



Customer  
Service

Attn. Proper Officer  
Dekan Property Pty Ltd ACN 619602943  
29 Dickin Avenue  
SANDRINGHAM NSW 2219

Via email: [david@petraco.com.au](mailto:david@petraco.com.au)

17/02/2022

# Stop Work Order

## Section 29 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*

**Dekan Property Pty Ltd** (ACN 619602943) (the **Developer**) is issued with this Stop Work Order (this **Order**) in relation to residential apartment building located at **36 Clio Street, Sutherland, NSW 2232** (Lot 1, DP1268576) (the **Building**).

The Developer is required to ensure all work on the site stops by **5pm on 17 February 2022**.

Please read the Stop Work Order carefully and comply with the conditions.

Failure to comply with this Order is an offence and may result in criminal proceedings.

### 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 located at **36 Clio Street, Sutherland, NSW 2232** (Lot 1, DP1268576) (the **Development**).
3. The Developer is currently carrying out, or organising to be carried out, building works to construct the Development (**Building Work**).
4. The Development is a Class 2 residential apartment building where work has previously been authorised to commence.
5. Under section 29 of the Act, the Secretary of the Department or her authorised delegate may order the Developer to ensure that work stops at the building if the Secretary forms the opinion that the building work is, or is likely to be, carried out in a manner that could result in:

- a. Significant harm or loss to the public or occupiers or potential occupiers of the building to which the work relates or
  - b. Significant damage to property.
6. I, David Chandler, NSW Building Commissioner am a duly authorised delegate of the Secretary for the purposes of section 29 of the Act.
7. On 4 February 2022, I conducted an inspection at the Development accompanied by authorised officers of the Department.
8. At the inspection, I observed the following features of the Building:
  - Construction of 2 basement levels.
  - Construction of 6 floors with 24 sole-occupancy unit (SOU) lots.
  - Interior linings installed with wet areas sheeted and waterproofing to most sole-occupancy unit (SOU) lots.
  - No fire booster pump had been installed to the front of the development thus the firefighting hydrant is not pressurised and not operational.
  - No fire hose reels installed on either the basement levels or upper levels.
  - Fire extinguishers in the Building have been located near the fire stairs at each level.
9. On the 8<sup>th</sup> February 2022 a notice of intention to issue the Order and draft copy of the Order was served on the Developer, Local Council and Certifier. The parties were invited to provide submissions to the Department relating to the Order by 15 February 2022. No submissions were received by the 15 February 2022 or by the date of this Order from the Developer, Local Council or Certifier

### **Grounds for issuing this Order**

10. I, David Chandler, am aware that during inspection on the 4<sup>th</sup> February 2022, Building Work was being carried out at the Building. I am aware that authorised officers were advised by the builder, Mr David Filacouridis of Petra Constructions Pty Ltd (License 185377C), that the Building Work would continue until the completion of the Building. I am therefore of the opinion that building work is currently being carried out or is likely to be carried out.
11. I consider that fire safety systems, including, but not limited to, the fire hydrants with booster, fire hose reels and fire extinguishers are key elements of a building. The proper performance of these elements is critical to the safety and integrity of the building that is under construction. In particular, fire safety systems are critical measures designed to protect life and property in the event of a fire either during construction or following occupation.
12. Based on my inspection and after speaking with the authorised officers about their observations, I consider that there are currently no suitable means of firefighting installed in the Building allowing for an initial fire attack by construction workers and for the fire brigade to undertake attack on the fire. This is not in accordance with the following performance requirements:

**BCA Volume One 2016, Section E Services and Equipment, Part E1 Fire fighting equipment, Performance Requirement EP1.5, which states:**

*“Suitable means of fire-fighting must be installed to the degree necessary in a building under construction to allow initial fire attack by construction workers and for the fire brigade to undertake attack on the fire appropriate to—*

- (a) the fire hazard; and*
- (b) the height the building has reached during its construction.”*



**BCA Volume One 2016 Section E Services and Equipment, Part E1 Fire fighting equipment, Deemed-to-Satisfy Provision E1.9 Fire precautions during construction, which states:**

- (a) *"In a building under construction— not less than one fire extinguisher to suit Class A, B and C fires and electrical fires must be provided at all times on each storey adjacent to each required exit or temporary stairway or exit; and*
- (b) *after the building has reached an effective height of 12 m—*
- (i) *the required fire hydrants and fire hose reels must be operational in at least every storey that is covered by the roof or the floor structure above, except the 2 uppermost storeys; and*
- (ii) *any required booster connections must be installed."*

13. The Building has reached an effective building height of 15.25m, as indicated in the following approved architectural design drawings prepared by CHD Design:

- Architectural plan, Ground Floor, Revision 5 (18/9/2020) shows a FFL of 95.820
- Architectural plan, Level 5, Revision 5 (18/9/2020) shows a FFL of 111.070

14. I am of the view that fire hose reels, fire pump booster and operational fire hydrants have not been installed in the Building.

15. In those circumstances, in my opinion, there is no suitable means of firefighting currently available at the Building. The lack of a functional fire hydrant with booster also fails to comply with the BCA Volume One 2016 requirement set out at paragraph 11 above.

16. In my opinion, continuing to carry out the Building Work, in the absence of suitable means of firefighting and in the absence of a functional fire hydrant with booster, could result in significant harm to property and to persons working on the site in the event of a fire breaking out because there is no means for construction workers or the fire brigade to fight a fire.

**Direction to ensure Building Work stops**

17. I, David Chandler, Order the Developer to ensure that the Building Work stops by 17 February 2022

**Duration of this order**

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

  
**David Chandler**  
**Building Commissioner**  
**NSW Fair Trading Department of Customer Service**

**Notes**

- 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 and 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 of the

notice of the order being given. Lodging an appeal does not stop the order taking effect, unless directed by the Court.

- Upon issuing this order, the Department has notified the relevant local council and the principal certifier for the building, in accordance with s 29(6) of the Act.