

Building Performance

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If you are involved in a building project, it's important you know who is responsible for each aspect.

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The reforms will speed up consenting and build confidence in the building system.

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For safe, healthy and durable buildings, all building work in New Zealand must meet certain standards. Find out how to build within the rules.

[Health and safety on site](#)

Avoid accidents and make site safety a priority.

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Specified systems and compliance schedules

If you own a building that contains a specified system such as a cable car, you must ensure they are effectively operated for the life of the building and in keeping with the council-issued compliance schedule.

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- Designer disciplined for negligence and disrepute

Designer disciplined for negligence and disrepute

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Posted: 9 December 2016

The Building Practitioners Board (the Board) recently made a significant disciplinary decision regarding negligence, incompetence and disrepute that is particularly relevant to Design Licensed Building Practitioners (LBPs). The decision related to design work carried out and issues experienced throughout the build as a result of the design work.

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The matter came to light through an earlier complaint about a carpenter, which prompted the Board to initiate a Board Inquiry into the designer. The Board upheld the disciplinary sanctions against the designer and his licence was cancelled as a result. He was also ordered to pay costs.

The Board has directed the Registrar to publish an article in Codewords that summarises the decision.

Negligent or incompetent design work

The design work

The design included incomplete drawings and notes done by hand with limited site-specific detailing. While drawings and notes done by hand are acceptable, they must be legible and complete. In this case the notes on the drawings were not specific enough and the drawings were effectively incomplete. While the builder should discuss any issues with the designer, the Board noted:

“...a designer’s plans should be able to stand by themselves, should not require clarification, and should document how the building work is to be undertaken so that code compliance is achieved. The Board has also consistently conveyed in previous decisions the message that it is not appropriate for licensed building practitioner designers to use the building consent process as a peer review or quality assurance mechanism and/or rely on the building consent authority to pick up any anomalies in the design documents.”

For drafting plans or carrying out design work, plans must be of a high enough standard to be used and buildable.

The site conditions

Designers need to understand and research the site they are working on. Design competencies require Design LBPs to carry out or acquire site investigations and research matters relating to ground conditions, topography and existing services. In this case, the designer did not check the district plan or obtain a project information memorandum, so they were unaware that the site in question was subject to a natural hazard.

Working outside of your competence

Two of the other major aspects of the complaint relate to amending Acceptable Solution details and the performance of a penetrometer test used to test ground conditions.

Amending Acceptable Solution details

Acceptable Solutions and cited Standards are construction pathways that have been established to comply with the Building Code. If you design and/or build to an Acceptable Solution, there should be no problems. Acceptable Solutions are developed using a variety of specialist skills that may be outside the realm of a designer. These may include specialist engineers, researchers or scientists.

In this case, the designer amended details taken from an Acceptable Solution, which essentially ‘watered down’ the requirements. As these Acceptable Solutions were created using engineering calculations, the Board consider amending Acceptable Solutions to be outside the competence of a Design LBP.

Performing a penetrometer test

The Board heard from a special adviser who stated that a penetrometer test is not limited to an engineer and there is no limitation on who can perform this test. In this case, the designer carried out the test but failed to penetrate deep enough or allow for lateral movement in his calculations. He also determined that good ground had been established from his test when, due to the deficiencies in the test, good ground could not be confirmed. The land was also subject to a natural hazard (slippage and inundation) which further complicated design considerations.

If you are going to perform a penetrometer test, you either need to be competent in all aspects of the test or engage an engineer to assist and/or supervise you in carrying it out. The Board stated:

“The Respondent, in determining that the ground bearing capacity was adequate (as opposed to carrying out the tests themselves) and in carrying out specific design by amending the provisions of an Acceptable Solution in relation to decks, has gone beyond the competence of a designer and into that of an engineer.”

Bringing the LBP regime into disrepute

The designer used an engineer’s Producer Statement (PS1) for a balustrade system in the building consent application without consulting the engineer. In his response to the Inquiry, the designer stated that he “altered the Engineer’s PS1 [in terms of address and date] and ... that it would not have affected the integrity of the overall system”.

The PS1 was a declaration made by the signee (the engineer) that he had personally confirmed that the system was appropriate for use in this circumstance. As he had not been consulted, this document should not have been submitted. The Board stated:

“Given these factors the Board considers the producer statement was, in essence, a false or misleading document and that to provide such an important document in the way that it was is something that could bring the regime under the Act into disrepute.”

What we can learn from this decision

It is clear that one of the key failings in this situation was that the Design LBP failed to stay within the limits of his competence. He also developed some questionable behaviour in his work processes, including his use and adaption of documentation and his detailing in plans and specifications.

A reasonable level of care is required when carrying out your work. If you take shortcuts or carry out work that you are not competent to carry out, then you risk disciplinary action from the Board. The resulting non-compliance is another area of concern.

Key points to take from the decision:

1. Designers need to research the site before any detailed design is initiated.
2. LBPs must work within their training, experience and therefore competence.
3. Acceptable Solutions are one means of showing compliance with the Building Code. If a designer changes an Acceptable Solution then they are no longer working to a ‘deemed compliance pathway’. Compliance with the Building Code must be identified and demonstrated in the documents submitted for the building consent.
4. Understanding the regulatory environment and responsibilities around third-party verification is vital. Producer statements should be site specific and should not be modified, unless this is done by the author.
5. Quality of documents, plans and specifications need to be sufficient to demonstrate compliance with the Building Code and be comprehensive enough for competent practitioners to follow and build to.

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