

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"> 1. Engaged in unsatisfactory professional conduct under the <i>Building Professionals Act 2005</i> (NSW) 2. 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) (BDC Act). 3. Contravened the certification legislation under section 45(b) of the BDC Act. 4. Failed to comply with conditions of the registration under section 45(g) of the BDC Act. <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"> • 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 • 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) . <p>Between 17 March 2021 and 15 August 2022, issued thirteen (13) complying development certificates and three</p>	<ol style="list-style-type: none"> 1. Cancel the Certificate of Registration Number BDC2904, pursuant to section 48(1)(e) of the BDC Act; 2. Cancel the Certificate of Registration Number BDC1863, pursuant to section 48(1)(e) of the BDC Act; and 3. 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. <p>This disciplinary decision has been temporarily stayed pending the determination of the NCAT proceedings. As such, Registrations BDC2904 and BDC1863 are temporarily reinstated on the condition that:</p> <ol style="list-style-type: none"> i. The Certifier only be permitted to continue or complete the work in respect of current contracts for class 1a and 10a buildings entered into by the Certifier or his company, BCA/NCC Compliance Pty Ltd, pending the determination of these proceedings; and ii. The Certifier must provide all consumers with whom the Certifier or his company, BCA/NCC Compliance Pty Ltd, continue to work a copy of Fair Trading’s decision and to obtain from those consumers written consent to continue to work on their projects. 	6/04/2023

(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:

- 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;
- incorrectly classified the developments as class 1a, 1b, or 10a;
- 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;
- 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
- 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.