

Attn. Proper Officer  
MN Builders Pty Limited (ACN 165 156 178)  
Level 8, 91 Phillip Street  
PARRAMATTA NSW 2150

Via email: [andy@mnbuilders.com.au](mailto:andy@mnbuilders.com.au)

30  
28/05/2022

# Notice of Imposition of a Condition Upon a Stop Work Order

## Section 89(5) of the *Design and Building Practitioners Act 2020*

MN Builders Pty Limited (ACN 165 156 178) (**MN Builders**) is issued with this Condition (**the Condition**) in relation to the Stop Work Order (**the Order**) in relation to a mixed use building located at 52 McFarlane Street, Merrylands, NSW 2160, 239 Merrylands Road Merrylands and 245 Merrylands Road, Merrylands, NSW 2160 (Lot 2, DP1271537) (**the Development**).

The imposition of the Condition will take effect immediately.

Please read the Condition carefully and comply with the Stop Work Order dated 8 April 2022, as altered by the Condition.

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

### Background

1. The Department of Customer Service (**the Department**) administers the *Design and Building Practitioners Act 2020* (**the Act**).
2. The Development, which comprises of Building A and Building B, is located at 52 McFarlane Street, Merrylands, NSW 2160, 239 Merrylands Road Merrylands and 245 Merrylands Road, Merrylands, NSW 2160 (Lot 2, DP1271537) (**the Site**).
3. The Development is a Class 2/5/6/7a/7b/9b/10a mixed use building (**the Building**) where work has commenced.
4. On 8 April 2022 a Stop Work Order under section 89(2) of the Act was issued in relation to Building Work at the Development. MN Builders is therefore currently subject to a stop work order.

5. Under section 89(5) of the Act, the Secretary may, by written notice given to MN Builders who is subject to a stop work order, impose a condition on the order or revoke or vary a condition of the order.
6. I, David Chandler, am an authorised delegate of the Secretary for the purposes of the Act.

### Grounds for imposing the Condition

7. On Wednesday 20 April 2022 MN Builders requested to have the stop work order issued on the 8 April 2022 to be varied so as to permit limited work to occur under two construction certificates [CA014A19 and C2A031A1] to alleviate the substantive financial burden of the *Stop Work Order* that is being felt by the designers and subcontractors, particularly to their cashflow and workforce and staffing for the Project.
8. On 20 May 2022 MN Builders advised, "We confirm that we are seeking to be allowed to carry out all the building subject of the COA014A19: The bulk excavation, shoring, piling, capping, footings for Part Building B & Building C and excludes all other building and development works, and excludes the works referenced in Building Information Certificate HBC2022/0105 by Cumberland City Council dated 2 May 2022. As discussed with Jonathan Lynch and as noted in our correspondence we separately (when completed) will submit DCD / CIRD's for the PCA approved C2A031A1 (for: the site establishment, demolition, bulk excavation, shoring, piling, capping beam, detail excavation for footings ONLY for Buildings D & E)."
9. I have carefully considered MN Builders Request and consent to allowing the work identified at paragraph 9 below to occur.

### Direction to impose a condition upon the stop work order

10. I, David Chandler, impose the following condition on the Order effective immediately:

The Order is subject to a condition permitting the following Building Work to occur in accordance with the following construction certificates issued by Steven Saad on 6 May 2022:

- a) **C0A014A19**: the bulk and detail excavation, shoring piling capping beam and footings for Part Build B and Building C only.



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

### Notes

- It is an offence to fail to comply with this order. The maximum penalty for a company is 3,000 penalty units and in addition, for every day the offence continues, 300 penalty units. For and individual the maximum penalty is 1,000 penalty units and in addition, for every day the offence continues, 100 penalty units.
- You may appeal to the Land and Environment Court against this order pursuant to s 90 of the Act within 30 days of the notice of the order being given. Lodging an appeal does not stop the order taking effect, unless directed by the Court.