

Attn: Proper Officer
Sirius Consolidated Pty Ltd
c/o Khourys & Associates
Level 1, Suite 101
181 Macquarie Street
Parramatta NSW 2150

Service: By express post

DATE: 29 January 2024

Building Work Rectification Order

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

Sirius Consolidated Pty Ltd (ACN 115 855 528) (Sirius Consolidated) is being given this Building Work Rectification Order (Order) in relation to 25-27 Wongala Crescent, Beecroft NSW 2119 (SP 90541).

Sirius Consolidated 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. Elizabeth Stewart, Acting Executive Director Building Operations and Assistant Building Commissioner, Department of Customer Service is an authorised delegate of the Secretary of the Department.
5. Sirius Consolidated Pty Ltd (ACN 115 855 528) is the developer of the residential apartment building at 25-27 Wongala Crescent, Beecroft NSW 2119 (**the Development**) for the purposes of section 4(c) of the Act.
6. The Development comprises carparking 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 14 February 2023, with the consent of the owners corporation, a third party consultant engaged by 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, Elizabeth Stewart, under section 33 of the Act, require you Sirius Consolidated Pty Ltd (ACN 115 855 528) 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
1	Level 1/Ground Floor Carpark 1 and Carpark 2	Significant water seepage into the basement walls through cracks and faulty installation or wear of the waterproofing.	<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 Building Commission NSW via email to ocaudits@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
			<p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
2	Block A East Facing Façade	Some sole occupancy unit balconies were observed to have no visible overflow provisions.	<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 Building Commission NSW via email to ocaudits@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>

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3	Roof Area in front of Block A Unit 36 Penthouse	It was observed that the waterproofing membrane adjacent to the parapet wall was delaminating. This is directly related to water ingress experienced by Units 30-32 (see defect 20).	<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 Building Commission NSW via email to ocaudits@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.	
4	Steps leading to the entrance of Block B Block B Entrance	Water penetration at the soffit of the Block B Entry door was 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 Building Commission NSW via email to ocaudits@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.	
5	Courtyard	Mould growth was observed within the courtyard area floor. Falls to the floor and adequate drainage were not evident for disposal of storm water.	<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 Building Commission NSW via email to ocaudits@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.	
6	Block A - Hydrant Pump Room & Level 2 Block B - Meter Rooms	Inadequate fire protection to multiple penetrations passing through the ceiling and walls of: <ul style="list-style-type: none"> - Hydrant Pump Rooms - Level 2 - Block B Meter Rooms. 	<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 Building Commission NSW via email to ocaudits@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 – 60 days</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
7	Fire Exit at Level 2 leading to Block B External Area - South	Large voids were evident in the junction of the fire resisting walls above the fire door.	<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 Building Commission NSW via email to ocaudits@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 – 60 days</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
8	Hydrant Booster at front of Wongala Crescent	The Hydrant Block Plan is faded and illegible and does not have all the minimum information required for a zone block plan.	<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 Building Commission NSW via email to ocaudits@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 – 60 days</p>

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9	<p>Level 2, Entryway to Block A - Hydrant Pump Room</p> <p>Level 2, Block B, Fire Exit</p> <p>External Area South of Block B, Fire Exit</p>	Inadequate or absence of Fire tags to existing fire doors.	<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 Building Commission NSW via email to ocaudits@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 – 60 days</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
10	Fire Shutter Between Level1/Ground Floor Carpark 1 and Basement Carpark 2	The fire shutter installed between Carpark 1 and Carpark 2 has a large gap from the car park floor even when fully rolled down.	<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 Building Commission NSW via email to ocaudits@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 – 60 days</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
11	Hydrant Booster at front of Wongala Crescent	The structural bracings of the hydrant booster system are heavily corroded and inadequate to support the pipework.	<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 Building Commission NSW via email to ocaudits@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 – 60 days</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
12	Systemic throughout the building	Fire extinguisher location signage was observed to have not been installed above the fire extinguisher.	<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 Building Commission NSW via email to ocaudits@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 – 60 days</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
13	Access Ramp leading to the entrance of Block B	<p>The following observations were made:</p> <ul style="list-style-type: none"> ▪ Ground settlement throughout the Access Ramp is evident upon investigation. The floors are rotating inward, and it appears that the structural element along the centre of the ramp (below the handrail) has subsided. Indications of subsidence was also observed through persistent cracks and gaps. ▪ Indications of settlement is observed through separation of floor to wall. Approximately 27mm of gap was measured for this section. ▪ Indications of settlement is observed through a tile fixed to the adjacent wall of the ramp. Approximately 16mm of gap was measured for this section. ▪ A large structural crack was observed from the back of the Access Ramp. It is noticed that the crack is substantial from the right, verifying that the 	<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 Building Commission NSW via email to ocaudits@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
		<p>ramp is rotating inwards. The large gap is measured to be approximately 46mm wide.</p> <ul style="list-style-type: none"> The ramp is observed to be sloping inwards, separating the floor from the balustrade. This section of the Access Ramp is observed to have persistent gap, approximately 16mm wide. 	Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
14	Basement - Carpark 2	<p>The following observations were made:</p> <ul style="list-style-type: none"> Uncontrolled cracking of 1mm to 2mm in the basement slabs and beams. Longitudinal structural crack appears on the side face of the slab close to the bottom reinforcement. Flexure structural cracks appear at the two sides and bottom face of the concrete beam. 	<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 Building Commission NSW via email to ocaudits@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 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

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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>	
15	Level1/Ground Floor Carpark 1	Visibly present water seepage observed at concrete walls of Ground Floor Carpark 1. It comprises of untreated construction joint known as a cold joint.	<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 Building Commission NSW via email to ocaudits@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 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

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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>	
16	Block A North Facing Façade	Numerous weep holes in the masonry wall of the North Elevation of Block A have been fully blocked and filled with render preventing moisture escape.	<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 Building Commission NSW via email to ocaudits@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 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

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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>	
17	Boundary wall between Carpark Entrance and Block A Fire Exit	A significant crack at the boundary wall between the carpark entrance and Block A Fire Exit was observed to be 11mm wide.	<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 Building Commission NSW via email to ocaudits@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 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

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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>	
18	Level 1/Ground Floor Carpark 1	Cracking at ground slab and ceiling of Carpark 1 causing steel reinforcement to rust.	<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 Building Commission NSW via email to ocaudits@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 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

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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>	
19	<p>Block A: Level 6, Unit 36 and Level 5, Unit 32</p> <p>Block B: Level 5, Unit 28 and Level 4, Unit 20</p>	<p>The following observations were made:</p> <ul style="list-style-type: none"> ▪ Water ingress has occurred between Sole Occupancy Units from a balcony in Unit 36 Penthouse, Level 6, to the two Bedrooms in Unit 32, Level 5. Units 31 and 30, which are below the Unit 36 Penthouse Balcony, are experiencing the same issue. ▪ Water ingress has occurred between Sole Occupancy Units from the balcony in Unit 28, Level 5, to the balcony in Unit 20, Level 4. Efflorescence staining was observed at the ceiling of Unit 20 Balcony. 	<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 Building Commission NSW via email to ocaudits@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 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

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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>	
20	<p>Block B: Level 2, Unit 2</p> <p>Block B: Level 5, Unit 29</p>	<p>The following observations were made:</p> <ul style="list-style-type: none"> ▪ Water ingress occurs into the Bedroom of Unit 2 from the window during inclement weather. Evidence of mould growth was observed at the built-in wardrobe. ▪ The units about Unit 2, namely Units 10 and 18, are experiencing the same issue. ▪ Drip edges were observed at the South Façade of Block B, where the window is located. Flashing may possibly be failing as window leaks during inclement weather. ▪ Water ingress occurs into the unit entrance and built-in wardrobe at Bedroom of Unit 29 during inclement weather. 	<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 Building Commission NSW via email to ocaudits@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 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

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		Evidence of mould growth was observed at the built-in wardrobe.	specification and manufacture's recommendation Stage 2. Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
21	Block A and Block B Façade	Excessive water seepage stains were observed on the face of the brick façade of both Block A and Block B.	Within the time period specified in column 5, Stage 1. Submit a written report and drawings prepared for the raised defect to Building Commission NSW via email to ocaudits@customerservice.nsw.gov.au The written report required to be submitted must: <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 	Stage 1 – 60 days Stage 2 – 90 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>	
22	Systemic throughout the basement	The perimeter drains to the basement walls were observed to be inadequate or absent. This defect was systemic throughout the basement.	<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 Building Commission NSW via email to ocaudits@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 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

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23	<p>Leve 2, Block B - Meter Rooms</p> <p>Level 4, Block B - Meter Rooms</p>	Several instances of electrical cabling have been installed without any mechanical protection in locations where damage is likely.	<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 Building Commission NSW via email to ocaudits@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 	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

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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.



Elizabeth Stewart
A/Executive Director, Building Operations
Assistant Building Commissioner
Building Commission NSW

Reasons for the Building Work Rectification Order

12. I, Elizabeth Stewart, have formed a reasonable belief that the Development has a serious defect based on the following.
13. I have formed this belief after reviewing an Inspection Report (dated 16 May 2023) prepared by a third party consultant engaged by the Department, who conducted an inspection of the Development by consent of the owners corporation on 14 February 2023.
14. 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	Water seepage into the basement walls of Level 1/Ground Floor Carpark 1 and Carpark 2 through cracks and faulty installation or wear of the waterproofing.	The water ingress into the basement walls demonstrates a failure to comply with the Building Code provisions referenced in column 5. These require roofs and external walls to prevent the penetration of water and adequate drainage systems for the disposal of surface water.	<ul style="list-style-type: none"> • BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4; and • BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirements: FP1.3 Rainwater drainage systems.
2	Waterproofing Systems	Some sole occupancy unit balconies were observed to have no visible overflow provisions at the Block A East Facing Façade.	The lack of overflow provisions demonstrates a failure to comply with the Australian Standard and Building Code provisions referenced in column 5. These require adequate	<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;

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			systems for draining balconies and stormwater collection.	<ul style="list-style-type: none"> • Australian Standard AS/NZS3500.3 Plumbing and Drainage–Stormwater Drainage, Section 5 Surface Drainage Systems –Design, Clause 5.3.1.1 Roof areas; and • BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.
3	Waterproofing Systems	Delaminated waterproofing membrane was observed adjacent the parapet wall at the Roof Area in front of Block A Unit 36 Penthouse.	The delamination of the waterproofing membrane demonstrates a failure to comply with the Australian Standard and Building Code provisions referenced in column 5. These require the adequate collection of stormwater through gutters and downpipes.	<ul style="list-style-type: none"> • Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation. • 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
4	Waterproofing Systems	Water penetration was observed at the soffit of the Block B entry door.	The water penetration demonstrates a failure to comply with the Building Code provision referenced in column 5. This requires roofs and external walls to prevent the penetration of water that could cause unhealthy or dangerous conditions, or loss of amenity and undue dampness or deterioration of building elements.	<ul style="list-style-type: none"> • BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.
5	Waterproofing Systems	Mould growth and inadequate falls to the floors and drainage were observed at the Courtyard.	The inadequate drainage and falls are attributable to a failure to comply with the Australian Standard and Building Code provisions referenced in column 5. These require falls in finishes to ensure that water drains to the drainage outlet. They also require the adequate drainage and disposal of stormwater and surface water. Moisture from the ground must be prevented from causing undue dampness or deterioration of building elements or unhealthy or dangerous conditions for occupants.	<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 – General criteria; • Australian Standard 4654.2 - Waterproofing Membranes for External Above Ground Use, Section 2 Design and installation, 2.5 Substrate, 2.5.2 Falls; and • BCA Volume One, Part F Damp and Weatherproofing, Performance Requirements FP1.3.
6	Fire Safety Systems	Inadequate fire protection was observed at multiple penetrationsto walls andceilings of the Hydrant Pump Room, Level 2 andBlock B Meter Rooms.	The inadequate fire-resistant sealing is attributable to a failure to comply with the Building Code provisions referenced in column 5. These require that building elements provided to resist the spread of fire	<ul style="list-style-type: none"> • BCA Volume One, Section C Fire Resistance CP2 Spread of fire, CP8 Fire protection of openings and penetrations, Part C3 Protection of openings, Deemed-to-Satisfy provisions:

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			are adequately protected where penetrations or openings occur.	<p>C3.15 Openings for service installations; and</p> <ul style="list-style-type: none"> • BCA Volume One, Part C1 Fire Resistance and Stability, Specification C1.1 Fire-Resisting Construction, Part 3 Type A Fire-Resisting Construction, Clause 3.1 Fire-Resistance of Building Elements.
7	Fire Safety Systems	Large voids were evident in the junction of the fire resisting walls above the fire door at Level 2 leading to Block B External Area - South.	The void is attributable to a failure to comply with the Building Code provisions referenced in column 5. These require adequate fire protection of exits to avoid the spread of fire, and note that voids are not adequate.	<ul style="list-style-type: none"> • BCA Volume One, Section 3 Fire resistance, Part C3 Protection of openings, Deemed-to-satisfy provision C3.16 Construction Joints; and • Deemed-to-satisfy provision C3.16 Construction Joints is a pathway that can satisfy the BCA Volume One, Section C Fire resistance, Performance Requirement CP8.
8	Fire Safety Systems	The Hydrant Block Plan at the front of Wongala Crescent is illegible and does not have the minimum required information.	The illegible and inadequate hydrant block plan is attributable to a failure to comply with the Australian Standard provisions referenced in column 5. These require block plans to be water- and fade-resistant and display information and diagrams related to fire protection.	<ul style="list-style-type: none"> • Australian Standard AS 2419.1 Fire hydrant installations – Part 1: System design, installation, and commissioning - Part 1: Fire. •
9	Fire Safety Systems	An absence of fire tags was observed at the Level 2 Hydrant Pump Room and Fire Exit. The fire tag attached to the Fire Exit Door does not	The absence and inadequacy of fire tags are attributable to a failure to comply with the Australian Standard and Building Code provisions referenced in column 5. These require the attachment of fire tags	<ul style="list-style-type: none"> • Australian Standard 1905.1-2005 Components for the protection of openings in fire-resistant walls – Fire-resistant door sets, Section 6 Marking and

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		have the minimum required information.	with various information to be shown on the tag.	<p>other documentation, 6.1 Marking of fire resistant door sets, 6.1.4 Information requirements; and</p> <ul style="list-style-type: none"> • BCA Volume One, Section C Fire Resistance, Specification C3.4 Fire Doors, Smoke Doors, Fire Windows and Shutters, 2 Fire Doors.
10	Fire Safety Systems	The fire shutter installed between Carpark 1 and Carpark 2 has a large gap from the car park floor when rolled down.	The inadequate sealing of the roller shutter is attributable to a failure to comply with the Building Code provisions referenced in column 5. These requires doorways in fire walls to be adequately protected by a compliant fire shutter.	<ul style="list-style-type: none"> • BCA Volume One, Section 3 Fire resistance, Part C3 Protection of openings, Deemed-to-satisfy provision C3.5 Doorways in fire walls.
11	Fire Safety Systems	The structural bracings of the hydrant booster system at the front of Wongala Crescent are heavily corroded and not adequate to support the pipework.	The inadequate pipe support is attributable to a failure to comply with the Australian Standard provision referenced in column 5. This requires that fire hydrant system pipework are adequately supported by pipe support systems.	<ul style="list-style-type: none"> • Australian Standard AS 2419.1 Fire hydrant installations – Part 1: System design, installation, and commissioning - Part 1: Fire.
12	Fire Safety Systems	Fire extinguisher location signage is not installed above the fire extinguisher at the Level 1/Ground Floor Carpark 1 - this defect is systemic throughout the building.	The lack of signage is attributable to a failure to comply with the Australian Standard and Building Code provisions referenced in column 5. These require extinguishers to have their locations clearly indicated by the placement of location signs, positioned so as to be clearly visible to persons approaching the extinguisher.	<ul style="list-style-type: none"> • Australian Standard AS2444 Portable fire extinguishers and fire blankets – Selection and installation, Section 3 Location of portable fire extinguishers, Clause 3.2 Extinguisher location; • Australian Standard AS2444 Portable fire extinguishers and fire blankets – Selection and

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				<p>location, Section 3 Location of portable fire extinguishers, Clause 3.3 Extinguisher location signs, Clause 3.3.3 Sign location;</p> <ul style="list-style-type: none"> • BCA Volume One, Section E Services and equipment, Part E1.6 Portable fire extinguishers; and • BCA Volume One, Section E Services and equipment, Part E1 Firefighting equipment, Performance Requirement EP1.2.
13	Structural Systems	<p>Multiple defects were observed at the Access Ramp leading to the entrance of Block B:</p> <ul style="list-style-type: none"> ▪ Ground settlement throughout the Access Ramp is evident upon investigation. The floors are rotating inward, and it appears that the structural element along the centre of the ramp (below the handrail) has subsided. Indications of subsidence was also observed through persistent cracks and gaps. ▪ Indications of settlement is observed through separation of floor to wall. Approximately 27mm of gap 	<p>The ground settlement observed is attributable to a failure to comply with the Building Code provisions referenced in column 5. These require buildings and structures to be designed to sustain local damage, with the structural system as a whole remaining stable and not being damaged to an extent disproportionate to the original local damage. Specifically, structures should be able to withstand liquid pressure action, ground water action, differential movement and time dependent effects, including creep and shrinkage.</p>	<ul style="list-style-type: none"> • BCA Volume One – Section B Structure, Clause BP1.1 Structural Reliability.

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		<p>was measured for this section.</p> <ul style="list-style-type: none"> ▪ Indications of settlement is observed through a tile fixed to the adjacent wall of the ramp. Approximately 16mm of gap was measured for this section. ▪ A large structural crack was observed from the back of the Access Ramp. It is noticed that the crack is substantial from the right, verifying that the ramp is rotating inwards. The large gap is measured to be approximately 46mm wide. ▪ The ramp is observed to be sloping inwards, separating the floor from the balustrade. This section of the Access Ramp is observed to have persistent gap, approximately 16mm wide. 		
14	Structural Systems	At the Basement Carpark 2, uncontrolled cracking of 1mm to 2mm was observed in the basement slabs and beams, longitudinal structure cracking to the side face of the slab close to the bottom reinforcement and flexure structural cracks at the two	The cracking at Basement Carpark 2 is attributable to a failure to comply with the Australian Standard and Building Code provisions referenced in column 5. These require that general cracking in concrete structures is controlled so that structural performance, durability	<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; • BCA Volume One, Section B Structure, Deemed-to-Satisfy provision B1.4 - Determination of

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		sides and bottom face of the concrete beam.	and appearance of the structure are not compromised.	structural resistance of materials and forms of construction.
15	Structural Systems	Water seepage was observed at the concrete walls of Ground Floor Carpark 1. It comprises of untreated construction joints known as cold joint.	The presence of multiple cold joints or untreated construction joints demonstrates a serious defect in a building element and is attributable to a failure to comply with the Australian Standard provisions referenced in column 5. These require that concrete is handled, placed and compacted so as to produce a monolithic mass between planned joints.	<ul style="list-style-type: none"> Australian Standard AS3600 Concrete Structures - 17.1.3 Handling, placing and compacting of concrete; and Australian Standard AS 3600 - 17.4.1 Location of construction joints.
16	Structural Systems	Numerous weepholes in the masonry wall of the North Elevation of Block A have been fully blocked and filled with render, preventing moisture escape.	The blocked weepholes in the masonry wall are attributable to a failure to comply with the Australian Standard provision referenced in column 5. This requires that weepholes are free from any mortar or other material that will prevent their proper functioning.	<ul style="list-style-type: none"> Australian Standard AS3700 Masonry structures, Section 12 Construction, 12.4.14 Weepholes.
17	Structural Systems	An 11mm wide crack was observed at the boundary wall between the carpark entrance and Block A Fire Exit.	The cracking is attributable to a failure to comply with the Australian Standard and Building Code provisions referenced in column 5. These require that general cracking in concrete structures is controlled so that structural performance, durability and appearance are not compromised.	<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; and BCA Volume One, Section B Structure, Deemed-to-Satisfy provision B1.4 - Determination of

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				structural resistance of materials and forms of construction.
18	Structural Systems	Cracking at the ground slab and ceiling of Carpark 1 was observed, causing steel reinforcement to rust.	The cracking is attributable to a failure to comply with the Australian Standard and Building Code provisions referenced in column 5. These require that general cracking in concrete structures is controlled so that structural performance, durability and appearance are not compromised.	<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; and BCA Volume One, Section B Structure, Deemed-to-Satisfy provision B1.4 - Determination of structural resistance of materials and forms of construction.
19	Building Enclosure	<p>The following observations were made:</p> <ul style="list-style-type: none"> Water ingress has occurred between Sole Occupancy Units from a balcony in Unit 36 Penthouse, Level 6, to the two Bedrooms in Unit 32, Level 5. Units 31 and 30, which are below the Unit 36 Penthouse Balcony, are experiencing the same issue. Water ingress has occurred between Sole Occupancy Units from the balcony in Unit 28, Level 5, to the balcony in Unit 20, Level 4. Efflorescence staining was 	The uncontrolled water ingress is attributable to a failure to comply with the Building Code provisions referenced in column 5. These require a roof and external wall to prevent the penetration of water that could cause unhealthy or dangerous conditions, loss of amenity and undue dampness or deterioration of building elements.	<ul style="list-style-type: none"> BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		observed at the ceiling of Unit 20 Balcony.		
20	Building Enclosure	<p>The following observations were made:</p> <ul style="list-style-type: none"> Water ingress occurs into the Bedroom of Unit 2 from the window during inclement weather. Evidence of mould growth was observed at the built-in wardrobe. The units about Unit 2, namely Units 10 and 18, are experiencing the same issue. Drip edges were observed at the South Façade of Block B, where the window is located. Flashing may possibly be failing as window leaks during inclement weather. Water ingress occurs into the unit entrance and built-in wardrobe at Bedroom of Unit 29 during inclement weather. Evidence of mould growth was observed at the built-in wardrobe. 	The uncontrolled water ingress is attributable to a failure to comply with the Building Code provision referenced in column 5. This requires a roof and external wall to prevent the penetration of water that could cause unhealthy or dangerous conditions, loss of amenity and undue dampness or deterioration of building elements.	<ul style="list-style-type: none"> BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.
21	Building Enclosure	Water seepage stains were observed on the face of the brick façade of both Block A and Block B.	The penetration of water to the façade of the building is attributable to a failure to comply with the Building Code provision referenced in column 5. This requires an	<ul style="list-style-type: none"> BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4 Weatherproofing.

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			external wall to prevent the penetration of water that could cause unhealthy or dangerous conditions, loss of amenity and undue dampness or deterioration of building elements.	
22	Building Essential Services	Perimeter drains to basement walls at Level 1/Ground Floor Carpark 1 were either inadequate or absent, this defect was systemic throughout the basement.	The inadequate drainage is attributable to a failure to comply with the Australian Standard and Building Code provisions referenced in column 5. These require that subsoil drains be laid so that pipes or geo-composite drains can be flushed out and that a drainage system for the disposal of surface water is installed.	<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; and • BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Deemed-to-Satisfy provision F1.1 Stormwater drainage.
23	Building Essential Services	Electrical cabling was observed to have been installed without any mechanical protection in locations where damage is likely. These were observed in the Level 2 and Level 4 Block B Meter Rooms.	The absence of electrical mechanical protection is attributable to a failure to comply with the Australian Standard provisions referenced in column 5. These require wiring systems to be installed so as to minimise the risk of mechanical damage through the mechanical characteristics of the wiring system, the selected location or the provision of additional mechanical protection.	<ul style="list-style-type: none"> • Australian Standard AS/NZS3000 Electrical Installations “Wiring Rules” – Clause 3.9.4 Protection against mechanical damage.

15. I am of the view that the time periods set out in column 5 of Table 1 for Defects 1 through 23 (inclusive) are reasonable periods for compliance in all the circumstances for the work 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 give effect to the rectification work.
16. 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.
17. 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

18. 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.
19. I am aware that there are residents occupying this location as the Building is completed which will delay rectification work.

Consideration of written representations

20. On 24 July 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 14 August 2023.
21. The developer did not provide a response.
22. The Owners Corporation provided a written submission on 14 August 2023. The Owners Corporation's submissions identified alleged serious defects not included in the draft Order and suggested that the Order be expanded to include further serious defects. I have considered the representations and am satisfied that it is appropriate to issue the Order as set out above. The serious defects identified in the Order are based

on the inspection report dated 16 May 2023, which in turn was based on defects identified during an authorised inspection. It is open to the Secretary to issue a further Order if appropriate.

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

23. 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 Sirius Consolidated Pty Ltd (ACN 115 855 528) to carry out the building work described, within the period specified in the above Order.
24. 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,**
 - **the Registrar-General,**
 - **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—

- (e) the fire safety systems for a building within the meaning of the Building Code of Australia,
- (f) waterproofing,
- (g) 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),
- (h) a component of a building that is part of the building enclosure,
- (i) those aspects of the mechanical, plumbing and electrical services for a building that are required to achieve compliance with the Building Code of Australia,
- (j) 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—

- (k) the person who contracted or arranged for, or facilitated or otherwise caused, (whether directly or indirectly) the building work to be carried out,
- (l) 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,
- (m) the principal contractor for the building work within the meaning of the Environmental Planning and Assessment Act 1979,
- (n) 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,
- (o) 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).