

## Before the Building Practitioners Board

	BPB Complaint No. 26786
Licensed Building Practitioner:	Brodie Norman King (the Respondent)
Licence Number:	BP 136857
Licence(s) Held:	Carpentry

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### Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner Under section 315 of the Building Act 2004

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Complaint or Board Inquiry	Complaint
Hearing Location	by audio-visual link
Hearing Type:	In Person
Hearing and Decision Date:	24 February 2026
Board Members Present:	
	Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2 (Presiding)
	Mr G Pearson, Barrister and Solicitor – Legal Member
	Mr G Anderson, LBP, Carpentry and Site AoP 2

#### Procedure:

The matter was considered by the Building Practitioners Board (the Board) under the provisions of Part 4 of the Building Act 2004 (the Act), the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Complaints Regulations) and the Board's Complaints and Inquiry Procedures.

#### Disciplinary Finding:

The Respondent **has** committed a disciplinary offence under section 317(1)(b) and (d) of the Act.

The Respondent is fined \$1,750 and ordered to pay costs of \$1,500. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

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**Summary**

[1] This complaint concerns the construction of a structural ceiling diaphragm forming a substantial structural element of a residential dwelling at [OMITTED]. The Respondent constructed the ceiling diaphragm in a manner that did not comply with the fixing pattern and sheet layout requirements of NZS 3604:2011 and therefore did not comply with the building consent as varied. The Board finds that the Respondent was negligent within the meaning of section 317(1)(b) of the Building Act 2004 and

that he carried out building work contrary to the building consent under section 317(1)(d) of the Building Act 2004.

- [2] Having regard to the seriousness of the offending and the mitigating factors advanced, the Board imposes a fine of \$1,750 and orders the Respondent to pay costs of \$1,500. The Respondent will be named in this decision, and a record of the disciplinary offending will be entered on the Public Register.

### **The Charges**

- [3] The prescribed investigation and hearing procedure is inquisitorial, not adversarial. There is no requirement for a complainant to prove the allegations. The Board sets the charges and decides what evidence is required.<sup>1</sup>
- [4] In this matter, the disciplinary charges the Board resolved to further investigate<sup>2</sup> were that the Respondent may, in relation to building work at [OMITTED], have:
- (a) carried out or supervised building work in a negligent or incompetent manner contrary to section 317(1)(b) of the Act; and
  - (b) carried out or supervised building work that does not comply with a building consent contrary to section 317(1)(d) of the Act.
- [5] The Board gave notice that, in further investigating the Respondent's conduct under section 317(1)(b) and (d) of the Act, it would be inquiring into:
- (a) the circumstances of Minor Variation No. 2, approved 11 December 2024 (pages 1244 to 1255 of the Board's file), and whether the Respondent followed correct consent change processes before the work was carried out; and
  - (b) whether a ceiling diaphragm was constructed in accordance with NZS 3604:2011.
- [6] The Board also gave notice that it would be investigating the LBP designer who developed the building consent ([OMITTED], matter [OMITTED]), and it would be inquiring into the respective responsibilities and accountabilities for the building consent change process between that LBP and the Respondent for a ceiling diaphragm that may have been constructed without the correct process having been followed and which may not have been constructed in accordance with NZS 3604:2011.

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<sup>1</sup> Under section 322 of the Act, the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law. The evidentiary standard is the balance of probabilities, *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1.

<sup>2</sup> The resolution was made following the Board's consideration of a report prepared by the Registrar in accordance with regulation 10 of the Complaints Regulations.

## Consolidation

- [7] The Board may, under Regulation 13, consolidate two or more matters into one hearing, but only if the matters are, in the opinion of the Board, about substantially the same subject matter and the consolidation is agreed to.
- [8] The Board sought agreement for the consolidation of this matter with [OMITTED]. The consent of all those involved was forthcoming. The two matters were consolidated.
- [9] The evidence before the Board was therefore common to both matters, although the disciplinary issues differ, and not all of the evidence was relevant to each practitioner. The evidence establishes the following narrative.

## Evidence

- [10] The Board must be satisfied on the balance of probabilities that the alleged disciplinary offences have been committed<sup>3</sup>. Under section 322 of the Act, the Board has relaxed rules of evidence, which allow it to receive evidence that may not be admissible in a court of law.

### Summary of the evidence

#### *Overview*

- [11] The Board received documentary evidence from the Council file, including the original consented plans, the minor variation documentation, inspection records, and engineering documentation. The Board also received the Registrar's Report and associated material.
- [12] The evidence establishes the following narrative.

#### *The Original Design*

- [13] The building work concerned additions and alterations to a dwelling at [OMITTED], undertaken under building consent [OMITTED].
- [14] A significant component of the design was a sloping ceiling diaphragm spanning a substantial portion of the dwelling.
- [15] The original consented design provided for:
- (a) a plywood diaphragm forming the primary structural bracing element; and
  - (b) a cement-based grooved sheet lining installed over the plywood, providing the finished aesthetic surface.
- [16] Under that configuration, the plywood provided the structural ceiling diaphragm. The outer cement sheet functioned only as an aesthetic lining. Its sheet layout and

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<sup>3</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

visual continuity were not structurally determinative because the plywood beneath provided the required diaphragm bracing performance.

- [17] The aesthetic intent was that the grooved lining would run continuously from the base of the ceiling, up to the apex of the slope, and down the opposing slope without interruption.
- [18] There is no evidence that the original plywood-based diaphragm consented design was non-compliant.

#### *Product Substitution and Minor Variation*

- [19] During construction, the owner sought a product substitution so that a single, thicker vee grooved cement board sheet would perform both the aesthetic and structural functions, eliminating the plywood substrate.
- [20] Minor Variation No. 2 was lodged and approved on 11 December 2024. The substitution therefore formed part of the building consent.
- [21] Under the substituted design, the cement sheet was required to perform the structural function of the diaphragm. Compliance with NZS 3604:2011 required:
  - (a) specified perimeter fixing centres; and
  - (b) staggered sheet installation. The substitution fundamentally altered the structural significance of the sheet layout and fixing pattern. What had previously been an aesthetic lining over plywood became the structural diaphragm itself.

#### *Construction of the Diaphragm*

- [22] The Respondent carried out the construction of the ceiling diaphragm.
- [23] The evidence establishes that the Respondent did not consult NZS 3604:2011, or the material manufacturer's specifications in relation to the fixing and staggering requirements for the product when used as a structural diaphragm.
- [24] The Respondent did not have the Minor Variation documentation on site at the time the work was carried out. The Respondent had access to all Building Consent documentation via the BCA online consent portal.
- [25] The Respondent approached the installation in a manner consistent with how the cement sheet would have been installed under the consented double layered design, that is, as an aesthetic lining. That approach reflected an expectation that the visual continuity of the grooves could be maintained without structural consequence.

#### *Inspection Findings*

- [26] On 13 February 2025, Council failed the Post Line - Ceiling Diaphragm Only inspection. The inspection record required engineering commentary because the

diaphragm installation was not in accordance with NZS 3604:2011 clause 13.5 (Structural Ceiling Diaphragms).

[27] Council identified the following deficiencies:

- (a) screws were installed at 200mm centres at the perimeter, whereas 150mm centres were required;
- (b) the sheets were not staggered as required for structural diaphragm performance; and
- (c) a skylight penetration was not permitted within the ceiling diaphragm.

[28] The inspection record records that the failed items were discussed with the Respondent on site.

[29] The ceiling diaphragm comprised a substantial portion of the dwelling and formed part of the primary structural bracing system of the building. A diaphragm of that scale is inherently structural in nature and requires strict compliance with the applicable fixing and layout requirements to achieve bracing capacity.

[30] The Board accepts that there was no evidence of intentional shortcutting of the construction process.

[31] Following identification of the issue, the Respondent acknowledged the errors and engaged in discussions regarding rectification. He demonstrated a willingness to take responsibility for those aspects of the work properly attributable to him.

### **Negligence or Incompetence**

[32] To find that the Respondent was negligent, the Board needs to determine, on the balance of probabilities,<sup>4</sup> that the Respondent departed from an accepted standard of conduct when carrying out or supervising building work as judged against those of the same class of licence. This is described as the *Bolam*<sup>5</sup> test of negligence.<sup>6</sup> To make a finding of incompetence, the Board has to determine that the Respondent has demonstrated a lack of ability, skill, or knowledge to carry out or supervise building work to an acceptable standard.<sup>7</sup> A threshold test applies to both. Even if the Respondent has been negligent or incompetent, the Board must also decide if the conduct fell seriously short of expected standards.<sup>8</sup> If it does not, then a disciplinary finding cannot be made.

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<sup>4</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1. Under section 322 of the Act, the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law.

<sup>5</sup> *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

<sup>6</sup> Adopted in New Zealand in various matters including: *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

<sup>7</sup> In *Beattie v Far North Council* Judge McElrea, DC Whangarei, CIV-2011-088-313 it was described as “a demonstrated lack of the reasonably expected ability or skill level”. In *Ali v Kumar and Others*, [2017] NZDC 23582 at [30] as “an inability to do the job”

<sup>8</sup> *Collie v Nursing Council of New Zealand* [2001] NZAR 74 - [21] “Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent,

Has the Respondent departed from an acceptable standard of conduct

- [33] When determining what constitutes an acceptable standard, the Board must consider the purpose of the Building Act, as well as the requirement that all building work comply with the Building Code and any building consent issued.<sup>9</sup> The test is an objective one.<sup>10</sup>

Negligence or Incompetence

- [34] To find that the Respondent was negligent, the Board must determine, on the balance of probabilities, that he departed from the standard expected of a reasonably competent LBP carpenter. The test is objective and reflects the Bolam principle.
- [35] Where a consented solution relies on compliance with NZS 3604:2011 for structural diaphragm performance, a competent practitioner is expected to ensure that the installation method complies with the relevant fixing and layout requirements.
- [36] The Respondent installed the diaphragm with incorrect perimeter fixing centres and without the required sheet staggering.
- [37] Those matters are not cosmetic. They directly affect bracing capacity.
- [38] The Board finds that competent LBP carpenters would regard compliance with the fixing and staggering requirements of NZS 3604:2011 as necessary for a structural diaphragm of this scale.

*Was the Conduct Serious Enough*

- [39] The Board must consider whether the departure fell seriously short of expected standards.
- [40] The diaphragm ceiling comprised a substantial structural element of the dwelling. Failure to comply with required fixing and layout standards created a foreseeable risk of reduced bracing performance.
- [41] The Respondent did not consult the NZS 3604:2011 and did not recognise, or give adequate weight to, the fact that removal of the plywood substrate altered the structural function of the substituted sheet product to be installed.
- [42] While the error is understandable in light of the aesthetic continuity that had been achievable under the original design, that context does not diminish the professional obligation to comply with the revised installation requirements when the structural function of a component changes.

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ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness”.

<sup>9</sup> Section 40(1) of the Building Act 2004

<sup>10</sup> *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71 noted that the tribunal does not have to take into account the Respondent’s subjective considerations.

[43] The Board is satisfied that the departure was serious, and sufficiently serious to justify a disciplinary finding.

*Has the Respondent Been Negligent or Incompetent*

[44] For the reasons set out above, and applying the *Bolam* principle, the Board finds that the Respondent's construction of the ceiling diaphragm departed from the standard expected of a reasonably competent LBP carpenter.

[45] The failure to consult NZS 3604:2011 and to ensure compliance with required fixing centres and sheet staggering for a structural diaphragm constitutes negligence within the meaning of section 317(1)(b) of the Act.

**Contrary to a Building Consent**

[46] Building consents provide detailed plans and specifications for building work. They are issued by Territorial or Building Consent Authorities on the basis that the building work will comply with the provisions of the Building Code and any consent issued.<sup>11</sup> Once issued, the building work must be carried out in accordance with the building consent.<sup>12</sup> Building consents also stipulate the number and type of inspections the issuing authority will carry out during the build.<sup>13</sup> Inspections ensure independent verification that the building consent is being complied with. A minor variation becomes part of the consent documents and requirements.

[47] If building work departs from the building consent issued, the Board can find that a disciplinary offence under section 317(1)(d) of the Act has been committed. The Board does not have to find that the departure was deliberate or a result of negligent conduct.<sup>14</sup> The Board considers that the seriousness of the conduct must be taken into account. As such, even if the Respondent's building work departed from the building consent, the Board must also decide if the conduct fell seriously short of expected standards.<sup>15</sup> If it does not, then a disciplinary finding cannot be made.

Was there building work that differed from the building consent

[48] Minor Variation No. 2 was approved by the Territorial Authority. The cement sheet ceiling diaphragm therefore formed part of the consented structural solution.

[49] The consented solution required compliance with NZS 3604:2011 for structural ceiling diaphragm performance.

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<sup>11</sup> Section 49 of the Act

<sup>12</sup> Section 40 of the Act

<sup>13</sup> Section 222 of the Act

<sup>14</sup> *Blewman v Wilkinson* [1979] 2 NZLR 208

<sup>15</sup> *Collie v Nursing Council of New Zealand* [2001] NZAR 74 - [21] "Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent, ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness".

[50] The diaphragm as installed did not comply with the required fixing and layout provisions.

[51] The Board finds that the work therefore differed from the building consent.

Was the conduct serious enough?

[52] The departure concerned a structural system integral to the building's bracing.

[53] The Board is satisfied that the departure was serious.

Has the Respondent Breached Section 317(1)(d)

[54] The Board finds that the Respondent carried out building work contrary to the building consent and has committed a disciplinary offence under section 317(1)(d) of the Act.

**Compatibility with the Board Inquiry into the Designer**

[55] The Board's conclusions in this complaint are consistent with its findings in its inquiry into the designer. In that inquiry, the Board considered whether the designer's management of the consent change process and level of documentation fell within the range of acceptable professional judgment.

[56] In the present complaint, the focus is on the Carpentry LBP's execution of a structural diaphragm system. The approval of the minor variation did not diminish the Respondent's obligation to construct the diaphragm in accordance with the consented requirements and the applicable structural standard.

**Board Decisions**

[57] For the reasons set out above, the Board finds that the Respondent has committed disciplinary offences under sections 317(1)(b) and 317(1)(d) of the Building Act 2004. The Respondent's failure to construct a substantial structural diaphragm in accordance with the applicable standard and the building consent constituted a serious departure from the standard expected of a reasonably competent Licensed Building Practitioner. The Board therefore turns to consider the appropriate penalty, costs, and publication orders under section 318 of the Act.

**Penalty, Costs and Publication**

[58] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Act<sup>i</sup>, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.

[59] The Respondent made submissions at the hearing in relation to penalty, costs and publication. In mitigation, he submitted that the process has been personally and professionally stressful, that he has incurred and continues to incur commercial costs arising from the error, and that from the outset he acknowledged the installation deficiencies and was willing to take responsibility for those aspects of the work properly attributable to him. The Board also notes that the Respondent engaged

constructively throughout the disciplinary process, cooperated with the investigation, and agreed to the matter being heard jointly with the related designer proceeding, thereby assisting in the efficient resolution of the issues.

### Penalty

- [60] The Board has the discretion to impose a range of penalties.<sup>ii</sup> Exercising that discretion and determining the appropriate penalty requires that the Board balance various factors, including the seriousness of the conduct and any mitigating or aggravating factors present.<sup>16</sup> It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:<sup>17</sup>
- (a) protection of the public and consideration of the purposes of the Act;<sup>18</sup>
  - (b) deterring the Respondent and other Licensed Building Practitioners from similar offending;<sup>19</sup>
  - (c) setting and enforcing a high standard of conduct for the industry;<sup>20</sup>
  - (d) penalising wrongdoing;<sup>21</sup> and
  - (e) rehabilitation (where appropriate).<sup>22</sup>
- [61] Overall, the Board should assess the conduct against the range of penalty options available in section 318 of the Act, reserving the maximum penalty for the worst cases<sup>23</sup> and applying the least restrictive penalty available for the particular offending.<sup>24</sup> In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty<sup>25</sup> that is consistent with other penalties imposed by the Board for comparable offending.<sup>26</sup>
- [62] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to it considering any aggravating and/or mitigating factors present.<sup>27</sup>
- [63] The Board adopted a starting point of \$2,500. The offending concerned a structural diaphragm forming a substantial portion of the dwelling. The failure to comply with the applicable structural standard created a foreseeable risk of reduced bracing

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<sup>16</sup> *Ellis v Auckland Standards Committee* 5 [2019] NZHC 1384 at [21]; cited with approval in *National Standards Committee (No1) of the New Zealand Law Society v Gardiner-Hopkins* [2022] NZHC 1709 at [48]

<sup>17</sup> Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

<sup>18</sup> Section 3 Building Act

<sup>19</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>20</sup> *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

<sup>21</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

<sup>22</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354; *Shousha v A Professional Conduct Committee* [2022] NZHC 1457

<sup>23</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>24</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

<sup>25</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>26</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>27</sup> In *Lochhead v Ministry of Business Innovation and Employment* 3 November [2016] NZDC 21288 the District Court recommended that the Board adopt the approach set out in the Sentencing Act 2002.

performance. Structural non-compliance of this nature ordinarily warrants a meaningful financial penalty to mark the seriousness of the departure and to reinforce industry standards.

- [64] The Board has considered the mitigating factors advanced by the Respondent. From the outset, the Respondent acknowledged the deficiencies in the installation. He did not seek to minimise his responsibility and engaged constructively in discussions regarding rectification. That position was maintained throughout the Board's processes.
- [65] The Board also accepts that the Respondent has incurred commercial consequences arising from the error and that the disciplinary process has been personally and professionally stressful. While such matters do not displace the need for a penalty, they are relevant to overall proportionality.
- [66] Taking those matters into account, the Board reduces the starting point to \$1,750. The Board considers that this amount appropriately reflects the seriousness of the offending while recognising the Respondent's cooperation, early acknowledgement of fault, and willingness to accept appropriate responsibility.

#### Costs

- [67] Under section 318(4) of the Act, the Board may require the Respondent to pay the costs and expenses of, and incidental to, the inquiry by the Board. The rationale is that other Licensed Building Practitioners should not be left to carry the financial burden of an investigation and hearing.<sup>28</sup>
- [68] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings<sup>29</sup>. The starting point can then be adjusted up or down, having regard to the particular circumstances of each case<sup>30</sup>.
- [69] The Board has adopted an approach to costs that uses a scale based on 50% of the average costs of different categories of hearings: simple, moderate and complex. The current matter was moderate, and heard jointly with the related designer proceeding. The Respondent agreed to that joint hearing, which promoted efficiency and reduced duplication of evidence and hearing time.
- [70] The Respondent engaged constructively throughout the investigation and hearing process. That cooperation has been taken into account in determining costs.
- [71] In light of those factors, the Board orders the Respondent to pay costs of \$1,500. The Board considers that this amount appropriately reflects the Respondent's contribution to the efficient conduct of the proceedings.

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<sup>28</sup> *Collie v Nursing Council of New Zealand* [2001] NZAR 74

<sup>29</sup> *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

<sup>30</sup> *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

## Publication

- [72] As a consequence of its decision, the Respondent's name and the disciplinary outcomes will be recorded in the public Register maintained as part of the Licensed Building Practitioners' scheme as is required by the Act,<sup>31</sup> and he will be named in this decision, which will be available on the Board's website. The Board is also able, under section 318(5) of the Act, to order further publication.
- [73] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.<sup>32</sup> Further, as a general principle, publication may be required where the Board perceives a need for the public and/or the profession to know of the findings of a disciplinary hearing, and the courts have stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published.<sup>33</sup>
- [74] Based on the above, the Board will not order any publication over and above the record on the Register, the Respondent being named in this decision, and the publication of the decision on the Board's website,
- [75] The Respondent should also note that the Board has not made any form of suppression order, other entities, such as the media or the Ministry of Business Innovation and Employment, may publish under the principles of open justice reporting.

## **Section 318 Order**

- [76] For the reasons set out above, the Board directs that:
- Penalty:** Pursuant to section 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$1,750.
- Costs:** Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$1,500 (GST included) towards the costs of, and incidental to, the inquiry of the Board.
- Publication:** The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with section 301(l)(iii) of the Act.
- In terms of section 318(5) of the Act, the Respondent will be named in this decision, which will be published on the Board's website.**
- [77] The Respondent should note that the Board may, under section 319 of the Act, suspend or cancel a licensed building practitioner's licence if fines or costs imposed as a result of disciplinary action are not paid.

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<sup>31</sup> Refer sections 298, 299 and 301 of the Act

<sup>32</sup> Section 14 of the Act

<sup>33</sup> Kewene v Professional Conduct Committee of the Dental Council [2013] NZAR 1055

## Right of Appeal

[78] The right to appeal Board decisions is provided for in section 330(2) of the Act<sup>iii</sup>.

Signed and dated this 20<sup>th</sup> day of March 2026.



**Mrs F Pearson-Green**  
Presiding Member

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### <sup>i</sup> Section 318 of the Act

- (1) *In any case to which section 317 applies, the Board may*
  - (a) *do both of the following things:*
    - (i) *cancel the person's licensing, and direct the Registrar to remove the person's name from the register; and*
    - (ii) *order that the person may not apply to be relicensed before the expiry of a specified period:*
  - (b) *suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:*
  - (c) *restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:*
  - (d) *order that the person be censured:*
  - (e) *order that the person undertake training specified in the order:*
  - (f) *order that the person pay a fine not exceeding \$10,000.*
- (2) *The Board may take only one type of action in subsection 1(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).*
- (3) *No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.*
- (4) *In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.*
- (5) *In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit."*

### <sup>ii</sup> Section 318 Disciplinary Penalties

- (1) *In any case to which section 317 applies, the Board may—*
  - (a) *do both of the following things:*
    - (i) *cancel the person's licensing and direct the Registrar to remove the person's name from the register; and*
    - (ii) *order that the person may not apply to be relicensed before the expiry of a specified period:*
  - (b) *suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:*
  - (c) *restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:*
  - (d) *order that the person be censured:*
  - (e) *order that the person undertake training specified in the order:*

- (f) order that the person pay a fine not exceeding \$10,000.
- (2) The Board may take only 1 type of action in subsection (1)(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).
- (3) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.
- (4) In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.
- (5) In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit.

**iii Section 330 Right of appeal**

- (2) A person may appeal to a District Court against any decision of the Board–
  - (b) to take any action referred to in section 318.

**Section 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.