

Before the Building Practitioners Board

	BPB Complaint No. C2-01798
Licensed Building Practitioner:	Graham Gawn (the Respondent)
Licence Number:	BP 123661
Licence(s) Held:	Design AOP Design 2

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

Complaint or Board Inquiry	Complaint
Hearing Location	Hamilton
Hearing Type:	In Person
Hearing Date:	30 May 2018
Decision Date:	14 June 2018

Board Members Present:

Richard Merrifield, LBP, Carpentry Site AOP 2 (Presiding)
Mel Orange, Legal Member
Bob Monteith, LBP Carpentry and Site AOP 2
Faye Pearson-Green, LBP Design AOP 2

Appearances:

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.

Board Decision:

The Respondent **has** committed disciplinary offences under section 317(1)(b) and 317(1)(h) of the Act.

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Introduction

- [1] The hearing resulted from a Complaint into the conduct of the Respondent and a Board resolution under regulation 10 of the Complaints Regulations¹ to hold a hearing in relation to building work at [Omitted]. The alleged disciplinary offences the Board resolved to investigate were that the Respondent:
- (a) carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act); and
 - (b) breached section 314B(b) of the Act (s 317(1)(h) of the Act).

Function of Disciplinary Action

- [2] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom in *R v Institute of Chartered Accountants in England and Wales*² and in New Zealand in *Dentice v Valuers Registration Board*³.

¹ The resolution was made following the Board’s consideration of a report prepared by the Registrar in accordance with the Complaints Regulations.

² *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

- [3] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a Respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board*⁴ Collins J. noted that:

“... the disciplinary process does not exist to appease those who are dissatisfied The disciplinary process ... exists to ensure professional standards are maintained in order to protect clients, the profession and the broader community.”

- [4] The Board can only inquire into “the conduct of a licensed building practitioner” with respect to the grounds for discipline set out in section 317 of the Act. It does not have any jurisdiction over contractual matters.

Evidence

- [5] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁵. 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.

- [6] In addition to the documentary evidence before the Board heard evidence at the hearing from:

Graham Gawn	Respondent
[Omitted]	Complainants
Ben Rankin	Senior Building Control Officer, South Waikato District Council (SWDC)
[Omitted]	Witness for the Respondent, Engineer
[Omitted]	Witness for the Respondent, Architect

- [7] The Respondent was engaged by the Complainants to design a building that incorporated a shed and a two bedroom flat within it and to obtain a building consent for the construction of the building. The building being designed was reasonably complex with a curved roof.
- [8] The Respondent’s design and specification submitted for a building consent application on 20 February 2017. On 23 June 2017, following requests for further information (RFI) from the SWDC on 19 April 2017 and 1 June 2017, the building consent application was declined. The Complainants lodged a complaint about the Respondent’s conduct noting that the Respondent did not have a proposal to resolve the situation other than to reapply.

³ [1992] 1 NZLR 720 at p 724

⁴ [2016] HZHC 2276 at para 164

⁵ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

- [9] The building consent application submitted by the Respondent included a Certificate of Design dated 19 February 2017 signed by the Respondent. The Certificate included the following statement:

I Graham Gawn LBP, state that I have applied the skill and care reasonable required of a competent design professional in carrying out or supervising the Restricted Building Work (RBW) described in this form, and that based on this, I also state that the RBW:

- (a) Complies with the building code; or*
- (b) Complies with the building code subject to any waiver or modification of the building code recorded on this form.*

- [10] The 1 April 2017 RFI list contained 28 specific items that required additional details and/or amendments to ensure compliance was properly demonstrated and to enable a building consent to be issued. The full RFI list is contained at Appendix One.

- [11] The Respondent replied to the 1 April RFI on 9 May 2018 by resubmitting the plans and specifications. He also provided a response to the RFI list. On 15 May 2017 Ben Rankin, the building control officer that was dealing with the consent, emailed the Respondent stating:

I have copied the content of your response letter and commented with some specifics below to clarify any confusion. Further to this I find your response to be less than comprehensive as simply providing tables and other manufacturer documentation containing multiple possibilities that may or may not be applicable does not create a site specific design, any such details you intend to use to support the proposed design are to be specifically nominated and included or clearly referenced in the plans so these can be easily located at both the time of construction and subsequent inspections by the BCA. All points of the original letter that have not been indicated as resolved will need to be readdressed so please refer to this also.

- [12] The email of 15 May 2018 went on to further deal with the 28 items in the 20 April 2017 RFI list.

- [13] On 1 June 2017 the SWDC sent a second RFI list containing 18 specific requests. There was a high degree of commonality between the first RFI list and the second. The correspondence noted:

Having assessed your amended plans and specifications, we still require the following additional details / amendments to ensure compliance is properly demonstrated and enable building consent to be issued:

- [14] On 19 June 2017 a response to the second RFI together with a revision of the plans and specifications was submitted by the Respondent.

[15] On 23 June 2017 the SWDC formally declined the building consent application. The stated reasons were stated as:

- *The plans and specifications are insufficient to ensure compliance with the Building Code.*
- *Multiple requests for further information on the same matters without progression in the design.*
- *Requests for further information have not been addressed to an acceptable standard within the timeframe specified.*

[16] Ben Rankin provided further information as regards the reasons for the refusal in an email to the Complainants on 27 June 2017. He noted, as regards the 1 June 2017 RFI list:

1. *Resolved.*
2. *Not resolved. Incorrectly considered. Plans do not specify correctly.*
3. *Not resolved. Relevance of detail. Reconsider situation.*
4. *Not resolved. Figure provided does not make the sizing correct.*
5. *Not resolved. No response provided.*
6. *Not resolved. Plans do not correlate.*
7. *Not resolved. Extent of the specifics.*
8. *Not resolved. Not unclear. WC is not the branch.*
9. *Not resolved. Plans.*
10. *Not resolved. Shower size not questioned.*
11. *Not resolved. Plan detail does not include seratone specific requirements.*
12. *Not resolved. Incorrectly considered. Product suitability. Location.*
13. *Not resolved. C/AS4 is not applicable to this building. Incorrectly considered.*
14. *Not resolved. Similar is not a method.*
15. *Not resolved. Incorrect.*
16. *Not resolved. Table does not provide required detail.*
17. *Not resolved. Branch vent.*
18. *Not resolved. Alternative. Multiple details.*

The specifics and content of the points are being read incorrectly based on the responses provided, please also refer to my letter dated 1 June 2017 for clarification. The likes of providing an email from steel and tube does not fix the design it simply highlights deficiencies within the design that we are already aware of.

[17] The Respondent provided a response to the Complaint. The response included a copy of the Respondent's curriculum vitae (CV), a character reference and correspondence relating to the matter. The CV set out a long history of working in commercial and industrial environments. The Respondent also noted:

I thought we have almost got the Consent over the line, until we received the last letter on the 27th June, where changes were rejected out of hand,

The Guitry then had last meeting with SWDC (South Waikato District Council) and in my opinion were coerced into withdrawing the Building Consent Application,

- [18] The Complainants rejected the contention that they were coerced to withdraw the building consent application. Ben Rankin stated that the building consent was refused as opposed to withdrawn.
- [19] At the hearing the Board questioned the Respondent as regards the first RFI list with a specific focus on how the design should have dealt with the items. The Respondent conceded that there were areas where he had made mistakes and/or had not dealt with matters adequately and that, in some instances, more dimensions were required. There were also areas where the Respondent knowledge as to building code requirements was lacking such E2 (surface moisture in relation to the roof cladding), H1 (energy efficiency in relation to thermal ratings) and D1 (access in relation to the design of stairs).
- [20] Ben Rankin gave evidence that there was an over reliance on generic specifications that did not address specific requirements and that the overall specification contained extraneous material that did not relate to the design and was also missing information that was required.
- [21] The Respondent was also questioned about his quality assurance process. He stated he checks his own designs and specifications prior to submission and that he used a standard specification that he had developed himself.
- [22] The Respondent stated that it was his first curved roof design and that he should not have taken the brief on. He also noted that he has, since the matter that lead to the complaint, honed his skills.
- [23] The Respondent called two character witnesses, an engineer and an architect. He had recently worked with both and both spoke highly of his skills and his ability to provide designs in accordance with their instructions.

Board's Conclusion and Reasoning

- [24] The Board has decided that the Respondent **has**:
 - (a) carried out or supervised building work or building inspection work in a negligent and incompetent manner (s 317(1)(b) of the Act); and
 - (b) breached section 314B(b) of the Act (s 317(1)(h) of the Act)
 and should be disciplined.
- [25] The reasons for the Board's decisions follow.

Negligence and/or Incompetence

- [26] Negligence and incompetence are not the same. In *Beattie v Far North Council*⁶ Judge McElrea noted:

[43] Section 317 of the Act uses the phrase "in a negligent or incompetent manner", so it is clear that those adjectives cannot be treated as synonymous.

- [27] Negligence is the departure by a licensed building practitioner, whilst carrying out or supervising building work, from an accepted standard of conduct. It is judged against those of the same class of licence as the person whose conduct is being inquired into. This is described as the *Bolam*⁷ test of negligence which has been adopted by the New Zealand Courts⁸.
- [28] Incompetence is a lack of ability, skill or knowledge to carry out or supervise building work to an acceptable standard. *Beattie* put it as "*a demonstrated lack of the reasonably expected ability or skill level*". In *Ali v Kumar and Others*⁹ it was stated as "*an inability to do the job*".
- [29] The New Zealand Courts have stated that assessment of negligence and/or incompetence in a disciplinary context is a two-stage test¹⁰. The first is for the Board to consider whether the practitioner has departed from the acceptable standard of conduct of a professional. The second is to consider whether the departure is significant enough to warrant a disciplinary sanction.
- [30] When considering what an acceptable standard is the Board must have reference to the conduct of other competent and responsible practitioners and the Board's own assessment of what is appropriate conduct, bearing in mind the purpose of the Act¹¹. The test is an objective one and in this respect it has been noted that the purpose of discipline is the protection of the public by the maintenance of professional standards and that this could not be met if, in every case, the Board was required to take into account subjective considerations relating to the practitioner¹².
- [31] The Board notes that the purposes of the Act are:

3 Purposes

This Act has the following purposes:

- (a) *to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings to ensure that—*

⁶ Judge McElrea, DC Whangarei, CIV-2011-088-313

⁷ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

⁸ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

⁹ *Ali v Kumar and Others* [2017] NZDC 23582 at [30]

¹⁰ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

¹¹ *Martin v Director of Proceedings* [2010] NZAR 333 at p.33

¹² *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71

- (i) *people who use buildings can do so safely and without endangering their health; and*
- (ii) *buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and*
- (iii) *people who use a building can escape from the building if it is on fire; and*
- (iv) *buildings are designed, constructed, and able to be used in ways that promote sustainable development:*
- (b) *to promote the accountability of owners, designers, builders, and building consent authorities who have responsibilities for ensuring that building work complies with the building code.*

[32] The Board also notes, as regards acceptable standards, that all building work must comply with the Building Code¹³ and be carried out in accordance with a building consent¹⁴. As such, when considering what is and is not an acceptable standard, the Building Code and any building consent issued must be taken into account.

[33] Turning to seriousness in *Collie v Nursing Council of New Zealand*¹⁵ the Court's noted, as regards the threshold for disciplinary matters, that:

[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.

[34] The documentary evidence before the Board clearly showed that the Respondent's design and specifications did not adequately deal with the fundamental requirement that the design meet the requirements of the building code.

[35] It is not uncommon for a design and specification, when submitted for a building consent to result in requests for further information. It will not always follow that a design practitioner will have been negligent or incompetent because requests for information have been made. What needs to be assessed is the nature and quantity of those requests. If, for example, the design contains fundamental errors that go to issues such as weathertightness, structural integrity or the safety of users then the designer may have been negligent in the development of the design.

[36] Another essential question when assessing requests for information is whether the designer has displayed due diligence in developing the design and associated specifications. A designer should be developing a design with the intention of getting it right the first time and not relying on the building consent authority to assist them to get the design over the line. In this respect it is to be noted that it the building

¹³ Section 17 of the Building Act 2004

¹⁴ Section 40(1) of the Building Act 2004

¹⁵ [2001] NZAR 74

consent authority does not have a quality assurance function. It has a compliance function. It is not for the building consent authority to educate the designer and to assist them to bring their design and specification up to standard. Their role is to ensure that the design and specification will result in a building that will be compliant with the building code.

- [37] The Respondent's design resulted in a high number of a requests for information. Many of those were fundamental in nature showing that the original design was below an acceptable standard. The building consent authority (the SWDC) noted that the Respondent had relied on generic information, had not dealt with specific design requirements and had not, in numerous instances, provided sufficient information to show how building code compliance would be achieved. This in turns shows that either the Respondent's quality assurance process was lacking or that he simply did not know what was required.
- [38] When requests for information are received a further question will be how they are dealt with. The RFI process provides a designer with an opportunity to deal with building code issues. It is, in essence, a second chance.
- [39] In this instance the Respondent failed to deal with or adequately deal with the majority of the requests. The result was that the building consent was refused. It is unusual for a building consent to be refused. The fact that it was shows that the design was fundamentally flawed and that it would not achieve building code compliance.
- [40] Given the above factors the Board, which includes persons with extensive experience and expertise in the building industry, considered the Respondent has departed from what the Board considers to be an accepted standard of conduct and has therefore been negligent.
- [41] The Board also finds that the Respondent has displayed a lack of ability, skill and knowledge in carry out the design work and has therefore been shown, in respect of the design, to have been incompetent.
- [42] The Board further finds that the conduct was sufficiently serious enough to warrant a disciplinary outcome.

Outside of Competence

- [43] Section 314B(b) requires that a licensed building practitioner work within their competence:

A licensed building practitioner must—

(b) carry out or supervise building work only within his or her competence.
- [44] Under section 317(1)(h) of the Act it is a disciplinary offence to fail to comply with the provisions of section 314B(b).

- [45] The requirement is to work within the individual's competence. In this respect it should be noted that if a licenced building practitioner holds a class of licence for the building work they are undertaking but are not able to successfully or efficiently complete the building work then it may be that they are working outside of their competence. This is, in essence, what has occurred here.
- [46] The Respondent holds a Design Area of Practice 2 licence. A Design AOP 2 licence enables the holder to design Category 1 and 2 buildings. Category 1 buildings are single household dwellings with low- or medium-risk envelope design being those with a risk score¹⁶ of 12 or less for any external elevation. Category 2 buildings are single household dwellings with high-risk envelope design being those with a risk score greater than 12, or other buildings with a building height of 10m or less.
- [47] The building that was being designed in the present case was a Category 2 building. As such the Respondent was working within the scope of his licence. The evidence before the Board, however, showed that the Respondent struggled with the design and conceded that he should not have taken it on. At the hearing he displayed a lack of knowledge of the specific design requirements and his design was overly reliant on standard details and specifications. He was, simply put, out of his depth and was working outside of his personal competence.
- [48] In this respect it is also to be noted that the evidence received from the character witnesses showed that the Respondent displayed competence when working under supervision and on less complex designs.

Penalty, Costs and Publication

- [49] Having found that one or more of the grounds in section 317 applies the Board must, under section 318 of the Actⁱ, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [50] The Board heard evidence during the hearing relevant to penalty, costs and publication and has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders. This included the character evidence received.

Penalty

- [51] The purpose of professional discipline is to uphold the integrity of the profession; the focus is not punishment, but the enforcement of a high standard of propriety and professional conduct. The Board does note, however, that the High Court in *Patel v Complaints Assessment Committee*¹⁷ commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to provide a deterrent and to uphold professional standards. The Court noted:

¹⁶ The risk matrix to determine the risk score is contained in E2/AS1.

¹⁷ HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

[28] I therefore propose to proceed on the basis that, although the protection of the public is a very important consideration, nevertheless the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty to be imposed.

- [52] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*¹⁸ the court noted that whilst the statutory principles of sentencing set out in the Sentencing Act 2002 do not apply to the Building Act they have the advantage of simplicity and transparency. The court recommended adopting a starting point for penalty based on the seriousness of the disciplinary offending prior to considering any aggravating and/or mitigating factors.
- [53] The Board's findings that the Respondent has displayed a lack of competence and has worked outside of his competency are serious. The Board initially considered cancellation or suspension of the Respondent's licence. It did, however, recognise that the Respondent has, according to his character witnesses, displayed competence in relation to simpler designs.
- [54] The Respondent currently holds a design AOP 2 licence. A penalty option open to the Board is, under section 318(1)(c) to 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. Given this provision, and the evidence received from the character witnesses, the Board has decided that the appropriate penalty is to restrict the Respondent to design work that comes within a design AOP 1 licence. In essence the Respondent's is to be downgraded to a design AOP 1 licence.
- [55] The Board notes that the Respondent may, over time, further develop his competence and as such he may, in the future, apply to obtain a design AOP 2 licence. The Board encourages the Respondent to gain experience with more complicated designs (Category 2 buildings) by working under the supervision of persons authorised to carry out such designs

Costs

- [56] Under section 318(4) the Board may require the Respondent "to pay the costs and expenses of, and incidental to, the inquiry by the Board."
- [57] The Respondent should note that the High Court has held that 50% of total reasonable costs should be taken as a starting point in disciplinary proceedings and that the percentage can then be adjusted up or down having regard to the particular circumstances of each case¹⁹.

¹⁸ 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

¹⁹ *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.

- [58] In *Collie v Nursing Council of New Zealand*²⁰ where the order for costs in the tribunal was 50% of actual costs and expenses the High Court noted that:

But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate.

- [59] Based on the above the Board's costs order is that the Respondent is to pay the sum of \$2,000 toward the costs of and incidental to the Board's inquiry.

Publication

- [60] 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 Act²¹. The Board is also able, under section 318(5) of the Act, to order publication over and above the public register:

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.

- [61] As a general principle such further public notification 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. This is in addition to the Respondent being named in this decision.
- [62] Within New Zealand there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990²². The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction²³. Within the disciplinary hearing jurisdiction the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive²⁴. The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*²⁵.
- [63] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest²⁶. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved as naming them does not assist the public interest.
- [64] Based on the above the Board will not order further publication.

²⁰ [2001] NZAR 74

²¹ Refer sections 298, 299 and 301 of the Act

²² Section 14 of the Act

²³ Refer sections 200 and 202 of the Criminal Procedure Act

²⁴ *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

²⁵ *ibid*

²⁶ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

Section 318 Order

[65] For the reasons set out above, the Board directs that:

Penalty: Pursuant to section 318(1)(c) of the Act, the Respondent's licence is restricted to the carrying out of the or supervision of building work to that of a Design Area of Practice 1 licence and the Registrar is directed to record the restriction in the of register of Licensed Building Practitioners by noting his licence as a Design Area of Practice 1 licence.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$2,000 (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(1)(iii) of the Act.

In terms of section 318(5) of the Act, there will not be action taken to publicly notify the Board's action, except for the note in the Register and the Respondent being named in this decision.

[66] 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.

Submissions on Penalty, Costs and Publication

[67] The Board invites the Respondent to make written submissions on the matters of disciplinary penalty, costs and publication up until close of business on **6 July 2018**. The submissions should focus on mitigating matters as they relate to the penalty, costs and publication orders. If no submissions are received then this decision will become final. If submissions are received then the Board will meet and consider those submissions prior to coming to a final decision on penalty, costs and publication.

Right of Appeal

[68] The right to appeal Board decisions is provided for in section 330(2) of the Actⁱⁱ.

Signed and dated this 14th day of June 2018



Richard Merrifield
Presiding Member

Appendix One – RFI Lists

20 April 2017

1. *Site area is incorrectly specified.*
2. *Floor joist end restraint and blocking requirements not detailed or referenced in the plans.*
3. *FFL is not in accordance with NZS 3604.2011 as per the specification.*
4. *70mm plates detailed, consider plate to stud and plate to floor connections. Additional stud to top plate connections unclear.*
5. *Detail lintel to HST purlin connection as specified sheet 2b.*
6. *Trimming stud requirements not detailed/considered.*
7. *Detail Purlin connections in plans, confirm additional capacity is provided as per requirements of the spring curved roof. Girts are consistently labelled as purlins.*
8. *Celling batten spacing does not suit lining product.*
9. *Consider, detail and demonstrate all requirements and limitations of the specified product and the spring curved roof design are met including but not limited to:*
 - *Side and end laps.*
 - *Penetrations.*
 - *Sheet ends.*
 - *Obstructions to flow of water.*
 - *Purlin spacing.*
 - *Expansion.*
 - *Water run off capacity to be verified.*
 - *Fixing pattern.*
10. *Provide confirmation that the proposed underlay is suitable for this design. Minimum pitch requirements are not met.*
11. *Confirm the Terminal vent will be run externally - not penetration detail provided.*
12. *Confirm thickness of Roof and wall cladding product.*
13. *Fixing details for wall cladding are not provided.*
14. *Paint system specified to wet areas does not comply with E3.*
15. *Fall to shower waste not specified.*
16. *Detail shower channel to wall junction. Detail shower wall to vinyl junction as per Seratone specification.*
17. *Clarify use of the Mezzanine, consider thermal break requirements, confirm extent of thermal envelope. No detail of access to the mezzanine, consider relevant C docs, escape path lengths, F7.*
18. *Construction R values are incorrectly specified In the HI calculation, suggest schedule method be used.*
19. *Steel & Tube and WANZ details provided for joinery, clarify what methods will*

- be used - E2/AS1 nominated as means of compliance.*
20. *No aluminium joinery and glazing specification provided, joinery schedule contains more units than detailed in the plans.*
 21. *Safety glazing not provided as required by NZS 4223.*
 22. *Fixture supply pipework sizing not specified.*
 23. *Plumbing schematic does not correlate to drainage layout.*
 24. *Stormwater is detailed as discharging to the neighbouring property.*
 25. *No detail of hearth construction provided.*
 26. *The flue flashing detail provided is not appropriate for the proposed roof design.*
 27. *Due to the complexity of the proposed steelwork we will require a PS4 and relevant PS3 to be issued and provided to Council upon completion of this work, confirm this requirement will be met.*
 28. *Provide manufacturers recommendations for all instances quoted within the plans.*

1 June 2017

1. *Floor joist end restraint is not detailed or referenced in the plans.*
2. *70mm plates are detailed, consider plate to stud and plate to floor connections. Additional stud to top plate connections are unclear and not specified in plans.*
3. *No detail has been provided for the lintel to HST purlin as specified sheet 2b.*
4. *Trimming stud arrangements as specified are not in accordance with the nominated means of compliance.*
5. *Purlin connections are not detailed in the plans, no confirmation has been provided that the additional capacity as required by the spring curved roof design is met.*
6. *The design provided does not meet the requirements and limitations of the specified product and the spring curved design. Consider the following.*
 - *Side and end laps.*
 - *Penetrations.*
 - *Sheet ends.*
 - *Obstructions to flow of water.*
 - *Purlin spacing.*
 - *Expansion.*
 - *Water run off capacity verification.*
 - *Fixing pattern.*
7. *Confirmation provided for the use of Covertex 405 as previously noted however all the specific requirements of this confirmation are not specified in the plans and are unclear as to the extent of their application.*
8. *Provide a vent penetration detail as this will be required for the branch vent. Consider location.*
9. *Cladding fixing methods not detailed or referenced in the plans.*
10. *Compliance with E3 for splash protection to walls is not reflected in the plans. The specification specifies non complying finishes.*

11. *The wall floor junction detail for the shower does not include all of the specific requirements for the use of Seratone, no reference to the specification provided.*
12. *Thermal break requirements not considered, no detail of how this is achieved to the structure.*
13. *Escape path lengths are incorrectly considered. N*
14. *Specify means of compliance for the construction of the stairway. Consider also F4.*
15. *Insulation is not de-rated through construction R value methodology. The R value is considered by the construction method as a whole. An example was sent to you in regards to wall values, No consideration given to ceiling insulation.*
16. *Fixture supply pipework sizing is not specified.*
17. *The Plumbing schematic does not correlate to the plumbing/drainage layout provided by Duyvestyn.*
18. *The email from the supplier of the Dektite product does not demonstrate compliance and also specifies a minimum pitch of 10 degrees. Consider also penetration limitations as per point 6. No detail of floor penetration for the flue.*

ⁱ **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."*

ii 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.*