

Attn. the Proper Officer
JKN Hills Pty Ltd
ACN 159 864 089
121 Majors Bay Road
Concord NSW 2137

Service: to registered address / by email.

25 June 2021

Prohibition Order

Section 9 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*

This Prohibition Order is being made in relation to the residential apartment building located at Atmosphere at 299-309 Old Northern Road, Castle Hill NSW 2154 (SP97992) (the Building).

This order prohibits

- the issue of an occupation certificate in relation to the Building until the Order is revoked by the Secretary.

Please read this Prohibition Order carefully and comply with the conditions by the date specified.

Failure to comply with this Order or its conditions is a criminal offence.

A. Background

1. The Department of Customer Service (the Department) administers the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* (the Act).
2. The building work carried out at the Building is building work as defined in s 5 of the Act.
3. JKN Hills Pty Ltd (ACN 159 864 089) is the developer of the Building for the purposes of s 4 of the Act.
4. The Building is a residential apartment building to which the Act applies pursuant to s 6 of the Act.

5. The Owners Strata Plan SP97992 are the owners of the land on which the Building is located.

6. Mr Matthew Whitton is an authorised delegate of the Secretary of the Department.

B. Powers under the Act

7. Under s 9 of the Act, the Secretary of the Department, or their authorised delegate, may make an order prohibiting the issue of an occupation certificate in relation to a residential apartment building and/or the registration of a strata plan for a strata scheme in relation to a residential apartment building if any one or more of the following apply:

- a. the expected completion notice required to be given to the Secretary under the Act was not given or was given less than 6 months before the application for the occupation certificate was made (unless the expected completion notice was duly given under s 7(3) of the Act),
- b. an expected completion amendment notice of a new expected date required to be given to the Secretary under the Act was not given or was given less than 6 months before the application for the occupation certificate was made,
- c. the Secretary is satisfied that a serious defect in the building exists,
- d. any building bond required under s 207 of the *Strata Schemes Management Act 2015* in relation to the building has not been given to the Secretary.

C. What are the reasons for making this Order?

Serious defect in the building exists

8. As an authorised delegate of the Secretary, I am satisfied that a serious defect in the Building exists because:

- a. A building work rectification order (attached) has been made in relation to the Building and has not been revoked.

D. What Order is being made?

9. I, Matthew Whitton, an authorised delegate of the Secretary, am satisfied that there is a serious defect in the Building and accordingly make an Order under s 9 of the Act prohibiting the issue of an occupation certificate.

E. How long is the Order in force?

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

F. Who has been given notice of the Order?

11. The following persons have been given notice of the making of this order:

- a. The Hills Shire Council,
- b. JKN Hills Pty Ltd,
- c. (SP97992) Body Corporate Services Pty Ltd
- d. the **Registrar-General**,



Matthew Whitton
Director, Consumer, Building & Property
Department of Customer Service

Notes about this Order

- An occupation certificate issued in contravention of this prohibition order is invalid.
- It is an offence for a principal certifier (other than a council) to issue an occupation certificate in contravention of this order. The maximum penalty for a company is 1,000 penalty units. For an individual the maximum penalty is 200 penalty units.
- A penalty notice of \$3,000 for an individual or \$11,000 for a corporation may be issued if a principal certifier (other than a council) issues an occupation certificate in contravention of this prohibition order.
- A developer in relation to the residential apartment building to which this prohibition order applies may appeal against this order to the Land and Environment Court within 30 days of the notice of the order being given unless the Court grants leave allowing an appeal to be made after that time. Lodging an appeal does not, except to the extent that the Land and Environment Court otherwise directs, operate to stay action on the order.