

Before the Building Practitioners Board

BPB Complaint No. 26535

Licensed Building Practitioner:	Peter Ian Lochhead (the Respondent)
Licence Number:	BP 122081
Licence(s) Held:	Design AoP 1

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	Video Conference
Hearing Type:	Video Conference
Hearing Date:	25 February 2025
Decision Date:	25 July 2025

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2
Mr T Tran, Barrister - Legal Member
Ms E Harvey McDouall, Registered Architect
Mr C Lang, Building Surveyor and Quantity Surveyor
Mr P Thompson, LBP, Carpentry and Site AoP 3, Quantity Surveyor

Appearances:

Mr M Ward-Johnson for the Respondent.

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) of the Act.

The Respondent is fined \$3,500 for carrying out building work in a negligent manner. He is ordered to pay costs of \$2150. A record of the disciplinary offending will be recorded on the Public Register for a period of three years, and the decision will be published (without naming the Respondent).

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Summary

- [1] The Respondent submitted building consent applications for three properties that resulted in excessive numbers of Requests for Further Information (RFIs) from the Building Consent Authority: 65 RFIs for [OMITTED] (including two refusals), 46 RFIs for [OMITTED], and 122 RFIs plus 88 amendment RFIs for [OMITTED].
- [2] The Board found systematic professional deficiencies, including fundamental discrepancies between architectural and engineering drawings, inadequate coordination of professional inputs, and submission of incomplete documentation not capable of being constructed as detailed.
- [3] The Board determined that the Respondent's conduct departed from acceptable standards and constituted negligent practice warranting disciplinary action.

The Charges

- [4] The disciplinary charge the Board resolved to investigate was that the Respondent may, in relation to building work at the three properties, have carried out or supervised building work in a negligent or incompetent manner contrary to section 317(1)(b) of the Act.

Evidence

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

Background

- [6] A complaint was made by [OMITTED], [OMITTED] at [OMITTED], on 24 May 2024. The complaint concerned building consent applications submitted by the Respondent for three properties, which resulted in an excessive number of RFIs and two building consent refusals for the primary property.
- [7] The Respondent was engaged to provide design work for alterations and extensions at [OMITTED] (Property 1), and new builds at [OMITTED] (Property 2) and [OMITTED] (Property 3).

Hearing Process

- [8] While the Notice of Proceeding related to all three properties, the hearing focused primarily on [OMITTED], with evidence about the other properties forming part of the background context.
- [9] The Board heard evidence from:
- (a) Peter Lochhead (Respondent);
 - (b) [OMITTED] (Complainant);
 - (c) [OMITTED] (Building Control Officer, replacing [OMITTED]);
 - (d) [OMITTED] (Building Control Officer); and
 - (e) [OMITTED] (Building Control Officer).
- [10] Counsel for the Respondent provided written closing submissions after the hearing, dated 4 March 2025. These submissions have been considered in reaching this decision.

RFI Pattern and Building Consent Refusals

- [11] For [OMITTED], the building consent process demonstrated significant problems from the outset. The first application (BC98555) was received on 16 February 2024 and was

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

refused by the Council on 8 March 2024 after generating 18 RFIs. Following this refusal, 18 RFIs were provided to the Respondent at his own request to ensure they would not be repeated in any resubmission.

- [12] When the Respondent resubmitted the application (BC98625) on 25 March 2024, the problems persisted and indeed worsened. The Council issued 36 RFIs on 17 April 2024, followed by a further 15 RFIs on 23 April 2024. By 30 April 2024, when the second application was also refused, the cumulative total of RFIs had reached 65.
- [13] Properties 2 and 3 showed similar patterns, with Property 2 ([OMITTED]) generating 46 RFIs, and Property 3 ([OMITTED]) generating 122 RFIs, with an additional 88 RFIs for amendments. This suggested the issues at [OMITTED] were not isolated incidents but reflected systematic problems in the Respondent's professional practice.
- [14] The Council witnesses provided clear evidence that these RFIs were not mere administrative queries but identified significant deficiencies including missing engineering details, inconsistent information between drawings, inadequate specifications, and missing Building Code compliance information. Mr [OMITTED] evidence was particularly compelling in explaining that the decision to refuse the first application was made after peer review concluded there was sufficient lack of information to warrant refusal rather than continuing with the RFI process.
- [15] The Council witnesses gave evidence about their expectations regarding building consent submissions. They explained that the Council does not expect to receive incomplete applications and would not normally allow iterative submission of documents for projects of this type and size. They expect complete submissions when applications are made, not applications with alternatives that require clarification through RFIs.

Design Coordination and Quality Assurance Failures

- [16] The Board's technical examination at the hearing uncovered fundamental coordination failures that went to the heart of professional competence. When the Board examined the cross-sections for the family room extension at [OMITTED], a stark discrepancy emerged between what the Respondent had drawn and what his engineer had designed.
- [17] The Respondent's architectural drawings showed a conventional approach with a 100mm concrete slab with SA62 mesh, three courses of blockwork, and a 300x300 footing with D12 rods epoxied into the existing foundation. However, the engineering drawings revealed an entirely different solution involving a rib raft slab with polypods, a 700x250 perimeter footing, and a 300 wide rib raft beam against the existing footing. This was not a minor detail but a fundamental difference in construction methodology that would be immediately apparent to any practitioner reviewing the documentation.
- [18] When confronted with this discrepancy, the Respondent's explanation was troubling. He acknowledged that when the engineer's report arrived, he simply gathered it up and submitted it without proper review because he was not informed that the

engineer had changed to a rib raft floor design. He admitted this was his mistake and that he should have reviewed the final engineering drawings properly. For an experienced practitioner, this represented a basic failure in professional duty.

Missing Engineering Coverage

- [19] The Board was further concerned by evidence of structural elements lacking proper engineering coverage. The Respondent had detailed a 200x90 beam at the entry but admitted he had simply used pro-lamb beam calculations without providing proper documentation to the Council. When questioned about this beam, he stated he went through pro-lamb beam calculations but only labelled it as a pro-lamb beam without providing the supporting calculations to the Council.
- [20] More troubling still was his acknowledgement that the engineer had missed off calculations for a games room lintel. Rather than obtaining revised documentation before submission, the Respondent proceeded based on the engineer's assurance that it was the same size and loading as other windows that had been calculated. The Board was concerned that the Council was unaware of this conversation and that proper documentation was not provided.
- [21] A further coordination discrepancy arose regarding the garage door structure. The Respondent's architectural drawings specified a 230x75 PFC lintel on 75x75 SHS posts, while the engineering drawings required a complete portal frame with all elements being 230 PFCs. The Respondent admitted he did not amend his drawings to reflect the engineering requirements, expecting both drawings to be read in conjunction. When questioned about which drawings would take precedence, he acknowledged the engineer's would, but admitted this was not documented anywhere. This created further confusion about what was actually to be constructed.

Quality Assurance Process Deficiencies

- [22] The evidence revealed that the Respondent's quality assurance processes were fundamentally inadequate. He confirmed he did not obtain peer reviews of his work and acknowledged that time pressures had impacted his quality assurance processes. When asked whether time pressures had affected his design and quality assurance process, he responded "probably". When pressed about what should have been an obvious discrepancy between his drawings and the engineering drawings, he accepted it was something he should have identified without it being pointed out to him.
- [23] The evidence also revealed concerning practices regarding the Respondent's approach to documentation completeness. The Respondent's evidence indicated he had previously operated on the basis of including alternatives in consent applications and then clarifying choices through RFIs. However, the Council witnesses made clear this was not acceptable practice and that they expect clear selections, not options, so the Council knows what it is consenting, and builders can construct accordingly.

Discussion

Legal Framework

- [24] To find that the Respondent was negligent, the Board needs to determine, on the balance of probabilities,² 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*³ test of negligence.⁴ 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.⁵ 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.⁶ If it does not, then a disciplinary finding cannot be made.
- [25] When considering what an acceptable standard is, the Board must consider the purpose of the Building Actⁱ as well as the requirement that all building work must comply with the Building Code⁷ and any building consent issued.⁸ The test is an objective one.⁹

Analysis

- [26] The evidence presented to the Board painted a picture of systematic professional deficiencies that extended well beyond the administrative burden of excessive RFIs. While counsel for the Respondent sought to characterise the issues as primarily about RFI numbers and timing, the Board's inquiry revealed more fundamental concerns about professional competence and quality assurance.
- [27] The Board was struck by the disconnect between the Respondent's extensive experience, practising since 1973, and the basic coordination failures evident in his work. An experienced practitioner should have robust systems to ensure architectural and engineering drawings are coordinated and that documentation is complete before submission. The Respondent's admitted reliance on assumptions rather than

² *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.

³ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

⁴ 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)

⁵ 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*"

⁶ *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".

⁷ Section 17 of the Building Act 2004

⁸ Section 40(1) of the Building Act 2004

⁹ *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.

verification, particularly regarding engineering deliverables, demonstrated an approach inconsistent with professional standards.

- [28] The evidence revealed a concerning pattern of professional complacency that appears to have developed over the Respondent's long career. His assumption that engineering timing would work out without verification, his failure to properly review final engineering drawings, and his acceptance of submitting applications with alternatives, expecting them to be clarified through RFIs, all demonstrate a practitioner who had become comfortable with substandard practices.
- [29] Most tellingly, when confronted with fundamental coordination discrepancies that should have been obvious to any competent designer, the Respondent acknowledged he should have identified them but had simply failed to apply proper professional rigour. This complacency is particularly concerning because it suggests entrenched poor habits rather than mere oversight or inexperience.
- [30] The Board also noted the Respondent's apparent acceptance that coordination failures were inevitable under time pressure. While time pressures are a reality of practice, professional practitioners must maintain standards regardless of client demands. The appropriate response to unrealistic timeframes is to advise clients that documentation is not ready for submission, not to submit incomplete or uncoordinated documentation, hoping it can be resolved through the Council's RFI process.

Response to Counsel's Submissions

- [31] The Board has carefully considered the comprehensive submissions filed by counsel for the Respondent both in written form and during the hearing.
- [32] Counsel's detailed analysis of individual RFIs, which sought to reduce their aggregate number by excluding those that were repetitions or requests for the location of existing information, misses the fundamental point. While such analysis may reduce the raw numbers, even the reduced figures remain excessive and indicative of systemic issues.
- [33] More importantly, the Board's concerns extend beyond RFI numbers to the underlying design coordination failures and quality assurance deficiencies established in the evidence.
- [34] Counsel sought to distinguish this case from the *Bray* decision,¹⁰ where over-reliance on Council RFIs was found to be problematic. However, the Board finds similar concerning patterns in the present case. The Respondent's apparent expectation that missing engineering details, coordination discrepancies, and incomplete documentation could be resolved through the RFI process demonstrates an inappropriate reliance on the Council to identify and help resolve design deficiencies.

¹⁰ *Bray* [2020] BPB CB25342.

- [35] The time pressure arguments, while acknowledged, do not excuse the professional failures identified. Professional practitioners must maintain standards regardless of client demands or project pressures. If timeframes are unrealistic, the appropriate response is to advise clients that documentation is not ready for submission, not to submit incomplete or uncoordinated documentation hoping deficiencies can be resolved later.
- [36] The Board acknowledges the Respondent's extensive experience since 1973 and his general cooperation with the disciplinary process. However, this experience makes the systemic failures more concerning rather than less so, as they indicate entrenched poor practices rather than inexperience or unfamiliarity with professional requirements.
- [37] The technical submissions addressing specific RFI matters do not address the fundamental coordination failures and quality assurance deficiencies that form the core of the Board's concern. The discrepancy between architectural and engineering drawings for the foundation system, the missing engineering coverage for structural elements, and the admitted failures in quality assurance processes represent basic professional competency issues that cannot be dismissed as minor administrative matters.

Has the Respondent departed from an acceptable standard of conduct

- [38] The Board finds that the Respondent's conduct departed from acceptable standards in several material respects:
 - (a) The fundamental discrepancies between architectural and engineering drawings demonstrate a failure to properly coordinate professional inputs. A competent designer should identify and resolve such significant inconsistencies before submission. The difference between a conventional slab and footing system, and a rib raft system represent fundamentally different construction approaches that any competent practitioner should identify during review.
 - (b) The Respondent's admission that he did not properly review the final engineering drawings, combined with his acknowledgement that time pressures impacted his quality assurance process, demonstrates inadequate professional procedures. The absence of any peer review process further compounds these quality assurance failures.
 - (c) The submission of building consent applications with missing engineering coverage for structural elements and the expectation that such matters could be resolved through informal discussion or the RFI process, is not acceptable professional practice. The Council's role is to assess complete applications, not to help designers complete their documentation.
 - (d) The pattern of excessive RFIs across multiple properties indicates systemic deficiencies in the Respondent's design processes rather than isolated errors.

- (e) The Board notes the provisions of section 14D of the Act, which makes designers responsible for ensuring that plans and specifications are sufficient to result in building work complying with the Building Code. The Respondent's documentation was demonstrably insufficient for this purpose, as evidenced by the Council's refusal of both applications for [OMITTED].

Was the conduct serious enough

- [39] The Board is required to consider whether the conduct was serious enough to warrant a disciplinary outcome.
- [40] The Board finds the conduct was sufficiently serious because it represents fundamental professional failures that go beyond mere inadvertent errors or oversight. The coordination failures between architectural and engineering drawings represent basic professional competency issues that any experienced practitioner should identify and resolve.
- [41] The impact on the building consent process was significant, with two refusals and excessive RFIs demonstrating that the Respondent's work materially impacted the efficiency of the building consent system. The Council witnesses made clear that processing incomplete applications adds time and cost to the process.
- [42] The evidence shows systemic issues across multiple properties rather than isolated incidents. This suggests entrenched poor practices rather than one-off mistakes.
- [43] Most importantly, the submission of documentation that was not capable of being constructed as detailed potentially compromises building safety and compliance. The fundamental discrepancies between architectural and engineering drawings meant that builders could not follow the documentation without seeking clarification, creating risks for both the construction process and the final building outcome.

Has the Respondent been negligent or incompetent

- [44] The Board finds the Respondent's conduct departed from an acceptable standard and that he has been negligent. The systematic failures in design coordination, quality assurance, and professional practice demonstrate conduct that falls seriously short of that expected from a competent practitioner with a Design AoP 1 licence.
- [45] The evidence shows not mere inadvertent errors or oversights, but systematic deficiencies in professional practice, including inadequate coordination procedures, insufficient quality assurance processes, and inappropriate reliance on the Building Consent Authority to identify and resolve design deficiencies.
- [46] Accordingly, the Board finds that the Respondent has committed the disciplinary offence under section 317(1)(b) of the Act.

Penalty, Costs and Publication

- [47] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Actⁱⁱ, consider the appropriate disciplinary penalty, whether

the Respondent should be ordered to pay any costs and whether the decision should be published.

- [48] As the hearing focused on the question of liability and the Board reserved its decision on that issue, the Board has not yet heard submissions specifically addressing penalty, costs, and publication. Before making any determination on these matters, the Board invites the Respondent to provide submissions. To assist the Respondent in preparing those submissions, the Board sets out below its preliminary considerations regarding potential penalty, costs, and publication orders.

Penalty

- [49] The Board has the discretion to impose a range of penalties.ⁱⁱⁱ 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.¹¹ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:¹²
- (a) protection of the public and consideration of the purposes of the Act;¹³
 - (b) deterring other Licensed Building Practitioners from similar offending;¹⁴
 - (c) setting and enforcing a high standard of conduct for the industry;¹⁵
 - (d) penalising wrongdoing;¹⁶ and
 - (e) rehabilitation (where appropriate).¹⁷
- [50] 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 cases¹⁸ and applying the least restrictive penalty available for the particular offending.¹⁹ In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty²⁰ that is consistent with other penalties imposed by the Board for comparable offending.²¹

¹¹ *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]

¹² Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

¹³ Section 3 Building Act

¹⁴ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

¹⁵ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

¹⁶ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

¹⁷ *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

¹⁸ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

¹⁹ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

²⁰ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²¹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

- [51] 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.²²
- [52] **Aggravating Factors:** The systematic nature of the deficiencies across multiple properties is a significant aggravating factor, demonstrating entrenched poor practices rather than isolated incidents. The Respondent's previous disciplinary history indicates a failure to learn from previous sanctions and modify his professional practices accordingly. His extensive experience since 1973, combined with his previous exposure to disciplinary proceedings, makes the basic coordination failures more serious as he cannot claim ignorance of professional standards. The fundamental coordination failures affecting building safety represent serious professional deficiencies, and the significant impact on the efficiency of the building consent system, including two refused applications and excessive RFIs across all three properties, demonstrates the broader consequences of the poor professional practice.
- [53] **Mitigating Factors:** The Board acknowledges the Respondent's cooperation with the disciplinary process and his acknowledgement of some mistakes during the hearing, including his admission of failures in reviewing engineering drawings and the impact of time pressures on his quality assurance processes. The failures appear to result from poor professional practices and inadequate quality assurance rather than any deliberate attempt to mislead or deceive, and there was some indication of willingness to learn from the process, though this must be viewed against his previous disciplinary history.
- [54] The Board considers that the systematic nature of the deficiencies, the Respondent's prior disciplinary history, and their impact on building safety and the consent process warrant a starting point of \$4,000 for negligent conduct. Balancing the aggravating and mitigating factors, the Board considers that a fine of \$3,500 is appropriate for the negligent conduct.

Costs

- [55] 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.²³

²² 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.

²³ *Collie v Nursing Council of New Zealand* [2001] NZAR 74

- [56] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings²⁴. The starting point can then be adjusted up or down, having regard to the particular circumstances of each case²⁵.
- [57] 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 it was a half-day hearing. Adjustments are then made.
- [58] This matter required detailed technical examination and consideration of complex coordination issues across multiple properties. The hearing involved extensive evidence from multiple Council witnesses and detailed technical questioning of the Respondent.
- [59] The Board's costs scale for a moderate audiovisual hearing is \$2,150. The Board considers that costs of \$2,150 are appropriate and reflect the nature of this hearing.

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 Act,²⁶ 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.
- [61] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.²⁷ 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.²⁸
- [62] The Board is considering that the systematic nature of the professional deficiencies identified, and their potential impact on building safety and the integrity of the building consent process, warrant publication of this decision to ensure the profession is aware of the standards expected and the consequences of falling short of those standards. The Board is considering publishing the decision without naming the Respondent.

²⁴ *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

²⁵ *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.

²⁶ Refer sections 298, 299 and 301 of the Act

²⁷ Section 14 of the Act

²⁸ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

Section 318 Order

[63] 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 \$3,500.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$2,150 (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)(l)(iii) of the Act.

In terms of section 318(5) of the Act, there will be action taken to publicly notify the Board's action, in addition to the note in the Register and the Respondent being named in this decision, which will be publicly available on the Board's website. The decision is to be published (without the Respondent being named).

[64] 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

[65] The Board invites the Respondent to make written submissions on the matters of disciplinary penalty, costs and publication within **20 working days** from the date of this written decision. 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

[66] The right to appeal Board decisions is provided for in section 330(2) of the Act^{iv}.

Signed and dated this 6th day of August 2025



Mr M Orange
Presiding Member

ⁱ **Section 3 of the Act**

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—*
 - (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.*

ii 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.”*

iii 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.*

^{iv} **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.*