



**New Zealand  
Institute of Architects  
Incorporated**

# STANDARDS AND ACCREDITATION BILL

## SUBMISSION TO THE COMMERCE COMMITTEE

**15 JANUARY 2015**

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### INTRODUCTION

This is a joint submission made by the Institution of Professional Engineers New Zealand (IPENZ), the Association of Consulting Engineers New Zealand (ACENZ), the Institute of Public Works Engineering Australasia New Zealand Division (IPWEA NZ) and the New Zealand Institute of Architects (NZIA). Collectively we represent the views of New Zealand's professional engineers, consulting engineering and architects firms. Background information about IPENZ, ACENZ, IPWEA NZ and NZIA is presented at the end of this submission.

### CONSULTATION

This submission incorporates comments from IPENZ, ACENZ, IPWEA NZ and NZIA Members.

### INTRODUCTION

IPENZ has already responded to proposals to change the standards system – by submitting in relation to the discussion document *Proposals to Enhance the Delivery of Standards by New Zealand's National Standards Body* in April 2013 and by corresponding directly with officials. In that submission and correspondence, IPENZ did not support the proposed move away from the existing independent Standards Council. This was largely due to our concern that independence, transparency and accountability would be more difficult to ensure if standards development functions were moved away from a truly independent body to the Ministry of Business, Innovation and Employment.

IPENZ, ACENZ, IPWEA NZ and NZIA (“we”) understand Cabinet has decided to proceed with moving standards development functions. This submission thus focuses on ensuring the new arrangements deliver industry-relevant, internationally aligned standards within a structure that provides independence from the regulator, as well as transparency and accountability.

## **SUBMISSION**

### **Title, Commencement (clause 1-2)**

We have no comments on these clauses.

### **Purpose and Objectives of the Bill (clause 3)**

We support the purpose of the Bill, as stated in the Explanatory Note, as being to “ensure the New Zealand Standards and conformance system is viable and well-functioning, and meets the needs of business, regulators, and consumers into the foreseeable future”.

We also support the objectives set out on page 2 of the Explanatory Note relating to:

- The maintenance of confidence and credibility in the standards development and approval process
- Ensuring the standards and conformance system is responsive to industry, consumer and regulators’ demands and that it meets international expectations
- Better alignment of standards with Government priorities
- Ensuring standards development is cost-effective and financially sustainable.

We believe it critical that the standards development and approval system is effective, efficient, equitable, transparent and financially sustainable.

### **Interpretation, Act binds the Crown (clauses 4-5)**

We believe the Bill has ambiguity in its references to inspection bodies and testing laboratories. The Interpretation in clause 4 defines conformity assessment bodies as including testing laboratories, inspection bodies and certification bodies. We assume design verifiers would fall within this definition. Later in the Bill, in clauses 37(1) and 38(1), there are restrictions preventing inappropriate use of the term conformity assessment body. These restrictions are written in a way that seems to apply only to testing laboratories not the general class of conformity assessment bodies, including inspection bodies. We recommend this ambiguity be addressed.

### **The New Zealand Standards Executive (clauses 6-10)**

We note the intention to establish the New Zealand Standards Executive as an independent statutory officer within the Ministry of Business, Innovation and Employment. We support the establishment of this role and believe it vital that the officer is truly independent, as required under clause 7(2)(a). Without this independence, the standards development process could be susceptible to regulator-capture and such a perception would result in the loss of industry confidence. Further, we recommend the New Zealand Standards Executive be subject to regular and independent auditing to confirm it has acted effectively and independently. The results of these audits should be reported appropriately to ensure any detected issues are disclosed and addressed. Furthermore, to ensure industry and the public have confidence in the standards development systems, audit reports must be available to these stakeholders.

We note and support the proposed functions of the New Zealand Standards Executive set out in clause 7(1). In relation to establishing and maintaining the work programme for the development, maintenance and review of standards (clause 7(1)(e)), we believe industry consultation is vital to ensure the prioritised programme

of work is appropriate. This will also ensure the continued buy-in and contribution by the key industry players. We recommend industry consultation be a mandatory requirement under the Bill.

We foresee the functions set out in clause 7(1) requiring appropriate resourcing greater than a single individual as implied in the definition. We also note clause 8(1) of the Bill enables the delegation of the New Zealand Standards Executive's functions. We support this but note that any delegates, while also being Ministry employees, must act independently while undertaking delegated functions.

We note the intention for Ministers to be notified prior to the review of cited standards (clause 10). We support this proposal. It is critical that legislation and New Zealand Standards are consistent and well aligned.

To ensure consistency, it is also vital that interdependent elements are considered when Standards are being prepared or reviewed. An example of this is in regard to the weathertight buildings and the standards/practices relating to two separate elements – monolithic cladding and kiln dried timber (NZS3602:1995). If installed correctly, each would create no issues. However, their interaction in design created a large number of issues with "leaky buildings". Hence there is the need to ensure consideration is given to any interdependence when developing standards.

### **The New Zealand Standards Approval Board (clauses 11-14)**

We generally support the creation of an independent Approval Board, as proposed in clause 11. We note and support the proposed functions of the Board, as set out in clause 12. We support the requirement for the Board to provide written reasons for declining standards development committee members, specific standards or modification of standards. This will help ensure transparency and consistency in the decisions made by the Board.

We note the Board is to have five to seven members appointed by the Minister. It will be important to ensure the Board is equitable, with representatives of the domains of interest of key stakeholders, including regulators, industry and consumers. We urge the Ministry and Minister to ensure the Board is equitable and not vulnerable to government/regulator capture. We also recommend potential Board members be required to identify any potential personal or professional conflicts of interest they may have to ensure these conflicts of interest can be managed and to mitigate the risk of Board members promoting their personal or professional agendas.

We note and support the considerations for the Board as set out in clause 13. In particular, we support clause 13(1) which will be important to ensure standards development committees comprise the "right" people – those with the necessary skills and expertise. Clause 13(1)(a) will be important to ensure standards development committees are not captured by those with special interests or their own personal/professional agendas.

### **STANDARDS DEVELOPMENT COMMITTEES (CLAUSES 15-22)**

We note and support the continued use of committees to assist in the drafting of new standards and the review of existing standards. We note the Explanatory Note says such committees "could" include industry and technical experts, amongst others. We believe the involvement of industry and technical experts is vital and recommend the Bill be amended to require a call for nominations from stakeholder organisations that are, in general, well placed to identify experts with appropriate skills and expertise to be on a committee. Representatives on standards

development committees are largely volunteers who dedicate significant time and resource to support the standards development process. The success of the standards development process will depend on this continued high level of volunteer contribution. Therefore the perceptions of independence and full stakeholder representation on standards development committees will be critical to ensuring a continued high level of volunteer support.

To ensure standards development committees comprise the people with the best expertise available, we recommend consideration be given to funding core technical experts for their input and expertise. Involving those with core technical expertise in the particular subject area of the standard under development will help ensure the standards delivered are of the highest quality.

We consider that Clause 17(3), relating to conflicts of interest and the authority to vote and take part in discussions, is impractical. A volunteer representative on a standards committee is by definition “personally interested”, as well as being professionally interested. The intention of the provision i.e. to prevent manipulation of a standard for personal gain, is not delivered by the current wording and we recommend it be amended.

### **FEES FOR NEW ZEALAND STANDARDS AND COST RECOVERY (CLAUSES 23-25)**

We are heartened to see the Bill establishes a funding model for standards. However, we are concerned that the model seems focussed on the development of standards and does not set out how the time-consuming and expensive process of reviewing and updating standards will be funded. We recommend the Bill be amended to provide more clarity on this matter.

In relation to clause 23(1) we urge the New Zealand Standards Executive to make cited standards available to practitioners free of charge. We believe construction standards, for example, should be available free of charge to engineers and others practising in the construction sector.

In relation to clause 24, we believe the New Zealand Standards Executive will have to be careful if it is to enter into commercial arrangements with others. As noted previously, we believe it is very important the standards development process is not influenced or perceived to have been hijacked by those with their own agendas.

We support the principles of cost recovery, as set out in clause 25.

### **NEW ZEALAND STANDARDS AND OTHER ACTS, LEGISLATIVE INSTRUMENTS AND BYLAWS (CLAUSES 26-28)**

We note the Bill enables bylaws to be made by referring to all or part of a standard. Bylaws are deemed “not complete” unless a copy of the New Zealand Standard (or part of it) referred to in the bylaw is included. We assume, therefore, that any New Zealand Standard cited in a bylaw will be available free of charge.

We note the Bill only refers to New Zealand Standards cited in bylaws and legislative instruments. We question the status of joint and overseas standards, to which New Zealand laws refer and would appreciate clarification of their status.

Clause 27 of the Bill allows for New Zealand Standards cited in bylaws and legislative instruments to be modified, we assume by the person or body making the law. We have concerns that regulators may modify New Zealand Standards without the rigour of the standards development and review processes being applied. We recommend any proposal to modify a New Zealand Standard through a bylaw or

legislative instrument be first endorsed by the Committee which developed the standard, then approved by the New Zealand Standards Approval Board.

### **PROOF OF NEW ZEALAND STANDARDS (CLAUSE 29)**

We have no comment on this clause.

### **ACCREDITATION OF CONFORMITY ASSESSMENT BODIES (CLAUSES 30-36)**

We note Clause 33(1)(e) enables the endorsement, in the name of the Council, of conformity assessment documents. However, the wording in clause 33(1) “the Accreditation Council may” indicates that such endorsement is at the Council’s discretion. We question what evaluation criteria the Council is likely to apply in determining whether or not to endorse documents issued by an accredited conformity assessment body. We recommend this be clarified.

### **RESTRICTIONS (CLAUSES 37-38), MISCELLANEOUS PROVISIONS (CLAUSES 39-44)**

We have no comments on these clauses.

### **SCHEDULES**

We have no comments on the Schedules.

### **CONTACT DETAILS**

We wish to appear in person before the Select Committee to speak to our submission.

IPENZ, ACENZ, IPWEA NZ and NZIA are available to provide further comment if required. For more information please contact:

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## **BACKGROUND TO IPENZ**

The Institution of Professional Engineers New Zealand (IPENZ) is the lead national professional body representing the engineering profession in New Zealand. It has approximately 16,000 Members, including a cross-section from engineering students, to practising engineers, to senior Members in positions of responsibility in business. IPENZ is non-aligned and seeks to contribute to the community in matters of national interest, giving a learned view on important issues, independent of any commercial interest.

## **BACKGROUND TO ACENZ**

The Association of Consulting Engineers of New Zealand (ACENZ) represents the consulting industry for engineering and related professionals that work in the built and natural environment. The organisation has more than 190 member firms which represent about \$1.5 billion a year in combined turnover, and collectively employ in excess of 9,400 engineers, architects and supporting staff.

## **BACKGROUND TO IPWEA NZ**

The Institute of Public Works Engineering Australasia New Zealand Division (IPWEA NZ), formerly known as INGENIUM, represents engineers, planners, designers, managers, and contractors involved in designing, constructing and managing public horizontal and vertical built infrastructure throughout New Zealand. It is a division of the Institute of Public Works Engineering Australasia and is a partner of the American Public Works Association (APWA) and member of the International Federation of Municipal Engineers (IFME). IPWEA NZ currently has approximately 900 members involved in managing approximately \$200 billion of public assets.

## **BACKGROUND TO NZIA**

The New Zealand Institute of Architects (NZIA), which was founded in 1905, is the professional body that represents more than 90 per cent of New Zealand's registered Architects, as well as hundreds of architecture graduates and students. The Institute promotes high standards of building design and professional performance. It produces material essential to architects' practice, operates design and technical programmes to educate its members, and runs a rigorous, peer-reviewed awards programme that sets the benchmark for New Zealand architecture. The Institute seeks to collaborate with central and local government, other professional organisations and the wider construction industry.