

## Summary of Disciplinary Action

Registered Certifier	Registration Number	Disciplinary Ground and Summary	Disciplinary Action	Date of Decision
Mohamad Orfali	BDC2904 and BDC1863	<ol style="list-style-type: none"> <li>Engaged in unsatisfactory professional conduct under the <i>Building Professionals Act 2005</i> (NSW)</li> <li>Engaged in conduct in connection with the carrying out of certification work that has fallen short of the standard of competence, diligence and integrity that a member of the public is entitled to expect of a reasonably competent registered certifier under section 45(a) of the <i>Building and Development Certifiers Act 2018</i> (NSW) (<b>BDC Act</b>).</li> <li>Contravened the certification legislation under section 45(b) of the BDC Act.</li> <li>Failed to comply with conditions of the registration under section 45(g) of the BDC Act.</li> </ol> <p>Between 25 August 2018 and 23 January 2019, when an accredited certifier for class 1 and 10 buildings only, acted as the Principal Certifying Authority for a class 2 residential property development at 34 Gibbs Road, Kenthurst and, in so doing:</p> <ul style="list-style-type: none"> <li>contravened provisions of the BP Act by carrying out work beyond his level of accreditation and making false and misleading statements in a construction certificate; and</li> <li>contravened provisions of the EPA Act and the EPA Regulation 2000 by issuing a construction certificate with attached plans that were inconsistent with the Development Consent, the Building Code of Australia and the Swimming Pools Act 1992 (NSW) .</li> </ul> <p>Between 17 March 2021 and 15 August 2022, issued thirteen (13) complying development certificates and three</p>	<ol style="list-style-type: none"> <li>Cancel the Certificate of Registration Number BDC2904, pursuant to section 48(1)(e) of the BDC Act;</li> <li>Cancel the Certificate of Registration Number BDC1863, pursuant to section 48(1)(e) of the BDC Act; and</li> <li>Disqualify the Registered Certifier from being registered as a certifier for a period of ten (10) years, pursuant to section 48(1)(f) of the BDC Act.</li> </ol> <p><b>The Registered Certifier's certificates of registration BDC2904 and BDC1863 are re-instated on an interim basis pending further order of the Tribunal. The interim reinstatement is made subject to the following conditions:</b></p> <ol style="list-style-type: none"> <li><b>The Registered Certifier is permitted to continue or complete work in respect of current contracts entered into by him or his company BCA/NCC Compliance Pty Ltd but only in respect of for Class 1a and Class 10a buildings;</b></li> <li><b>The Registered Certifier and his company, BCA/NCC Compliance Pty Ltd are not permitted to enter new contracts or undertake new work in any respect of any class of building; and</b></li> <li><b>The Registered Certifier is to provide all consumers with whom he or his company BCA/NCC Compliance Pty Ltd continues to provide work in accordance with condition 1 above, with a copy of the Respondent's decision and must obtain from those consumers written consent to continue to work on their projects.</b></li> </ol>	6/04/2023

		<p>(3) modified complying development certificates for thirteen (13) class 3 residential care developments, comprising a total of sixty-four (64) self-contained units for residents needing high physical support under the National Disability Insurance Scheme (NDIS) Special Disability Accommodation (SDA) standards and, in so doing:</p> <ul style="list-style-type: none"> <li>• Issued certificates for proposed buildings which would not comply with the minimum fire safety standards required by the Building Code of Australia, thereby contravening the EPA Regulations 2000 and 2021;</li> <li>• incorrectly classified the developments as class 1a, 1b, or 10a;</li> <li>• misrepresented the developments to be complying 'group homes' when the proposed homes were self-contained residential units and not complying 'group homes' under the EPA Act;</li> <li>• contravened the BDC Act by issuing complying developments for three (3) class 3 building developments between 16 February 2021 and 31 March 2021 when his registration authorised him to carry out certification work with respect to class 1 and 10 buildings only; and</li> <li>• failed to comply with a condition of his registration by issuing the certificates without first applying to the Commissioner of Fire and Rescue NSW for a report.</li> </ul>		
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