

Attn: Proper Officer
Australian Property Funding Development Pty Ltd (ACN 165 397 839)
C/O- Craig Peter Shepard and Jennifer Ann Nettleton, KordaMentha
Onwards Business Consultants Pty Ltd, Suite 3 Level 29
201 Elizabeth Street Sydney NSW 2000

Service: By express post

DATE: 16 November 2023

Building Work Rectification Order

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

Australian Property Funding Development Pty. Ltd. (ACN 165 397 839) is being given this Building Work Rectification Order (Order) in relation to 1084 Botany Rd, Botany NSW 2019 (SP100395).

Australian Property Funding Development Pty. Ltd. 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.

Background

1. The Department of Customer Service (**the Department**) administers the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 (the Act)*.
2. Under section 33 of the 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 to the Building, they may order the developer to rectify building work to remediate the serious defect or potential defect.
3. Section 3 of the Act defines a serious defect. Section 3 of the Act also defines the term “building element” by reference to the *Design and Building Practitioners Act 2020 (DBP Act)*. Section 4 of the Act defines the term “developer”. Section 6 of the Act provides the building work to which the Act applies. Relevant excerpts from sections 3, 4 and 6 of the Act and section 6 of the DBP Act are set out in **Attachment A** to this order.
4. David Chandler, Building Commissioner, Department of Customer Service is an authorised delegate of the Secretary of the Department.
5. Australian Property Funding Development Pty. Ltd. (ACN 165 397 839) is the developer of the residential apartment building at 1084 Botany Rd, Botany (SP100395) (**the Development**) for the purposes of section 4(a) of the Act.
6. The Development comprises carparking, retail, and residential units. The Act applies to building work at the Development because it is a class 2 Development, is currently occupied and less than 10 years old.
7. On 26 May 2023, with the consent of the owners corporation, a representative of the Department attended the Building (**Investigator**). The Investigator prepared a report on serious defects in the Building (**Inspection Report**).

Requirements in relation to Serious Defects

8. I, David Chandler, under section 33 of the Act, require you Australian Property Funding Development Pty. Ltd. (ACN 165 397 839) to do the things specified in column 4 in Table 1 to eliminate, minimise or remediate each respective serious defect 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 (from date this Order is given)
1	<p>Basement 1, All sides, Southern Side, Other, Northern Side - Corridor of Fire Stair No. 5 and Fire Stair No. 3</p> <p>Systemic Defect</p>	<p>It was observed that perimeter drains to basement walls were:</p> <ol style="list-style-type: none"> 1. Absent. This was systemic throughout the basement. 2. Uncontrolled water ingress through the perimeter of the Southern wall was observed during the inspection. <p>This water ingress was also reported to enter Storage cages in Basement 1 on the South western corner of Basement 1, the corridor of Fire Stair No. 5, and the corridor of Fire Stair No. 3 on the western side of the property during heavy rain events.</p> <p>It was also reported by the Owners during the inspection that the Northern Basement wall also has uncontrolled water ingress during heavy downpours.</p>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings 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 (from date this Order is given)
2	Ground Floor, Northern Side, Southern Side, Other - On slab soffit above car space no. 307, and above crane void infill above driveway Systemic Defect	<p>The following observations were made:</p> <ol style="list-style-type: none"> 1. Evidence of Water ingress through an unused penetration in the Ground Floor Slab Soffit above Car Space No. 307. The penetration was reported to leak from above during heavy rain events. 2. A common planter box/grassed area was observed on the ground floor above Car Space No. 307. 	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings 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 (from date this Order is given)
3	Level 1, Level 4 and Ground Floor, Southern Side Systemic Defect	<p>The following observations were made:</p> <ol style="list-style-type: none"> 1. Water ingress observed to the underside of suspended ceilings of the external common corridor walkways to Levels 1 and Levels 4 on the southern side of the building. 2. Waste drain outlets to external walkway of levels above were observed to line up with water damage observed to suspended ceilings directly below. <p>Note: It was reported during the inspection that some ceilings have previously collapsed during heavy rainfall, and have been rectified, however, there are reported ongoing issues.</p>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
4	Level 5, Corridor Isolated Defect	<p>The following observations were made:</p> <ol style="list-style-type: none"> 1. Water ingress and damage was observed to a suspended ceiling in the external corridor walkway on Level 5 outside the western lift shaft. 2. A previous inspection hole was observed in the suspended ceiling at the water damage location. A crack in the suspended slab of the rooftop above could be observed with salt deposits and evidence of water ingress observed. 	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
5	Level 6, Level 4, Southern Side, Rooftop Systemic Defect	<p>The following observations were made:</p> <ol style="list-style-type: none"> 1. Inadequate falls to both Level 4 and Level 6 rooftops were measured and inspected. Staining from ponding water could be observed on both rooftops. 2. A large area of the Level 4 rooftop slab was observed to have falls to a low section of slab with no designed drainage provisions installed. Two retrofitted overflow points were installed as the main drainage points for this section of roof. These drainage points cause 	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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		nuisance to areas below when draining water from the roof. One drainage point was observed to be silicone sealed shut to reduce the nuisance caused.	Stage 2. Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
6	Unit 501, Level 5, Ensuite Isolated Defect	The following observations were made: 1. Evidence of water ingress on the concrete floor slab of the side of the main bedroom adjacent to the ensuite. 2. Shower in ensuite was observed to have a stainless-steel strip drain installed with an observed inadequate membrane installation around the drainage channel and at the upturn of the wall junction.	Within the time period specified in column 5, Stage 1. Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au The written report required to be submitted must: i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation	Stage 1 – 60 days Stage 2 – 120 days

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			<p>specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
7	<p>Unit 501, Level 5, Ensuite</p> <p>Isolated Defect</p>	It was observed that the horizontal floor surface does not have adequate slope to the drainage outlet/s causing accumulation of excess water throughout the area.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			<p>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
8	Level 5, Balcony Isolated Defect	It was observed that the horizontal floor surface does not have adequate slope to the drainage outlet/s causing accumulation of excess water throughout the area.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			<p>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
9	<p>Basement 1, Southern Side</p> <p>Isolated Defect</p>	<p>It was observed that the horizontal floor surface does not have adequate slope to the drainage outlet/s causing accumulation of excess water throughout the area.</p> <p>Falls of 1mm over 1000mm were measured to the ground floor slab of the carpark (minimum 10mm/1000mm required). Water was observed ponding in the area.</p>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <p>i) be prepared by a suitably qualified and registered specialist</p> <p>ii) be prepared with consideration to this Order and the Reasons for this Order;</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			<p>iii) detail the specific building work necessary to meet the codes and relevant standard.</p> <p>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
10	Level 4, Level 6, Rooftop Systemic Defect	<p>The following observations were made:</p> <ol style="list-style-type: none"> 1. The common rooftop area on Level 4 and Level 6 were bounded by concrete upstands (hobs) of varying heights. 2. No designed overflow provisions were visible within the upstand hobs. 	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			<p>ii) be prepared with consideration to this Order and the Reasons for this Order;</p> <p>iii) detail the specific building work necessary to meet the codes and relevant standard.</p> <p>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
11	<p>Unit 501, Level 5, Western Side, Eastern Side</p> <p>Isolated Defect</p>	<p>The following observations were made:</p> <ol style="list-style-type: none"> 1. Evidence of water ingress to Unit 501 Main bedroom at slab level, with moisture damaged skirting boards. Carpet previously removed. This Planter box had previous repairs carried out. 	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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		<p>2. Evidence of water ingress in laundry area from common planter box outside laundry. The planter box was observed to have not been waterproofed adequately with open blockwork observed.</p> <p>3. The membrane did not have a visible compliant termination detail.</p> <p>Note: This observed defect is considered to be likely systemic to most planter boxes at the property.</p>	<p>i) be prepared by a suitably qualified and registered specialist</p> <p>ii) be prepared with consideration to this Order and the Reasons for this Order;</p> <p>iii) detail the specific building work necessary to meet the codes and relevant standard.</p> <p>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
12	<p>All Levels, External foyer / corridor / access</p> <p>Systemic Defect</p>	It was observed that the mostly all of the sole occupancy unit (SOU) and fire door entrance frames had rusting observed at the base where the frame met the external common walkway tiles.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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13	Level 6, Level 4 Rooftop Isolated Defect	It was observed that the substrate was not smooth and not adequate to accept the application of the liquid applied waterproof membrane.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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14	<p>Level 6, Level 4 Rooftop</p> <p>Isolated Defect</p>	It was observed that the waterproofing membrane upturn, extending up the external hobs and walls is inconsistent in height, and in some areas on the Level 6 rooftop, missing.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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15	Level 4, Level 6, Rooftop Isolated Defect	It was observed that there is delaminated liquid waterproofing membrane on the Level 4 and Level 6 rooftops.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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16	Level 4, Level 6, Rooftop Isolated Defect	It was observed that several penetrations have no upward turn on the waterproofing.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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17	All Levels, Western Side Systemic Defect	It was observed that the balconies to Sole Occupancy Units had no visible overflow provisions.	Within the time period specified in column 5, Stage 1.	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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18	Unit 113, Level 1, External foyer / corridor /	The following observations were made:	Within the time period specified in column 5,	Stage 1 – 60 days

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	access Isolated Defect	<p>1. No adequate drainage provisions have been installed to prevent water ingress to the internal areas of Unit 113. The external foyer floor level was observed to be the same level as Unit 113's internal floor level. No strip drain or adequate provisions to prevent water from entering the building.</p> <p>2. Water ingress damage to the internal flooring of Unit 113 was observed in the form of swollen floorboards and missing carpet in the main bedroom (from previous water damage).</p>	<p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	Stage 2 – 120 days

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19	Basement 1, Ground Floor, Stairs (Fire Isolated), Foyer / Lobby, Electrical Meter / Distribution Board (Main) Room Systemic Defect	It was observed that a smoke detector/s has not been installed to a habitable space and/or areas where they are required	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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20	Basement 1, Ground Floor, Basement Carpark Systemic Defect	It was observed that the fire sprinkler spray is obstructed on multiple sprinkler heads.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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21	Ground Floor, Northern Side, Western Side Systemic Defect	It was observed the fire door frames were hollow when tapped indicating voids exist in the grout behind the frames that are not solid core filled.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
22	Basement 1, Level 5 Stairs (Fire Isolated) Isolated Defect	<p>It was observed that the 1m clearance directly in front of the hydrant has been encroached in two observed areas:</p> <ol style="list-style-type: none"> 1. A clearance of approximately 655mm was measured in the western fire stairs. 2. A clearance of approximately 960mm was measured in the Level 5 fire stairs. 	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <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 (from date this Order is given)
			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
23	Basement / Ground Floor, Northern Side, Stairs (Fire Isolated) Isolated Defect	<p>The following observations were made:</p> <ol style="list-style-type: none"> 1. An unsealed gap observed in a fire resisting gyprock wall within Fire Stair No. 3. Damaged wall section was observed. 2. An unsealed gap observed in a fire resisting expansion joint within Fire Stair No. 3. 	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation 	<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 (from date this Order is given)
			<p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
24	<p>External Common Area, Ground Floor, Eastern Side</p> <p>Systemic Defect</p>	It was observed that multiple service penetrations were inadequately fire rated or protected.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation 	<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 (from date this Order is given)
			<p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
25	Unit 402, Level 4, Other Systemic Defect	<p>The following was observed:</p> <ol style="list-style-type: none"> 1. A fire isolation wall within Unit 402 does not extend to the underside of the concrete slab above. Access was provided through an access panel in the ceiling at the unit entrance. 2. A fire isolation wall in the combined electrical and comms cupboard on Level 4. 	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation 	<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 (from date this Order is given)
			<p>specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
26	<p>Level 1 , External foyer/corridor/access</p> <p>Isolated Defect</p>	It was observed that emergency exit signage was missing / not visible.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. 	<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 (from date this Order is given)
			<p>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
27	<p>Basement / Ground Floor, Southern Side</p> <p>Isolated Defect</p>	A stormwater service has breached blockwork within the basement (ground floor) fire resisting wall adjacent to Car Space No. 214.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; 	<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 (from date this Order is given)
			<p>iii) detail the specific building work necessary to meet the codes and relevant standard.</p> <p>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
28	Basement / Ground Floor, Northern Side Isolated Defect	It was observed that the unobstructed width between handrails of an egress path measured less than 1m in width.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <p>i) be prepared by a suitably qualified and registered specialist</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 (from date this Order is given)
			<p>ii) be prepared with consideration to this Order and the Reasons for this Order;</p> <p>iii) detail the specific building work necessary to meet the codes and relevant standard.</p> <p>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
29	<p>Basement 1, Ground Floor, All sides</p> <p>Systemic Defect</p>	<p>The following observations were made:</p> <ol style="list-style-type: none"> 1. Uncontrolled cracking of minimum 1mm observed in the basement level slabs and soffits. 2. Some cracking has occurred immediately adjacent the sawn joint and 	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</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 (from date this Order is given)
		<p>not contained within the joint.</p> <p>3. Some cracks have migrated through the full depth of the suspended post tension slab with water permeating through.</p> <p>4. Some cracks were observed to have been attempted to be previously repaired via crack injection methods. Evidence of water ingress was still present.</p>	<p>i) be prepared by a suitably qualified and registered specialist</p> <p>ii) be prepared with consideration to this Order and the Reasons for this Order;</p> <p>iii) detail the specific building work necessary to meet the codes and relevant standard.</p> <p>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
30	<p>Basement 1, Ground Floor Southern Side, Western Side Stairs (Fire Isolated)</p> <p>Systemic Defect</p>	It was observed that areas of the concrete slab have not be properly vibrated or compacted which has created areas of segregation and honeycombing.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</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 (from date this Order is given)
			<p>be prepared by a suitably qualified and registered specialist</p> <p>be prepared with consideration to this Order and the Reasons for this Order;</p> <p>detail the specific building work necessary to meet the codes and relevant standard.</p> <p>be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
31	Basement 1, Ground Floor, All sides Systemic Defect	It was observed that isolation joints around the columns were absent AND/OR not installed correctly OR partially installed.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via</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 (from date this Order is given)
			<p>email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
32	Level 4, Level 5, Southern Side Systemic Defect	Numerous instances of facade joint separation were observed to the external walkway parapets and external planter box walls with	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 (from date this Order is given)
		adjoining sections of parapet walls as well as slabs.	<p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	Stage 2 – 90 days

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement (from date this Order is given)
33	Level 2, Level 3, Northern Side, Southern Side Isolated Defect	It was observed that exposed and unprotected reinforcement was evident to an external slab area on Level 3 of the Northern facade.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings 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 (from date this Order is given)
34	Unit 113, Ground Floor, Western Side Isolated Defect	Missing weep holes could be observed to the masonry wall below a window suite of Unit 113.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings 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 (from date this Order is given)
35	Unit 404 and 502, level 4, Level 5, External foyer / corridor / access Isolated Defect	Two external skins of masonry wall outside Unit 404 and Unit 502 (directly above) have deflected horizontally with a displacement crack of 2mm.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</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 (from date this Order is given)
			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
36	Level 1, Level 2, Level 3, Level 4, Level 5, All sides Systemic Defect	Multiple apartment exhaust systems were observed to discharge into the corridor spaces and provide a nuisance to building occupants.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to projectintervene@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation <p>Stage 2.</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 (from date this Order is given)
			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	

Conditions of this Order

9. Making good any consequential damage caused in carrying out the works specified in this Order.
10. For any building work to address a serious defect in this Order you must comply with the requirements of the *Design and Building Practitioners Act 2020* (NSW).

Duration of this Order

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



David Chandler
NSW Building Commissioner
Department of Customer Service
16 November 2023

Reasons for Building Work Rectification Order

1. I, David Chandler, have formed a reasonable belief that the Development has a serious defect based on the following.
2. I have formed this belief after reviewing an Inspection Report (dated 13 June 2023) prepared by a representative of the Department, who conducted an inspection of the Development by consent of the owners corporation on 26 May 2023.
3. 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	<p>Perimeter drains to basement walls were:</p> <ol style="list-style-type: none"> 1. Absent. This was systemic throughout the basement. 2. Uncontrolled water ingress through the perimeter of the Southern wall was observed during the inspection. <p>This water ingress was also reported to enter Storage cages in Basement 1 on the South-western corner of Basement 1, the corridor of Fire Stair No. 5, and the corridor of Fire Stair No. 3 on the western</p>	The inadequate drainage installation demonstrates a failure to comply with the Building Code and Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS/NZS3500.3:2015, Plumbing and drainage – Stormwater drainage, Section 6 Surface and subsoil drainage systems installation, 6.4 Subsoil drains, Clause 6.4.1 General. • Australian Standard AS/NZS3500.3 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 F1.1 Stormwater drainage.

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		<p>side of the property during heavy rain events.</p> <p>It was also reported by the Owners during the inspection that the Northern Basement wall also has uncontrolled water ingress during heavy downpours.</p>		<ul style="list-style-type: none"> Deemed-to-Satisfy provision F1.1 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 Requirements FP1.3.
2	Waterproofing Systems	<ol style="list-style-type: none"> Evidence of Water ingress through an unused penetration in the Ground Floor Slab Soffit above Car Space No. 307. The penetration was reported to leak from above during heavy rain events. A common planter box/grassed area was observed on the ground floor above Car Space No. 307. 	The inadequate membrane to the planter box demonstrates a failure to comply with the Building Code and Australian Standard provisions 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, 2.13 Planter Boxes, 2.8 termination of membranes, 2.8.1 Upward terminations. Australian Standard AS4654.2 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.

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
3	Waterproofing Systems	<ol style="list-style-type: none"> 1. Water ingress observed to the underside of suspended ceilings of the external common corridor walkways to Levels 1 and Levels 4 on the southern side of the building. 2. Waste drain outlets to external walkway of levels above were observed to line up with water damage observed to suspended ceilings directly below. 	The inadequate membrane detailing to the external waste outlets demonstrates a failure to comply with the Building Code and Australian Standard provisions 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. • Australian Standard AS4654.2 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.
4	Waterproofing Systems	<ol style="list-style-type: none"> 1. Water ingress and damage was observed to a suspended ceiling in the external corridor walkway on Level 5 outside the western lift shaft. 2. A previous inspection hole was observed in the suspended ceiling at the water damage location. A crack in the suspended slab of the rooftop above could be observed with 	The water ingress demonstrates a failure to comply with the Building Code and Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard 4654.2, Waterproofing Membranes for External Above Ground Use Design and Installation, Clause 2.5.2. • Australian Standard AS4654.2 appears as a standard referenced in the Building Code of Australia (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
		salt deposits and evidence of water ingress observed.		<p>Weatherproofing, Deemed-to-Satisfy provision F1.4.</p> <ul style="list-style-type: none"> 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.
5	Waterproofing Systems	<ol style="list-style-type: none"> Inadequate falls to both Level 4 and Level 6 rooftops were measured and inspected. Staining from ponding water could be observed on both rooftops. A large area of the Level 4 rooftop slab was observed to have falls to a low section of slab with no designed drainage provisions installed. Two retrofitted overflow points were installed as the main drainage points for this section of roof. These drainage points cause nuisance to areas below when draining water from the roof. One drainage point was observed to be silicone sealed shut to reduce the nuisance caused. 	The water ponding and inadequate fall to drains demonstrates a failure to comply with the Building Code and Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> Australian Standard 4654.2, Waterproofing Membranes for External Above Ground Use Design and Installation, Clause 2.5.2. Australian Standard AS4654.2 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.

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. Evidence of water ingress on the concrete floor slab of the rode of the main bedroom adjacent to the ensuite. 2. Shower in ensuite was observed to have a stainless-steel strip drain installed with an observed inadequate membrane installation around the drainage channel and at the upturn of the wall junction. 	The inadequate upturn height and drainage channel installation of the internal wet area membrane demonstrates a failure to comply with the Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS3740-2010 Waterproofing of Domestic Wet Area, Section 3 Installation, 14.3 - Termination to a drainage channel, and • Australian Standard AS3740-2010 Waterproofing of Domestic Wet Area, Section 3 Installation, 13.8 - Vertical membrane termination.
7	Waterproofing Systems	The horizontal floor surface does not have adequate slope to the drainage outlet/s causing accumulation of excess water throughout the area.	The inadequate falls on the floor demonstrates a failure to comply with the Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard 3740-Waterproofing of domestic wet areas, Section 3 Installation, 3.3 Falls in floor finishes. • Australian Standard 4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and installation, 2.5 Substrate, 2.5.2 Falls
8	Waterproofing Systems	The horizontal floor surface does not have adequate slope to the drainage outlet/s causing accumulation of excess water throughout the area.	The inadequate falls on the floor demonstrate a failure to comply with the Building Code and Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS/NZS 3500.3 –2015 Plumbing and Drainage–Stormwater Drainage, Section 5 Surface water drainage system – Design, 5.3 Layout, 5.3.1.2 Other than roof areas. • Australian Standard 4654.2 Waterproofing Membranes for External Above Ground Use,

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				<p>Section 2 Design and installation, 2.5 Substrate, 2.5.2 Falls.</p> <ul style="list-style-type: none"> Australian Standard AS4654.2 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Part F Damp and Weatherproofing, Performance Requirements FP1.3
9	Waterproofing Systems	<p>The horizontal floor surface does not have adequate slope to the drainage outlet/s causing accumulation of excess water throughout the area.</p> <p>Falls of 1mm over 1000mm were measured to the ground floor slab of the carpark (minimum 10mm/1000mm required). Water was observed ponding in the area.</p>	The inadequate falls on the floor demonstrate a failure to comply with Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS3500.3 Plumbing and Drainage–Stormwater Drainage, Section 5 Surface water drainage system – Design, 5.3 Layout – General criteria. Australian Standard AS/NZS3500.3 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Part F Damp and Weatherproofing, Performance Requirements FP1.3
10	Waterproofing Systems	1. The common rooftop area on Level 4 and Level 6 were bounded by concrete upstands (hobs) of varying heights.	The inadequate falls on the floor demonstrate a failure to comply with the Building Code and Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS3500.3 –2015 Plumbing and Drainage–Stormwater Drainage, Section 5 Surface Drainage Systems –

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		2. No designed overflow provisions were visible within the upstand hobs		Design, Clause 5.3.1.1 Roof areas. <ul style="list-style-type: none"> Australian Standard AS/NZS3500.3 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.
11	Waterproofing Systems	1. Evidence of water ingress to Unit 501 Main bedroom at slab level, with moisture damaged skirting boards. Carpet previously removed. This Planter box had previous repairs carried out. 2. Evidence of water ingress in laundry area from common planter box outside laundry. The planter box was observed to have not been waterproofed adequately with open blockwork observed. 3. The membrane did not have a visible compliant termination detail.	The inadequate membrane to the planter box demonstrates a failure to comply with the Building Code and Australian Standard provisions 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, 2.13 Planter Boxes, 2.8 termination of membranes, 2.8.1 Upward terminations. Australian Standard AS4654.2 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

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		Note: This observed defect is considered to be likely systemic to most planter boxes at the property.		Weatherproofing, Performance Requirement FP1.4.
12	Waterproofing Systems	Mostly all of the sole occupancy unit (SOU) and fire door entrance frames had rusting observed at the base where the frame met the external common walkway tiles.	The inadequate upturn height demonstrates a failure to comply with the Building Code and Australian Standard provisions 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. • Australian Standard AS4654.2 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.
13	Waterproofing Systems	The substrate was not smooth and not adequate to accept the application of the liquid applied waterproof membrane.	The defective substrate to which the membrane has been applied demonstrates a failure to comply with the Building Code and Australian Standard	<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,

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			provisions referenced in column 5.	<p>2.5.3.1 Fully bonded or liquid-applied.</p> <ul style="list-style-type: none"> Australian Standard AS4654.2 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.
14	Waterproofing Systems	The waterproofing membrane upturn, extending up the external hobs and walls is inconsistent in height, and in some areas on the Level 6 rooftop, missing	The inadequate upturn height demonstrates a failure to comply with the Building Code and Australian Standard provisions 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. Australian Standard AS4654.2 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.

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"> 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.
15	Waterproofing Systems	Delaminated liquid waterproofing membrane on the Level 4 and Level 6 rooftops	The application of the membrane demonstrates a failure to comply with the Building Code and Australian Standard provisions 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. Australian Standard AS4654.2 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.

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
16	Waterproofing Systems	Several penetrations have no upward turn on the waterproofing.	The absence of upward turn of waterproofing to penetrations demonstrates a failure to comply with the Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use Design and Installation, Section 2 Design and installation, Figure 2.10 note 1
17	Waterproofing Systems	The balconies to Sole Occupancy Units had no visible overflow provisions.	The lack of overflow provisions demonstrates a failure to comply with the Building Code and Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS/NZS3500.3 Plumbing and Drainage. Part 3: Stormwater drainage, Section 3.8 Balcony and Terrace Areas, Australian Standard AS/NZS3500.3 Plumbing and Drainage–Stormwater Drainage, Section 5 Surface Drainage Systems –Design, Clause 5.3.1.1 Roof areas, AS 3500.3 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 F1.0, Performance Requirement FP1.4.
18	Waterproofing Systems	1. No adequate drainage provisions have been installed to prevent water ingress to the internal areas of Unit 113. The external foyer floor level was	The inadequate fall gradient and lack of drainage demonstrates a failure to comply with the Building Code and Australian	<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,

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		<p>observed to be the same level as Unit 113's internal floor level. No strip drain or adequate provisions to prevent water from entering the building.</p> <p>2. Water ingress damage to the internal flooring of Unit 113 was observed in the form of swollen floorboards and missing carpet in the main bedroom (from previous water damage).</p>	Standard provisions referenced in column 5.	<p>Clause 5.3.4 Entry into buildings.</p> <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, 2.8.3 Doors and windows onto external waterproofed areas. • Australian Standard AS4654.2 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirements FP1.4.
19	Fire Safety Systems	A smoke detector/s has not been installed to a habitable space and or areas where they are required	The absence of a smoke detector demonstrates a failure to comply with the Building Code and Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard 1670.1 Fire detection, warning, control and intercom systems - System Design, Installation and commissioning., Part 1 Fire, Clause 1.2 Application • Building Code of Australia (BCA) Volume One Section E Services and equipment, Part 2 Smoke hazard management – E2.2 General requirements

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
20	Fire Safety Systems	The fire sprinkler spray is obstructed on multiple sprinkler heads	The obstruction of the sprinkler system coverage demonstrates a failure to comply with the Building Code and Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS 2118. Automatic fire sprinkler systems, General Systems – Section 5 Spacing and location of sprinklers – 5.5 Obstruction to sprinkler discharge, 5.5.7 Clear space below sprinklers. • Australian Standard AS2118 appears as a standard referenced in the Building Code of Australia (BCA) Volume One Section E Services and equipment, Part E1 Firefighting equipment, Deemed-to-Satisfy Provision E1.5 Sprinklers
21	Fire Safety Systems	The fire door frames were hollow when tapped indicating voids exist in the grout behind the frames that are not solid core filled	The hollow fire door frames demonstrates a failure to comply with the Building Code and Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS1905.1- Components for the protection of openings in fire- resistant wall Part 1: Fire resistant door sets, Section 5 Installation, 5.3 Metal doorframes in masonry walls, 5.3.2 Backfilling of metal door frames. • Australian Standard AS1905.1 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Specification C3.4 Fire doors, smoke doors, fire windows and shutters, Clause 2. Fire doors

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"> Specification C3.4 Fire doors, smoke doors, fire windows and shutters, Clause 2. Fire doors, is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Performance Requirement CP2
22	Fire Safety Systems	<p>The 1m clearance directly in front of the hydrant has been encroached in two observed areas:</p> <ol style="list-style-type: none"> 1. A clearance of approximately 655mm was measured in the western fire stairs. 2. A clearance of approximately 960mm was measured in the Level 5 fire stairs. 	The hydrant installation demonstrates a failure to comply with the Building Code and Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> Australian Standard 2419.1 - 2017 Fire hydrant installations Part 1: system design, installation and commissioning, Section 3 Hydrant location, coverage and related provisions, 3.2 Fire Hydrants, 3.2.2 Features, accessibility and clearances. Australian Standard AS2419.1 appears as a standard referenced in the Building Code of Australia (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 Building Code of Australia (BCA) Volume One, Section E Services and equipment, Part E1 Fire fighting

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				equipment, Performance Requirement EP1.3.
23	Fire Safety Systems	<ol style="list-style-type: none"> 1. An unsealed gap observed in a fire resisting gyprock wall within Fire Stair No. 3. Damaged wall section was observed. 2. An unsealed gap observed in a fire resisting expansion joint within Fire Stair No. 3. 	The unsealed gaps demonstrate a failure to comply with the Building Code provisions referenced in column 5.	<ul style="list-style-type: none"> • Building Code of Australia (BCA) Volume One, Specification C1.1 Fire Resisting Construction, Part 3 Type A Fire-Resisting Construction. • Building Code of Australia (BCA) Volume One, Section 3 Fire resistance, Part C3 Protection of openings, Deemed-to-satisfy provision C3.16Construction joints. • Deemed-to-satisfy provision C3.16Construction joints is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Performance Requirement CP8.
24	Fire Safety Systems	Multiple service penetrations were inadequately fire rated or protected.	The inadequate fire-resisting sealing to the penetration/s demonstrates a failure to comply with the Building Code provisions referenced in column 5.	<ul style="list-style-type: none"> • Building Code of Australia (BCA) Volume One, Section C Fire Resistance, Performance Requirements <ul style="list-style-type: none"> ○ CP2 Spread of fire, ○ CP8 Fire protection of openings and penetrations,

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"> ○ Part C3 Protection of openings, Deemed-to-Satisfy provisions: ○ C3.12 Openings in floors and ceilings for services ○ C3.15 Openings for service installations ● 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
25	Fire Safety Systems	<ol style="list-style-type: none"> 1. A fire isolation wall within Unit 402 does not extend to the underside of the concrete slab above. Access was provided through an access panel in the ceiling at the unit entrance. 2. A fire isolation wall in the combined electrical and comms cupboard on Level 4 	The incomplete fire isolated wall demonstrates a failure to comply with the Building Code provisions referenced in column 5.	<ul style="list-style-type: none"> ● Building Code of Australia (BCA) Volume One, Section C Fire Resistance Specification C1.1 Fire-resisting construction
26	Fire Safety Systems	The emergency exit signage was missing / not visible.	The failure to ensure the adequate installation of exit signage demonstrates a failure to comply with the Building Code provisions referenced in column 5.	<ul style="list-style-type: none"> ● Building Code of Australia (BCA) Volume One, Section E Services and equipment, Part E4 Visibility in an emergency, exit signs and warning signs,

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				<p>Deemed-to-Satisfy provision E4.5 Exit signs.</p> <ul style="list-style-type: none"> Deemed-to-Satisfy provision E4.5 Exit signs is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section E Services and equipment, Performance Requirement EP4.2 Identification of exits.
27	Fire Safety Systems	A stormwater service has breached blockwork within the basement (ground floor) fire resisting wall adjacent to Car Space No. 214.	The unprotected opening within the fire isolated wall demonstrates a failure to comply with the Building Code provisions referenced in column 5.	<ul style="list-style-type: none"> Building Code of Australia (BCA) Volume One, Specification C1.1 Fire Resisting Construction, Part 3 Type A Fire-Resisting Construction. Building Code of Australia (BCA) Volume One, Section 3 Fire resistance, Part C3 Protection of openings, Deemed-to-satisfy provision C3.15 Openings for service installations. 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.

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
28	Fire Safety Systems	The unobstructed width between handrails of an egress path measured less than 1m in width.	The insufficient width demonstrates a failure to comply with the Building Code provisions referenced in column 5.	<ul style="list-style-type: none"> Building Code of Australia (BCA) Volume One, Section D Access and egress – Part D1.6 Dimensions of exist and paths of travel
29	Structural Systems	<ol style="list-style-type: none"> Uncontrolled cracking of minimum 1mm observed in the basement level slabs and soffits. Some cracking has occurred immediately adjacent the sawn joint and not contained within the joint. Some cracks have migrated through the full depth of the suspended post tension slab with water permeating through. Some cracks were observed to have been attempted to be previously repaired via crack injection methods. Evidence of water ingress was still present. 	The cracking identified demonstrates a failure to comply with the Australian Standard provisions 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 Building Code of Australia (BCA) Volume One, Section B Structure, Deemed-to-Satisfy provision B1.4 Determination of structural resistance of materials and forms of construction
30	Structural Systems	Areas of the concrete slab have not been properly vibrated or compacted which has created areas of segregation and honeycombing.	The honeycombing in the concrete installation demonstrates a failure to comply with Australian Standard provisions referenced in column 5	<ul style="list-style-type: none"> Australian Standard AS3600 Concrete Structures: <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

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				<p>for corrosion protection, 4.10.3.7 Embedded items cover</p> <ul style="list-style-type: none"> ○ 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
31	Structural Systems	Isolation joints around the columns were absent AND/OR not installed correctly OR partially installed	The absence of isolation joints demonstrates a failure to comply with the relevant approved plans and Building Code provisions referenced in column 5.	<ul style="list-style-type: none"> • Approved structural design documentation • Building Code of Australia (BCA) Volume One, Section B Structure, Part B1 Structural Provisions, Performance Requirements BP1.1
32	Structural Systems	Numerous instances of facade joint separation were observed to the external walkway parapets and external planter box walls with adjoining sections of parapet walls as well as slabs	The separations of the facade control joints fail to comply with the Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> • Australian Standard AS3600 Concrete structures, Section 19, Design for durability, 19.1.4 Joint fillers and sealants.
33	Structural Systems	Exposed and unprotected reinforcement was evident to an	The unprotected reinforcement is a defect in a building element that is attributable to a failure to	<ul style="list-style-type: none"> • Australian Standard AS3600 Concrete structures, Section 4, Design for durability 4.10

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		external slab area on Level 3 of the Northern facade.	comply with Australian Standard provisions referenced in column 5.	Requirements for cover to reinforcing steel and tendons, 4.10.3 Cover for corrosion protection, 10.4.3.1 General, 4.10.3.7 Embedded items cover, 17.1.3 Handling, placing and compacting of concrete
34	Building Enclosure	Missing weep holes could be observed to the masonry wall below a window suite of Unit 113	The absence of weep holes demonstrates a failure to comply with the Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS3700 Masonry structures, Section 12 Construction, 12.4.14 Weepholes
35	Building Enclosure	Two external skins of masonry wall outside Unit 404 and Unit 502 (directly above) has deflected horizontally with a displacement crack of 2mm.	The displacement of masonry wall demonstrates a failure to comply with the Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS3700 Masonry structures, Section 12 Construction, 12.5 Tolerances in Masonry
36	Building Essential Services	Multiple apartment exhaust systems were observed to discharge into the corridor spaces and provide a nuisance to building occupants.	The inadequate ventilation location of the toilet exhaust fans demonstrates a failure to comply with the Australian Standard provisions referenced in column 5.	<ul style="list-style-type: none"> Australian Standard AS1668.2-2012 - The use of Ventilation and Air Conditioning in Buildings Part 2: Mechanical ventilation in buildings, Section 3.10 Air Discharges.

4. I am of the view the periods above for Defect 1 through to Defect 36 (inclusive) are reasonable periods for compliance in all the circumstances for the specified actions required by the 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.

5. 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 & the approved plans 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.
6. I have considered all of the circumstances. I accept that the Order requires considerable further building 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.

Other matters considered relevant

7. I am aware that obtaining reports from third parties will pose time constraints and costs on the developer and the impact on the period of time it will take to give effect to the rectification work. However, I balance this risk against the serious defects outlined in this Order and the serious consequences these serious defects pose.
8. I am aware that there are residents occupying this location as the Building is completed which will delay rectification work.

Consideration of written representations

9. On 14 August 2023, a notice of intention to issue a building work rectification order, including a draft copy of the Order, was served on the Developer, Local Council, Owners Corporation and Certifier. The served parties were invited to provide written representations relating to the Order to the Department by 4 September 2023.
10. On 3 October 2023, PBL Law Group, legal representatives of the Developer seeking an extension of time to 20 November 2023 to provide submission to the Draft Order on the basis that:
 - a. The defects identified in the draft Order are also subject of Supreme Court Proceedings commenced by the Owners – SP 100395 (OC);
 - b. A timetable for evidence had been set down in those proceedings, requiring the Developer to file evidence by 16 February 2024;
 - c. The OC has issued a report identifying defects;
 - d. The Developer is currently organising consultants to investigate the defects raised in the draft BWRO and the OC report, consolidating a list of defects, and engaging in settlement discussions with the OC, and
 - e. The Developer anticipates that it will have a report covering the above by mid November 2023.

11. On 4 October 2023, the request for an extension of time was declined.
12. In circumstances where no submissions have been provided concerning the substance of the Order, I am satisfied that it is appropriate to issue the Order.

Why is it appropriate to give the Building Work Rectification Order?

13. 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.
14. 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 Australian Property Funding Development Pty. Ltd. (ACN 165 397 839) to carry out the building work described, within the period specified in the above Order.
15. 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).