

Attn: Robert Huang
PSR Crownview Investment Pty Ltd
(ACN 601 764 578)
Suite 1301, 51 Crown Street
Wollongong NSW 2500

Service: By email: [REDACTED]

DATE: 12 February 2024

Building Work Rectification Order

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

PSR Crownview Investment Pty Ltd (ACN 601 764 578) (Crownview) is being given this Building Work Rectification Order (Order) in relation to 373 Crown Street Wollongong NSW 2500 (Lot 100 DP 1214547).

Crownview 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 set out in **Attachment A** to this order.
4. David Chandler, NSW Building Commissioner, Department of Customer Service is an authorised delegate of the Secretary of the Department.
5. PSR Crownview Investment Pty Ltd (ACN 601 764 578) (**Crownview**) is being given this Building Work Rectification Order (**Order**) in relation to 373 Crown Street Wollongong NSW 2500 (Lot 100 DP 1214547) (the Development) for the purposes of section 4(c) of the Act.
6. The Development comprises carparking and residential units. The Act applies to building work at the Development because it is a class 2 Development.
7. On 19 December 2022 the Secretary issued a prohibition order to PSR Crownview Investment Pty Ltd which has not been revoked (**PO**).
8. On 27 March 2023 the builder of the Development (Piety Constructions Pty Ltd ACN 631 885 491 (**Piety**) offered an undertaking (**Piety Undertaking**) to the Secretary under section 28 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act* which the Secretary accepted and which is administered by the appointed undertaking manager.
9. In the course of implementing the defects rectification under the Piety Undertaking, Piety has informed the undertaking manager that further serious defects have been identified for rectification relating to the electrical installation and to the post tensioning of certain slabs.

Requirements in relation to Serious Defects

10. I, David Chandler, under section 33 of the Act, require you Crownview 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

Column 1	Column 2	Column 3	Column 4	Column 5
Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
1	All levels	The supply of electricity to various floor levels within the buildings has ceased for unknown reasons.	<p>Within the time period specified in column 5, Submit a written report and drawings prepared for the serious defect to the Secretary which must:</p> <p>Stage 1</p> <ul style="list-style-type: none"> i) be prepared by a suitably qualified and registered specialist; ii) be prepared with consideration to this Order and the Reasons for this Order; iii) detail the specific building work necessary to meet the codes and relevant standard. iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation; 	<p>Stage 1 within 60 days</p> <p>Stage 2</p>

Column 1	Column 2	Column 3	Column 4	Column 5
Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	180 days
2	Each building and at each floor level where a post-tensioned slab has been installed.	Throughout the building in each concrete slab at various locations, either ducts have not been grouted after the tendons have been tensioned, or the installed tendons have not been tensioned or tendons have not been installed in some ducts.	<p>Within the time period specified in column 5:</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene 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 registered specialist ii) be prepared with consideration to this Order and the Reasons for this Order; 	<p>Stage 1 within 60 days</p> <p>Stage 2 within 180 days</p>

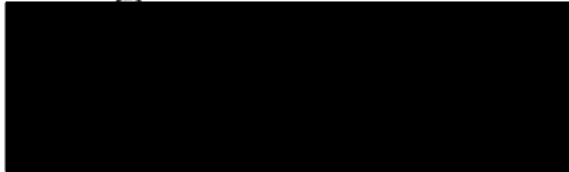
Column 1	Column 2	Column 3	Column 4	Column 5
Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>iii) detail the specific building work necessary to meet the codes and relevant standard.</p> <p>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</p> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	

Conditions of this Order

11. Making good any consequential damage caused in carrying out the works specified in this Order.
12. 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

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



David Chandler
Building Commissioner
Building Commission NSW

Reasons for the Building Work Rectification Order

14. The Department of Customer Service (**the Department**) administers the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 (**the Act**).
15. Under section 33 of the RAB 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 a residential apartment building or that a residential apartment building has a serious defect, they may order the developer of that building to carry out or not carry out specified building work or to take other specified action to eliminate, minimise or reduce the serious defect or potential serious defect.
16. Section 3 of the RAB Act defines a serious defect. Section 3 of the RAB Act also defines to term “building element” by reference to the DBP Act. Section 4 of the RAB Act defines the term “developer”. Section 6 of the RAB Act provides the building work to which the RAB Act applies. Relevant excerpts from sections 3, 4 and 6 of the RAB Act and section 6 of the DBP Act are set out in **Attachment A** to this Order.
17. David Chandler, Building Commissioner, Department of Customer Service, is an authorised delegate of the Secretary of the Department.
18. Crownview is the developer of the **Development** for the purposes of section 4(a) of the RAB Act.
19. The Development comprises residential units. The RAB Act applies to building work at the Development because it is a class 2 building.
20. I, David Chandler, have considered the written submissions made by the Developer dated 2 February 2024. These submissions indicate that the Developer considers that there is a risk of adverse reporting about the Development if there is any further order made. I have considered this and give greater weight to the need for the building to be compliant so that any future occupant of units in the development can be satisfied that serious defects were addressed when identified before any occupation certificate is given.
21. I, David Chandler, have formed a reasonable belief that the Development has serious defects based on the information provided to me by the undertaking manager and Piety.
22. 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

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
1.	Electrical services for a building that are required to achieve compliance with the <i>Building Code of Australia</i> ,	The supply of electricity to various areas within the buildings has ceased for unknown reasons.	Services and equipment within the building require an electricity supply.	<ul style="list-style-type: none"> Section E of the Building Code of Australia Volume One, Electricity Supply Act 1995.
2.	An internal or external load-bearing component of a building that is essential to the stability of the building, or a part of it.	Throughout the building in various locations either ducts have not been grouted after the tendons have been tensioned, or the installed tendons have not been tensioned or tendons have not been installed in some ducts.	A building or structure, during construction and use, is required to be provided with appropriate degrees of reliability.	<ul style="list-style-type: none"> Section B of the Building Code of Australia Volume One, Australian Standard AS3600 Concrete Structures. The structural engineering plans issued with the Construction Certificate which have not been issued for construction and were prepared by “abc consultants structural and civil engineers”.

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:
 - o the relevant local council,
 - o if the local council is not the certifier in relation to the building work—the principal certifier,
 - o if you are not the owner of the land concerned—the owner of the land concerned,
 - o the Registrar-General,
 - o if the order relates to a strata building—the relevant owners corporation,
 - o 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.

Attachment A

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.

building element, as defined in the *Design and Building Practitioners Act 2020* (NSW), means any of the following—

- (e) the fire safety systems for a building within the meaning of the Building Code of Australia,
- (f) waterproofing,
- (g) 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),
- (h) a component of a building that is part of the building enclosure,

- (i) those aspects of the mechanical, plumbing and electrical services for a building that are required to achieve compliance with the Building Code of Australia,
- (j) 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).

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—

- (k) the person who contracted or arranged for, or facilitated or otherwise caused, (whether directly or indirectly) the building work to be carried out,
- (l) 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,
- (m) the principal contractor for the building work within the meaning of the Environmental Planning and Assessment Act 1979,
- (n) 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,
- (o) any other person prescribed by the regulations for the purposes of this definition.

Section 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).