

Attn: Proper Officer  
Northern Group Pty Ltd  
ACN 607 052 693  
Unit 46, 11-21 Underwood Road  
HOMEBUSH NSW 2140

Service: By express post, and by email

DATE: 14 March 2024

## Building Work Rectification Order

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

Northern Group Pty Ltd ACN 607 052 693 (Northern Group) is being given this Building Work Rectification Order (Order) in relation to 50-52 East Street, Five Dock NSW 2046 (SP98298).

Northern Group is required to cause building work to be carried out to remediate the serious defects as set out in 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, Building Commission NSW is an authorised delegate of the Secretary of the Department.
5. Northern Group is the developer of the residential apartment building known as **50-52 East Street, Five Dock NSW 2046 (SP98298)** (the Development) for the purposes of section 4(a) 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 20 June 2023, with the consent of the owners corporation, an authorised officer of the Department along with 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 Northern Group Pty Ltd (ACN 607 052 693) 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**

1. Serious Defect Reference Number	2. Location of Serious Defect	3. General description of Serious Defect	4. Requirement	5. Time for compliance with Requirement
1	Basement 1 and Basement 2 – throughout basement carpark	Uncontrolled water ingress as evidenced by the absence of waterproofing or sealing of external basement walls or to adjacent property walls within the basement. Minor cracking also evidenced on boundary concrete walls.	<p>Within the time period specified in column 5.</p> <p>Stage 1:</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified</p> <p>Submit a written report and drawings prepared for the raised defect to Project Intervene team via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation.</li> </ul> <p>Stage 2:</p>	<p>Stage 1 : 3 months</p> <p>Stage 2: 6 months</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
2	Basement 1 and Basement 2 – all areas of basements	Inadequate falls on perimeter drains and floor surface to drain outlets causing accumulation of excess water.	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified</p> <p>Submit a written report and drawings prepared for the raised defect to Project Intervene team via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation.</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

1. Serious Defect Reference Number	2. Location of Serious Defect	3. General description of Serious Defect	4. Requirement	5. Time for compliance with Requirement
3	Ground Floor – external common area	The presence of combustible polystyrene foam in formwork which has not been removed after concrete pour causing gaps.	<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 <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation.</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>
4	Ground Floor – General Storage Room	Voids in the fire door frames evidencing that the frames are not solid core filled.	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p>	Stage 1: 3 months

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5	All levels – multiple internal hydrants	Inadequate hydrant installation evidenced by the clearance between the hand wheel serving the hydrants and the wall adjacent is less than 100mm.	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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6	Basement 1, Ground Floor, and Level 1	Inadequate fire protection to multiple service penetrations.	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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7	Basement 1 and Basement 2 – multiple areas of basement carpark and vehicle driveway/ramp	Inadequate installation of exit signage as evidenced by exit signage missing or not visible in multiple locations of the basement carpark.	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>



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8	Basement 2 – Stairs (fire isolated)	Inadequate installation of fire door as evidenced by gap of 60mm underneath the door.	<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 <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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9	Ground Floor – Foyer / Lobby	Non-compliant or current zone block plans.	<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 <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> </ul>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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10	Level 5 – external common area	No smoke detector installed adjacent to the lift.	<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 <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</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>	
11	Basement 2 – basement carpark	Inadequate installation of mechanical ductwork that penetrates fire isolating walls where no fire damper has been installed within the duct.	<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 <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation.</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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12	Basement 1 – Fire Pump Room	Inadequate installation of fire protection to hydrant pump from other services in fire pump room.	<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 <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation.</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>
13	Ground Floor – stairs (fire isolated)	The presence of gaps as evidenced by divi-dags not filled to maintain the fire resistance level of the fire resisting wall.	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p>	Stage 1: 3 months

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14	Basement 1 – fire pump room	Inadequate and unfinished drainage installation to the floor.	<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 <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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15	Basement 1 and Basement 2 – throughout basement carpark	Inadequate concrete pours in the shoring wall resulting in cold joints and not a monolithic concrete mass.	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to Project Intervene team via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> </ul>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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16	Basement 2 – basement carpark	Uncontrolled cracking of 2mm in basement walls and migration of cracking through full depth of the concrete wall with water permeation.	<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 <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> </ul>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</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>	
17	Basement 2 – basement carpark	Inadequate vibrating or compacting of concrete slab resulting in 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 <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation.</li> </ul> <p>Stage 2.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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18	Basement 2 – basement carpark	Timber formwork debris evidenced between joints of concrete pours with signs of water penetration and embedded at side of concrete column.	<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 <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation.</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>
19	Basement 1 and Basement 2 – throughout basement carpark	Exposed and unprotected reinforcement evidenced in the walls of the basement.	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p>	Stage 1: 3 months

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			<p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to Project Intervene team via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation.</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	Stage 2: 6 months
20	All levels	Inadequate cladding material as evidenced by cladding that is not fire rated and/or is potentially combustible.	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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21	Basement 1 and Basement 2 – throughout basement carpark	Inadequate installation of ductwork for ventilation for make-up air system.	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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22	Basement 1 – basement carpark	Inadequate protection against external influences as evidenced by rust on parts of the pump controller box and water seepage from slab above onto the box causing a potential	<p>Within the time period specified in column 5.</p> <p>Stage 1.</p>	<p>Stage 1: 3 months</p> <p>Stage 2: 6 months</p>

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		source of hazard such as electric shock.	<p>Submit a written report and drawings prepared for the raised defect to Project Intervene team via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist;</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard;</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation.</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	

#### Conditions of this Order

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

12. Where this Order requires you to submit a written report, then written report must:

- a. be prepared by a suitably qualified person or specialist; and
- b. be prepared with consideration to this Order and the Reasons for this Order; and
- c. detail the specific building work necessary to meet the codes and relevant standards specified in column 5 of Table 2; and
- d. be prepared with consideration to other building work already constructed at the time of this Order and not the subject of a serious defect including designs for that building work, and other building work required by this Order including designs for that building work, and manufacturer's specifications.

**Duration of this Order**

13. This Order remains in force until it is revoked by the Secretary.

14. This order is given on the date that it is listed above in accordance with section 67 of the RAB Act.



Elizabeth Stewart  
**Acting NSW Building Commissioner**  
**Building Commission NSW**  
**Department of Customer Service**  
**Date: 14/03/2024**

# Reasons for the Building Work Rectification Order

15. I, Elizabeth Stewart, have formed a reasonable belief that the Development has a serious defect based on the following.
16. I have formed this belief after reviewing:
- An Inspection Report (dated 29 June 2023) prepared by an authorised officer of the Department along with a third-party consultant engaged by the Department, who conducted an inspection of the Development by consent of the owners corporation on 20 June 2023.
17. 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**

1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
1	Waterproofing	The failure to install adequate waterproofing or sealing of external basement walls and adjacent property walls within the basement carpark as well as minor cracking on boundary concrete walls with rusty water penetration.	The absence of compliant waterproofing or sealing and uncontrolled water ingress is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.</li> </ul>
2	Waterproofing	The failure to install adequate falls to the perimeter drains and floor surface causing accumulation of excess water throughout the basement carpark.	The inadequate drainage installation and insufficient surface falls is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>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.</li> <li>Australian Standard AS/NZS3500.3 appears as a standard referenced in the BCA</li> </ul>



1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
				<p>Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing,</p> <ul style="list-style-type: none"> <li>Deemed-to-Satisfy provision F1.1 Stormwater drainage. - Deemed-to-Satisfy provision F1.1 is a pathway that can satisfy the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirements FP1.3.</li> </ul>
3	Fire Safety Systems	The failure to remove combustible material following completion of formwork causing gaps.	The presence of gaps constituting an unprotected area is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>BCA Volume One, Specification C1.1 Fire Resisting Construction, Part 3 Type A Fire-Resisting Construction.</li> <li>BCA Volume One, Section 3 Fire resistance, Part C3 Protection of openings, Deemed-to-satisfy provision C3.16 Construction joints.</li> <li>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.</li> </ul>
4	Fire Safety Systems	The presence of voids in the grout behind the fire door	The voids in the grouted door frame are attributable to the failure to comply with the Building Code and	<ul style="list-style-type: none"> <li>Australian Standard AS1905.1- Components for the protection of openings in fire-resistant wall</li> </ul>

1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
		frame of the general storage room.	Australian Standards referenced in column 5.	<p>Part 1: Fire resistant door sets, Section 5 Installation, 5.3 Metal doorframes in masonry walls, 5.3.2 Backfilling of metal door frames.</p> <ul style="list-style-type: none"> <li>• Australian Standard AS1905.1 appears as a standard referenced in the BCA Volume One, Section C Fire resistance, Specification C3.4 Fire doors, smoke doors, fire windows and shutters, Clause 2. Fire doors.</li> <li>• Specification C3.4 Fire doors, smoke doors, fire windows and shutters, Clause 2. Fire doors, is a pathway that can satisfy the BCA Volume One, Section C Fire resistance, Performance Requirement CP2.</li> </ul>
5	Fire Safety Systems	The failure to adequately provide clearance between the hand wheel serving hydrants and the wall adjacent that is greater than 100mm.	The inadequate hydrant installation is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>• 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 Hydrants, 3.2.2 Features, accessibility and clearances.</li> <li>• Australian Standard AS2419.1 appears as a standard referenced in the BCA Volume One, Section E Services and</li> </ul>

1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
				<p>equipment, Part E1.3 Fire hydrants.</p> <ul style="list-style-type: none"> <li>Deemed-to-Satisfy provision E1.3 is a pathway that can satisfy the BCA Volume One, Section E Services and equipment, Part E1 Fire fighting equipment, Performance Requirement EP1.3.</li> </ul>
6	Fire Safety Systems	The failure to adequately install fire- protection to multiple service penetrations in the basement carpark and meter rooms.	The inadequate fire-protection to the service penetrations is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>BCA Volume One, Section C Fire Resistance, Performance Requirements: <ul style="list-style-type: none"> <li>CP2 Spread of fire;</li> <li>CP8 Fire protection of openings and penetrations;</li> <li>Part C3 Protection of openings, Deemed-to-Satisfy provisions;</li> <li>C3.12 Openings in floors and ceilings for services;</li> <li>C3.15 Openings for service installations.</li> </ul> </li> <li>Deemed-to-satisfy provision C3.15 Openings for service installations is a pathway that can satisfy the BCA Volume One, Section C Fire resistance, Performance Requirement CP8.</li> </ul>

1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
7	Fire Safety Systems	The failure to ensure the adequate installation of emergency exit signage throughout the basement carpark.	The absence of compliant exit signage is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>• BCA Volume One, Section E Services and equipment, Part E4 Visibility in an emergency, exit signs and warning signs, Deemed-to-Satisfy provision E4.5 Exit signs.</li> <li>• Deemed-to-Satisfy provision E4.5 Exit signs is a pathway that can satisfy the BCA Volume One, Section E Services and equipment, Performance Requirement EP4.2 Identification of exits.</li> </ul>
8	Fire Safety Systems	The presence of a gap of 60mm underneath the fire door in basement 2.	The presence of an excessive gap around the fire door is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>• Australian Standard AS1905.1- Components for the protection of openings in fire-resistant wall Part 1: Fire resistant door sets, Section 5 Installation. Clause 5.5 Clearances around door leaves, 5.5.1 Threshold and floor finish.</li> <li>• Australian Standard AS1905.1 appears as a standard referenced in the BCA Volume One, Section C Fire resistance, Specification C3.4 Fire doors, smoke doors, fire windows and shutters, Clause 2. Fire doors.</li> <li>• Specification C3.4 Fire doors, smoke doors, fire windows and shutters, Clause 2 Fire doors, is a pathway that can satisfy</li> </ul>

1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
				the BCA Volume One, Section C Fire resistance, Performance Requirement CP2.
9	Fire Safety Systems	The failure to display current or compliant zone block plans in the ground floor foyer/lobby.	The absence of compliant zone block plans is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS 2419.1 Fire hydrant installations, Part 1: System design, installation and commissioning. Clause 11.5 Block Plan (Baseline Data)</li> <li>Australian Standard AS 2419.1 appears as a standard referenced in the NCC Volume One Section E Services and equipment, Part E1 Firefighting equipment, Deemed-to-Satisfy Provision E1.3 Fire hydrants.</li> </ul>
10	Fire Safety Systems	The failure to install a smoke detector adjacent to the lift on Level 5.	The absence of a compliant smoke detector is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard 1670.1 Fire detection, warning, control and intercom systems - System Design, Installation and commissioning, Part 1 Fire, Clause 1.2 Application.</li> <li>BCA Volume One Section E Services and equipment, Part 2 Smoke hazard management – E2.2 General requirements.</li> </ul>
11	Fire Safety Systems	The absence of a fire damper within the mechanical ductwork that penetrates fire isolating walls.	The absence of a fire damper in a building element with a required FRL is attributable to the failure to comply with the Building Code and	<ul style="list-style-type: none"> <li>Australian Standard AS4254.2 Ductwork for air handling systems in buildings Part 2: Rigid duct, Section 2 Duct</li> </ul>

1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
			Australian Standards referenced in column 5.	<p>construction and installation, 2.1 Ductwork, 2.1.1 General.</p> <ul style="list-style-type: none"> <li>• Australian Standard AS1682.2 Fire, smoke and air dampers, Part 2; Installation, 5 Selection, 5.2 Fire dampers, 5.2.1 Integrity.</li> <li>• Australian Standard AS4254 appears as a standard referenced in the BCA Volume One, Section C Fire resistance, Specification C1.10 Fire hazard properties, 5. Air-handling ductwork.</li> <li>• Deemed-to-satisfy provision Specification C1.10 Fire hazard properties, 5. Air-handling ductwork is a pathway that can satisfy the BCA Volume One, Section C Fire resistance, Performance Requirement CP2.</li> </ul>
12	Fire Safety Systems	The failure to install fire protection from services installed in the fire hydrant pump room.	The inadequate fire protection to the hydrant pump room is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>• Australian Standard 2419.1 – 2005 Fire hydrant installations Section 6.4.2 Internal pumprooms.</li> <li>• BCA Volume One, Section C Fire resistance, Part C2 Compartmentation and separation, Deemed-to-Satisfy provision C2.12 Separation of equipment.</li> <li>• Australian Standard AS2419.1 appears as a standard</li> </ul>

1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
				<p>referenced in the BCA Volume One, Section E Services and equipment, Part E1.3 Fire hydrants.</p> <ul style="list-style-type: none"> <li>Deemed-to-Satisfy provision E1.3 is a pathway that can satisfy the BCA Volume One, Section E Services and equipment, Part E1 Fire fighting equipment, Performance Requirement EP1.3.</li> </ul>
13	Fire Safety Systems	The failure to fill divi-dags to maintain fire resistance level of the fire resisting wall on the ground floor.	The presence of gaps creating reduction in the required fire resistance level is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Building Code of Australia (BCA) Volume One, Specification C1.1 Fire Resisting Construction, Part 3 Type A Fire-Resisting Construction.</li> <li>Building Code of Australia (BCA) Volume One, Section 3 Fire resistance, Part C3 Protection of openings, Deemed-to-satisfy provision C3.16 Construction joints.</li> <li>Deemed-to-satisfy provision C3.16 Construction joints is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Performance Requirement CP8.</li> </ul>

1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
14	Fire Safety Systems	The failure to adequately install drainage to the floor of the fire pump room.	The absence of adequate drainage to the fire pump room is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS/NZS3500.2 Sanitary Plumbing and Drainage, Section 13 Fixtures and Appliances, 13.4 Plant Rooms.</li> <li>Australian Standard AS/NZS3500.2 appears as a standard referenced in the BCA Volume Three, Part C2 Sanitary Drainage Systems, C2.2 General Requirements.</li> </ul>
15	Structural Systems	The failure to adequately carry out concrete pours in the shoring wall throughout the basement carpark causing cold joints.	The presence of multiple cold joints is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS3600 Concrete Structures 17.1.3 Handling, placing and compacting of concrete.</li> <li>Australian Standard AS 3600 17.4.1 Location of construction joints.</li> </ul>
16	Structural Systems	The presence of uncontrolled cracking of 2mm in the basement walls and migration of cracks through the full depth of the concrete wall.	The uncontrolled cracking is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard 3600-2009 Concrete structures, Section 2 Design procedures, actions and loads, 2.3, Design for serviceability, 2.3.3, Cracking.</li> <li>Australian Standard AS3600 appears as a standard referenced in the BCA Volume One, Section B Structure, Deemed-to-Satisfy provision B1.4 Determination of structural resistance of materials and forms of construction.</li> </ul>



1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
17	Structural Systems	The failure to properly vibrate or compact the concrete slab of the basement driveways causing honeycombing.	The presence of honeycombing is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>• Australian Standard AS3600 Concrete Structures.</li> <li>• Section 4 – Design for durability, 4.10 Requirements for cover to reinforcing steel and tendons: <ul style="list-style-type: none"> <li>○ 4.10.3 Cover for corrosion protection;</li> <li>○ 4.10.3.7 Embedded items cover.</li> </ul> </li> <li>• Section 17 - Materials and construction requirements: <ul style="list-style-type: none"> <li>○ 17.1.7- Rejection of concrete;</li> <li>○ 17.1.7.2 Hardened concrete.</li> </ul> </li> <li>• Section 17 - Materials and construction requirements: <ul style="list-style-type: none"> <li>○ 17.1.3 Handling, placing and compacting of concrete.</li> </ul> </li> <li>• Australian Standard AS3610.1 Formwork for Concrete, Section 3.0 Surface finish &amp; Colour control, Table 3.2.1 requires Class 3 finish for concrete surfaces that are not concealed.</li> </ul>
18	Structural Systems	The failure to adequately remove timber formwork debris embedded between joints of concrete pours and at the side	The presence of formwork debris is attributable to the failure to comply with the Building Code and	<ul style="list-style-type: none"> <li>• BCA Volume One, Section C Fire Resistance, Performance Requirements <ul style="list-style-type: none"> <li>○ CP2 Spread of fire,</li> </ul> </li> </ul>

1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
		of the concrete column in basement 2.	Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>○ CP8 Fire protection of openings and penetrations,</li> <li>○ Part C3 Protection of openings, Deemed-to-Satisfy provisions,</li> <li>○ C3.12 Openings in floors and ceilings for services</li> <li>○ C3.15 Openings for service installations</li> <li>• Deemed-to-satisfy provision C3.15 Openings for service installations is a pathway that can satisfy the BCA Volume One, Section C Fire resistance, Performance Requirement CP8.</li> </ul>
19	Structural Systems	The failure to adequately install protected reinforcement in the walls of the basement.	The unprotected reinforcement is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>• Australian Standard AS3600 Concrete structures, Section 4, Design for durability 4.10 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.</li> </ul>
20	Building Enclosure	The presence of combustible cladding material throughout multiple claddings in the building.	The presence of combustible cladding to a building facade is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>• Australian Standard AS1530.1-1994 Methods for fire tests on building materials, components and structures, Part 1: Combustibility test for materials.</li> </ul>

1. Serious Defect Reference	2. Building element	3. Defect	4. Reason why defect is a serious defect	5. Applicable approved plan, Code or Australian Standard
				<ul style="list-style-type: none"> <li>• BCA Volume One, Section C Fire Resistance, Performance Requirements CP2</li> <li>• Home Building Act 1989 (NSW) (Home Building Act) Section 18B Warranties as to residential building work.</li> </ul>
21	Building Essential Services	The failure to install adequate make-up air system to the ductwork for ventilation.	The inadequate air system is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>• Australian Standard AS1668 The Use of Ventilation and Airconditioning in Buildings Part 2 Mechanical Ventilation in Buildings, Section 4 Ventilation of Enclosures used by Vehicles with Combustion Engines, Clause 4.8 Make-up of Exhaust Air, AS1668.2 Clause 4.4.1 and Clause 4.12.3.</li> </ul>
22	Building Essential Services	The presence of rust on parts of the pump controller box and the failure to adequately install protection to parts of the electrical installation in basement 1.	The inadequate protection against external influences is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>• Australian Standard AS/NZS 3000 Wiring Rules, Section 1 Scope, Application and Fundamental Principles, 1.5 Fundamental Principles, 1.5.14 Protection against external influences.</li> </ul>

15. I am of the view the periods above for Defect 1 through to Defect 22 (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.

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**

18. On 31 August 2023, a notice of intention to issue a building works rectification order, including a draft building work rectification order (Draft BWRO) was served on the Developer, copy of which was sent to Local Council, Owners Corporation and Certifier.
19. The Developer, Owners Corporation, Certifier and Local Council were invited to provide written representations relating to the Draft BWRO to the Department by 21 September 2023.
20. On September 19, 2023, the Developer submitted a request for an extension of time for Stage 1 and Stage 2 works, seeking 4 to 10 months and 6 to 18 months respectively. After reviewing the request and considering the scope of work, an extension of 3 months for Stage 1 and 6 months for Stage 2 has been granted.
21. I have considered all provided written representations and have decided that it is appropriate to issue the Order.

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

21. 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.

22. 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 Northern Group Pty Ltd (ACN 607 052 693) to carry out the building work described, within the period specified in the above Order.
23. 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).