

Attn. Proper Officer  
Richmond Rose Bay Pty Ltd (ACN 636 583 581)  
Suite 3602, Level 36,  
201 Elizabeth street  
Sydney 2000 NSW

Via email: [REDACTED]

14/03/2024

## **Third Modified Stop Work Order**

### **Section 38 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020***

**Richmond Rose Bay Pty Ltd (ACN 636 583 581)** (the **Developer**) is issued with this Modified Stop Work Order (this **Order**) in relation to residential apartment building located at **6-8 Richmond Road, Rose Bay NSW 2029** (Lot 1 DP 436354) (the **Building**).

On the 07 July 2023 the NSW Building Commissioner, David Chandler, as delegate for the Secretary issued a Stop Work Order in accordance with section 29 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*.

On the 29 January 2024 the Building Commission NSW issued the First Modified Stop Work Order to include item 16(d) which permitted precautionary testing at No. 10 Richmond Road, Rose Bay

On the 31 January 2024 the Building Commission NSW issued the Second Modified Stop Work Order to include No. 4 Richmond Road, Rose Bay.

This third Modified Stop Work Order has been issued to allow the next stage of work to commence as detailed in the letter titled "*Precautionary Trial Injections at No. 4 & No. 10 Richmond Rd Rosebay and further lifting of the stop work order at 6-10 Richmond Rd, Rosebay*" issued by Rothshire engineers dated 22 February 2024 with reference number 2324109-LET-001-R2.

#### **Modification to the Terms of the Stop Work Order**

The Conditions of the Order are modified as follows;

1. Delete item 14 under the heading "Direction to ensure Building Work stops" and replace with;

**" 14. I David Chandler, order the Developer to ensure that the Building Work stops by 5pm on the 7<sup>th</sup> July 2023, excluding the work listed at item 16(d), 16(e) & 16(f)."**

2. Insert item 16(f) under the heading “Conditions of this Order” as follows;

**“16(f) The following stages may commence subject to the owners approval;**

- (a) Site establishment at No. 6-8 Richmond Rd,
- (b) Completion of the first course of injections and the cavity filler at No. 4 and No. 10 Richmond Rd,
- (c) Erosion and Sediment control measures at No. 6-8 Richmond Rd,
- (d) Establishment of de-watering and monitoring well provisions,
- (e) Existing boundary cut stabilisation and tanking works No. 6-8 Richmond Rd,
- (f) Vibration monitoring and calibration works No. 6-8 Richmond Rd,
- (g) Sheet Piling trial works to increase the cut off depths of the existing Secant Pile Walls No. 6-8 Richmond Rd, and
- (h) Shoring bracing works at No. 6-8 Richmond Rd.

A copy of the original stop work order and previous modified stop work orders are attached.



**Elizabeth Stewart**  
**Acting Executive Director**  
**Building Operations and Assistant Building Commissioner**

Attn. Proper Officer  
Richmond Rose Bay Pty Ltd (ACN 636 583 581)  
Suite 3602, Level 36,  
201 Elizabeth street  
Sydney 2000 NSW

Via email:

31/01/2024

## **Second Modified Stop Work Order**

### **Section 38 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020***

**Richmond Rose Bay Pty Ltd (ACN 636 583 581) (the Developer)** is issued with this Modified Stop Work Order (this **Order**) in relation to residential apartment building located at **6-8 Richmond Road, Rose Bay NSW 2029** (Lot 1 DP 436354) (the **Building**).

On the 07 July 2023 the NSW Building Commissioner, David Chandler, as delegate for the Secretary issued a Stop Work Order in accordance with section 29 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*.

On the 29 January 2024 the Building Commission NSW issued the First Modified Stop Work Order to include item 16(d) which permitted precautionary testing at No. 10 Richmond Road, Rose Bay

This Second Modified Stop Work Order is given to include No. 4 Richmond Road, Rose Bay in accordance with section 38 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*.

#### **Modification to the Terms of the Stop Work Order**

The Conditions of the Order are modified as follows;

3. Delete item 14 under the heading "Direction to ensure Building Work stops" and replace with;

**" 14. I David Chandler, order the Developer to ensure that the Building Work stops by 5pm on the 7<sup>th</sup> July 2023, excluding the work listed at item 16(d) & 16(e)."**

4. Insert item 16(d) and 16(e) into the original order under the heading "Conditions of this Order" as follows;

**"16(d) Precautionary testing to the North-West corner of 10 Richmond Road, Rose Bay may be carried out by the Developer".**

**"16(e) Precautionary testing to No. 4 Richmond Road, Rose Bay may be carried out to one footing as selected by the Supervising Manager appointed under the Undertaking who is also required to be present during this testing process".**

A copy of the original stop work order is attached.

**Elizabeth Stewart**  
**Acting Executive Director**  
**Building Operations and Assistant Building Commissioner**

Attn. Proper Officer  
Richmond Rose Bay Pty Ltd (ACN 636 583 581)  
Suite 3602, Level 36,  
201 Elizabeth street  
Sydney 2000 NSW

Via email:

29/01/2024

# First Modified Stop Work Order

## Section 38 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*

**Richmond Rose Bay Pty Ltd (ACN 636 583 581)** (the **Developer**) is issued with this Modified Stop Work Order (this **Order**) in relation to residential apartment building located at **6-8 Richmond Road, Rose Bay NSW 2029** (Lot 1 DP 436354) (the **Building**).

On the 07 July 2023 the NSW Building Commissioner, David Chandler, as delegate for the Secretary issued a Stop Work Order in accordance with section 29 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*.

This Modified Stop Work Order is given in accordance with section 38 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*.

### Modification to the Terms of the Stop Work Order

The Conditions of the Order are modified as follows;

5. Delete item 14 under the heading “Direction to ensure Building Work stops” and replace with;

**“ 14. I David Chandler, order the Developer to ensure that the Building Work stops by 5pm on the 7<sup>th</sup> July 2023, excluding the work listed at item 16 (d).”**

6. Insert item 16(d) under the heading “Conditions of this Order” as follows;

**“16(d) Precautionary testing to the North-West corner of 10 Richmond Road, Rose Bay may be carried out by the Developer”.**

A copy of the original stop work order is attached.

**Elizabeth Stewart**  
**Acting Executive Director**  
**Building Operations and Assistant Building Commissioner**

Attn. Proper Officer  
Richmond Rose Bay Pty Ltd (ACN 636 583 581)  
Suite 3602, Level 36,  
201 Elizabeth street  
Sydney 2000 NSW

Via email:

7/07/2023

# Stop Work Order

## Section 29 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*

**Richmond Rose Bay Pty Ltd (ACN 636 583 581)** (the **Developer**) is issued with this Stop Work Order (this **Order**) in relation to residential apartment building located at **6-8 Richmond Road, Rose Bay NSW 2029** (Lot 1 DP 436354) (the **Building**).

The Developer is required to ensure all work on the site stops by **5pm on 7<sup>th</sup> July 2023**.

Please read the Stop Work Order carefully and comply with the conditions.

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

### 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 is located at **6-8 Richmond Road, Rose Bay NSW 2029** (Lot 1 DP 436354) (the **Development**).
3. The Developer is currently carrying out, or organising to be carried out, building works to construct the Development (**Building Work**).
4. The Development is a Class 2 residential apartment building where work has previously been authorised to commence.
5. Under section 29 of the Act, the Secretary of the Department or her authorised delegate may order the Developer to ensure that work stops at the building if the Secretary forms the opinion that the building work is, or is likely to be, carried out in a manner that could result in:
  - a) Significant harm or loss to the public or occupiers or potential occupiers of the building to which the work relates or
  - b) Significant damage to property.

6. I, David Chandler, NSW Building Commissioner, am a duly authorised delegate of the Secretary for the purposes of section 29 of the Act.
7. On 21 June 2023, I conducted an inspection at the Development accompanied by authorised officers of the Department.
8. At the inspection, the authorised officers of the Department inspected excavation and shore pile drilling works at the Building. Authorised officers also inspected neighbouring properties at 4 and 10 Richmond Road Rose Bay (Lot 1, DP300485 and SP664) to either side of the site of the Development. The following was observed:
  - a) The Development is currently at excavation stage for the creation of the basement.
  - b) The excavation works have likely caused structural cracking and significant damage to the apartment blocks on both sides of the Development.

### **Consideration of written submissions**

9. On 23 June 2023, a draft of the Order was issued on the Developer. On 26 June 2023, the Developer provided representations in response to the Order. In summary:
  - a) The Developer did not object to the issuing of the Order;
  - b) On being made aware of wall cracking, the building contractor stopped all piling works immediately, and no Building Work has occurred since 19 June 2023;
  - c) The Developer set out the steps they would take to comply with the conditions of the Order set out below. The Developer is committed to working with the Office of the NSW Building Commissioner and the neighbours to achieve a satisfactory outcome.
10. Having considered the Developer's representations, and in particular that they do not object to the issuing of the Order, I am satisfied that it is appropriate to issue the Order. Minor amendments have been made to the Order in response to the representations made.

### **Grounds for issuing this Order**

11. I, David Chandler, observed that during inspection on 21 June 2023, Building Work had been carried out at the building, being excavation works. Based on my observations of significant structural cracking and damage to surrounding apartment blocks, I am of the opinion that should Building Work resume, it is likely to be carried out in a manner that could result in significant harm or loss to the public or damage to property.
12. I consider that an external load-bearing component of a building that is essential to the stability of the building, being foundations, are a key element of a building. The proper performance of this element is critical to the safety and integrity of the building that is under construction, as well as the structural stability of the surrounding buildings.
13. Based on my inspection, I consider that building work is, or is likely to be, carried out in a manner that could result in significant harm or loss to the public or occupiers or potential occupiers of the building to which the work relates or significant damage to property. There is

evidence of structural cracking and significant damage to surrounding properties. The continuation of building work could pose a significant risk to those buildings and their occupants.

### **Direction to ensure Building Work stops**

14. I, David Chandler, Order the Developer to ensure that the Building Work stops by **5pm on 7<sup>th</sup> July 2023**.

### **Conditions of this Order**

15. As a condition of the order to stop work, the Developer may conduct emergency works as required to protect the neighbouring properties.

16. In addition to the cessation of works, the Developer must:

- a) Engage a structural engineer to ascertain the extent of damage to neighbouring buildings.
- b) Provide the Department with a remediation plan and scope of works to rectify current damage to neighbouring properties.
- c) Undertake underpinning and structural support works to ensure no further damage occurs to neighbouring buildings at 4 and 10 Richmond Road Rose Bay (Lot 1, DP300485 and SP664).

### **Duration of this order**

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

**David Chandler**  
**NSW Building Commissioner**  
**Building and Construction Compliance**  
**Office Of the NSW Building Commissioner**



### 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 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 of the notice of the order being given. Lodging an appeal does not stop the order taking effect, unless directed by the Court.
- Upon issuing this order, the Department has notified the relevant local council and the principal certifier for the building, in accordance with s 29(6) of the Act.