

# BUILDING PRACTITIONERS INQUIRY BOARD

## Reasons for Decision

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<b>Building Practitioner:</b>	Nordraft By Design Pty Ltd
<b>Building Practitioner Category:</b>	Building Certifier (Unrestricted)
<b>Referred by:</b>	Director of Building Control
<b>Proceedings:</b>	Referral of Inquiry to the Building Practitioners Board in accordance with section 34F(1)(b) of the <i>Building Act 1993 NT</i>
<b>Inquiry Board:</b>	Gabrielle Martin (Presiding Member) Craig Leslie (Member) Natasha Bertinazzi (Member)
<b>Date of Decision:</b>	9 January 2026

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### Background

1. The Director of Building Control (**the DBC**) conducted a practitioner complaint investigation made pursuant to section 26 of the *Building Act 1993 (the Act)* into allegations made against the Building Certifier, Nordraft by Design Pty Ltd (**Nordraft**) (ACN: 623 055 738), trading as Building Approvals NT.
2. The DBC determined that Nordraft was granted occupancy permit 590/4322/1 in circumstances where:
  - a) the issuing of the occupancy permit was in breach of sub-section 70(1) of the Act;
  - b) the issuing of the occupancy permit was in contravention of sub-section 70(2)(b) of the Act.
3. The DBC found that there was evidence that the Nordraft was guilty of professional misconduct pursuant to section 34S(a) of the Act.
4. In addition, DBC was also satisfied that there was sufficient evidence that the directors of Nordraft, Mr Jason Hillier and Ms Annette Suchowski, had also contravened section 70 of the Act on the basis of the presumption under section 151 of the Act.
5. The DBC was not satisfied that either Mr Hillier or Ms Suchowski had shown that they had no knowledge of the commission of the offence, nor that by the exercise of due diligence they could not have prevented the commission of the offence.
6. The DBC decided that there was sufficient evidence to form the view that both Nordraft and its company directors, Mr Jason Hillier and Ms Annette Suchowski, were guilty of professional misconduct.
7. On 23 May 2024, he referred this matter to the Building Practitioners Board (**the Board**) for inquiry, pursuant to his obligations section 34(1)(b) of the Act.
8. After much deliberation, the DBC and Nordraft's company directors Mr Jason Hillier and Ms Annette Suchowski entered into an Agreed Statement of Facts on 6 September 2024.

9. The key dates of the breaches are:
  - a) On 9 January 2022, Ms Suchowski granted a building permit (590/4322/1) for “two detached dwellings for SDA housing, verandah and pool”;
  - b) On 9 December 2022, Mr Hillier issued occupancy permit (590/4322/1) for “two detached dwellings, verandah and pool” with a class 1a building classification.
10. The following is taken directly from the Agreed Statement of Facts:
  34. Class 1a is not an appropriate classification for the intended use of the building.
  37. By issuing the occupancy permit Nordraft by Design Pty Ltd contravened sub-section 70(1) of the Act as the building works relating to occupancy permit 590/4322/1 did not comply with regulation 4 of the *Building Regulations 1993 (the Regulations)* as they were incorrectly classified as being Class 1a, due to the intended use of the buildings, rather than their design.
  38. A further contravention of the regulations, and thus section 70(1) of the Act, is that regulation 35 of the Regulations prohibits constructions of more than one Class 1 Building on land less than 4 hectares unless allowed by a planning scheme or interim development control order. No planning scheme or control order was in place to allow the construction of 2 Class 1 buildings on the property.
  39. By issuing occupancy permit 590/4322/1, Nordraft by Design Pty Ltd was also in contravention of sub-section 70(2)(b) of the Act as the building work was not consistent with the documents accompanying the application, namely the planning documents and reports, which indicated the proposed use of the building work was as a residential care facility and that is not consistent with a class 1a classification.
  40. Both Mr Hillier and Ms Suchowski were at all material times company directors of Nordraft by Design Pty Ltd, as such pursuant to sub-section 151(1) of the Act, where Nordraft by Design Pty Ltd has contravened a provision of the Act or the Regulations both Mr Hillier and Ms Suchowski are taken to have contravened the same provision, unless they "prove that he or she had no knowledge of the commission of the offence and could not, by the exercise of due diligence, have prevented the commission of the offence".
  41. Mr Hillier and Ms Suchowski contravened section 70(1) and 70(2)(b) of the Act.
  42. In-line with their obligations set out at part 6 of the "Northern Territory Practitioners Board Code of Conduct" Mr Hillier and Ms Suchowski knew or ought to have known (if they had exercised an appropriate level of due diligence) about the legislative breaches related to the granting of occupancy permit 590/4322/1 and they failed to prevent the commission of those offences.
11. Ms Suchowski accepted that her conduct amounted to professional misconduct; Mr Hillier denied that it did.
12. Ms Suchowski's breach occurred in the penalty unit period 2021/2022 and the applicable penalty unit is \$157.00.
13. Mr Hillier's breach occurred in the penalty unit period 2022/2023 and the applicable penalty unit is \$162.00.
14. The DBC made submissions on the seriousness of the offending;
  - a) That the client was aware of the issue and had chosen to build to a higher standard than what was required for a class 1a building are both relevant matters. However, this is not further mitigated by the submission that Somerville is an organisation of good standing. Building regimes are designed to create long term standards that protect residents not only while the owner at the time of building is managing the property, but also after the property has been sold.

- b) For the same reason, while it is accepted that the higher voluntary standards being met by Somerville may have at the time been meeting the safety needs of the residents, the nature of the misconduct - failure to correctly classify the building - is inherently a matter related to consumer protection and safety. Firstly, misclassification gives rise to the risk that minimum safety standards are not being met, as the appropriate certification process has not been followed. Secondly, there is the risk that higher voluntary safety standards will not be maintained over time. This is why regulation 18C of the *Building Regulations 1993* requires occupancy.
- c) The potential for safety issues to arise as a result of practitioner misconduct is a relevant factor when determining the objective seriousness of misconduct. In cases where it is proven that residents have already been exposed to a safety risk, that would indicate a breach at the higher end of the scale. Where the nature of the conduct does not involve any safety risk, that is one factor that places conduct at the lower end of the scale.<sup>1</sup>

15. The DBC also made submissions on the range of penalty:

- a) The quantum of the penalty must be sufficient to send a message to other certifiers and deter certifiers from complying with client requests for classification without rigorously considering the building regime requirements and forming an independent view that the request is appropriate and lawful. The Director submits that the penalty should be in the medium range.<sup>2</sup>

## Decision

- 16. The “purpose of disciplinary proceedings is to protect the public and not to punish the practitioner in a criminal sense. Nevertheless, the imposition of penalties in disciplinary proceedings also has a specific and general objective of deterrence”.<sup>3</sup>
- 17. The Inquiry Board took into account submissions received by and the Agreed Facts of the parties when determining the allegations and penalties.
- 18. It finds that Nordraft By Design Pty Ltd is guilty of breaching sections 70(1) and 70(2)(b) of the Act.
- 19. Mr Hillier is guilty of breaching sections 70(1) and 70(2)(b) of the Act.
- 20. Ms Suchowski is guilty of breaching sections 70(1) and 70(2)(b) of the Act.
- 21. The Inquiry Board has determined that all three respondents are guilty of professional misconduct pursuant to section 34P(1)(a) of the Act.

## Penalties

- 22. The Inquiry Board notes and agrees with the DBC concerning the gravity of the breaches, the seriousness of the professional misconduct and the appropriate range of penalty.
- 23. Rather than order individual penalties for breaches of sections 70(1) & 70(2)(b) and section 34T(c) of the Act on each of the Respondents, the Inquiry Board considered the submissions of Mr Hillier and Ms Suchowski and determined that it was appropriate, in these circumstances, to impose a single penalty on each of the Respondents, Nordraft By Design Pty Ltd, Mr Hillier and Ms Suchowski, in accordance with the totality principle for professional misconduct.

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<sup>1</sup> Submissions in Reply by Director Building Control 30.11.24 paragraph 2 (a), (b) & (c)

<sup>2</sup> Submissions in Reply by Director Building Control 30.11.24 paragraph 5(b)

<sup>3</sup> Inquiry re Ian Donald Gum, decision dated 4 June 2009 at [5]

24. Pursuant to pursuant to section 34T(c) of the Act, the Inquiry Board imposes the following penalties.
25. Nordraft is fined in the medium range for professional misconduct, in the amount of \$62,800.00.
26. Mr Hillier is fined in the medium range for professional misconduct, in the amount of \$12,960.00.
27. Ms Suchowski is fined in the medium range for professional misconduct, in the amount of \$12,560.00.

## Orders

28. The Inquiry Board made the following orders:
  - a) Nordraft By Design Pty Ltd is fined a total amount of \$62,800.00.
  - b) Mr Hillier is fined a total amount of \$12,960.00.
  - c) Ms Suchowski is fined a total amount of \$12,560.00.
  - d) Mr Hillier and Ms Suchowski are reprimanded pursuant to section 34T(a) of the *Building Act 1993* (the Act) NT.
  - e) Mr Hillier and Ms Suchowski are required to enter an undertaking to:
    - i. Not to engage in Building Certification works associated with any Class 1b, 2 to 9 buildings without a third-party review by an independent building certifier (registered in the Northern Territory) for two years from the date of these orders; and
    - ii. Prior to applying for re-registration as a building certifier, undertake continuing professional education and complete each of the following study units within the Advanced Diploma of Building Surveying CPC60121:
      1. CPCBC4053 – Apply building codes and standards to the construction process for Class 2 to 9 buildings;
      2. CPCBS6103 – Identify and apply legal and ethical requirements to building surveying functions; and
      3. CPCBS6116\* – Assess and advise on performance solutions for Class 2 to 9 buildings to three storeys;
- f) The DBC is directed to audit the work of Mr Hillier and Ms Suchowski for a period of two years from the date of these orders.
- g) The DBC is directed to audit all building approvals that have previously been issued by Nordraft by Design Pty Ltd, Mr Hillier and Ms Suchowski which relate to SDA housing approvals.

## Recommendations

29. That the DBC undertake actions available to him under the *Building Act 1993* to ensure occupants of the SDA dwelling, the subject of this Inquiry, are not exposed to unsafe conditions, and that the building is modified / upgraded in compliance with the National Construction Code and is safe to occupy.

## Publication of Decision

30. Pursuant to section 34R(2) and (3) of the Act, after the Building Practitioner has been notified of this decision, it is recommended that the Building Practitioners Board publish a copy of the decision in whatever manner it considers appropriate.

## Review of Decision Under the Act

31. Section 35 of the Act provides that the *Northern Territory Civil and Administrative Tribunal* (the Tribunal) has jurisdiction to review decisions made under the Act:

- (1) The Tribunal has jurisdiction to review a decision (a **reviewable decision**) specified in Schedule 5.
- (2) An **affected person**, for a reviewable decision, is a person specified in Schedule 5 for the decision.

Note for section 35:

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to the Tribunal for review of the decision and other relevant matters in relation to reviews.*

32. Relevantly, Schedule 5 of the Act provides at Items 9 and 10:

9. *A decision of the Inquiry Board under section 34P(1)(a) that a building practitioner is guilty, or is not guilty, of professional misconduct*
10. *A decision of the Inquiry Board under section 34P(1)(b) to take, or to not take, an action against a building practitioner under section 34T or 34U*

33. Section 35(3) of the Act provides that, you, as an affected person, may apply to the Tribunal for review of a reviewable decision. This is a reviewable decision under the Act.

34. The *Northern Territory Civil and Administrative Tribunal Rules 2016* set out the procedure for applying to the Tribunal for review of this decision and other relevant matters in relation to reviews.

35. Rule 5 provides:

- (1) *This rule applies to an application commencing a proceeding in the Tribunal's original jurisdiction or review jurisdiction (an **initiating application**).*
- (2) *A person wishing to commence a proceeding (the **applicant**) must file an initiating application in the approved form with the Tribunal.*

Note for subrule (2)

*The current approved form for an initiating application is Form 1.*

36. An application to commence a proceeding for the review of a reviewable decision must be filed within 28 days after the decision was notified to the applicant pursuant to section 93(3) of the *Northern Territory Civil and Administrative Tribunal Act 2014* (NTCAT Act).

37. Section 94(1) of the NTCAT Act provides for the procedure to make an application:

- (1) *An application to commence a proceeding in the Tribunal must be:*
  - (a) *filed with the Registrar; and*
  - (b) *made in accordance with the relevant Act, this Act and the rules; and*

(c) *accompanied by the fee prescribed by regulation.*

(2) *A proceeding in the Tribunal commences when the application is accepted under section 95.*

38. Section 95 of the NTCAT Act provides:

(1) *On receipt of an application to commence a proceeding under section 94(1), the Registrar may accept the application or refuse an application to commence a proceeding.*

(2) *The Registrar may accept an application to commence a proceeding on conditions.*

(3) *The Registrar must refuse an application to commence a proceeding if:*

(a) *it is made by a person not entitled to make it; or*

(b) *it is made after the time limit before which the application is required by the rules or the relevant Act; or*

(c) *it does not otherwise comply with the Act or the relevant Act.*

(4) *The Registrar must accept or refuse an application if directed to do so by the Tribunal.*

(5) *The Tribunal may direct the Registrar to accept or refuse an application:*

(a) *if requested to do so by the Registrar; or*

(b) *if the Registrar has refused an application - on application by the applicant.*



Gabrielle Martin  
Presiding Member  
Building Practitioners Inquiry Board

9 January 2026