

IMPLEMENTATION

32. Should the regulator have the flexibility to recognise and automatically deem some existing practitioners as registered and/or licensed?

- It is our view that the regulator should have the flexibility to recognise and automatically deem some existing practitioners as registered. This would support international mobility and long-standing international agreements.
- We do not think the regulator should have the flexibility to recognise and automatically deem some existing practitioners as licensed. This is because licensing classes will require New Zealand specific experience and will be tailored to current knowledge and skills.

33. Do you have any suggestions for other ways to transition the profession to the new regime?

- We support MBIE's high-level transition plans as outlined in the consultation document.

34. Should we retain the Chartered Professional Engineer credential in the longer term? If we do, what role should it play?

- Please see our comments above. Depending on the standard for registration and whether this can be aligned with CPEng, we consider there is a place for the credential in the future. We know many in the profession support the retention of CPEng.
- Returning to our principles on page 2 of this submission, we all need a system that is simple to understand and operate. Should meeting this objective require the repeal of CPEng, we will work with CPEng holders and Engineering New Zealand members to support their transition and ongoing engagement with the system.