

Attn: Robert Huang
PSR Crownview Investment Pty Ltd
(ACN 601 764 578)
SE 1301, 51 Crown St
WOLLONGONG NSW 2500

Service: by email

12 February 2024

Prohibition Order

Section 9 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*

This Prohibition Order is being made in relation to the residential apartment building, located at 373 Crown Street, Wollongong NSW 2500 (Lot 100 DP 1214547) (the Building). This order prohibits the issue of an occupation certificate in relation to the Building until the Order is revoked by the Secretary.

Please read this Prohibition Order carefully and comply with the conditions by the date specified.

Failure to comply with this Order or its conditions is a criminal offence.

A. Background

1. The Department of Customer Service (the **Department**) administers the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* (the **Act**).
2. The Building is a residential apartment building to which the Act applies pursuant to section 6 of the Act.
3. The Building comprises two towers with 149 apartment dwellings.
4. PSR Crownview Investment Pty Ltd (ACN 601 764 578) is the developer of the Building for the purposes of s 4 of the Act.
5. No occupation certificate has been issued in relation to the Building.
6. Mr David Chandler is an authorised delegate of the Secretary of the Department.

7. A copy of this Order will be served on the following persons: the Developer in relation to the building work, Local Council, Office of the Registrar General and the principal certifier.

B. Powers under the Act

8. Under s 9(1) of the Act, the Secretary of the Department, or their authorised delegate, may make an order prohibiting the issue of an occupation certificate in relation to a residential apartment building and/or the registration of a strata plan for a strata scheme in relation to a residential apartment building if any one or more of the following apply:
 - a. the expected completion notice required to be given to the Secretary under the Act was not given or was given less than 6 months before the application for the occupation certificate was made (unless the expected completion notice was duly given under s 7(3) of the Act),
 - b. an expected completion amendment notice of a new expected date required to be given to the Secretary under the Act was not given or was given less than 6 months before the application for the occupation certificate was made,
 - c. the Secretary is satisfied that a serious defect in the building exists,
 - c1. a rectification bond required under the terms of an undertaking given by the developer relating to the residential apartment building has not been provided to the Secretary,
 - d. any building bond required under s 207 of the *Strata Schemes Management Act 2015* in relation to the building has not been given to the Secretary,
 - e. the developer failed to comply with a direction of an authorised officer under section 17 or 18 of the Act,
 - f. other circumstances prescribed by the regulations for the purposes of s 9(1)(f) of the Act exist.
9. Under s 3 of the Act 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.

10. A building element has the same meaning as in the *Design and Building Practitioners Act 2020*. Section 6 of the *Design and Building Practitioners Act 2020*, Building elements, relevantly states:

- (1) For the purposes of this Act, **building element** 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.

What are the reasons for making this Order?

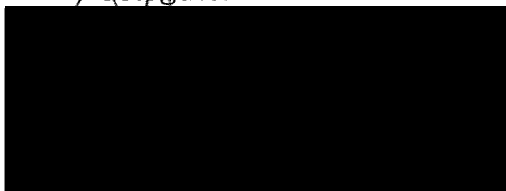
- C. A building work rectification order has been made in relation to the Building dated 12 February 2024 and has not been revoked.

D. What Order is being made?

11. I, David Chandler, an authorised delegate of the Secretary, am satisfied there is a serious defect in the Building and make an Order under s 9 of the Act prohibiting the issue of an occupation certificate in relation to the Building.

E. How long is the Order in force?

12. This order remains in force until it is revoked by the Secretary or their authorised delegate.



David Chandler
Building Commissioner
Building Commission NSW

Notes about this Order

- An occupation certificate issued in contravention of this prohibition order is invalid.
- It is an offence for a principal certifier (other than a council) to issue an occupation certificate in contravention of this order. The maximum penalty for a company is 1,000 penalty units. For an individual the maximum penalty is 200 penalty units.
- A penalty notice of \$3,000 for an individual or \$11,000 for a corporation may be issued if a principal certifier (other than a council) issues an occupation certificate in contravention of this prohibition order.
- A developer in relation to the residential apartment building to which this prohibition order applies may appeal against this order to the Land and Environment Court within 30 days of the notice of the order being given unless the Court grants leave allowing an appeal to be made after that time. Lodging an appeal does not, except to the extent that the Land and Environment Court otherwise directs, operate to stay action on the order.

REASONS FOR THE ORDER

Satisfied there are serious defects for the purposes of s9 of the Act

1. I, David Chandler, an authorised delegate of the Secretary, am satisfied for the purposes of s9 of the Act, that the building has the serious defects outlined in the final building work rectification order of 12 February 2024.

Consideration of written representations

2. Submissions made on 12 February 2024 by the Developer were considered by me.

Why is it appropriate to give the Prohibition Order?

3. In my view, the concerns of the Developer about reporting on the prohibition order, are outweighed by the need to ensure that, when the Development is ready to get an occupation certificate, the identified serious defects will have been remediated.