

Attn: Proper Officer  
GCorp Property Pty Ltd  
ACN 165 421 830  
160 Hillcrest Avenue  
GREENACRE NSW 2190

Service: By express post, and by email to [REDACTED]

12 January 2024

## Building Work Rectification Order

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

GCorp Property Pty Ltd (165 421 830) is being given this Building Work Rectification Order (Order) in relation to 33-49 Euston Road, Alexandria, NSW 2015 (SP89333).

GCorp Property Pty Ltd 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 **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. GCorp Property Pty Ltd is the developer of the residential apartment building known as 33-49 Euston Road, Alexandria, NSW 2015 (SP89333) **(the Development)** for the purposes of section 4(a) of the Act.
6. The Development comprises a mixed-use development comprising of 46 residential units, 4 retail tenancies and basement carparking with vehicle access off Euston Road. 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 30 November 2022, 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 GCorp Property Pty Ltd, 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	Unit 10	Inadequate termination height of the waterproofing system at the balcony door.	Within the time period specified in column 5:	Stage 1 – 60 days

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
		Absence of waterproof membrane beneath sliding door location and incorrect termination to adjoining wall areas (potentially missing stop end).	<p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li><i>Australian Standard AS4654.2, Waterproofing Membrane for External Above Ground Use, Section 2 - Design and installation, 2.8 Termination of membranes, 2.8.3 Door and windows onto external waterproofed areas and 2.8.1 Upward terminations, 2.8.1.1 Height and Australian Standard AS1170.2 Structural design actions, Part 2 Wind Actions, Section 2 Calculation of Wind Actions, 2.1 General and BCA Volume 1, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4 Weatherproofing and F1.4 External above ground membranes.</i></li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	Stage 2 - 120 days

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
2	Block A Fire Stairs	Damage from water ingress noted to the ceiling lining within the Block A fire stairs of Level 3 from roof area above indicating failure of waterproofing systems allowing water ingress to internal areas.	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li>• <i>BCA Volume One</i>, Section F Health and Amenity, Part F1 Damp and Weatherproofing and Performance Requirement FP1.4 Weatherproofing.</li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 120 days</p>
3	Unit 10	The horizontal floor surface to Unit 10's bathroom, including the showers does not have adequate slop to the drainage outlet/s causing accumulation of excess water throughout the area. This defect is likely systemic to most Sole Occupancy Units.	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p>	<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
			<ul style="list-style-type: none"> <li><i>Australian Standard 3740- Waterproofing of domestic wet areas, Section 3 Installation, 3.3 Falls in floor finishes, Clause B4 Diagonal Cutting Tiles and Australian Standard 4654.2 - Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation, 2.5 Substrate, 2.5.2 Falls.</i></li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	
4	External common balcony areas of Units 10 and 37	The horizontal floor surfaces do not have adequate slope to the drainage outlet/s causing accumulation of excess water throughout the area. This defect is expected to be systemic to most Sole Occupancy Unit balconies.	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li><i>Australian Standard AS/NZS 3500.3 - 2015 Plumbing and Drainage-Stormwater Drainage, Section 5 Surface water drainage system - Design, 5.3 Layout - General criteria and Australian Standard 4654.2 - Waterproofing Membranes for External Above Ground Use, Section 2</i></li> </ul>	<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>Design and installation, 2.5 Substrate, 2.5.2 Falls and <i>Australian Standard AS4654.2</i> referenced in <i>BCA Volume One</i>, Part F Damp and Weatherproofing, Performance Requirements FP1.3.</p> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	
5	Fire stairs	The unobstructed width between walls in the fire isolated corridor/fire exit generally measured between approximately 850 - 900mm. Hydrant pipework was obstructing the exit to a width less than 1m in the fire stairs of the property.	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li>• <i>BCA Volume One</i>, Section D Access and egress - Part D1.6 Dimension of exit and paths of travel.</li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
6	Fire stairs	The required 1m clearance directly in front of the hydrant serving the northern fire stair of level 3 has been encroached by the fire stair steel balustrade handrail. There is no means of maintaining the minimum 1m clearance from the outlet for connection and laying of fire hose.	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li><i>Australian Standard 2419.1 - 2017 Fire hydrant installations</i>, Part 1: system designs, installation and commissioning, Section 3 Hydrant location, coverage and related provisions, 3.2 Hydrants, 3.2.2 Features, accessibility and clearances and <i>Australian Standard 2419.1</i> as referenced in <i>BCA Volume One</i>, Section E Services and equipment, Part E1.3 Fire hydrants which is a pathway that can satisfy the <i>BCA Volume One</i>, Section E Services and equipment, Part E1 Fire fighting equipment, Performance Requirement EP1.3.</li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
7	Fire Booster Assembly	Inadequate fire rated wall (radiant heat protection distance) of the Fire Hydrant Booster Assembly to adjacent areas of the building.	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li><i>Australian Standard 2419.1 Fire hydrant installations</i>, Part 1: system design, installation, and commissioning, Section 7.3: Location.</li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 60 days</p>
8	Basement Level	It was observed that an adequate smoke detection system has not been installed in the basement carpark level of the building. No thermal detectors could be observed within the basement level of the building.	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 60 days</p>



Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<ul style="list-style-type: none"> <li><i>BCA Volume One</i>, Section E Services and equipment, Part 2 Smoke hazard management - E2.2. General Requirements and Table E2.2a General Provisions.</li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	
9	Fire Stairs (Systemic)	It was observed that multiple fire door frames were found to be hollow when tapped indicating that voids exist in the grout behind the frames that are not solid core filled. This was typical throughout numerous fire door frame sets.	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li><i>Australian Standard AS1905.1</i>- Components for the protection of openings in fire-resistant wall Part 1: Fire resistant doorsets, Section 5 Installation, 5.3 Metal doorframes in masonry walls, 5.3.2 Backfilling of metal door frames. <i>Australian Standard AS1905.1</i> as referenced in <i>BCA Volume One</i>, Section C Fire resistance, Specifications C3.4 Fire doors, smoke doors, fire windows and shutters, Clause</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>2. Fire doors and 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.</p> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	
10	Block C Ground Floor Lobby	Inadequate minimum distance of smoke detectors was observed to be greater than the maximum spacing of 5,000mm from a wall in the Block C ground floor lobby (In front of Lift 2). Distance of 7.5m from thermal detector to exit door/wall was measured.	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li>AS 1670.1:2018 – Fire detection, warning, control and intercom systems – System design, installation and commissioning, Section 5.1.2 – Spacing between detectors for level surfaces.</li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			required to comply with Stage 1 of this requirement.	
11	Basement Level	It was observed that services penetrating the Basement Level have not been adequately sealed between the service and the ceiling/wall to maintain fire separation	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li>• <i>BCA Volume One</i>, Section 3 Fire resistance, Part C3 Protection of openings, Deemed-to-satisfy provision C3.15 Openings for service installations and Deemed-to-satisfy provision C3.15 Openings for service installations as a pathway that can satisfy <i>BCA Volume One</i>, Section C Fire resistance, Performance Requirement CP8.</li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 60 days</p>
12	Fire stairs (all)	It was observed that no smoke detection has been installed within Level 1 and Level 2 of the	Within the time period specified in column 5:	Stage 1 – 60 days

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
		common fire stairs within Block C (systemic).	<p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li><i>Australian Standard 1670.1:2018 – Fire detection, warning, control and intercom systems – System design, installation and commissioning, Section 3.27.9 – Stairways and horizontal passages and Australian Standard 1670.1:2018 – Fire detection, warning, control and intercom systems – System design, installation and commissioning, Section 3.27.9 – Stairways and horizontal passages.</i></li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	Stage 2 - 60 days
13	Garbage Chute Rooms (Systemic)	It was observed that no smoke detection has been installed within the common internal garbage chute rooms	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li><i>Australian Standard 1670.1:2018 – Fire detection, warning, control and intercom systems – System design, installation and commissioning, Section 3.28 - Location where detectors are not required and AS 1670.1:2018 – Fire detection, warning, control, and intercom systems – System design, installation and commissioning, Section 3.28.</i></li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	
14	Unit 37 - Bedroom 1 and Bedroom 2	<p>It was observed that water had entered the interior of the building at the floor slab of Bedroom 1 and Bedroom 2 of Unit 37. Damage to internal carpet linings and water staining on the floor slab in the wardrobe was observed.</p> <p>Water ingress was reported, and water ingress damage noted to the internal areas of likely from external wall/façade elements or from the external window suite.</p>	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li><i>BCA Volume One, Section F Health and Amenity, Part F1 Damp and</i></li> </ul>	<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>Weatherproofing, Performance Requirement FP1.4 Weatherproofing.</p> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	
15	Internal Bedroom Window Suites	<p>Water ingress was reported by the occupant around the internal glazing seals of the windows within Unit 10's bedroom.</p> <p>Water staining was observed on the window elements indicating possible non-compliant window system within Unit 10's bedroom.</p> <p>Water staining and subsequent clear silicone repair attempt was observed on the window elements of Unit 37 Bedroom 2 indicating possible non-compliant window system.</p>	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li>• <i>BCA Volume One</i>, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.</li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 120 days</p>
16	Lot 46 (Block A Ground floor shop)	The Lot 46 (Retail shop) entrance stairs had oversized and	Within the time period specified in column 5:	Stage 1 – 60 days

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
		<p>inconsistent riser heights, causing a trip hazard.</p> <p>The first riser from the base of the stair landing at entry is approximately 220mm in height and the second riser was approximately 195mm in height.</p>	<p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li>• <i>BCA Volume One</i>, Section D Access and egress, Part D2 Construction of exits, Deemed-to-Satisfy provision D2.13 Goings and risers and <i>BCA Volume One</i>, Section D Access and egress, Performance Requirements DP2 Safe movement to and within a building.</li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	<p>Stage 2 - 60 days</p>
17	This defect has been removed			
18	Basement Level	Fresh air intake to carpark does not extend to the perimeter of the building resulting in recirculation of the carpark air.	<p>Within the time period specified in column 5:</p> <p>Stage 1 - Submit a written report to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a> from a suitably qualified person or specialist detailing</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 - 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>the specific building work and steps to complete that work that can be carried out to eliminate the serious defect in accordance with:</p> <ul style="list-style-type: none"> <li><i>Australian Standard 1668.2 2012 – Mechanical Ventilation In Buildings, Section 2.3 Outdoor Air intake and Section 3.8: Replenishment of Exhaust Air.</i></li> </ul> <p>Stage 2 - Carry out the work to rectify the defect and consequential repairs in accordance with the report and drawings required to comply with Stage 1 of this requirement.</p>	

#### 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  
**Acting Executive Director**  
**Building Operations and Assistant Building Commissioner**  
**Building Commission NSW**  
**Department of Customer Service**

### Reasons for this 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:

- a. An Inspection Report (dated 8 February 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 30 November 2022.

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**

<b>Serious Defect Reference</b>	<b>Building element</b>	<b>Defect</b>	<b>Reason why defect is a serious defect</b>	<b>Applicable approved plan, Code or Australian Standard</b>
1	Waterproofing	Inadequate termination height of the waterproofing system at the balcony door.	The inadequate termination height of the waterproofing system and absence of waterproof membrane is attributable to a failure to comply with the Australian Standards and	<ul style="list-style-type: none"><li>Australian Standard AS4654.2, Waterproofing Membrane for External Above Ground Use, Section 2 - Design and installation, 2.8 Termination of</li></ul>

<b>Serious Defect Reference</b>	<b>Building element</b>	<b>Defect</b>	<b>Reason why defect is a serious defect</b>	<b>Applicable approved plan, Code or Australian Standard</b>
		Absence of waterproof membrane beneath sliding door location and incorrect termination to adjoining wall areas (potentially missing stop end).	Building Code reference in column 5. The standards and codes require compliant waterproofing systems and membranes.	membranes, 2.8.3 Door and windows onto external waterproofed areas and 2.8.1 Upward terminations, 2.8.1.1 Height <ul style="list-style-type: none"> <li>• Australian Standard AS1170.2 Structural design actions, Part 2 Wind Actions, Section 2 Calculation of Wind Actions, 2.1 General</li> <li>• BCA Volume 1, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4 Weatherproofing and F1.4 External above ground membranes</li> </ul>
2	Waterproofing	Damage from water ingress noted to the ceiling lining within the Block A fire stairs of Level 3 from roof area above indicating failure of waterproofing systems allowing water ingress to internal areas.	The damage from water ingress is attributable to a failure to comply with the Building Code standards referenced in column 5. The code requires adequate waterproofing of the roof and external walls which prevent the penetration of water.	<ul style="list-style-type: none"> <li>• BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing and Performance Requirement FP1.4 Weatherproofing</li> </ul>
3	A component of a building that is part of the building enclosure	The horizontal floor surface to Unit 10's bathroom, including the showers does not have adequate slop to the drainage outlet/s causing accumulation of excess water throughout the area.	The accumulation of excess water throughout the bathroom area is attributable to a failure to comply with the Australian Standards referenced in column 5. The Standards require falls to allow for surface water to drain without	<ul style="list-style-type: none"> <li>• Australian Standard 3740- Waterproofing of domestic wet areas, Section 4 Design, 4.3 Falls in Floor Finishes Clause C4 Diagonal Cutting Tiles</li> <li>• Australian Standard 4654.2 - Waterproofing Membranes for External Above Ground Use, Section 2 Design and</li> </ul>

<b>Serious Defect Reference</b>	<b>Building element</b>	<b>Defect</b>	<b>Reason why defect is a serious defect</b>	<b>Applicable approved plan, Code or Australian Standard</b>
		This defect is likely systemic to most Sole Occupancy Units.	ponding or retention of water, aside from residual water.	Installation, 2.5 Substrate, 2.5.2 Falls
4	A component of a building that is part of the building enclosure	The horizontal floor surfaces do not have adequate slope to the drainage outlet/s causing accumulation of excess water throughout the area. This defect is expected to be systemic to most Sole Occupancy Unit balconies.	The accumulation of excess water throughout the balcony area is attributable to a failure to comply with the Australian Standards referenced in column 5. The standards require falls and drainage systems to ensure water drains to the drainage outlet.	<ul style="list-style-type: none"> <li>• Australian Standard AS/NZS 3500.3 - 2015 Plumbing and Drainage-Stormwater Drainage, Section 5 Surface water drainage system - Design, 5.3 Layout - General criteria</li> <li>• Australian Standard 4654.2 - Waterproofing Membranes for External Above Ground Use, Section 2 Design and installation, 2.5 Substrate, 2.5.2 Falls</li> <li>• Australian Standard AS4654.2 referenced in BCA Volume One, Part F Damp and Weatherproofing, Performance Requirements FP1.3</li> </ul>
5	Fire safety systems	The unobstructed width between walls in the fire isolated corridor/fire exit generally measured between approximately 850 - 900mm. Hydrant pipework was obstructing the exit to a width less than 1m in the fire stairs of the property.	The width measured between walls in the fire isolated corridor/fire exit is attributable to a failure to comply with the Building Code referenced in column 5. The Code requires a minimum of 1m unobstructed width.	<ul style="list-style-type: none"> <li>• BCA Volume One, Section D Access and egress - Part D1.6 Dimension of exit and paths of travel</li> </ul>
6	Fire Safety Systems	The required 1m clearance directly in front of the hydrant serving the northern fire stair of level 3 has been encroached by	The lack of 1m clearance in front of the hydrant is attributable to a failure to comply with the Australian	<ul style="list-style-type: none"> <li>• Australian Standard 2419.1 - 2005 Fire hydrant installations, Part 1: system designs,</li> </ul>

<b>Serious Defect Reference</b>	<b>Building element</b>	<b>Defect</b>	<b>Reason why defect is a serious defect</b>	<b>Applicable approved plan, Code or Australian Standard</b>
		the fire stair steel balustrade handrail. There is no means of maintaining the minimum 1m clearance from the outlet for connection and laying of fire hose.	Standards and Building Codes referenced in column 5. These Standards require a clearance of not less than 1m directly in front of the fire hydrant outlet in order to facilitate the needs of the fire brigade.	<p>installation and commissioning, Section 3 Location and Other Provisions, 3.5 Fire Hydrant Accessibility and Clearance</p> <ul style="list-style-type: none"> <li>Australian Standard 2419.1 as referenced in BCA Volume One, Section E Services and equipment, Part E1.3 Fire hydrants which 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>
7	Fire Safety Systems	Inadequate fire rated wall (radiant heat protection distance) of the Fire Hydrant Booster Assembly to adjacent areas of the building.	The inadequate fire rated wall of the Fire Hydrant Booster Assembly is attributable to a failure to comply with the Australian Standard referenced in column 5. The Standard requires fire brigade booster assemblies to be readily accessible to firefighters, operable by fire brigade pumping appliances located within 8 m, within sight of the main entrance to the building and separated from the building by a construction with a fire resistance rating of not less than FRL 90/90/90.	<ul style="list-style-type: none"> <li>Australian Standard 2419.1 Fire hydrant installations, Part 1: system design, installation, and commissioning, Section 7.3: Location</li> </ul>
8	Fire Safety Systems	It was observed that an adequate smoke detection system has not been installed in the basement carpark level of the building. No thermal detectors could be observed	The absence of a detection system is attributable to a failure to comply with the Building Code referenced in column 5 which requires an automatic smoke detection and alarm system.	<ul style="list-style-type: none"> <li>BCA Volume One, Section E Services and equipment, Part 2 Smoke hazard management - E2.2 General Requirements and Table E2.2a General Provisions</li> </ul>

<b>Serious Defect Reference</b>	<b>Building element</b>	<b>Defect</b>	<b>Reason why defect is a serious defect</b>	<b>Applicable approved plan, Code or Australian Standard</b>
		within the basement level of the building.		
9	Fire Safety Systems	It was observed that multiple fire door frames were found to be hollow when tapped, indicating that voids exist in the grout behind the frames that are not solid core filled. This was typical throughout numerous fire door frame sets.	The voids in the grouted door frames are attributable to a failure to comply with the Australian Standards and Building Codes referenced in column 5 which require door frames to be backfilled by thoroughly and progressive grouting.	<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 doorsets, Section 5 Installation, 5.3 Fixing of Doorframes</li> <li>• Australian Standard AS1905.1 as referenced in BCA Volume One, Section C Fire resistance, Specifications 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>
10	Fire Safety Systems	An inadequate minimum distance of smoke detectors was observed to be greater than the maximum spacing of 5,000mm from a wall in the Block C ground floor lobby. Distance of 7.5m from thermal detector to exit door/wall was measured.	The spacing of smoke detectors is attributable to a failure to comply with the Australian Standards referenced in column 5. The Standards require detectors to be arranged within 5m from the wall and having at least one detector located within 5m from each wall.	<ul style="list-style-type: none"> <li>• AS 1670.1:2004 – Fire detection, warning, control and intercom systems – System design, installation and commissioning, Section 4.1.2 – Spacing between detectors for level surfaces.</li> </ul>
11	Fire Safety Systems	It was observed that services penetrating the Basement Level have not been adequately sealed between the service and	The unprotected penetrations are attributable to a failure to comply with the Building Code referenced in	<ul style="list-style-type: none"> <li>• BCA Volume One, Section 3 Fire resistance, Part C3 Protection of openings, Deemed-to-satisfy</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		the ceiling/wall to maintain fire separation.	column 5, these require an adequate level of fire resistance performance where penetrations occur for building services.	provision C3.15 Openings for service installations and Deemed-to-satisfy provision C3.15 Openings for service installations as a pathway that can satisfy BCA Volume One, Section C Fire resistance, Performance Requirement CP8.
12	Fire Safety Systems	It was observed that no smoke detection has been installed within Level 1 and Level 2 of the common fire stairs within Block C (systemic).	The lack of smoke detection is attributable to a failure to comply with the Australian Standards referenced in column 5. These Standards require smoke detectors to be installed in fully enclosed stairwells at each floor level having access to the stairway.	<ul style="list-style-type: none"> <li>Australian Standard 1670.1:2004 – Fire detection, warning, control and intercom systems – System design, installation and commissioning, Section 3.25.10 – Stairwells.</li> </ul>
13	Fire Safety Systems	It was observed that no smoke detection has been installed within the common internal garbage chute rooms.	The lack of smoke detection installed in the garbage chute rooms is attributable to a failure to comply with the Australian Standards referenced in column 5 which require detectors to be installed in garbage chute rooms.	<ul style="list-style-type: none"> <li>Australian Standard 1670.1:2004 – Fire detection, warning, control and intercom systems – System design, installation and commissioning, Section 3.25 - Location of detectors</li> </ul>
14	Those aspects of the mechanical, plumbing and electrical services for a building that are required to achieve compliance with the <i>Building Code of Australia</i>	It was observed that water had entered the interior of the building at the floor slab of Bedroom 1 and Bedroom 2 of Unit 37. Damage to internal carpet linings and water staining on the floor slab in the wardrobe was observed. Water ingress was reported, and water ingress damage noted to the internal areas of likely from external wall/façade	Water ingress and damage to the interior of the building at the floor slab of Bedroom 1 and Bedroom 2 of Unit 37 is attributable to a failure to comply with the Building Code referenced in column 5. The Code requires a roof and external wall to prevent the penetration of water.	<ul style="list-style-type: none"> <li>BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4 Weatherproofing</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		elements or from the external window suite.		
15	Waterproofing	<p>Water ingress was reported by the occupant around the internal glazing seals of the windows within Unit 10's bedroom.</p> <p>Water staining was observed on the window elements indicating possible non-compliant window system within Unit 10's bedroom.</p> <p>Water staining and subsequent clear silicone repair attempt was observed on the window elements of Unit 37 Bedroom 2 indicating possible non-compliant window system.</p>	The uncontrolled water ingress and water staining observed at Units 10 and Unit 37 are attributable to a failure to comply with the Building Code referenced in column 5. The Code requires a roof and external wall to prevent the penetration of water.	<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>
16	A component of a building that is part of the building enclosure	<p>The Lot 46 (Retail shop) entrance stairs had oversized and inconsistent riser heights, causing a trip hazard.</p> <p>The first riser from the base of the stair landing at entry is approximately 220mm in height and the second riser was approximately 195mm in height.</p>	The oversized and inconsistent riser heights at Lot 46 are attributable to a failure to comply with the Building Code requirements referenced in column 5. These require stairways to have constant goings and risers throughout each flight so that people can move safely to and from the building.	<ul style="list-style-type: none"> <li>BCA Volume One, Section D Access and egress, Part D2 Construction of exits, Deemed-to-Satisfy provision D2.13 Goings and risers</li> <li>BCA Volume One, Section D Access and egress, Performance Requirements DP2 Safe movement to and within a building</li> </ul>
17	This defect has been removed			



Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
18	Building essential services	Fresh air intake to the carpark does not extend to the perimeter of the building resulting in recirculation of carpark air.	The recirculation of carpark air in the fresh air intake system is attributable to a failure to comply with the Australian Standard referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard 1668.2 2012 – Mechanical Ventilation In Buildings, Section 2.3 Outdoor Air intake, and Section 3.8: Replenishment of Exhaust Air</li> </ul>

15. I am of the view that the periods of:

- a. Defect 1 through 18 (inclusive) are reasonable period 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 15 May 2023 a notice of intention to issue the Order and a draft copy of the Order was served on the Developer, Council of City of Sydney ("Local Council"), Maurice Freixas ("Certifier") and the Owners of SP89333. The parties were invited to provide submissions relating to the draft copy of the Order by 5 June 2023.
21. No written submissions were received from the Developer.. Receipt acknowledgements were received from the Owners Corporation, Local Council and Certifier but no submissions provided.

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

22. 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.
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 GCorp Property Pty Ltd Pty Ltd (ACN 165 421 830) 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.