



Attn: Proper Officer
Treacy Street Pty Ltd (ACN 169 501 026)
121 Majors Bay Road
CONCORD NSW 2137

CAS Ref: 11036796

Service: By registered post and by email

18 August 2023

Building Work Rectification Order

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

Treacy Street Pty Ltd (ACN 169 501 026) is being given this Building Work Rectification Order (Order) in relation to 308-320 Canterbury Road, Canterbury 2193 and 6-8 Canton Street, Canterbury 2193 (Lot 29 & 30 Sec A, DP 2785; Lot 23, DP 80980; Lot 26, DP 511847; Lot 18, DP 78490; Lot 1, DP 85519).

Treacy Street Pty Ltd (ACN 169 501 026) 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 serious 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. Matthew Whitton, Assistant Building Commissioner & Director (Building & Construction Compliance: NSW Fair Trading, Department of Customer Service) is an authorised delegate of the Secretary of the Department.
5. **Treacy Street Pty Ltd (ACN 169 501 026)** is the developer of the residential apartment building at **308-320 Canterbury Road, Canterbury 2193 and 6-8 Canton Street, Canterbury 2193 (Lot 29 & 30 Sec A, DP 2785; Lot 23, DP 80980; Lot 26, DP 511847; Lot 18, DP 78490; Lot 1, DP 85519) (the Development)** for the purposes of section 4(a) of the Act.
6. The Development is comprised of 5 buildings ranging from 3 storeys in Building A, 7 storeys in Building B, 6 storeys in Building C and D and 2 storeys in Building E. Building A, B and C have mixed retail space on the ground floor. There are a total of 184 units in the complex over 3 basement levels.
7. On 13 December 2022, authorised officers conducted a lawful inspection of the Development.

Requirements in respect of Serious Defects

8. I, Matthew Whitton, under section 34(1) of the Act, specify the standard of building work to be done in respect of the serious defects referenced in column 1 of Table 1 below and under section 34(1A) of the Act require that you, **Treacy Street Pty Ltd (ACN 169 501 026)**, do the things specified in column 5 of Table 1 below in respect of those serious defects. Each requirement must be complied with by the time set out in column 6 of Table 1:

Table 1: Requirement in respect of Serious Defects

Serious Defect Reference No.	Location of Serious Defect	Description of Serious Defect	Specified standard of building work	Requirement	Time for compliance with Requirement from the date of issue of this Order
1.	Bathrooms adjacent to common area hallway outside units 106, 110, 114, 130, 206 and 505.	Water is escaping from bathrooms into adjacent hallways causing wet and stained carpet.	Ensure that water is prevented from penetrating behind fittings and linings and into concealed spaces of wet areas. Once water penetration issue is resolved, repair damage caused by serious defect.	<p>Within the time period specified in column 6,</p> <p>Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a waterproofing consultant); and ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2</p> <ul style="list-style-type: none"> i) Carry out the work to rectify the serious defect in accordance with 	<p>Stage 1: 2 months</p> <p>Stage 2: 4 months</p>

				<p>the written report submitted in compliance with Stage 1; and</p> <p>ii) Make good any resultant consequential damage.</p>	
2.	Balconies in units 421 and 517.	Water ingress into the building during rain events causing water staining on fixed glass panels to the balcony sliding door.	Ensure that water is prevented from entering the building.	<p>Within the time period specified in column 6,</p> <p>Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a Hydraulics Engineer; and ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2</p> <ul style="list-style-type: none"> i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and ii) Make good any resultant consequential damage. 	<p>Stage 1: 2 months</p> <p>Stage 2: 6 months</p>

3.	Skylight opening in units 328, 402, 404, 512, 513, 514, 520, 702, 706, 704, 708.	Water is penetrating through the roof skylight and condensing on the underside of the glass due to insufficient waterproofing and the absence of ventilation. This has caused damage to plasterboard.	Prevent the entry of water into the building through the skylight and due to condensation.	<p>Within the time period specified in column 6,</p> <p>Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a waterproofing consultant); and ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2</p> <ul style="list-style-type: none"> i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and ii) Make good any resultant consequential damage. 	<p>Stage 1: 2 months</p> <p>Stage 2: 6 months</p>
4.	The wall directly under the roofs	Water is penetrating into habitable areas of the building due to	Ensure that water is prevented from entering the building.	<p>Within the time period specified in column 6,</p> <p>Stage 1</p>	<p>Stage 1: 2 months</p> <p>Stage 2:</p>

	across the complex.	improper installation of the Autoclaved Aerated Concrete (AAC) AAC panels and inadequate drainage. As a result, damage has been caused to the plasterboard lining of the walls and particle board shelves in the units.		<p>Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a facade engineer; and ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2</p> <ul style="list-style-type: none"> i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and ii) Make good any resultant consequential damage. 	6 months
5.	Roofs across the complex	Inadequate fall in the finished surface of the concrete roof slab causing water ponding on the waterproofing membranes.	Ensure that water does not pond on the roof and penetrate into the building and waterproof membrane is properly installed.	<p>Within the time period specified in column 6,</p> <p>Stage 1</p> <p>Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p>	<p>Stage 1: 2 months</p> <p>Stage 2: 6 months</p>

		Water penetration and seepage caused by inadequate installation of metal capping over the cast concrete hobs and improper installation of waterproofing membrane.		<p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a waterproofing Consultant; and ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2</p> <ul style="list-style-type: none"> i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and ii) Make good any resultant consequential damage. 	
6.	Onsite rainwater detention tank.	Rainwater not prevented from escaping the tank, causing water ingress and efflorescence to the wall.	Ensure adequate drainage and prevent rainwater from escaping the tank and into the building.	<p>Within the time period specified in column 6,</p> <p>Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist 	<p>Stage 1: 2 months</p> <p>Stage 2: 6 months</p>

				<p>appropriate to the subject areas of the building being a hydraulics engineer; and</p> <p>ii) be prepared with consideration to this Order and the Reasons for this Order; and</p> <p>iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard.</p> <p>Stage 2</p> <p>i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and</p> <p>ii) Make good any resultant consequential damage.</p>	
7.	Expansion joints in the transfer slab at the stepdown over the entrance to the basement and between the concrete slab and beam throughout all three levels of the basement.	Water ingress causing water staining on walls and severe calcium staining around expansion joints.	Prevent the entry of water into the building.	<p>Within the time period specified in column 6,</p> <p>Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <p>i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a structural engineer; and</p>	<p>Stage 1: 2 months</p> <p>Stage 2: 4 months</p>

				<ul style="list-style-type: none"> ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2</p> <ul style="list-style-type: none"> i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and ii) Make good any resultant consequential damage. 	
8.	All three levels of the basement carpark and common area courtyard to Building B and C	Uncontrolled cracking in the concrete soffit and slabs throughout the basement carpark and delamination of courtyard tiles from the concrete slab.	Ensure adequate provision for movement to prevent further cracking and damage to the building.	<p>Within the time period specified in column 6,</p> <p>Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a structural engineer; and ii) be prepared with consideration to this Order and the Reasons for this Order; and 	<p>Stage 1: 2 months</p> <p>Stage 2: 4 months</p>

				<p>iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard.</p> <p>Stage 2</p> <p>i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and</p> <p>ii) Make good any resultant consequential damage.</p>	
9.	North Elevation facing Canterbury Road, East Elevation and West elevation facing Canton Street.	Inadequate fire separation barrier between the vertical separation of openings in the external wall.	Ensure that openings in the external walls are separated by an adequate barrier.	<p>Within the time period specified in column 6,</p> <p>Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <p>i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a fire engineer; and</p> <p>ii) be prepared with consideration to this Order and the Reasons for this Order; and</p> <p>iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard.</p>	<p>Stage 1: 2 months</p> <p>Stage 2: 6 months</p>

				Stage 2 i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and iii) Make good any resultant consequential damage.	
10.	Copper pipes throughout all three basement levels.	Inadequate fire-resisting sealing around copper pipes.	Ensure penetrations are sealed with an identical prototype assembly of a tested service.	<p>Within the time period specified in column 6,</p> <p>Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a fire engineer; and ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2 i) Carry out the work to rectify the serious defect in accordance with</p>	<p>Stage 1: 2 months</p> <p>Stage 2: 6 months</p>

				<p>the written report submitted in compliance with Stage 1; and</p> <p>ii) Make good any resultant consequential damage.</p>	
11.	Fire-isolated exits and fire stairs throughout the three basement levels.	Incomplete fire protection of the services with no setting to the external corners and sealing of the PVC electrical conduit through the vertical side. Improper penetration of a PVC sewer pipe into the fire-isolated exit.	Ensure there is adequate fire protection of the fire stairs and the services within the fire-isolated exits.	<p>Within the time period specified in column 6,</p> <p>Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a fire engineer; and ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2</p> <ul style="list-style-type: none"> i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and ii) Make good any resultant consequential damage. 	<p>Stage 1: 2 months</p> <p>Stage 2: 6 months</p>

12.	Unit 328 balcony	The top course of the masonry balustrade is cracked and there is inadequate reinforcement or stiffeners in the parapet wall.	Ensure that the masonry balustrade and parapet wall can perform adequately under all reasonably expected actions, withstand extreme or frequently repeated actions and sustain local damage.	<p>Within the time period specified in column 6,</p> <p>Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a structural engineer; and ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2</p> <ul style="list-style-type: none"> i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and ii) Make good any resultant consequential damage. 	<p>Stage 1: 2 months</p> <p>Stage 2: 4 months</p>
13.	Unit 328 balcony	The close proximity of the balustrading to the location of the air-conditioning	Ensure there is adequate barrier accounting for the	<p>Within the time period specified in column 6,</p> <p>Stage 1</p>	<p>Stage 1: 2 months</p> <p>Stage 2:</p>

		unit creates a climb and fall hazard.	location of the air-conditioning unit.	<p>Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being an air conditioning consultant; and ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2</p> <ul style="list-style-type: none"> i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and ii) Make good any resultant consequential damage. 	4 months
14.	Steel reinforcement to the perimeter walls, perimeter piers, external bond beams	There are exposed reinforcements throughout concrete slabs, which have begun to corrode.	Ensure that there is sufficient concrete coverage of all steel reinforcements with no corrosion.	<p>Within the time period specified in column 6,</p> <p>Stage 1</p> <p>Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p>	<p>Stage 1: 2 months</p> <p>Stage 2: 6 months</p>

	and concrete slabs throughout all three levels of the basement carpark.			<p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building being a structural engineer; and ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard. <p>Stage 2</p> <ul style="list-style-type: none"> i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and ii) Make good any resultant consequential damage. 	
15.	Concrete column located on level B1 and B3 of the basement carpark.	Steel reinforcement bars have been trimmed flush next to the concrete column. Engineering plans indicate that steel reinforcing rods are to be wholly within the concrete column. This means there could be	Ensure that there are sufficient steel reinforcements and starter bars to provide stability and durability.	<p>Within the time period specified in column 6,</p> <p>Stage 1</p> <p>Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au</p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and experienced person or specialist 	<p>Stage 1: 2 months</p> <p>Stage 2: 4 months</p>

		insufficient steel reinforcement from the concrete slab to the concrete column.		<p>appropriate to the subject areas of the building being a structural engineer; and</p> <p>ii) be prepared with consideration to this Order and the Reasons for this Order; and</p> <p>iii) detail the specific building work necessary eliminate the serious defect and meet the specified standard.</p> <p>Stage 2</p> <p>i) Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1; and</p> <p>ii) Make good any resultant consequential damage.</p>	
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Duration of this Order

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

10. This Order is given on the date that is listed above in accordance with section 67 of the Act.



Matthew Whitton
NSW Assistant Building Commissioner
Building and Construction Compliance
NSW Fair Trading Department of Customer Service

Reasons for Building Work Rectification Order

1. These Reasons for Order are with respect to the Order dated 18 August 2023 issued to **Treacy Street Pty Ltd (ACN 169 501 026)** under the *Residential Apartment Buildings (Compliance and Enforcement Powers Act 2020* (the **Order**). These Reasons for Order adopt the Background to the Order and any definitions within the Order, unless otherwise specified in the Reasons for Order.
2. I, Matthew Whitton, have formed a reasonable belief that the Development has serious defects.
3. I have formed this belief after reviewing:
 - a) An inspection report dated 12 May 2023 prepared by authorised officers of the Department, who conducted an inspection of the Development pursuant to s 20 of the Act in the Building on 13 December 2023.
4. My belief is also based upon the following matters, set out in Table 2. I note that Column 1 of Table 2 refers to the Serious Defect with corresponding numbering that appears in Table 1 of the Order, located as described in the corresponding Column 2 of Table 1.

Table 2 – Basis of reasonable belief as to serious defects

Serious Defect Reference No.	Building element in which serious defect has been identified	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard	Consequences of serious defect
1.	Waterproofing	Water ingress from the shower recess into the common hallway.	Water is not prevented from penetrating into the carpeted hallway, causing mould growth.	National Construction Code (NCC) 2015, Volume One, Building Code of Australia (BCA), Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.7 Wet Areas states: “To protect the structure of a building and to maintain the amenity of the	This waterproofing failure causes unhealthy and dangerous conditions, undue dampness, and the deterioration of the building over time.

				<p><i>occupants, water must be prevented from penetrating –</i></p> <p><i>(a) behind fittings and linings; and</i></p> <p><i>(b) into concealed spaces, of sanitary compartments, bathrooms, laundries and the like.”</i></p>	
2.	Waterproofing	Water is entering into habitable areas of the building during rain events.	Water is not prevented from penetrating the building, causing water staining and rusting.	<p>NCC 2015, Volume One, BCA, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.2 states:</p> <p><i>“Surface water, resulting from a storm having an average recurrence interval of 100 years must not enter the building.”</i></p> <p>Performance Requirement FP1.4 states:</p> <p><i>“A roof and external wall (including openings around windows and doors) must prevent the penetration of water that could cause –</i></p> <p><i>(a) unhealthy or dangerous conditions, or loss of amenity for occupants; and</i></p> <p><i>(b) undue dampness or deterioration of building elements.”</i></p>	This waterproofing failure causes unhealthy and dangerous conditions, loss of amenity for the occupants, undue dampness, and the deterioration of the building over time.
3.	Waterproofing	Water is entering through the skylight and condensation is not escaping.	Water is not prevented from penetrating the building, causing water damage to the plaster setting around the skylight opening.	<p>NCC 2015, Volume One, BCA, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4 states:</p> <p><i>“A roof and external wall (including openings around windows and doors) must prevent the penetration of water that could cause –</i></p> <p><i>(a) unhealthy or dangerous conditions, or loss of amenity for occupants; and</i></p>	This waterproofing failure causes unhealthy and dangerous conditions, loss of amenity for the occupants, undue dampness, and the deterioration of the building over time.

				<i>(b) undue dampness or deterioration of building elements."</i>	
4.	Waterproofing	Water ingress into the building.	Water is not prevented from penetrating the internal habitable areas, causing damage to wall linings and shelving units.	NCC 2015, Volume One, BCA, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4 states: <i>"A roof and external wall (including openings around windows and doors) must prevent the penetration of water that could cause – (a) unhealthy or dangerous conditions, or loss of amenity for occupants; and (b) undue dampness or deterioration of building elements."</i>	This waterproofing failure causes unhealthy and dangerous conditions, loss of amenity for the occupants, undue dampness, and the deterioration of the building over time.
5.	Waterproofing	Water ponding on the roof and water penetration under the waterproofing membrane.	Water is not prevented from ponding on the surface of the roof concrete slabs and hobs, causing damage to the waterproofing membrane and external face of the wall.	NCC 2015, Volume One, BCA, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4 states: <i>"A roof and external wall (including openings around windows and doors) must prevent the penetration of water that could cause – (a) unhealthy or dangerous conditions, or loss of amenity for occupants; and (b) undue dampness or deterioration of building elements."</i> Deemed-to Satisfy Provision F1.4 is a pathway that can satisfy FP1.4, it states: <i>"Waterproof membranes for external above ground use must comply with AS4654 Parts 1 and 2."</i>	This waterproofing failure causes unhealthy and dangerous conditions, loss of amenity for the occupants, undue dampness, and the deterioration of the building over time.

				<p>Australian Standard 4654.2-2012 Waterproofing membranes for external above-ground use, Part 2: Design and installation, Section 2 Design and installation, Clause 2.5 Substrate, Subclause 2.5.2 states:</p> <p><i>“Falls in finishes shall ensure water drains to the drainage outlet. Water shall not be retained on the finished surface with the exception of residual water remaining due to surface tension. The fall shall be in the structural substrate or formed by a screed over the structural substrate.”</i></p>	
6.	Waterproofing	Ingress of water from the onsite rainwater detention tank	Water is not prevented from escaping the rainwater tank into the building, causing efflorescence to the concrete block wall.	<p>NCC 2015, Volume Three, Plumbing Code of Australia (PCA), Section D Stormwater Drainage Systems, Part D1 Roof Drainage Systems, Performance Requirement DP1.4 states:</p> <p><i>“Roof drainage installations must be designed, constructed and installed in such a manner as to-</i></p> <ul style="list-style-type: none"> <i>(a) convey stormwater to a point of connection; and</i> <i>(b) avoid the likelihood of loss of amenity due to blockages and leakage; and</i> <i>(c) avoid the likelihood of foul air and gases accumulating in the roof drainage system; and</i> <i>(d) avoid the likelihood of loss to buildings and property; and</i> <i>(e) avoid the likelihood of uncontrolled discharges; and</i> 	If unaddressed, the efflorescence will worsen and damage the concrete over time, ultimately, compromising the structural integrity of the building.

				<i>(f) provide adequate access for maintenance and clearing of blockages.”</i>	
7.	Waterproofing	Water ingress into basement carpark.	Water is not prevented from penetrating through cracks and expansion joints and causing efflorescence.	NCC 2015, Volume One, BCA, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4 states: <i>“A roof and external wall (including openings around windows and doors) must prevent the penetration of water that could cause –</i> <i>(a) unhealthy or dangerous conditions, or loss of amenity for occupants; and</i> <i>(b) undue dampness or deterioration of building elements.”</i>	This waterproofing failure causes dangerous conditions, loss of amenity for the occupants and undue dampness. If unaddressed, the efflorescence will worsen and damage the concrete over time, ultimately, compromising the structural integrity of the building.
8.	Internal load-bearing	Uncontrolled cracking throughout the carpark and delamination of courtyard tiles.	Inadequate provision for movement causing extensive cracking.	NCC 2015, Volume One, BCA, Section B Structure, Part B1: Structural Provisions, Performance Requirement BP1.1 states: <i>“(a) A building or structure, during construction and use, with appropriate degrees of reliability, must-</i> <i>(i) perform adequately under all reasonably expected design actions, and</i> <i>(ii) withstand extreme or frequently repeated design actions, and</i> <i>(iii) be designed to sustain local damage, with the structural system remaining stable and not being damaged to an extent</i>	The cracking allows water to penetrate and corrode the building and compromises the structural performance, durability and appearance of the building.

				<p><i>disproportionate to the original local damage, and</i></p> <p><i>(iv) avoid causing damage to other properties,</i></p> <p><i>by resisting the actions to which it may reasonably expect to be subjected.”</i></p> <p>Deem-to-Satisfy Provision B1.4 is a pathway that can satisfy BP1.1, it states: <i>“The structural resistance of materials and forms of construction must be determined in accordance with the following, as appropriate:</i> (a) ... (b) <i>Concrete construction (including reinforced and prestressed concrete): AS 3600</i> ...”</p> <p>Australian Standard 3600-2009 Concrete structures, Section 2 Design procedures, actions, and loads, Clause 2.3 Design for serviceability, Subclause 2.3.3.1 states: <i>“Cracking in concrete structures shall be controlled so that structural performance, durability and appearance of the structure are not compromised.”</i></p>	
9.	Fire safety system	Absence of an adequate barrier (e.g., curtain wall or panel) between vertical	As this building has not been provided with sprinkler protection	NCC 2015, Volume One, BCA, Section C Fire Resistance, Performance Requirement CP2 states:	The absence of an adequate barrier increases the susceptibility of the building to the spread

		separation of openings in the external walls.	throughout, an adequate barrier is required between the vertical separation of openings in the external walls for fire resistance purposes.	<p><i>“(a) A building must have elements which will, to the degree necessary, avoid the spread of fire–</i></p> <ul style="list-style-type: none"> <i>(i) to exits; and</i> <i>(ii) to sole-occupancy units and public corridors; and</i> <i>(iii) between buildings; and</i> <i>(iv) in a building.</i> <p><i>(b) Avoidance of the spread of fire referred to in (a) must be appropriate to–</i></p> <ul style="list-style-type: none"> <i>(i) the function or use of the building; and</i> <i>(ii) the fire load; and</i> <i>(iii) the potential fire intensity; and</i> <i>(iv) the fire hazard; and</i> <i>(v) the number of storeys in the building; and</i> <i>(vi) its proximity to other property; and</i> <i>(vii) any active fire safety systems installed in the building; and</i> <i>(viii) the size of any fire compartment; and</i> <i>(ix) fire brigade intervention; and</i> <i>(x) other elements they support; and</i> <i>(xi) the evacuation time.”</i> <p>Deemed-to-Satisfy Provision C2.6 is a pathway that can satisfy CP2 it states: <i>“(a) If in a building of Type A construction, any part of a window or other opening in an external wall is above another opening in the storey next below and its vertical</i></p> 	of fire in the event of a fire and subsequent fire damage and potential loss of life.
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				<p><i>projection falls no further than 450 mm outside the lower opening (measured horizontally), the openings must be separated by –</i></p> <ul style="list-style-type: none"> <i>(i) a spandrel which – (A) is not less than 900 mm in height; and (B) extends not less than 600 mm above the upper surface of the intervening floor; and (C) is of non-combustible material having an FRL of not less than 60/60/60; or</i> <i>(ii) part of a curtain wall or panel wall that complies with (i); or</i> <i>(iii) construction that complies with (i) behind a curtain wall or panel wall and has any gaps packed with a non-combustible material that will withstand thermal expansion and structural movement of the walling without the loss of seal against fire and smoke; or</i> <i>(iv) a slab or other horizontal construction that –</i> <ul style="list-style-type: none"> <i>(A) projects outwards from the external face of the wall not less than 1100 mm; and</i> <i>(B) extends along the wall not less than 450 mm beyond the openings concerned; and</i> <i>(C) is non-combustible and has an FRL of not less than 60/60/60.”</i> 	
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10.	Fire safety system	Inadequate fire-resisting sealing around copper pipes throughout the basement carpark.	Inadequate sealing enables fire to travel through the copper pipes into the adjoining compartment being a sole occupancy unit.	<p>NCC 2015, Volume One, BCA, Section C Fire Resistance, Performance Requirement CP2 states: <i>“(a) A building must have elements which will, to the degree necessary, avoid the spread of fire–</i> <i>(i) to exits; and</i> <i>(ii) to sole-occupancy units and public corridors; and</i> <i>(iii) between buildings; and</i> <i>(iv) in a building.</i> (b) Avoidance of the spread of fire referred to in (a) must be appropriate to– <i>(i) the function or use of the building; and</i> <i>(ii) the fire load; and</i> <i>(iii) the potential fire intensity; and</i> <i>(iv) the fire hazard; and</i> <i>(v) the number of storeys in the building; and</i> <i>(vi) its proximity to other property; and</i> <i>(vii) any active fire safety systems installed in the building; and</i> <i>(viii) the size of any fire compartment; and</i> <i>(ix) fire brigade intervention; and</i> <i>(x) other elements they support; and</i> <i>(xi) the evacuation time.”</i></p> <p>Deemed-to-Satisfy Provision C3.15 is a pathway that can satisfy CP2 it states:</p>	Absence of adequate sealing compromises the integrity, insulation, and fire resistance of the copper pipes. This is a fire risk which may lead to the loss of amenity.
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				<p><i>“Where an electrical, electronic, plumbing, mechanical ventilation, air-conditioning or other service penetrates a building element (other than an external wall or roof) that is required to have an FRL with respect to integrity or insulation or a resistance to the incipient spread of fire, that installation must comply with any one of the following:</i></p> <p><i>(a) Tested systems</i></p> <p><i>(i) The service, building element and any protection method at the penetration are identical with a prototype assembly of the service, building element and protection method which has been tested in accordance with AS 4072.1 and AS 1530.4 and has achieved the required FRL or resistance to the incipient spread of fire.</i></p> <p><i>(ii) ...”</i></p>	
11.	Fire safety system	Inadequate fire protection of the fire stairs and the services within the fire-isolated exits throughout the basement carpark.	The fire stairs and fire-isolated exits and the services within are susceptible to the spread of fire and subsequent fire damage in the event of a fire.	<p>NCC 2015, Volume One, BCA, Section C Fire Resistance, Performance Requirement CP2 states:</p> <p><i>“(a) A building must have elements which will, to the degree necessary, avoid the spread of fire–</i></p> <p><i>(i) to exits; and</i></p> <p><i>(ii) to sole-occupancy units and public corridors; and</i></p> <p><i>(iii) between buildings; and</i></p> <p><i>(iv) in a building.</i></p>	Absence of adequate protection compromises the integrity, insulation and fire resistance of the fire stairs and fire-isolated exits. This is a fire risk which may lead to the loss of amenity, loss of lives and destruction to the

				<p>(b) <i>Avoidance of the spread of fire referred to in (a) must be appropriate to–</i></p> <ul style="list-style-type: none"> (i) <i>the function or use of the building; and</i> (ii) <i>the fire load; and</i> (iii) <i>the potential fire intensity; and</i> (iv) <i>the fire hazard; and</i> (v) <i>the number of storeys in the building; and</i> (vi) <i>its proximity to other property; and</i> (vii) <i>any active fire safety systems installed in the building; and</i> (viii) <i>the size of any fire compartment; and</i> (ix) <i>fire brigade intervention; and</i> (x) <i>other elements they support; and</i> (xi) <i>the evacuation time.”</i> <p>Deemed-to-Satisfy Provision C3.9 is a pathway that can satisfy CP2 it states: <i>“Fire-isolated exits must not be penetrated by any services other than –</i></p> <ul style="list-style-type: none"> (a) <i>electrical wiring permitted by D2.7(e) to be installed within the exit; or</i> (b) <i>ducting associated with a pressurisation system if it –</i> <ul style="list-style-type: none"> (i) <i>is constructed of material having an FRL of not less than –/120/60 where it passes through any other part of the building; and</i> (ii) <i>does not open into any other part of the building; or</i> 	<p>building in the event of a fire.</p>
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				(c) water supply pipes for fire services.”	
12.	Building enclosure	Cracking of the masonry balustrade and inadequate structural support to the parapet wall.	Poor construction of the masonry causing uncontrolled cracking.	<p>NCC 2015, Volume One, BCA, Section B Structure, Part B1: Structural Provisions, Performance Requirement BP1.1 states: “(a) A building or structure, during construction and use, with appropriate degrees of reliability, must-</p> <ul style="list-style-type: none"> (i) perform adequately under all reasonably expected design actions, and (ii) withstand extreme or frequently repeated design actions, and (iii) be designed to sustain local damage, with the structural system remaining stable and not being damaged to an extent disproportionate to the original local damage, and (iv) avoid causing damage to other properties, <p>by resisting the actions to which it may reasonably expect to be subjected.”</p> <p>Deem-to-Satisfy Provision B1.1 is a pathway that can satisfy BP1.1, it states: “The resistance of a building or structure must be greater than the most critical action effect resulting from different combinations of actions, where —</p> <ul style="list-style-type: none"> (a) the most critical action effect on a building or structure is determined in accordance with B1.2 and the general 	This structural defect compromises the durability of a building element and may result in greater deterioration and subsequent destruction if unaddressed.

				<p><i>design procedures contained in AS/NZS 1170.0; and</i></p> <p><i>(b) the resistance of a building or structure is determined in accordance with B1.4.”</i></p> <p>Deem-to-Satisfy Provision B1.4 is a pathway that can satisfy BP1.1, it states: <i>“The structural resistance of materials and forms of construction must be determined in accordance with the following, as appropriate:</i> <i>(a) Masonry (including masonry-veneer, unreinforced masonry and reinforced masonry): AS 3700</i> <i>(b) ...”</i></p> <p>Australian Standard/New Zealand Standard 1170.1-2002 Structural design actions, Part 1: Permanent, imposed, and other actions, Section 3 Imposed Actions, Clause 3.6 states: <i>“Barriers, including parapets, balustrades and railings, together with members and connections that provide structural support, shall be designed to sustain the imposed actions given in Table 3.3...”</i></p> <p>Australian Standard 2700:2018 Masonry structures, Section 2.3 General Requirements, Clause 2.3.1 states: <i>“A masonry member or structure shall withstand the expected wear and deterioration throughout its design life,</i></p>	
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				<i>taking into account the exposure environment and importance of the structure, without the need for undue maintenance.”</i>	
13.	Building enclosure	The proximity of the air-conditioning unit in relation to the balustrade.	The location of the air-conditioning is a safety hazard as it provides an elevated platform to gain access over the balcony wall and there is no barrier present to prevent people from accidentally falling.	NCC 2015, Volume One, BCA, Section D Access and Egress, Performance Requirement DP3 states: <i>“Where people could fall —</i> (a) <i>1 m or more —</i> (i) <i>from a floor or roof or through an opening (other than through an openable window) in the external wall of a building; or</i> (ii) <i>due to a sudden change of level within or associated with a building; or</i> (b) <i>2 m or more from a floor through an openable window —</i> (i) <i>in a bedroom in a Class 2 or 3 building or a Class 4 part of a building; or</i> (ii) <i>in a Class 9b early childhood centre; or</i> (c) <i>4 m or more from a floor through an openable window not covered by (b), a barrier must be provided which must be —</i> (d) <i>continuous and extend for the full extent of the hazard; and</i> (e) <i>of a height to protect people from accidentally falling from the floor or roof or through the opening or openable window; and</i>	The defect creates a fall risk that is dangerous and injurious to occupants.

				<p>(f) constructed to prevent people from falling through the barrier; and</p> <p>(g) capable of restricting the passage of children; and</p> <p>(h) of strength and rigidity to withstand –</p> <ul style="list-style-type: none"> (i) the foreseeable impact of people; and (ii) where appropriate, the static pressure of people pressing against it. 	
14.	Internal load-bearing	Insufficient concrete coverage of steel reinforcements throughout the basement carpark.	The exposed steel reinforcements have corroded and will continue to corrode due to exposure to the elements, including ground water.	<p>NCC 2015, Volume One, BCA, Section B Structure, Part B1: Structural Provisions, Performance Requirement BP1.1 states:</p> <p><i>“(a) A building or structure, during construction and use, with appropriate degrees of reliability, must-</i></p> <ul style="list-style-type: none"> <i>(i) perform adequately under all reasonably expected design actions, and</i> <i>(ii) withstand extreme or frequently repeated design actions, and</i> <i>(iii) be designed to sustain local damage, with the structural system remaining stable and not being damaged to an extent disproportionate to the original local damage, and</i> <i>(iv) avoid causing damage to other properties,</i> <p><i>by resisting the actions to which it may reasonably expect to be subjected.”</i></p>	The corrosion of the steel reinforcements compromises the structural integrity of the building. If unaddressed, the steel will deteriorate further and increase the risk of collapse of the building over time.

				<p>Deem-to-Satisfy Provision B1.4 is a pathway that can satisfy BP1.1, it states: <i>"The structural resistance of materials and forms of construction must be determined in accordance with the following, as appropriate:</i> <i>(a) ...</i> <i>(b) Concrete construction (including reinforced and prestressed concrete):</i> AS 3600 <i>..."</i></p> <p>Australian Standard 3600-2009 Concrete structures, Section 4 Design for Durability, Clause 4.10.3 Cover for corrosion protection, Subclause 4.10.3.1 states: <i>"For corrosion protection, the cover shall be not less than the appropriate value given in Clauses 4.10.3.2 to 4.10.3.7."</i></p>	
15.	Internal load-bearing	Inadequate steel reinforcement and poor installation of existing steel reinforcement.	The lack of steel reinforcements and the poor installation of existing steel reinforcements enables the surface of the concrete to expand, affecting the overall stability and performance	<p>NCC 2015, Volume One, BCA, Section B Structure, Part B1: Structural Provisions, Performance Requirement BP1.1 states: <i>"(a) A building or structure, during construction and use, with appropriate degrees of reliability, must-</i> <i>(i) perform adequately under all reasonably expected design actions, and</i> <i>(ii) withstand extreme or frequently repeated design actions, and</i> <i>(iii) be designed to sustain local damage, with the structural system remaining stable and not</i></p>	This defect compromises the structural integrity of the building and, if unaddressed, will increase the risk of collapse of the building over time.

			<p>of the concrete slab and beams.</p>	<p><i>being damaged to an extent disproportionate to the original local damage, and</i></p> <p><i>(iv) avoid causing damage to other properties,</i></p> <p><i>by resisting the actions to which it may reasonably expect to be subjected.”</i></p> <p>Australian Standard 3600-2009 Concrete structures, Section 17 Material and Construction Requirements, Clause 17.1.3 states: “Concrete shall be handled, placed and compacted so as to –</p> <p><i>(a) limit segregation or loss of materials;</i></p> <p><i>(b) limit premature stiffening;</i></p> <p><i>(c) produce a monolithic mass between planned joints or the extremities of members, or both;</i></p> <p><i>(d) completely fill the formwork to the intended level, expel entrapped air and closely surround all reinforcement, tendons, ducts, anchorages, embedments and fixing; and</i></p> <p><i>(e) provide the specified finish to the formed surfaces of the member.”</i></p>	
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Consideration of written representations

- On 19 July 2023 a notice of intention to issue a building work rectification order, including a draft copy of the Order, was served on the Developer, Local Council, Office of the Registrar General, and Owners Corporation. The Certifier for the Development had his accreditation cancelled on 28 November 2019. The Department has made reasonable inquiries as to the identity of the

Certifier for the Development and has been unable to ascertain the identity of that person.

6. The served parties were invited to provide written representations relating to the Order to the Department by 9 August 2023. No submissions have been received from any of the parties as of the date of this Order.
7. I am satisfied that the Developer has been given an opportunity to provide representations concerning the Order. In circumstances no submissions have been made in response to the draft, I am satisfied that it is appropriate to give the Order.

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

8. Considering the potential consequences as outlined in my reasons and the order, I give greater weight to the seriousness of the Serious Defects identified and the associated failures to comply with the BCA and approved plans and the benefits arising from remediating the Serious Defects and I find that it is appropriate, in the exercise of my discretion, to make the Order to carry out the specified actions in the Order within the time specified in the Order.
9. I have considered all of the circumstances. I accept that the Order requires specified actions that are likely to be costly. I give this consideration moderate weight. However, the cost to the developer must be balanced against the benefit to the occupiers to be gained from identifying the specific building work that will eliminate the Serious Defects.
10. I am of the view that the periods above for Defect 1 through 15 (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.

Attachment A

Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020.

3 Definitions

(1) In this Act —

approved plans, in relation to building work, means the following —

- (a) approved plans and specifications issued with respect to a construction certificate or complying development certificate for the building work under the *Environmental Planning and Assessment Act 1979*, together with any variations to those plans and specifications for the purposes of those certificates effected or approved in accordance with that Act,
- (b) regulated designs under the *Design and Building Practitioners Act 2020*,
- (c) any other plans prescribed by the regulations for the purposes of this definition.

Building Code of Australia has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

Building Commissioner means the Building Commissioner referred to in section 61.

building element has the same meaning as in the *Design and Building Practitioners Act 2020*, and includes any element of a building that is prescribed by the regulations for the purposes of this definition.

building product means any product, material or other thing that is, or could be, used in a building.

building work — see section 5.

building work rectification order — see section 33.

class of building means a building of that class as recognised by the *Building Code of Australia*.

completion, in relation to building work, means the date that the occupation certificate for the building or part of a building to which the building work relates was issued.

Department means the Department of Customer Service.

developer — see section 4.

expected completion amendment notice — see section 8.

expected completion notice — see section 7.

expected date — see section 7(2).

function includes a power, authority or duty, and **exercise** a function includes perform a duty.

occupation certificate means an occupation certificate issued under the *Environmental Planning and Assessment Act 1979*.

owners corporation for a strata scheme means the owners corporation for the strata scheme constituted under the *Strata Schemes Management Act 2015*.

prohibition order — see section 9.

rectification bond — see section 28.

residential apartment building means a class 2 building within the meaning of the *Building Code of Australia*, and includes any building containing a part that is classified as a class 2 component, but does not include any building or part of a building excluded from this definition by the regulations.

Secretary means the Secretary of the Department.

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.

stop work order — see section 29.

strata building means a building containing a lot or part of a lot that is the subject of a strata scheme.

strata plan has the same meaning as in the *Strata Schemes Development Act 2015*.

strata scheme has the same meaning as in the *Strata Schemes Development Act 2015*.

Note. The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

(2) Notes included in this Act do not form part of this Act.

4 Meaning of “developer”

For the purposes of this Act, 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.

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*).

Design and Building Practitioners Act 2020.

6 Building elements

- (1) For the purposes of this Act, building element 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).