

## Summary of Disciplinary Action

Accredited certifier	Disciplinary action no.	Property address	Details of disciplinary matter	Disciplinary decision	Date of decision
Stanly <b>SPYROU</b> BPB No. 1977	497	51-55 Homebush Road, Strathfield (45-room boarding house building)	Issued an interim occupation certificate (OC) for a building that was not 'not inconsistent' with the development consent (DA), that was not suitable for occupation or use per its BCA classifications, that could not be found to not constitute a hazard to the health or safety of the occupants of the building, and without DA preconditions being met. In issuing the OC the certifier contravened s.85(1)(b) of the BP Act.	Mr Spyrou's certificate of accreditation was cancelled (effective 16 August 2019) and made subject to additional conditions (effective immediately).	15 July 2019
		748-750 Kingsway, GyMEA (residential flat building with 36 units).	Issued an interim OC for a building that for particular parts there had been no construction certificate issued, that was not suitable for occupation or use per its BCA classifications, that could not be found to not constitute a hazard to the health or safety of the occupants of the building, and without a DA precondition and BASIX requirements being met. In issuing the OC the certifier contravened s.85(1)(b) of the BP Act.	Mr Spyrou was also Reprimanded, and Ordered that he cannot re-apply for accreditation for a period of 5 years from the date of cancellation specified above.  <b>NOTE: The NSW Civil and Administrative Tribunal has ordered: That the operation of the decision made by the Respondent on 15 July 2019, is stayed subject to the following conditions.</b>  <b>Refer to NCAT document attached hereto for Order and conditions.</b>	



Building Professionals Board  
ftlegaladmin@finance.nsw.gov.au

## ORDER

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Case title Stanly Spyrou v Building Professionals Board  
Application under Building Professionals Act 2005

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On 13 September 2019 the following orders (and/or directions) were made:

- 1 That the operation of the decision made by the Respondent on 15 July 2019, is stayed subject to the following conditions.
- 2 Complying Development Certificates / Construction Certificates

2.1 Prior to issuing a Complying Development Certificate (CDC) or a Construction Certificate (CC) in relation to a building or development, the Applicant (the Certifier) is to obtain a Peer Review Report (PR Report), from a Peer Reviewer (CDC / CC PR) that confirms that the CDC or CC and its supporting documents have been reviewed by the CDC / CC PR and it has been determined by the CDC / CC PR that it is appropriate to issue the CDC or CC (as the case may be).

2.2 For the purposes of 2.1, where the CDC or CC is in relation to a building that involves or proposes a “performance solution” (as defined in clause A1.1 of the Building Code of Australia, Volume 1), the Certifier must obtain a PR Report from another accredited certifier, who did not prepare the performance solution, that specifies in writing that the “performance solution” complies with the relevant performance requirements of the Building Code of Australia.

2.3 For the purposes of 2.1, the CDC / CC PR must be:

(a) In the case where the building or development involves or proposes a “performance solution” (as defined in Clause A1.1 of the Building Code of Australia (as defined in s 1.4 of the Environmental Planning and Assessment Act 1979)), a category C10 Accredited Certifier – fire safety engineering compliance, who did not prepare the PR Report.

(b) In all other cases:

(i) an accredited certifier who holds a certificate of accreditation in category A1 Accredited certifier – building surveying grade 1, or

(ii) a building surveyor having not less than 10 years' experience.

2.4 Before determining any application for a CDC, the Certifier must obtain and consider a written report from a Town Planner which assesses whether the application complies with the relevant environmental planning instrument. That Town Planner must be one who is acceptable and agreed to by the Respondent (the Board). The Certifier must not determine any application for a CDC before he has obtained, in writing, the Board's acceptance and agreement to the Town Planner.

2.5 In the event that the Certifier issues a CDC which is not supported by the assessment report of the Town Planner, the Certifier must provide the Board with the reason for doing so within 2 business days of issuing the CDC.

### 3 Occupation Certificates

3.1 Prior to issuing an Interim Occupation Certificate (IOC) or Final Occupation Certificate (FOC) for a building or development that involves a performance solution for a "fire safety requirement" (as defined by Clause 3 of the Environmental Planning and Assessment Regulation 2000), the Certifier is to obtain a written report (Fire Safety Report) from a C10 Accredited Certifier – fire safety engineering compliance stating that the recommendations of the performance solution authorised by the CDC or CC have been implemented.

3.2 Prior to issuing an IOC or FOC for a building or development that does not involve a performance solution for a "fire safety requirement", the Certifier is to obtain a Peer Review Report from a Peer Reviewer (OC PR) that confirms that the IOC or FOC and its supporting documents have been reviewed by the OC PR and it has been determined by the OC PR that it is appropriate to issue the IOC or FOC (as the case may be).

3.3 For the purposes of 3.2, the OC PR must be:

(a) an accredited certifier who holds a certificate of accreditation in category A1 Accredited certifier – building surveying grade 1, or

(b) a building surveyor with not less than 10 years' experience.

- 4 Issue of Certificates – The Certifier is not to issue any CDC, CC, IOC or FOC that the CDC / CC PR or OC PR (as the case may be) has determined is not appropriate to issue.
- 5 That within 2 business days of issuing any of the CDC, CC, IOC or FOC certificates, the Certifier is to provide a copy of the certificate to the Board and the accompanying report prepared by the CDC / CC PR or OC PR (as the case may be).
- 6 The CDC / CC PR or OC PR is not to be a person who is an employee, associate or a person with any financial interest in Dix Gardner Group Pty Limited.
- 7 On 48 hours' notice, the Board has the right to veto any proposed CDC / CC PR or OC PR on the basis that they are not suitably qualified.
- 8 The parties have liberty to approach the Tribunal in respect of these orders.

A Britton, Principal Member

Issued: 26 September 2019



For further information about your rights and obligations in relation to this order please read NCAT's Rights and Obligations Guideline available on the NCAT website at [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au).