# SUMMARY OF MEMBER SUBMISSIONS
# OCCUPATIONAL REGULATION

A summary of the opinions and issues raised by Engineering New Zealand members during our April-May 2019 consultation on MBIE's proposal to regulate engineers

We received around 130 submissions from individual members, and more than 500 members attended and provided feedback at branch sessions across New Zealand. The feedback we received was thoughtful, considered and holistic. We are grateful to everyone who took the time to engage with us at this step in the process. While everyone brought their own perspective on the proposal, some strong themes emerged across the breadth of submissions. We discuss these key themes below, together with a brief outline of how we have incorporated these themes into our draft submission to MBIE.

In a consultation like this, it is impossible to capture every voice. Inevitably, there were some viewpoints that could not be incorporated into our submission, whether it was because they were held by only one or two members, or because they were not directly relevant to the current proposal. But we have been guided strongly by your feedback, and hope our members will continue to be part of the conversation. This is only the first step in the journey.

*Key themes we have heard from members during consultation, and how we've reflected those themes in the draft submission*

| Key themes | What we've heard | How this is reflected in our draft submission |
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| **I support the idea of licensing, but…** | The majority of members supported licensing in some form, but with some caveats.<br>The MBIE proposal is, as many of you identified, light on detail. It is important that, whatever system is implemented, Engineering New Zealand and technical groups are involved in decision-making around thresholds, assessment methods and criteria, and definitions of restricted work.<br>We also agree it's vital that MBIE is realistic about the cost involved in administering a licensing scheme. As many of you noted, Engineering New Zealand relies heavily on the goodwill of senior engineers who volunteer their time as assessors, representatives of technical groups, investigating committee and disciplinary committee members, and in countless other capacities. | We support licensing from a high-level, principled point of view. Our submission expresses concern that much of the devil is in the detail.<br>Much more work is needed to define the scope and threshold of licenses, including a comprehensive analysis of where the greatest risk lies.<br>We believe there needs to be strong engagement with engineering professionals, technical groups and partners to determine the scope of licences.<br>We are firmly of the view that Engineering New Zealand has an important role to play in developing and administering any licensing regime. |
| **Engineering New Zealand has the knowledge and expertise to administer licensing and general competency standards.** | Most members are supportive of our role as the peak professional body for engineers in New Zealand.<br>While there are a range of views as to the appropriate level of government regulation in a new licensing scheme, most members agree we are best placed to lead and operate professional self-regulation at a general competency level, and to administer licensing (subject to a level of independent oversight). | We strongly believe Engineering New Zealand is best placed to lead and operate any licensing and general competency scheme. We have the experience, expertise and access to industry support that is necessary to administer both schemes.<br>We support government oversight at the licensing level, through accountability to the Minister under legislation. We do not support government regulation of general competency standards – we see this as more appropriately governed by the profession like it is in |

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| | | other jurisdictions (such as Australia, the United Kingdom, Ireland and Hong Kong). |
| **Why not just fix/improve/strengthen CPEng, instead of replacing it with something new?** | We are really pleased to have heard from so many members that the current CPEng system is, for the most part, doing a good job of assessing professional engineers' competence.<br>While there are a lot of good things about CPEng, the Act and Rules that govern it aren't flexible enough to cope with the introduction of a licensing framework. We need a new Act and Regulations that give us the freedom to create a best-practice model, including stronger risk-management provisions.<br>In our vision, the aspects of CPEng that are working are carried over to the new framework. | We agree with MBIE that it would be inefficient and impractical to amend the current CPEng Act to try and fix the parts that are not working well. We agree the current Act should be repealed and replaced with a two-tier framework of licensing and professional self-regulation.<br>We agree that aspects of CPEng that are working should be incorporated into the new framework. |
| **Certification will only lead to duplication.** | Most members agree that the proposed certification system will only add confusion, duplication and cost.<br>Most members also agree that the quality mark of professionalism and general competence in specific areas should be self-regulated from within the profession, and not subject to government regulation. | We think having two schemes for providing assurance of an engineer's professionalism and general technical competence in specific areas is a duplication of process. It will increase cost and have unintended consequences that affect the system's responsiveness to emerging issues.<br>Our members are strongly united in their view that we don't need two schemes for recognising general professionalism and competence. Having two schemes is confusing for the public and not in their interest – because cost and consequences ultimately affect the public. |
| **MBIE's proposal is too focused on the building sector. What about** | Many members identified that while MBIE's proposal focuses on the building sector, it is imperative that any | Our vision is for a legislative framework for licensing that can cover far more than just engineering. It's unclear |

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| **water/mechanical/aviation/transportation engineers? This work is safety critical too.** | licensing or regulatory framework can be extended across all engineering disciplines.<br>We agree that all sectors of engineering involve work that is potentially safety critical and could be appropriate for a licence class. | from MBIE's proposal if the model is sufficiently flexible to work for engineers outside the building and construction industry, and this is something we think needs further work.<br>We recommend omnibus legislation that can cover not only all engineering disciplines, but also other professions that are integral to building and infrastructure (for example, architects). The Health Practitioners Competence Assurance Act 2003 provides an excellent model of how this could be achieved. |
| **Membership with a professional body should be compulsory for all chartered/licensed engineers.** | Many members support compulsory membership for professional engineers, like other professions such as accountants and lawyers.<br>Other members feel strongly that there needs to be a pathway to licensing and/or general competency standards for non-members.<br>We want all professional engineers to be members of Engineering New Zealand because that strengthens the profession as a whole and better protects the public, but we recognise we need to be open to the idea of pathways for non-members. | We understand MBIE's concern about regulating membership of a private body. But most members see membership of a professional body as a fundamental minimum expectation of someone who holds a licence. This means that they are connected to their peers and an environment that enhances professional development and growth, along with the other benefits to the profession and society that come with membership. There are other areas of professional regulation where this happens – accountancy and law, for example. |
| **Licensing alone won't solve the problems identified. Systemic change, including increased peer review and quality assurance mechanisms, and better consenting processes, is what's required.** | Many submitters observed that it doesn't matter how rigorous our assessment standards are, if there are other gaps in the building system. Engineers are only one piece of the puzzle.<br>Some members commented strongly on the need for increased peer review and quality assurance mechanisms. Others identified the need for more rules around project | Regulating a profession effectively requires a systemic response. The right legal framework is only one piece of a much larger puzzle that also encompasses training and education, collegiality, the development and maintenance of standards and guidelines, accreditation and accountability, and integration across the different professions in the industry. |

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| | management, to ensure a cohesive approach to risk management.<br>We agree licensing is not a magic bullet. However, a licensing scheme that can be extended not only across all engineering disciplines, but all key aspects of the building industry and beyond, may go a significant way towards addressing these broader systemic issues. | While creating the right regulatory framework for engineers is a start, it isn't our only response. Human error and mistakes will happen, regardless of the regulatory framework. We need to ensure that the whole system is designed to recognise mistakes as early as possible and is enabled to respond effectively and efficiently. Regulating engineers in isolation from these other systems, while a good start, will not get us to where we need to be.<br>Recognising, accrediting and setting programmes (including auditing) to ensure the ongoing competence of licensed engineers is a key responsibility of the body administering licensing, and this should be embodied in the legislation. |
| **The proposal has the potential to create a shortage of qualified engineers.** | Many submitters commented that restricting engineering work to licensed engineers could exacerbate the engineering skills shortage and lead to a lack of qualified engineers. There could also be an effect on the availability of high-level quality assessors.<br>We agree that any licensing scheme will need to be balanced to ensure enough engineers can be qualified to satisfy market demands. This is something that will need to be carefully considered in the development of thresholds and definitions of restricted engineering work, if licensing is introduced. | Much more work is needed to define the scope and threshold of licences. We can lead this with our technical group partners, informed by a comprehensive analysis of where the greatest risks lie.<br>If government is to intervene, the benefits must exceed the costs. |

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| **Sole traders and small consultancies may be driven out of business by the costs and burden of licensing.** | Many submitters commented that sole traders and small consultancies may find the cost and burden of licensing to be unmanageable, and so be forced out of the market for restricted building work.<br>This is something that will need to be considered if and when the time comes for establishing thresholds and costs for licensing. We recognise that this could significantly impact a substantial section of our membership. | Much more work is needed to define the scope and threshold of licences. We can lead this with our technical group partners, informed by a comprehensive analysis of where the greatest risks lie.<br>If government is to intervene, the benefits must exceed the costs. |
| **MBIE lacks the expertise and knowledge to regulate our profession.** | Most submitters expressed concern that MBIE lacks access to the expertise, experience and knowledge that Engineering New Zealand has gathered over many years as the regulator of Chartered Professional Engineers and its members.<br>In most submitters' view, professionals should be assessed by their peers, and they are not confident in MBIE's ability to source and retain the industry support to do this. | Any licensing regime needs access to the best technical expertise, to set standards, scopes of licences, and to assess them in each area. Engineering New Zealand is best placed to administer the licensing regime, as we have strong and established links to the best technical expertise and experience in assessment. Any licensing legislation should not define or set a threshold for licences but should instead delegate that role to the governing body to determine, working through Engineering New Zealand (as the administrator of the licensing scheme) and the relevant technical bodies to determine the scopes, definition and thresholds of licences, with accountability back to government. This allows for flexibility as the profession grows and develops over time. |
| **Licensing could stifle innovation, if engineers are not allowed to try new things or practice outside their licence class.** | Some members worry that licensing could be overly restrictive in preventing engineers from working outside the specific scope of their licence. This could mean engineers are unable to innovate or try their hand at new areas of work. | Our vision is for a regulatory framework that looks ahead, with an eye on how the profession is growing and changing. It takes in the profession's depth and breadth, the role of innovation in solving the critical challenges facing New Zealand and New Zealanders, and |

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| | | the role of interdependent professions and how we can best protect the public.<br>Licensing for restricted work must be pitched at the right level and supported by strong self-regulation from the profession. It's important that any new regulatory framework does not undermine the incredible engagement we see in our members, which fosters learning and professional development. |
| **Licensing/certification of individual disciplines could lead to a fragmented profession where different organisations control different registers, which could in turn result in the currently unified professional body/voice we have established being split/diluted.** | Members recognised that the proposal, with its particular focus on building and construction, could result in a fragmented profession. A unified and strong profession is critical to public safety across the board. | Fragmentation in regulation is confusing and stretches the safety net too thin. In the interests of the public, the framework needs to allow for integration and coordination within and across the profession and interdependent professions. |
| **CMEngNZ and CPEng are internationally benchmarked – we must ensure we don't lose this reputation.** | Many members noted that Chartered Membership and CPEng registration are internationally benchmarked standards that allow New Zealand engineers to be easily recognised overseas, giving them global mobility.<br>We agree it is vital that any new system is equally recognised around the world, and that we do not see our international reputation suffer from the change. | It's vital we retain our international status. This is one reason we don't support the introduction of a new certification mark for general competence.<br>Engineering New Zealand already offers this quality mark through an existing framework: Chartered Membership (which was reframed from Professional Member in 2017). Chartered Member is a credible, internationally benchmarked, quality mark that establishes a base level of professionalism and technical competence in an engineer's specific areas of practice. Chartered Members are competence-assessed to an internationally benchmarked standard at the same level as CPEng. The only differences between CPEng and Chartered Member assessments are that CPEng |

encompasses New Zealand-specific experience and requires reassessment, whereas Chartered Member currently does not. We have agreements with international bodies to support global mobility of our members, meaning they can practise across the world.

## REPRESENTATIVE COMMENTS FROM MEMBERS

*Licensing*

"Regulating safety critical work would better protect the users of the building and provide public with further reassurance that they are safe. This can only strengthen trust and further promote engineers and their work to the public."

"Whichever system is chosen, it should be as straightforward as possible so members of the public can understand what level of engineer they are working with, and what is required for their project. It should not be a costly or difficult exercise to determine who is qualified to do a job."

"As a young engineer I strongly believe in the power of mentoring and peer review. I think the first licence period or a portion of should be probationary for new areas of practice."

"The parameters of the licencing scheme must make it clear when an engineer is working on safety-critical work, and then it will be simple to verify that they have the skills and knowledge required to complete the work in an acceptable way – they will have the required licence. This is a transparent system, and the public rightly require safety-critical engineering to be treated like this, without a case-by-case debate over whether each engineer's personal experience is enough to complete the work safely."

"Technical competence can only be assessed by peers. Would the general public accept doctors being licensed to practice by lawyers? I do not think that approach would engender any confidence!"

*Certification*

"This is really a nightmare scenario. It is untenable."

"In the form of the proposal, it would be exceedingly damaging to the profession … The duplication of cost, options, lack of clarity and accountabilities are unworkable."

“The MBIE document does not describe any advantages to replacing one voluntary certification scheme run by the industry with another voluntary scheme run by the government.”

“If it ain’t broke, don’t fix it.”

### *Engineering New Zealand*

“Membership of a professional body is absolutely vital in my eyes and the existence of a strong, well-funded and reliable professional body is critical to the profession.”

“It is a well-established practice of allowing professional bodies to vet the competence of their own members, the Chartered Professional Engineers Act is no different in this regard to the Architects Registration Act, the Chartered Accountants Act and the Lawyers Practitioner Act.”

“Engineering NZ has robust assessment and certification standards which cater to safety critical work across several industries, not just building work that MBIE justification seems based on.”

### *The bigger picture*

“Engineering relies on good teamwork to achieve good results. Good engineering is doing the right things at the right time in the right sequence. Most complex engineering activities are multi-discipline and rely on good processes, good communication and using the best and most experienced people in early design development. These simple measures have a huge influence on achieving successful project outcomes.”

“Unless it is balanced to include all parties, and all who are involved in the decision making of a project – is it really going to fix the issues? Safety over economy has to be a team effort and not pushed as the sole responsibility of the engineer. Long term economics has to also feature, we need things that will last rather than cheap and nasty quick construction which has to be demolished when we have a bit of wobble.”

“Design professionals … should be working in an environment that provides control by means of peer review and the application of a formal quality control system subjected to external certification. These features are an established part of the modern world. Added to this is review of the design and documentation by the Building Consent Authority. If all these features are working then there should be no need for another layer of control. Use these arrangements and make them work.