

Before the Building Practitioners Board

	BPB Complaint No. CB25068
Licensed Building Practitioner:	Phillip Lysaght (the Respondent)
Licence Number:	BP 123967
Licence(s) Held:	Carpentry

Final Decision under Section 317 of the Act

Complaint or Board Inquiry	Complaint
Hearing Location	Hamilton
Hearing Type:	In Person
Hearing Date:	13 June 2019
Draft Decision Date:	17 July 2019
Final Decision Date:	15 August 2019

Board Members Present

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

Board Decision:

The Respondent **has not** committed a disciplinary offence.

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Introduction

- [1] This penalty decision arises out of the Board’s substantive decision in which it found that the Respondent had failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act).
- [2] The Board provided the Respondent with an opportunity to provide further evidence as regards the provision of the record of work before making a final decision. It noted:
- [54] *The Board invites the Respondent to make written submissions and to provide further evidence on the question of the timing of the record of work up until close of business on 8 August 2019. If submissions are received then the Board will meet and consider those submissions prior to coming to a final decision on the matters.*
- [3] On 6 August 2019, the Board received the Respondent’s submissions. It has considered them and made the following decision.

Final Decision on Section 317(1)(da)(ii)

- [4] The Board’s earlier decision noted the following:
- [28] *The evidence before the Board was that the Respondent’s restricted building work was not complete when he provided a record of work. A record of work cannot be provided in advance of restricted building work being carried out. In simple terms completion of the Respondent’s restricted building work had not occurred.*
- [29] *As such the provisions of the Act have not been complied with. The record of work that was provided was prior to completion and, as such, was not a valid record of work for those aspects that had not yet been carried out.*
- [5] The Respondent’s submission was that he was involved in the building work when the pre-wrap inspection took place on 31 August 2017 but that he did not carry out the cladding and was thus not involved in cladding inspection dated 21 September 2017. He stated he had a witness who could attest to this. The inspection notes the LBP as “Phil”
- [6] The Respondent refers to the building work having been completed well after his involvement had ceased.

- [7] The Board accepts the further evidence provided and finds that the disciplinary offence has not been committed.

Signed and dated this 15th day of August 2019

A handwritten signature in black ink that reads "Chris Preston". The signature is written in a cursive style with a horizontal line underlining the name.

Chris Preston
Presiding Member