

Attn: Proper Officer
Mr George Bouhoutsos
19 Inman Street
MAROUBRA NSW 2035

Service: By express post and by email to [REDACTED]

DATE: 20 February 2024

Building Work Rectification Order

Section 33 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*

Mr George Bouhoutsos is being given this Building Work Rectification Order (Order) in relation to 1 Robey Street, Mascot NSW 2020 (SP94082).

Mr George Bouhoutsos is required to cause building work to be carried out to remediate the serious defects as set out below in this Order.

Failure to comply with the requirements in this Order is a criminal offence.

Terms of this Order - Requirements in relation to Serious Defects

1. I, Elizabeth Stewart, under section 33(1)(b) of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 (RAB Act)*, require you George Bouhoutsos to do the things specified in column 4 in Table 1 to eliminate, minimise or remediate each serious defect at 1 Robey Street, Mascot NSW 2020 (SP94082) described in columns 1, 2 and 3 of Table 1. Each requirement must be complied with by the time set out in column 5 of Table 1:

Table 1: Requirements in respect of Serious Defects

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
1.	Level 4 roof area	<ol style="list-style-type: none"> 1. Inadequate waterproof membrane installation. 2. Inadequate substrate preparation and application of waterproofing membrane. 	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>
2.	Southern and eastern side of the lobby to every level	Absence of waterproofing upturn termination to concrete awing to the southern and eastern side of the corridor.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
3.	Unit 303, bedroom 3	<p>Water ingress to unit 303 through pipe penetrating concrete slab located underneath pebbled landscaping.</p> <p>This is a systematic defect throughout the building.</p>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>
4.	Level 4 communal terrace hot water unit	<ol style="list-style-type: none"> 1. A topping slab has been constructed above the tiled area and against the skirting tile. 2. A waterproofing membrane is not present on the topping slab and to the external wall façade. 3. The absence of a waterproofing membrane to the topping slab and against the external wall façade can lead to water ingress to the unit directly beneath (Unit 304) as a result of water build-up on the topping slab. 4. A previous investigation has indicated that water ingress is present to Unit 304. 5. The location of the water ingress coincides with the location of the hot water unit 	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
		located in the Level 4 communal terrace.		
5.	Main ground floor entrance, Level 4 entrance from communal terrace to lobby	Absence of a grated drainage channel to the entry door.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>
6.	Level 4 fire stairs	<ol style="list-style-type: none"> 1. Water ingress into the fire stairs. 2. An external landscape area is located to the external face of the fire stairs wall. 3. The water ingress is likely a result of the absent and/or ineffective waterproofing membrane to the landscaped area. 	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>
7.	Level 4 communal area Apartment 303 Level 4 Balcony	<ol style="list-style-type: none"> 1. The roof consists of an eaves gutter roof drainage system and rainwater outlets for the Level 4 communal area. 2. The communal open space and perimeter planters does not appear to have any overflows installed. 	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
		<p>3. There are no overflows installed on the apartment balconies which have a perimeter planter.</p> <p>4. Rainwater outlets within the gravel areas are covered/blocked which restricts the outlet to adequately drain the area.</p> <p>5. There is stormwater ingress issues into the apartments directly below.</p> <p>6. Ponding of water was identified on the roof which suggests there is inadequate falls to the roof drainage outlets.</p>	Rectify the serious defect in accordance with the written report and designs provided at stage 1.	
8.	Common areas – all levels	There is an absence of fire detection within electrical or communications cupboards.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
9.	Ground Floor Lift Lobby	The fire hose reel serving the ground floor lobby has been installed approximately 4.4 m from the exit.	<p>Within the time period specified in column 5, Stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			Submit a written report and designs to rectify the serious defect. Stage 2. Rectify the serious defect in accordance with the written report and designs provided at stage 1.	
10.	Ground Floor Southern Fire Stair Exit	The internal fire hydrant within the southern fire isolated stairwell exit at ground level had been capped off and removed. With the removal of this fire hydrant, hydrant coverage is not achieved to the ground floor level (tenancies, back of house and carpark).	Within the time period specified in column 5, Stage 1. Submit a written report and designs to rectify the serious defect. Stage 2. Rectify the serious defect in accordance with the written report and designs provided at stage 1.	Stage 1 – 60 days Stage 2 – 60 days
11.	Residential Levels	The travel distance from the entrance doorway of any sole occupancy unit to the nearest fire extinguisher exceeds 10m.	Within the time period specified in column 5, Stage 1. Submit a written report and designs to rectify the serious defect. Stage 2. Rectify the serious defect in accordance with the written report and designs provided at stage 1.	Stage 1 – 60 days Stage 2 – 60 days
12.	Fire Hydrant Booster Valve Assembly	The feed hydrants and booster inlets of the fire brigade booster valve assembly do not face Robey	Within the time period specified in column 5, Stage 1.	Stage 1 – 60 days

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
		St as required by the Fire and Rescue NSW 188 Exemption from Fire Safety Standards.	Submit a written report and designs to rectify the serious defect. Stage 2. Rectify the serious defect in accordance with the written report and designs provided at stage 1.	Stage 2 – 60 days
13.	Site Water meter	<ol style="list-style-type: none"> 1. Fire Hose reels were connected to the potable metered water service. 2. Water meter and isolation valves were installed at the property boundary. 3. Water Meter Isolation valves not locked in the open position. 	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect. Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
14.	Common area roof terrace	Emergency exit signage was not displaying running man decal.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect. Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
15.	Common area roof terrace	Emergency lighting to the external balcony that leads to a fire exit stairwell was absent.	Within the time period specified in column 5,	Stage 1 – 60 days

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 2 – 60 days</p>
16.	Basement level fire stair	<p>Emergency exit signage was:</p> <ol style="list-style-type: none"> 1. Not above or adjacent the egress door. 2. The exit sign did not have directional arrows. 	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
17.	Ground and Basement Carpark	<p>Multiple service penetrations were inadequately fire protected. Fire collars do not appear to have been installed.</p> <p>One of the retro fit fire collars has been cut around the drainage service.</p>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
18.	Basement carpark	Cracking to the concrete slab throughout the basement slab.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>
19.	Level 4 communal terrace, Unit 303	Severe corrosion has occurred to the structural steel beams and base of the structural steel columns.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>
20.	Basement carpark	Voids and honeycombing in concrete support beam below the driveway ramp.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
21.	Unit 303 bedroom, Unit 304 bedroom	<ol style="list-style-type: none"> 1. Pipe penetration through the external wall. 2. The external wall appears to be of block wall construction. 3. No visible sealant or collar to prevent water entry into the building. 4. Issue also identified in report commissioned by the Strata Plan. 	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
22.	Front entry	No visible weepholes on the brick facade.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>
23.	Residential balconies	<ol style="list-style-type: none"> 1. The balcony drainage appears to consist of 90mm grate with 40mm pipework cast into the concrete slab. 2. 40mm pipework is inadequate to drain balconies due to its capacity and increased risk for blockage. 	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
24.	Levels-1 & 3 electrical services meter cupboard	The support of the electrical apparatus was reliant upon the chocking of bricks that were not secure to the building fabric.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
25.	Level-1 electrical services meter cupboard	In the change in direction of cables no additional support was provided to prevent contact with the unprotected cut edges of the cable tray.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
26.	Basement main switchboard room	The house distribution board is missing circuit breaker warning labelling identifying the de-energisation of a circuit may discharge the batteries of emergency luminaires.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
27.	Basement main switchboard room	An emergency lighting and exit sign testing facility has not been provided.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
28.	Levels-1 & 3 electrical services meter cupboard	No common bonding point of the reinforcement steel within the concrete floor slabs was evident at the floor electrical services cupboards nor of the equipotential earth cable being installed to main electrical panel at each level.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect to the Project Intervene.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
29.	Basement main switchboard room	The mechanical fan control panel was being secured with tape, Access to live contact parts was unable to be afforded by the provided locking mechanisms provided to the panel.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
30.	Ground floor and basement car park vehicle points	The undercover carpark vehicle entry pathways did not have sufficient daytime illumination levels to allow a transition to lower interior light levels of the car park.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
31.	Gas meter cupboards	<ol style="list-style-type: none"> 1. Insufficient ventilation in the gas meter cupboards throughout the building. 2. Louvres were provided to top and bottom of cupboard doors, however there are no permanently open ventilation openings in the corridors. 	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
32.	Throughout	Not all emergency and exit signage has been provided with discrete permanent labelling. Where labelling has been provided, it has been handwritten and is illegible on some labels.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
33.	Hot water plant room	Not all heated water service pipework and valves are thermally insulated.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
34.	Residential Levels – meter cupboards	Inadequate pipe supports on pressure services/meters installed within each meter cupboard.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
35.	Ground Floor Bin Room	The sanitary plumbing for the hot water unit has been connected to the vertical pipework in elevated sanitary drainage systems which is not permitted.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
36.	Level 4 Common Area	The 25L electric storage hot water unit installed within the sink joinery within the communal area has not been installed within a safe tray.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
37.	South Eastern roof area	<p>Only one downpipe has been installed to the south eastern roof area. This is not in line with the design documentation which nominates two downpipes to be installed.</p> <p>There are also signs of leaking from the gutter which may be due to the roof drainage system being undersized.</p>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

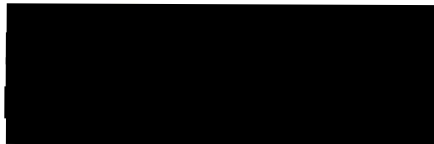
Conditions of this Order

2. You must make good any consequential damage caused in carrying out the works specified in this Order.
3. A design that is prepared for a building element for building work or a design that is prepared for a performance solution for building work (including a building element) in this Order must comply with the *Design and Building Practitioners Act 2020 (DBP Act)*.
4. A suitably qualified person or specialist referred to in column 4 of Table 1 is a person who is a registered design practitioner under the DBP Act.

5. Where this Order requires you to submit a written report, then written report must:
- a. be prepared by a suitably qualified person or specialist; and
 - b. be prepared with consideration to this Order and the Reasons for this Order; and
 - c. detail the specific building work necessary to meet the codes and relevant standards specified in column 5 of Table 2; and
 - d. be prepared with consideration to other building work already constructed at the time of this Order and not the subject of a serious defect including designs for that building work, and other building work required by this Order including designs for that building work, and manufacturer's specifications and;
 - e. be submitted to Building Commission NSW via email to ocaudits@customerservice.nsw.gov.au.

Duration of this Order

6. This Order remains in force until it is revoked by the Secretary.
7. This order is given on the date that it is listed above in accordance with section 67 of the RAB Act.



Elizabeth Stewart
A/Executive Director Building Operations
Building Commission NSW
Department of Customer Service

Reasons for the Building Work Rectification Order

1. The Department of Customer Service (**the Department**) administers the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 (RAB Act)*.
2. Under section 33 of the RAB Act, if the Secretary of the Department, or their authorised delegate, has a reasonable belief that building work was carried out in a manner that could result in a serious defect in relation a residential apartment building or that a residential apartment building has a serious defect, they may order the developer of that building to carry out or not carry out specified building work or to take other specified action to eliminate, minimise or reduce the serious defect or potential serious defect.
3. Section 3 of the RAB Act defines a serious defect. Section 3 of the RAB Act also defines to term “building element” by reference to the *Design and Building Practitioners Act 2020 (DBP Act)*. Section 4 of the RAB Act defines the term “developer”. Section 6 of the RAB Act provides the building work to which the RAB Act applies. Relevant excerpts from sections 3, 4 and 6 of the RAB Act and section 6 of the DBP Act are set out in **Attachment A** to this Order.
4. Elizabeth Stewart, Acting Executive Director - Building Operations and Assistant Building Commissioner, Department of Customer Service, is an authorised delegate of the Secretary of the Department.
5. Mr George Bouhoutsos (**Developer**) is the developer of the residential apartment building known as 1 Robey Street, Mascot NSW 2020 (SP94082) (**the Development**) for the purposes of section 4(a) of the RAB Act.
6. The Development comprises carparking, retail, and residential units. The RAB Act applies to building work at the Development because it is a class 2 building, is currently occupied and is less than 10 years old.
7. On 19 April 2023, with the consent of the owners corporation for the Development, a third party consultant engaged by the Department attended the Development (**Investigator**). The Investigator prepared a report on serious defects in the Development dated 2 June 2023 (**Inspection Report**).
8. I, Elizabeth Stewart, have formed a reasonable belief that the Development has serious defects based on my review of the Inspection Report.
9. My reasonable belief is also based upon the following matters, set out in Table 2 below in respect of each serious defect identified in column 1 of Table 2 (where that reference corresponds to the reference set out in Table 1 above).

Table 2 – basis of reasonable belief as to serious defects

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
1.	Waterproofing systems	<ol style="list-style-type: none"> 1. Inadequate waterproof membrane installation. 2. Inadequate substrate preparation and application of waterproofing membrane. 	The defective substrate to which the membrane has been applied is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation, 2.5 Substrate, 2.5.3.1 Fully bonded or liquid-applied
2.	Waterproofing systems	Absence of waterproofing upturn termination to concrete awing to the southern and eastern side of the corridor.	The noncompliant waterproofing upward termination height is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation, 2.8 Termination of membranes, 2.8.1.1 Height
3.	Waterproofing systems	<ol style="list-style-type: none"> 1. The owner of the property has reported water ingress at the pipe penetration through the concrete slab. 2. An external pebbled landscape area is located above this location. 3. There were no visible overflows in the pebble landscaped area. 	The water ingress due to lack of overflow provisions is attributable to the failure to comply with the Building Code and or Australian Standards referenced in column 5.	<ul style="list-style-type: none"> • BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4
4.	Waterproofing systems	<ol style="list-style-type: none"> 1. A topping slab has been constructed above the tiled area and against the skirting tile. 2. A waterproofing membrane is not present on the 	The absence of waterproofing membrane application is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> • BCA Volume 1, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		<p>topping slab and to the external wall façade.</p> <p>3. The absence of a waterproofing membrane to the topping slab and against the external wall façade can lead to water ingress to the unit directly beneath (Unit 304) as a result of water build-up on the topping slab.</p> <p>4. A previous investigation has indicated that water ingress is present to Unit 304.</p> <p>5. The location of the water ingress coincides with the location of the hot water unit located in the Level 4 communal terrace.</p>		
5.	Waterproofing systems	Absence of a grated drainage channel to the entry door.	The absence of drainage is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS/NZS3500.3 National Plumbing and Drainage Code Part 3, Section 5 Surface water drainage systems – Design, Clause 5.3.4 Entry into buildings • Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 - Design and installation, 2.8 Termination of membranes, 2.8.3 Doors and windows onto external waterproofed areas

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
6.	Waterproofing systems	<ol style="list-style-type: none"> 1. Water ingress into the fire stairs. 2. An external landscape area is located to the external face of the fire stairs wall. 3. The water ingress is likely a result of the absent and/or ineffective waterproofing membrane to the landscaped area. 	Th water ingress is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> • BCA Volume 1, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4
7.	Waterproofing systems	<ol style="list-style-type: none"> 1. The roof consists of an eaves gutter roof drainage system and rainwater outlets for the Level 4 communal area. 2. The communal open space and perimeter planters does not appear to have any overflows installed. 3. There are no overflows installed on the apartment balconies which have a perimeter planter. 4. Rainwater outlets within the gravel areas are covered/blocked which restricts the outlet to adequately drain the area. 5. There is stormwater ingress issues into the apartments directly below. 6. Ponding of water was identified on the roof which 	The lack of overflow provisions is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS/NZS3500.3 –2003 Plumbing and Drainage–Stormwater Drainage, Section 5 Surface Drainage Systems –Design, Clause 5.3.1.1 Roof areas • Australian Standard AS/NZS3500.3 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4 • Australian Standard 4654.2 - Waterproofing Membranes for External Above Ground Use, Section 2 Design and installation, 2.5 Substrate, 2.5.2 Falls • Australian Standard AS4654.2 appears as a standard referenced in the BCA Volume One, Part F Damp and

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		suggests there is inadequate falls to the roof drainage outlets.		Weatherproofing, Performance Requirements FP1.3
8.	Fire Safety Systems	There is an absence of fire detection within electrical or communications cupboards.	The absence of fire detection is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> AS1670.1-2004 Fire detection, warning control and intercom systems – System design, installation and commissioning, Part 1: Fire, Section 3 Installation requirements, Clause 3.25.5 Cupboards
9.	Fire Safety Systems	The fire hose reel serving the ground floor lobby has been installed approximately 4.4 m from the exit.	The fire hose reel installation location is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> BCA Volume One, Section E Services and equipment, Part E1 Fire fighting equipment, Part E1.4 fire hose reels Deemed-to-Satisfy provision E1.4 is a pathway that can satisfy the BCA Volume One, Section E Services and equipment, Part E1 Fire fighting equipment, Performance Requirement EP1.1 Deemed-to-Satisfy provision E1.4, the BCA Volume One Performance Requirement
10.	Fire Safety Systems	The internal fire hydrant within the southern fire isolated stairwell exit at ground level had been capped off and removed. With the removal of this fire hydrant, hydrant coverage is not achieved to the ground	The inadequate fire hydrant installation and coverage is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS2419.1 Fire hydrant installations Part 1 System design, installation and commissioning, Section 3.2.3 Internal Fire Hydrants Australian Standard AS2419.1 appears as a standard

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		floor level (tenancies, back of house and carpark)		<p>referenced in the BCA Volume One, Section E Services and equipment, Part E1.3 Fire hydrants</p> <ul style="list-style-type: none"> Deemed-to-Satisfy provision E1.3 is a pathway that can satisfy the BCA Volume One, Section E Services and equipment, Part E1 Fire fighting equipment, Performance Requirement EP1.3
11.	Fire Safety Systems	The travel distance from the entrance doorway of any sole occupancy unit to the nearest fire extinguisher exceeds 10m.	The excess in distance to a portable fire extinguisher provisions is attributable to the failure to comply with the Building Code Standards referenced in column 5.	<ul style="list-style-type: none"> BCA Volume One, Section E Services and equipment, Part E1 Fire fighting equipment, deemed to satisfy provision Part E1.6 Portable fire extinguisher Deemed-to-Satisfy provision E1.6 is a pathway that can satisfy the BCA Volume One, Section E Services and Equipment, Performance Requirement EP2
12.	Fire Safety Systems	The feed hydrants and booster inlets of the fire brigade booster valve assembly do not face Robey St as required by the Fire and Rescue NSW 188 Exemption from Fire Safety Standards.	The non-compliant hydrant installation is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS2419.1 appears as a standard referenced in the BCA Volume One, Section E Services and equipment, Part E1.3 Fire hydrants Deemed-to-Satisfy provision E1.3 is a pathway that can satisfy the BCA Volume One,

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				Section E Services and equipment, Part E1 Fire fighting equipment, Performance Requirement EP1.3
13.	Fire Safety Systems	<ol style="list-style-type: none"> 1. Fire Hose reels were connected to the potable metered water service. 2. Water meter and isolation valves were installed at the property boundary. 3. Water Meter Isolation valves not locked in the open position. 	The inadequate installation of padlocks to isolation valves that can prevent flow of water to the hose reels is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS2441 Installation of fire hose reels, Section 6 Water Supply, 6.2 Metered water supply • Australian Standard AS2441 appears as a standard referenced in the BCA Volume One, Section E Services and equipment, Part E1.4 fire hose reels • Deemed-to-Satisfy provision E1.4 is a pathway that can satisfy the BCA Volume One, Section E Services and equipment, Part E1 Fire fighting equipment, Performance Requirement EP1.1 • Australian Standard AS2441, or the BCA Volume One the Performance Requirement
14.	Fire Safety Systems	Emergency exit signage was not displaying running man decal.	The failure to ensure the installation of compliant emergency exit signage is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> • BCA Volume One, Section E Services and equipment, Part E4 Visibility in an emergency, exit signs and warning signs, Deemed-to-Satisfy provision E4.5 Exit signs • Deemed-to-Satisfy provision E4.5 Exit signs is a pathway that can satisfy the BCA Volume

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				One, Section E Services and equipment, Performance Requirement EP4.2 Identification of exits
15.	Fire Safety Systems	Emergency lighting to the external balcony that leads to a fire exit stairwell was absent.	The inadequate emergency luminaries are attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> • BCA Volume One, Section E Services and Equipment, Part 4 Visibility in an Emergency, Exit Signs and Warning Signs, Deemed-to-Satisfy provision E 4.2 Emergency Lighting Requirements and E4.5 Exit Signs
16.	Fire Safety Systems	Emergency exit signage was: 1. Not above or adjacent the egress door. 2. The exit sign did not have directional arrows.	The failure to ensure the installation of compliant exit signage is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> • BCA Volume One, Section E Services and equipment, Part E4 Visibility in an emergency, exit signs and warning signs, Deemed-to-Satisfy provision E4.5 Exit signs • Deemed-to-Satisfy provision E4.5 Exit signs is a pathway that can satisfy the BCA Volume One, Section E Services and equipment, Performance Requirement EP4.2 Identification of exits
17.	Fire Safety Systems	Multiple service penetrations were inadequately fire protected. Fire collars do not appear to have been installed. One of the retro fit fire collars has been cut around the drainage service.	The inadequate fire-resisting sealing is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> • BCA Volume One, Section C Fire Resistance, Performance Requirements and C3.12 Openings in floors and ceilings for services

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				<ul style="list-style-type: none"> • BCA Volume One, Part C3: Protection of Openings, C3.15 and Specification C3.15 • Deemed-to-satisfy provision C3.15 Openings for service installations is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Performance Requirement CP8
18.	Structural Systems	Cracking in the concrete slab throughout the basement slab.	The cracking identified is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard 3600-2009 Concrete structures, Section 2 Design procedures, actions and loads, 2.3, Design for serviceability, 2.3.3, Cracking • Australian Standard AS3600 appears as a standard referenced in the the BCA Volume One, Section B Structure, Deemed-to-Satisfy provision B1.4 - Determination of structural resistance of materials and forms of construction • Australian Standard AS3600, and the BCA Volume One, Performance Requirement
19.	Structural Systems	Severe corrosion has occurred to the structural steel beams and base of the structural steel columns.	Corrosion of permanent steel structures is a defect in a building element that is attributable to the failure to comply with the Building Code and or Australian Standards referenced in column 5.	<ul style="list-style-type: none"> • BCA Volume One, Section B Structure, Part B1 Structural Provisions, Clause B1.4 Determination of Structural Resistance of Materials and Forms of Construction

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				<ul style="list-style-type: none"> Australian Standards 4100 appears as a standard referenced in the the BCA Volume One, Section B Structure. AS4100 Section 3.5 Serviceability Limit State, 3.5.6 Corrosion protection
20.	Structural Systems	Voids and honeycombing in concrete support beam below the driveway ramp.	The voids and honeycombing in the concrete installation are attributable to the failure to comply with the Australian Standards referenced in column 5.	<p>Australian Standard AS3600 Concrete Structures as follows:</p> <ul style="list-style-type: none"> Section 4 – Design for durability, 4.10 Requirements for cover to reinforcing steel and tendons, 4.10.3 Cover for corrosion protection, 4.10.3.7 Embedded items cover Section 17 - Materials and construction requirements, 17.1.7- Rejection of concrete, 17.1.7.2 Hardened concrete Section 17 - Materials and construction requirements, 17.1.3 Handling, placing and compacting of concrete
21.	Building Enclosure	<ol style="list-style-type: none"> Pipe penetration through the external wall. The external wall appears to be of block wall construction. No visible sealant or collar to prevent water entry into the building. 	The inadequate sealing of penetrating pipes is attributable to the failure to comply with the Building Code and or Australian Standards referenced in column 5.	<ul style="list-style-type: none"> BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		4. Issue also identified in report commissioned by the Strata Plan		
22.	Building Enclosure	<ol style="list-style-type: none"> 1. No visible weepholes on the brick facade. 2. Water trapped in the cavity can migrate internally. 	The absence of weepholes to the brick facade is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS3700 Masonry structures, Section 4 General Design Aspects, 4.7 Prevention of Moisture penetration. • Australian Standard AS3700 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Deemed-to-Satisfy provision F1.4. • Deemed-to-Satisfy provision F1.4 is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4
23.	Building Essential Services	<ol style="list-style-type: none"> 1. The balcony drainage appears to consist of 90mm grate with 40mm pipework cast into the concrete slab. 2. 40mm pipework is inadequate to drain balconies due to its capacity and increased risk for blockage. 	Undersized drainage for balcony rainwater outlets are attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS/NZS3500.3 –2003 Plumbing and Drainage–Stormwater Drainage, Section 3 Roof Drainage Systems Design, Clause 3.8 Balcony and Terrace Areas • Australian Standard AS/NZS3500.3 appears as a

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.3
24.	Building Essential Services	The support of the electrical apparatus was reliant upon the chocking of bricks that were not secure to the building fabric	The inadequate fixing of electrical apparatus is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS3000 Electrical Installations "Wiring Rules" – Clause 1.7 Selection and Installation of Electrical Equipment
25.	Building Essential Services	In the change in direction of cables no additional support was provided to prevent contact with the unprotected cut edges of the cable tray.	The absence of electrical mechanical protection is attributable to the failure to comply with the Building Code and or Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS3000 Electrical Installations "Wiring Rules" – Clause 3.9.6 Change of Direction
26.	Building Essential Services	The house distribution board is missing circuit breaker warning labelling identifying the de-energisation of a circuit may discharge the batteries of emergency luminaires.	The absence of warning labels to circuit breakers is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZ2293.1 Emergency escape lighting and exit signs for buildings – Clause 2.4 Labelling of Devices Controlling the Operation of Emergency Lighting
27.	Building Essential Services	An emergency lighting and exit sign testing facility has not been provided.	The absence of a testing facility is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZ2293.1 Emergency escape lighting and exit signs for buildings – Clause 4.3 Required Discharge Test Facilities
28.	Building Essential Services	No common bonding point of the reinforcement steel within the concrete floor slabs was evident at the floor electrical services cupboards nor of the equipotential earth cable	The absence of labelling for equipotential bonding of the reinforced concrete floor structure is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS3000 Electrical Installations "Wiring Rules". Clause 5.6.2.5 Showers and Bathrooms

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		being installed to main electrical panel at each level.		
29.	Building Essential Services	The mechanical fan control panel was being secured with tape, Access to live contact parts was unable to be afforded by the provided locking mechanisms provided to the panel.	The absence of a secure means of isolating live contact parts is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS3000 Electrical Installations "Wiring Rules". Clause 1.5.4 Basic Protection
30.	Building Essential Services	The undercover carpark vehicle entry pathways did not have sufficient daytime illumination levels to allow a transition to lower interior light levels of the car park.	The absence of adequate luminaires and a control system to adjust the light levels between day and night operations is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS1680.2.1 Interior and Workplace Lighting. Table D1
31.	Building Essential Services	<ol style="list-style-type: none"> There was insufficient ventilation in the gas meter cupboards throughout the building. Louvres were provided to top and bottom of cupboard doors, however there are no permanently open ventilation openings in the corridors. 	The insufficient ventilation at gas meter cupboard is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> BCA Volume One, Section F Health and Amenity, Part F4 Light and Ventilation, Deemed-to-Satisfy Provision, Clause F4.5 Ventilation of Rooms AS 1668 The Use of Ventilation and Air conditioning in Buildings, Part 2 Mechanical Ventilation in Buildings, Section 1 Scope and General, Clause 1.1 Scope, Note 8 AS 5601 Gas Installations, Part 1 General Installations, Section 5 Means of Compliance – Installing Consumer Piping, Part 5.13 Ventilation of Gas Equipment, Clause 5.13.14 Mechanical Ventilation

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
32.	Building Essential Services	Not all emergency and exit signage has been provided with discrete permanent labelling. Where labelling has been provided, it has been handwritten and is illegible on some.	The failure to provide separate numbering for each emergency luminaire and exit sign is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> AS 2293.1:2005 Emergency escape lighting and exit signs for buildings Part 1: System design, installation and operation clause 8.2.3
33.	Building Essential Services	Not all heated water service pipework and valves are thermally insulated.	The absence of thermal insulation to hot water service is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS3500.4 –2003 Plumbing and Drainage– Heated Water Services, Section 8 Water and Energy Efficiency, Clause 8.2 Insulation
34.	Building Essential Services	Inadequate pipe supports on pressure services/meters installed within each meter cupboard.	The inadequate pipe supports to pressure services is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Standard AS/NZS3500.4 –2003 Plumbing and Drainage– Heated Water Services, Section 4 Installation of cold and heated water piping and controls –, Clause 4.4.2 Brackets, Clips and Hangers, and AS/NZS3500.1 – 2003 Plumbing and Drainage– Water Services, Section 5 Support and Fixing above ground –, Clause 5.7.2 Brackets, Clips and Hangers Australian Standard AS/NZS3500.1 appears as a standard referenced in the BCA Volume Three, Section B - Part B1.2 Cold water services Australian Standard AS/NZS3500.4 appears as a standard referenced in the BCA

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				Volume Three, Section B - B2.2 Heated water services
35.	Building Essential Services	The sanitary plumbing for the hot water unit has been connected to the vertical pipework in elevated sanitary drainage systems which is not permitted.	Vertical connections in elevated sanitary drainage pipework is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS3500.2 –2003 Sanitary Plumbing and Drainage, Section 9 General Installation pipework, Clause 9.12.4 Installation Australian Standard AS/NZS3500.2 appears as a standard referenced in the BCA Volume Three, Section C - Part C1 Sanitary Plumbing Systems
36.	Building Essential Services	The 25L electric storage hot water unit installed within the sink joinery within the communal area has not been installed within a safe tray.	Installation of a storage hot water unit within joinery without a safe tray is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Standard AS/NZS3500.4 –2003 Heated Water Services, Section 5 Installation of Water Heaters – General Requirements, Clause 5.4.1 Concealed water storage tanks Australian Standard AS/NZS3500.4 appears as a standard referenced in the BCA Volume Three, Section B - Part B2 Heated Water Services
37.	Building Essential Services	Only one downpipe has been installed to the south eastern roof area. This is not in line with the design documentation which nominates two downpipes to be installed. There are also signs of leaking from the gutter which may be due to the roof drainage system being undersized.	The installation of only one 100mm downpipe is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS3500.3 –2003 Plumbing and Drainage–Stormwater Drainage, Section 3 Roof Drainage Systems – Design Australian Standard AS/NZS3500.3 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				Weatherproofing, Performance Requirement FP1.4

Consideration of written representations

10. On 14 November 2023, a notice of intention to issue a building works rectification order, including a draft building work rectification order (Draft BWRO) was served on the Developer, Local Council, Owners Corporation and Certifier.
11. The Developer, Owners Corporation, Certifier and Local Council were invited to provide written representations relating to the Draft BWRO to the Department by 5 December 2023.
12. On 4 December 2023 the Owners' representative provided which highlighted the extent and consequence of the potential defects.
13. On 5 December 2023 the Developer provided submissions via Diamond Conway Lawyers. The technical information provided caused me to withdraw a number of potential defects to be withdrawn.
14. I have considered all provided written representations and have decided that it is appropriate to issue the Order.

Why is it appropriate to give this order

15. I have considered all of the circumstances. I accept that the order requires considerable further work that is likely to be costly, and I give this consideration moderate weight. However, the cost to the developer must be balanced against the benefit to the occupiers in having the development constructed to the Building Code of Australia and Australian Standards with respect to building elements
16. I am aware that the Development is occupied which may delay the Developer doing the things ordered to be done by this Order. I have taken this into account when specifying the time periods in column 5 of Table 1. I am of the view the periods above for serious defects reference numbers 1 to 37 (inclusive) are reasonable periods for compliance in all the circumstances for the specified actions required by this Order to be carried out. I have formed this belief balancing the risks that the serious defects pose against the period of time it will take to carry out the specified actions.
17. Considering these potential consequences as outlined in this order, I give greater weight to the seriousness of the defects and failure to adhere to the Australian Standards and Building Code of Australia, and the benefits arising from remediating them and I find that it is appropriate, in the exercise of my discretion, to require Mr George Bouhoutsos to carry out the building work described, within the period specified in the above Order.

18. I have considered and accept that the Order requires considerable further construction work that is likely to be costly, and I give this consideration moderate weight. However, the cost to the developer must be balanced against the benefit to the occupiers at the development in having the building constructed to the Building Code of Australia and Australian Standards. Considering the potential consequences as outlined in my reasons and the order, I give greater weight to the seriousness of the defect and failure to adhere to the Building Code of Australia, Australian Standards and the benefits arising from remediating the defects and I find that it is appropriate, in the exercise of my discretion, to make the building work rectification order to carry out the building work described above within the specified period.

Notes about this Order

- A person is not required to obtain consent or approval under the *Environmental Planning and Assessment Act 1979* to carry out work in compliance with a requirement of a Building Work Rectification Order.
- It is an offence to fail to comply with this Order. The maximum penalty for a company is 3,000 penalty units and in addition, for every day the offence continues, 300 penalty units. For an individual the maximum penalty is 1,000 penalty units and in addition, for every day the offence continues, 100 penalty units.
- You may appeal to the Land and Environment Court against this Order within 30 days after this Order is given, unless the Land and Environment Court grants leave for it to be made after that time. Lodging an appeal does not operate to stop the effect of this Order unless ordered by the Court.
- You are entitled to be given reasons for this Order, unless it has been given in an emergency. The reasons have been included within this Order and are not provided separately.
- The Secretary has given the following persons notice of the making of this building work rectification order:
 - the relevant local council,
 - if the local council is not the certifier in relation to the building work—the principal certifier,
 - if you are not the owner of the land concerned—the owner of the land concerned,
 - if the order relates to a strata building—the relevant owners corporation,
 - any other person prescribed by the regulations.
- This Order specifies a time by which, or period within which, the order must be complied with. This Order continues to have effect until it is complied with even though the time has passed, or the period has expired, unless any requirement under this Order is revoked.

Annexure A

serious defect, in relation to a building, means—

- (a) a defect in a building element that is attributable to a failure to comply with the performance requirements of the Building Code of Australia, the relevant Australian Standards or the relevant approved plans, or
- (b) a defect in a building product or building element that—
 - (i) is attributable to defective design, defective or faulty workmanship or defective materials, and
 - (ii) causes or is likely to cause—
 - (A) the inability to inhabit or use the building (or part of the building) for its intended purpose, or
 - (B) the destruction of the building or any part of the building, or
 - (C) a threat of collapse of the building or any part of the building, or
- (c) a defect of a kind that is prescribed by the regulations as a serious defect, or
- (d) the use of a building product (within the meaning of the Building Products (Safety) Act 2017) in contravention of that Act.

building element, as defined in the *Design and Building Practitioners Act 2020* (NSW), means any of the following—

- (a) the fire safety systems for a building within the meaning of the Building Code of Australia,
 - (b) waterproofing,
 - (c) an internal or external load-bearing component of a building that is essential to the stability of the building, or a part of it (including but not limited to in-ground and other foundations and footings, floors, walls, roofs, columns and beams),
 - (d) a component of a building that is part of the building enclosure,
 - (e) those aspects of the mechanical, plumbing and electrical services for a building that are required to achieve compliance with the Building Code of Australia,
 - (f) other things prescribed by the regulations for the purposes of this section.
- (2) The regulations may exclude things from being building elements for the purposes of this Act.
- (3) In this section—

above grade wall means a wall above the level of the ground surrounding a building.

below grade wall means a wall below the level of the ground surrounding a building.

building enclosure means the part of the building that physically separates the interior environment of the building from the exterior environment, including roof systems, above grade and below grade walls (including windows and doors).

a **developer**, in relation to building work, means any of the following persons, but does not include any person excluded from this definition by the regulations—

- (a) the person who contracted or arranged for, or facilitated or otherwise caused, (whether directly or indirectly) the building work to be carried out,
- (b) if the building work is the erection or construction of a building or part of a building—the owner of the land on which the building work is carried out at the time the building work is carried out,
- (c) the principal contractor for the building work within the meaning of the Environmental Planning and Assessment Act 1979,
- (d) in relation to building work for a strata scheme—the developer of the strata scheme within the meaning of the Strata Schemes Management Act 2015,
- (e) any other person prescribed by the regulations for the purposes of this definition.

Section 6 - Act applies only to residential apartment building work

- (1) The exercise of any function under this Act applies only to building work in respect of a residential apartment building that—
 - (a) is or was authorised to commence in accordance with a construction certificate or complying development certificate issued under the Environmental Planning and Assessment Act 1979, or is required to be authorised by a construction certificate or complying development certificate, and
 - (b) has not been completed or has been completed within the period of 10 years before the exercise of that function.
- (2) The regulations may provide that a specified provision, or specified provisions, of this Act extend to other classes of buildings (within the meaning of the Building Code of Australia).