

BPB Appeal No. A1356

IN THE MATTER OF

the Building Act 2004 (the Act)

AND

IN THE MATTER OF

an Appeal to the Building Practitioners Board under Section 330(1)(a) by **[the Appellant]** against a decision of the Registrar

DECISION OF THE BUILDING PRACTITIONERS BOARD

Date and location of hearing:	30 November 2021, in Wellington
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Appeal heard by:	Mr C Preston Ms F Pearson-Green Mr D Fabish Mr R Monteith
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Appearances by:	[the Appellant]
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1.0 Introduction

- 1.1 [The Appellant] of Lower Hutt applied for a Roofing (Profiled Metal Roof and/or Wall Cladding) Licence under s287 of the Act and the Licensed Building Practitioners Rules 2007¹ (“the Rules”).
- 1.2 The Registrar of Licensed Building Practitioners (“the Registrar”) declined the Appellant’s application and notified his decision by letter dated 1 June 2021. Notification of the decision included a notice of the right to appeal the decision to the Building Practitioners Board (“the Board”).
- 1.3 On 22 June 2021 the Appellant lodged an appeal to the Board against the Registrar’s decision.

2.0 Licensing scheme

- 2.1 To become licensed, a person must satisfy the Registrar that they can meet all the applicable minimum standards for licensing.² The minimum standards are set out as “Competencies” in Schedule 1 of the Rules. In determining whether a person meets a Competency, regard must be given to the extent to which the person meets the Performance Indicators set out for that competency in Schedule 1³.
- 2.2 Where the Registrar declines an application the applicant has a right of appeal to the Board.⁴

3.0 Scope of the appeal

- 3.1 An appeal proceeds by way of rehearing⁵. However, the Board will not review matters outside the scope of the appeal⁶.
- 3.2 The appeal seeks the following relief:
The grant of a Roofing (Profiled Metal Roof and/or Wall Cladding) Licence
- 3.3 In light of s335(4) and the Registrar’s decision letter, the Board interprets its inquiry as being restricted to consideration of Competencies 1, 2, 3 and 4 for a Roofing Licence.

¹Incorporating amendments for 2008, 2009 and 2010.

²S286 of the Act and rule 4 of the Rules.

³Clause 4(2) of the Rules

⁴S330(1)(a) of the Act.

⁵S335(2) of the Act

⁶S335(4) of the Act

Roofing Licence Competencies:

Competency 1: Demonstrate knowledge of the regulatory environment of the building construction industry.

Competency 2: Demonstrate knowledge of current Roofing trade practice.

Competency 3: Carry out planning for roof work.

Competency 4: Carry out roof work.

4.0 Registrar's report

4.1 The Registrar's decision to grant or decline a licence is informed by an assessor's recommendation⁷. The Board's Appeals Procedures require the Registrar to provide a report which includes all evidence used to reach the decision, including the assessors' recommendation.

4.2 The Registrar's report notes, at paragraph **18** the following from the Assessor's recommendations:

- The recommendation is to decline the granting of the Roofing License based on the comments by [Referee 1] in regard to the standard of workmanship. [Referee 2] hadn't sighted the applicant carrying out the work but was just relying on feedback through photo evidence and limited feedback from clients.
- During the phone interview the applicant spoke a lot without really giving direct answer to my questions around the Regulatory Environment stating that he only does re-roofs therefore has no involvement with any Building Consent Authority and doesn't need a Licensed Roofer to sign off his work.
- Health and Safety was questionable if he's doing a job direct to the client he spoke of building his own timber scaffold, however under the banner of Edwards and Hardy the sites are correctly set up with access and edge protection.
- Overall the applicant had written some reasonable detail around his technical knowledge but it was difficult to test him on this during the phone interview as he wasn't particularly specific. One comment in the application states that he would flatten down into the purlins any existing nails or

⁷ clause 10 and 11 of the Rules

screws, this couldn't be considered good practice and reduces the ability to award competency 2.

- Scope of work on both roofs is quite basic only one has any valleys and neither have any hips.
- The comment by [Referee 1] that they are unlikely to use the applicant again is worth taking heed of.

4.3 The Registrar concluded:

The basis for the Registrar's decision to decline the application

- I have been delegated under S312 (1) to review the assessment report and make a decision about [the Appellant's] application.
- I reviewed the assessor's report and [the Appellant's] application.
- I based my decision on the assessor's recommendation, for the reasons set out above. I did not consider that there was sufficient reason or concern to overrule the assessor's recommendation.

5.0 Appellant's Submissions

5.1 The Appellant included with his appeal some additional examples of roofing work he had done in the past. He also provided additional references.

5.2 The Board asked questions of the Appellant.

6.0 Board's consideration

6.1 The Board noted that the Registrar was satisfied that the Appellant met the none of the Competencies for the Roofing licence.

6.2 The Board then considered Competencies 1, 2, 3 and 4 for a Roofing Licence. These Competencies can be demonstrated by meeting some or all of the performance indicators as listed in Schedule 1 of the Rules.

6.3 The LBP scheme is competency based, and it is up to the practitioner to demonstrate their competency.

Board's findings

6.4 The Board concluded that the Appellant **provided** evidence to demonstrate that he met sufficient Performance Indicators to satisfy the requirements of Competencies 1, 2, 3 and 4 for a Roofing (Profiled Metal Roof and/or Wall Cladding) Licence.

6.5 The Board suggested that [the Appellant] seek membership of a related professional industry organization, to better his connections and keep updated. The Board further noted that [the Appellant] should ensure that he only worked within his competency, and ensure he was able to provide appropriate supervision to non-licensed Profiled Metal Roof and/or Wall Cladding roofers.

7.0 Board's Decision

7.1 Pursuant to s335(3) of the Act, the Board has resolved to reverse the Registrar's decision and grant [the Appellant] a Roofing (Profiled Metal Roof and/or Wall Cladding) Licence.

7.2 The Board directs the Registrar to issue a Roofing (Profiled Metal Roof and/or Wall Cladding) Licence to [the Appellant] as soon as practicable.

8.0 Publication of Name

8.1 Pursuant to s339 of the Act, the Board may prohibit the publication of the Appellant's name and/or particulars.

8.2 The Board, having considered the circumstances of this appeal, directs that the name and the particulars of the Appellant **are not** to be made public.

Signed and dated this 6th day of December 2021



Mr C Preston
(Presiding Member)

Advice Note (not part of Board's Decision)

Extracts from the Act:

"330 Right of Appeal

- (1) *A person may appeal to the Board against any decision of the Registrar to—*
(a) *decline to licence the person as a building practitioner;*
...

- (2) *A person may appeal to a District Court against any decision of the Board—*
 - (a) *made by it on an appeal brought under subsection (1);*

...

331 Time in which appeal must be brought

An appeal must be lodged—

- (a) *within 20 working days after notice of the decision or action is communicated to the appellant; or*
- (b) *within any further time that the appeal authority allows on application made before or after the period expires.”*