



Attn: Proper Officer
Briens Rd Developments Pty Ltd (ACN 640 206 104)
136 Queen Street
St Marys NSW 2760

Service: By registered post and by email

25 September 2023

Building Work Rectification Order

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

Briens Rd Developments Pty Ltd (ACN 640 206 104) is being given this Building Work Rectification Order (Order) in relation to address 34-36 Briens Road, Northmead NSW 2152 (Lot 1 & B, DP 15342 & 320582) (the Development).

Briens Rd Developments Pty Ltd (ACN 640 206 104) is required to cause building work to be carried out to remediate the serious and/or potential 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 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. **Briens Rd Developments Pty Ltd (ACN 640 206 104)** is the developer of the residential apartment building at **34-36 Briens Road, Northmead NSW 2152 (Lot 1 & B, DP 15342 & 320582) (the Development)** for the purposes of section 4(a) of the Act.
6. The Development consists of 2 residential building with 3 storeys each, above a basement carpark. There are 28 apartments in the Development.
7. On 12 July 2023, authorised officers conducted a lawful inspection of the Development.
8. On 4 September 2023, a notice of intention to issue the Order and draft copy of the Order was issued to Briens Rd Developments Pty Ltd (ACN 640 206 104) in relation to the Development.
9. On 4 September 2023, a notice of intention to issue the Order and draft copy of the Order was served on the Developer, Local Council, Owners Corporation and Certifier. The parties were invited to provide written representations relating to the Order to the Department by 11 September 2023.
 - (a) Between 8 September 2023 to 13 September 2023 (inclusive), the Developer made submissions.
 - (b) On 27 July 2023 written submissions were received from the Owners Corporation.

(c) No submissions were received as at the date of this Order from Local Council and Certifier.

Requirements in relation to Serious Defects

10. I, Matthew Whitton, under section 33 of the Act, require you **Briens Rd Developments Pty Ltd (ACN 640 206 104)** 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 No.	Location of Serious Defect	Description of Serious Defect	Requirement in relation to building work (s 33(2))	Time for compliance with Requirement from the date this order is given (s 39(1))
1.	Bedroom windows located within 3m of side allotment boundaries: G03 110 104 201 204 301 303	Awning windows have been installed instead of sliding windows	The Developer is to take the following specified action: 1. Ensure the building practitioner obtains a regulated design and design compliance declaration for the building element – <i>building enclosure</i> prepared by a registered design practitioner for the rectification works to integrate with the performance solution regulated design prepared by Innova Services Australia Pty Ltd. 2. Ensure the building practitioner or appropriate practitioner to lodge the regulated design and design compliance declaration on the NSW Planning Portal in the approved way prior to commencing building work.	3 months

			<p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. Sliding windows are installed instead of awning windows to bedrooms located within 3m of side allotment boundaries, in accordance with Fire Engineering Report No. 21160-R01 Issue No.4 from INNOVA Fire Safety Specialists dated 2 March 2022. 2. Rectify any consequential damage. 	
2.	Fire stair 1	<p>The gap between the bottom cord of the handrail and the stair nosing is more than 125mm.</p>	<p>The Developer is to take the following specified action:</p> <ol style="list-style-type: none"> 1. Ensure the building practitioner obtains a regulated design and design compliance declaration for the building element prepared by a registered design practitioner. 2. Ensure the building practitioner or appropriate practitioner to lodge the regulated design and design compliance declaration on the NSW Planning Portal in the approved way prior to commencing building work. <p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. Rectify the handrail construction to ensure the gap between the bottom cord of the handrail and the stair nosing is not more than 125mm in accordance with the regulated design. 2. Rectify any consequential damage. 	1 month

3.	Level 3 Units 301 and 303	A door to the balcony has not been installed consistent with the approved plans	<p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. The door included on the approved plans is installed. <p>Alternatively:</p> <p>The Developer is to take the following specified action:</p> <ol style="list-style-type: none"> 1. Ensure the building practitioner obtains a regulated design and design compliance declaration for the building element prepared by a registered design practitioner. 2. Ensure the building practitioner or appropriate practitioner to lodge the regulated design and design compliance declaration on the NSW Planning Portal in the approved way prior to commencing building work. <p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. Install doors to balcony as provided for in approved plans and in accordance with the regulated design. 2. Rectify any consequential damage. 	2 months
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4.	South Elevation Unit 201	A ventilation vent has been installed above the window of bedroom 2. The approved plans provide for the vent to be adjacent to the window.	<p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. The ventilation vent is installed in accordance with the approved plans. <p>Alternatively:</p> <p>The Developer is to take the following specified action:</p> <ol style="list-style-type: none"> 1. Ensure the building practitioner obtains a variation to the regulated design and design compliance declaration for the building element prepared by a registered design practitioner. 2. Ensure the building practitioner or appropriate practitioner to lodge the regulated design and design compliance declaration on the NSW Planning Portal in the approved way prior to commencing building work. <p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. Install the ventilation vent per the approved plans and in accordance with the regulated design. 2. Rectify any consequential damage. 	3 months
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5.	All balcony sliding doors	Sliding doors installed measure 2880mm in height. The approved plans show sliding doors at 2400mm height with brickwork above the window head.	<p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. The balcony door construction is in accordance with the approved plans, including a door height of 2400mm with brickwork above the window hand. <p>Alternatively:</p> <p>The Developer is to take the following specified action:</p> <ol style="list-style-type: none"> 1. Ensure the building practitioner obtains a variation to the regulated design and design compliance declaration for the building element prepared by a registered design practitioner. 2. Ensure the building practitioner or appropriate practitioner to lodge the regulated design and design compliance declaration on the NSW Planning Portal in the approved way prior to commencing building work. <p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. Install the door per the approved plans and in accordance with the regulated design. 2. Rectify any consequential damage. 	3 months
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6.	Ground floor supply air riser	There is no weatherproof louvre on the car park supply air intake riser.	<p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. A weatherproof louvre is installed in the carpark supply intake riser in accordance with the approved plans. 2. Rectify any consequential damage. 	1 month
7.	Units 301 and 303 Balcony planter box	The balcony planter box shape has been modified from approved plans to allow access to the common area from the balconies.	<p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. The balcony planter construction is in accordance with the approved plans, without a step-in design. <p>Alternatively:</p> <p>The Developer is to take the following specified action:</p> <ol style="list-style-type: none"> 1. Ensure the building practitioner obtains a variation to the regulated design and design compliance declaration for the building element prepared by a registered design practitioner. 2. Ensure the building practitioner or appropriate practitioner to lodge the regulated design and design compliance declaration on the NSW Planning Portal in the approved way prior to commencing building work. <p>The Developer is to ensure the following building work is carried out:</p>	3 months

			<ol style="list-style-type: none"> 1. Construct the balcony planter boxes per the approved plans and in accordance with the regulated design. 2. Rectify any consequential damage 	
8.	Balustrade walls on north facing balconies	Brick capping has been installed on top of balustrade walls.	<p>The Developer is to ensure the following building work is carried out:</p> <ol style="list-style-type: none"> 1. Balustrade walls are installed with metal capping in accordance with the regulated designs. <p>Alternatively:</p> <p>The Developer is to take the following specified action:</p> <ol style="list-style-type: none"> 1. Ensure the building practitioner obtains a variation to the regulated design and design compliance declaration for the building element prepared by a registered design practitioner. 2. Ensure the building practitioner or appropriate practitioner to lodge the regulated design and design compliance declaration on the NSW Planning Portal in the approved way prior to commencing building work. <p>The Developer is to ensure the following building work is carried out:</p>	1 month

			1. Construct the balustrade walls per the approved plans and in accordance with the regulated design. 2. Rectify any consequential damage	
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9. 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 2 below and under section 34(1A) of the Act require that you **Briens Rd Developments Pty Ltd (ACN 640 206 104)** do the things specified in column 5 of Table 2 below in respect of those serious defects. Each requirement must be complied with by the time set out in column 6 of Table 2:

Table 2: Requirement in relation to specified standard

Serious Defect Reference No.	Location of Serious Defect	Description of Serious Defect	Specified standard of building work (s 34(1)(a))	Requirement (s 34(1A))	Time for compliance with Requirement from the date of issue of this order (s 39(1))
9.	Lift landing – roof level	The linear drain installed in front of the lift is inadequate to prevent surface water entering the lift shaft.	Ensure the drain is installed in accordance with the approved plans to adequately prevent surface water entering the lift shaft	<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</p>	<p>Stage 1: 1 month</p> <p>Stage 2: 2 months</p>

				<p>specialist appropriate to the subject areas of the building, being a registered design practitioner drainage or civil engineer.</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 to eliminate the serious defect and meet the specified standard.</p> <p>Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make good any resultant consequential damage.</p>	
10.	Mid-level basement grid line B-04	The car park exhaust duct has inadequate support for the size and weight of the duct	Ensure the duct has adequate support consistent with its size and weight	<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</p>	<p>Stage 1: 1 month</p> <p>Stage 2: 2 months</p>

				<p>subject areas of the building, being a mechanical engineer;</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 to eliminate the serious defect and meet the specified standard.</p> <p>Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make good any resultant consequential damage.</p>	
11.	Ground floor – main switch room	The main switchboard main switches are not accessible.	Ensure the main switchboard and main switches are readily accessible.	<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 registered electrical engineer;</p>	<p>Stage 1: 1 month</p> <p>Stage 2: 2 months</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 to eliminate the serious defect and meet the specified standard.</p> <p>Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make good any resultant consequential damage.</p>	
12.	Basement car park - fire pump room	Services other than the firefighting pumpset and associated equipment have been installed in the fire pump room.	Ensure that the fire pump room only contains firefighting pumpsets and associated equipment.	<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 registered architect, registered drainage design practitioner and/or a registered fire systems engineer;</p>	<p>Stage 1: 1 month</p> <p>Stage 2: 2 months</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 to eliminate the serious defect and meet the specified standard.</p> <p>Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make good any resultant consequential damage.</p>	
13.	Fire stair 1	The inside handrail is not continuous at landings, is not circular or elliptical and ends abruptly.	Ensure the handrail is continuous and has no obstruction that will tend to break a handhold.	<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 registered architect;</p> <p>ii) be prepared with consideration to this Order and the Reasons for this Order; and</p>	<p>Stage 1: 1 month</p> <p>Stage 2: 2 months</p>

				<p>iii) detail the specific building work necessary to eliminate the serious defect and meet the specified standard.</p> <p>Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make good any resultant consequential damage.</p>	
14.	<p>Block A Ground floor living room sliding doors facing Briens Rd</p> <p>Third floor bedrooms facing Briens Rd</p>	<p>The living room sliding doors are single glazed when they should be double glazed</p>	<p>Ensure sliding doors are installed in accordance with the approved plans.</p>	<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 registered architect or a registered façade engineer; ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary to eliminate the serious 	<p>Stage 1: 1 month</p> <p>Stage 2: 2 months</p>

				<p>defect and meet the specified standard.</p> <p>Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make good any resultant consequential damage.</p>	
15.	Ground floor fire detection control and indicating equipment	The fire fan control panel did not incorporate indicator lights	Ensure the run/fault status is indicating on the fire fan control panel for the fire pump room ventilation in accordance with the approved plans.	<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 registered electrical engineer or fire safety systems engineer; ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary to eliminate the serious defect and meet the specified standard. 	1 month

				Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make good any resultant consequential damage.	
16.	Roof	Weatherproof cowls have not been installed on ventilation intakes and discharges.	Ensure weatherproof cowls are installed to protect from water entry per the approved plans.	Within the time period specified in column 6, Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au The written report required to be submitted must: <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 registered mechanical engineer; ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary to eliminate the serious defect and meet the specified standard. 	Stage 1: 1 month Stage 2: 2 months

				Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make good any resultant consequential damage.	
17.	Basement car park	The suction side attenuator/silencer has not been installed on car park supply fan CSF01.	Ensure the attenuator/silencer is installed in accordance with the approved plans.	Within the time period specified in column 6, Stage 1 Submit a written report to the OC Audit team via email to ocaudits@customerservice.nsw.gov.au The written report required to be submitted must: i) be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building, being a registered mechanical engineer; ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary to eliminate the serious defect and meet the specified standard. Stage 2 Carry out the work to rectify the serious defect in accordance with the	Stage 1: 1 month Stage 2: 2 months

				written report submitted in compliance with Stage 1 and make good any resultant consequential damage.	
18.	<p>Basement level car park supply fan</p> <p>Mid level basement car park exhaust duct</p> <p>Balconies with condensers</p>	Seismic restraints have not been installed on fans, ductwork and condenser units	Ensure seismic restraints are installed on mechanical services in accordance with the approved plans.	<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 registered mechanical engineer; ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary to eliminate the serious defect and meet the specified standard. <p>Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make</p>	<p>Stage 1: 1 month</p> <p>Stage 2: 2 months</p>

				good any resultant consequential damage.	
19.	Car park entry ramp	Lighting on the entry ramp is permanently switched on.	Ensure lighting is installed to operate via a daylight sensor in accordance with the approved plans.	<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 registered mechanical engineer; ii) be prepared with consideration to this Order and the Reasons for this Order; and iii) detail the specific building work necessary to eliminate the serious defect and meet the specified standard. <p>Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make good any resultant consequential damage.</p>	<p>Stage 1: 1 month</p> <p>Stage 2: 2 months</p>

20.	Ground floor lobby platform lift	The platform lift handrail is more than 500mm from the control buttons	Ensure the handrail is not more than 500mm from any button or operating device.	<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> <ol style="list-style-type: none"> 1. be prepared by a suitably qualified and experienced person or specialist appropriate to the subject areas of the building, being a registered vertical transport design practitioner; 2. be prepared with consideration to this Order and the Reasons for this Order; and 3. detail the specific building work necessary to eliminate the serious defect and meet the specified standard. <p>Stage 2 Carry out the work to rectify the serious defect in accordance with the written report submitted in compliance with Stage 1 and make good any resultant consequential damage.</p>	<p>Stage 1: 1 month</p> <p>Stage 2: 2 months</p>
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Duration of this Order

10. This Order remains in force until it is revoked by the Secretary.
11. This Order is given on the date that is listed above in accordance with section 67 of the Act.

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

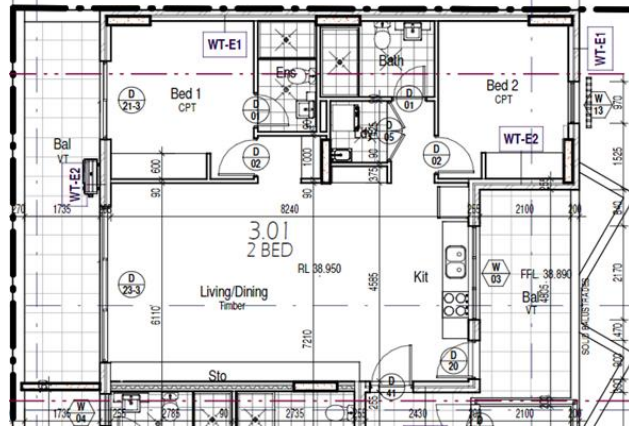
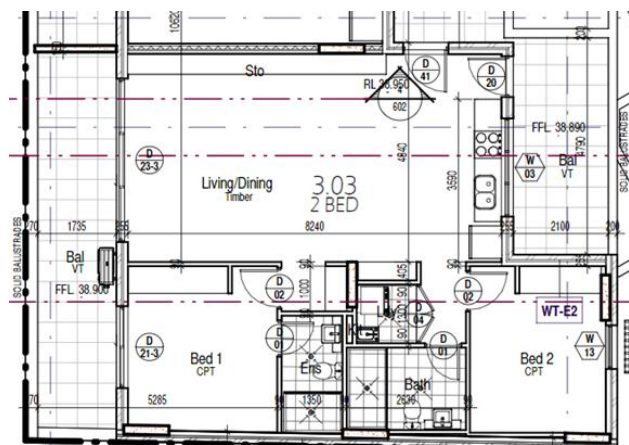
Reasons for Building Work Rectification Order

1. These Reasons for Order are with respect to the Order dated 25 September 2023 issued to **Briens Rd Developments Pty Ltd (ACN 640 206 104)** 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 26 July 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 12 July 2023.
 - (b) A notice of intention to issue the Order and draft copy of the Order was issued to Briens Rd Developments Pty Ltd (ACN 640 206 104) in relation to the Development.
 - (c) Submissions received from the Developer as outlined in this Order Building Work Rectification Order notice issued to Briens Rd Developments Pty Ltd (ACN 640 206 104) in relation to the Development between 8 September 2023 to 13 September 2023 (inclusive).
4. My belief is also based upon the following matters, set out in Table 3. I note that Column 1 of Table 3 refers to the Serious Defect with corresponding numbering that appears in Table 1 and 2 of the Order, located as described in the corresponding Column 2 of Table 1 or 2.

Table 3 – Basis of reasonable belief as to serious defects

Serious Defect Ref 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.	Building enclosure Fire safety system	Awning windows have been installed instead of sliding windows	The approved plans provide for openable windows to be of the sliding type. The installation of awning windows may reduce the fire resistance of the building	<p>The installation of the incorrect window type demonstrates a failure to comply with the Fire Engineering Report No. 21160-R01 Issue No.4 from INNOVA Fire Safety Specialists. In summary of fire safety requirements item 2.2 Protection of openings in external walls, Protection of Openings in External Walls, it is stated:</p> <p><i>“1. The openings highlighted in Figure 1 to Figure 4, which will be located within 3 m of the side allotment boundaries, shall be protected externally with radiant heat attenuation screens. The required radiant heat attenuation screens over the fixed / operable parts of the openings shall be tested up to an irradiance of 40 kW/m² in accordance with Appendix B7 of AS 1530.4-2014 to reduce the radiant heat flux on the non-fire side of the opening to at least 40% of received radiant heat for a period of at least 1-hour, when tested to AS 1530.4-2014.</i></p> <p>Notes:</p> <ul style="list-style-type: none"> ▪ All windows protected with radiant heat attenuation screens can remain openable. 	During a fire, fire and smoke could spread in an uncontrolled way throughout the building

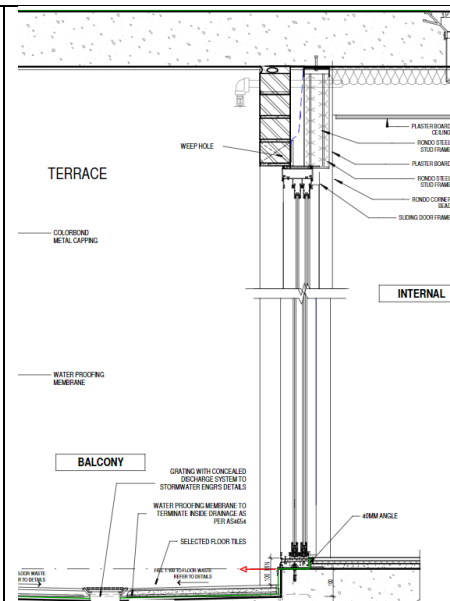
				<ul style="list-style-type: none"> ▪ All openable windows protected with radiant heat attenuation screens shall be of the sliding type (i.e., NOT the awning type). ▪ <i>The radiant heat attenuation screens shall be installed externally over the entire opening, strictly in accordance with the manufacturer's recommendations and consistent with a system tested in accordance with AS 1530.4."</i> (emphasis added) 	
2.	Fire safety system	The gap between the bottom cord of the handrail and the stair nosing is more than 125mm	There is an inadequate barrier to prevent falls. Gaps should be no more than 125mm.	The inadequate installation of the fire stair handrail demonstrates a failure to comply with the BCA Volume One, Section D Access and egress, Part D2 Construction of exits, D2.16 which provides: <i>"Barrier openings require that the opening should be less than 125mm sphere".</i>	The excessive gap presents a fall risk, which could result in injury.
3.	Building enclosure	A door to the balcony has not been installed consistent with the approved plans	The approved plans provide for a door located in the kitchen. This has not been installed	Architectural Plans issue for construction issue 1, Drawing 315 shows a door marked (D20) located on the left side of the window (W03) to the kitchen wall. Drawing 801, Door schedule indicates D20.	Residents cannot access the balcony from within the unit and must go outside to access the balcony

				 <p>Architectural Plans issue for construction issue 1, Drawing 315 shows a door (D20) located on the right side of the window (W03) to the kitchen wall.</p> 	
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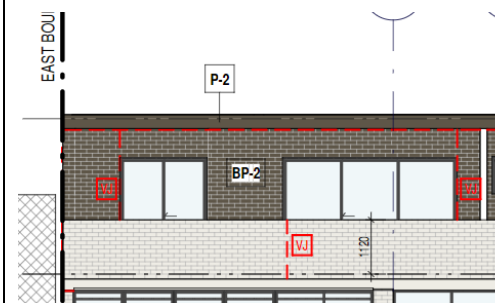
4.	Building enclosure	A ventilation exhaust vent has been installed above the window of bedroom 2	The approved plans provide for the vent to be adjacent to the window. The installation above the window could compromise the head flashing of the window	<p>Installation of the vent above the window demonstrates a failure to comply with the approved plan second-floor mechanical services plan (sheet M6, rev1).</p> <p>The failure to install the mechanical ventilation as per the approved plans are failure to comply with the Australian Standard 2047, Windows and External Glazed Doors in Buildings, Section 7.2.2 Flashing, which provides:</p> <ul style="list-style-type: none"> (a) <i>“Flashing shall be incorporated into the building envelope where it is necessary- To restrict water from entering into the interior of the building from exterior;</i> (b) <i>To restrict water passing across a cavity to the inner leaf; or</i> (c) <i>To shed water through cladding to the outer face.”</i> <p>And Australian Standard 3700.2018 Masonry Structures, Section 4, 4.7.1 Cavities, 4.7.2, Weepholes 4.7.3. Damp proof course (DPC) and Flashings, which provides:</p>	Flashing could be compromised, allowing water to enter into habitable areas of the building
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				<p><i>“DPCs or flashing shall be incorporated into masonry construction to-</i></p> <ul style="list-style-type: none"> <i>(a) Provide a barrier to the upward or downward passage of moisture through masonry.</i> <i>(b) Prevent moisture from entering into the interior of a building from the exterior;</i> <i>(c) Prevent moisture passing across a cavity to the inner leaf; and</i> <i>(d) Shed moisture through masonry to the outer face.”</i> 	
5.	Building enclosure	Sliding doors installed measure 2880mm in height	The approved plans show sliding doors at 2400mm height with brickwork above the window head.	The failure to install the appropriate sliding doors demonstrates a failure to comply with the approved plans Elevation Drawing titled “DETAIL SECTIONS” ref 570 dated 15/12/202 rev 2 by ZHINAR Architect which provides:	Construction not in accordance with the approved plans could lead to water ingress, reduced thermal performance of the facade and reduced acoustic

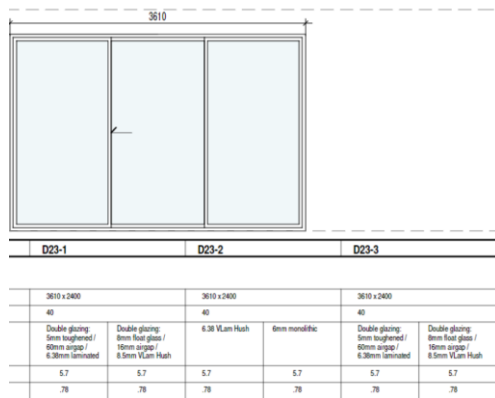
				<p>And drawing titled “ELEVATIONS” ref 500 dated 15/12/21 rev 2 by ZHINAR Architect which provides:</p> <p>And approved plan titled “DOOR SCHEDULE” ref 801 dated</p>	<p>performance of the façade</p>
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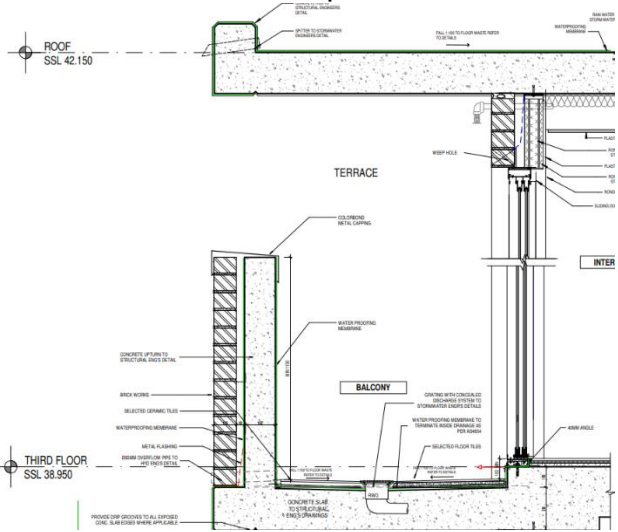
And drawing titled "ELEVATIONS"
ref 500 dated 15/12/21 rev 2 by
ZHINAR Architect which provides:



And approved plan titled "DOOR
SCHEDULE" ref 801 dated

				<p>15/12/2021 rev 1 by ZHINAR Architect:</p>  <table border="1"> <thead> <tr> <th colspan="2">D23-1</th> <th colspan="2">D23-2</th> <th colspan="2">D23-3</th> </tr> </thead> <tbody> <tr> <td colspan="2">3610 x 2400</td> <td colspan="2">3610 x 2400</td> <td colspan="2">3610 x 2400</td> </tr> <tr> <td colspan="2">40</td> <td colspan="2">40</td> <td colspan="2">40</td> </tr> <tr> <td>Double glazing: 5mm toughened/ 40mm argon / 6.38mm laminated</td> <td>Double glazing: 5mm float glass / 16mm argon / 6.38mm V-Lam Hush</td> <td>6.38 V-Lam Hush</td> <td>6mm monolithic</td> <td>Double glazing: 5mm toughened/ 40mm argon / 6.38mm laminated</td> <td>Double glazing: 5mm float glass / 16mm argon / 6.38mm V-Lam Hush</td> </tr> <tr> <td>5.7</td> <td>5.7</td> <td>5.7</td> <td>5.7</td> <td>5.7</td> <td>5.7</td> </tr> <tr> <td>76</td> <td>76</td> <td>76</td> <td>76</td> <td>76</td> <td>76</td> </tr> </tbody> </table>	D23-1		D23-2		D23-3		3610 x 2400		3610 x 2400		3610 x 2400		40		40		40		Double glazing: 5mm toughened/ 40mm argon / 6.38mm laminated	Double glazing: 5mm float glass / 16mm argon / 6.38mm V-Lam Hush	6.38 V-Lam Hush	6mm monolithic	Double glazing: 5mm toughened/ 40mm argon / 6.38mm laminated	Double glazing: 5mm float glass / 16mm argon / 6.38mm V-Lam Hush	5.7	5.7	5.7	5.7	5.7	5.7	76	76	76	76	76	76	
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76	76	76	76	76	76																																				
6.	Mechanical services	There is no weatherproof louvre on the car park supply air intake riser	The weatherproof louvre prevents the entry of water into the intake riser	<p>This lack of a weatherproof louvre demonstrates a failure to comply with BCA 2019 Volume 1 Amendment 1 FP 1.4 Weatherproofing, <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> <p>And drawing titled “Ground and Lower ground floor plan” ref M5 dated 24/3/23 rev 4 by Viscona Pty Ltd which provides:</p>	Water could enter into the intake riser, causing damage to mechanical ventilation system																																				

7.	Building enclosure	The balcony planter box shape has been modified from approved plans to allow access to the common area from the balconies	The amended shape during construction means that there is no regulated design integrating the planter box with structure, waterproofing and drainage	<p>The construction of the planter box demonstrates a failure to comply with the approved plan titled “WALL SETOUT THIRD FLOOR” ref 315 dated 15/12/21 rev 1 by ZHINAR Architect which provides:</p>	The failure to construct in accordance with the approved plans means there is no integration of the design with other building elements.

8.	Building enclosure	Brick capping has been installed on top of balustrade walls	The approved plans provide for metal capping. Brick is a porous material that may allow water entry into the balustrade cavity	<p>The installation of brick capping demonstrates a failure to comply with approved plan titled “Detail Sections” which provides:</p> 	Water could penetrate into the cavity of the balustrade wall, causing deterioration of building elements
9.	Plumbing services	The linear drain is not installed in front of the lift landing opening and is inadequate in size to prevent surface water entering the lift shaft.	The inadequate drain may allow water to penetrate into the lift shaft	<p>The inadequate drain demonstrates a failure to comply with the BCA 2019 Volume 1 Amendment 1, performance requirements FP1.3 and FP1.4. FP1.3 Rainwater drainage systems, which states: “A drainage system for the disposal of surface water resulting from a storm having an average recurrence interval of —</p> <ul style="list-style-type: none"> (a) 20 years must — (i) convey surface water to an appropriate outfall; and (ii) avoid surface water damaging the building; and (b) 100 years must avoid the entry of surface water into a building.” 	Water could penetrate into the lift shaft, damaging machinery

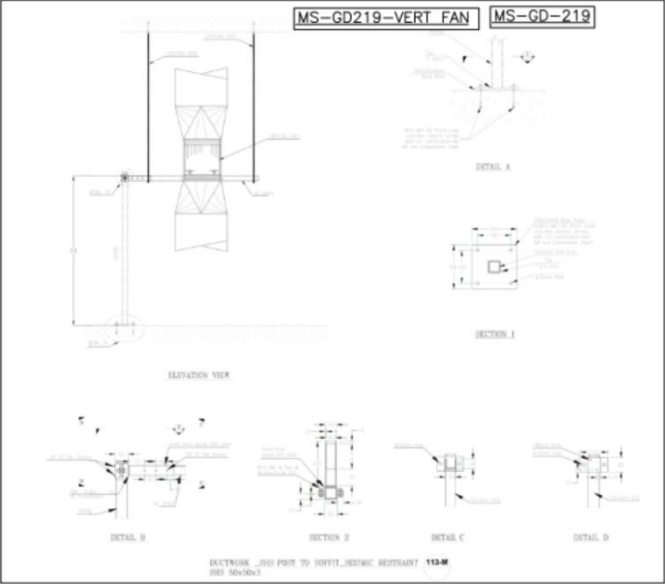
					further and ultimately the ductwork may collapse.
11.	Electrical services	The main switchboard main switches are not accessible	A key is required to open the panel to the main switchboard. In order to operate efficiently during an emergency, the main switchboard should be easily accessible.	The inaccessible switchboard demonstrates a failure to comply with AS/NZS 3000:2018 clause 2.3.3.4 (a) which states: <i>"Main switches shall be accessible as follows: (a) General Main switches shall be readily accessible and the means of operating such switches shall be not more than two meters above the ground, floor or a suitable platform."</i>	During an emergency, efficient operation of the main switchboard may not be available.
12.	Fire safety system	Services other than the firefighting pumpset and associated equipment have been installed in the fire pump room	The fire pump room should only contain the pumpset and associated equipment	The evidence of other services in the fire pump room demonstrates a failure to comply with NCC 2019 Volume 1 Amendment 1 E1.3 and AS2419.1-2005 Fire hydrant installations, Part 1: System design, installation and commissioning, Section 6 Pumpsets, 6.4 Pump Room , 6.4.1 General which states: <i>"Fixed on-site pumpsets and associated equipment shall be contained in a weatherproof room- (a) Constructed with a minimum 2.1 m high internal clearance with adequate space for pump maintenance and replacement.";</i>	Performance of equipment and attending fire personnel could be impeded or reduced.
13.	Fire safety system	The inside handrail of the fire stair is not continuous at	Suitable handrails must be provided to allow efficient and	The inappropriate construction of the handrail demonstrates a failure to comply with NCC 2019	During an emergency, residents may

		landings, is not circular or elliptical and ends abruptly	safe evacuation of a building in an emergency	<p>Volume 1 Amendment 1 D2.17 Handrails which states: <i>“(a) (iv) in a required exit serving an area required to be accessible, designed and constructed to comply with clause 12 of AS 1428.1, except that clause 12(d) does not apply to a handrail required by (a)(iii)(B).”</i></p> <p>And AS1428.1:2009, 12 Handrails which states: <i>(e) The height of the top of the handrails, measured in accordance with item (d), shall be consistent through the ramp (or stairs) and any landings.</i> <i>(g) Handrails shall be securely fixed and rigid, their ends shall be turned through a total of 180°, or to the ground, or returned fully to end post or wall face, as shown in Figures 26(c) and 26(D)”</i></p> <p>And</p> <p>Approved plan 899-CD 600 titled “Stair 1 Details” dated 15/12/21 rev 2 by ZHINAR Architects which provides:</p>	not be able to evacuate efficiently
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				<p>HANDRAIL</p> <p>OR / AND</p> <p>HANDRAIL TYPES - FLOOR MOUNTED OR WALL MOUNTED, REFER TO PLAN</p>	
14.	Building enclosure	The living room sliding doors are single glazed when they should be double glazed	Sliding doors may not meet satisfactory acoustic and thermal	The installation of single glaze sliding door demonstrates a failure to comply with approved plant titled "Door Schedule" ref 8699-CD 801 dated 15/12/21 rev 1 by ZHINAR Architects which provides:	Reduced amenity for occupants due to reduced acoustic and

			performance standards	<div>Approved Document A</div> <table><caption>Table 2.2 - Window & Glass Door Glazing Thickness Schedule</caption><thead><tr><th rowspan="2">Area / Room</th><th rowspan="2">Window Reference</th><th rowspan="2">Required R_w of Window/Glass Door System</th><th colspan="2">Minimum Glazing Recommended</th></tr><tr><th>Option 1 (Preferred)</th><th>Option 2</th></tr></thead><tbody><tr><td colspan="5">Block A – Ground Floors</td></tr><tr><td>Living Rooms facing Briens Rd</td><td>North Facing</td><td>39</td><td>Double Glazing: 5mm toughened / 60mm airgap / 6.38mm laminated</td><td>Double Glazing: 6mm float glass / 16mm airgap / 8.5mm VLam Hush</td></tr><tr><td colspan="5">Block A – First & Second Floors</td></tr><tr><td>Living Rooms facing Briens Rd</td><td>North Facing</td><td>26²</td><td>6.38mm VLam Hush</td><td>6mm monolithic</td></tr><tr><td colspan="5">Block A – Third Floor</td></tr><tr><td>Living Rooms facing Briens Rd</td><td>North Facing</td><td>37</td><td>12.5mm VLam Hush (fixed panels) / 10.5mm VLam Hush (sliding panels)</td><td>Double Glazing: 10mm monolithic / 12mm airgap / 6.38 laminated</td></tr><tr><td>Bedrooms facing Briens Rd</td><td>North Facing</td><td>40</td><td>Double Glazing: 5mm toughened / 60mm airgap / 6.38mm laminated</td><td>Double Glazing: 8mm float glass / 16mm airgap / 8.5mm VLam Hush</td></tr><tr><td colspan="3">All other windows</td><td colspan="2">Standard glazing will be adequate to achieve internal sound level criteria.</td></tr></tbody></table> <div>Note: 1) Minimum glazing has been specified to meet acoustic requirements. Acoustic Dynamics advises that some windows/glass doors may also need to meet applicable safety standards. Additional advice should be sought to verify such requirements. 2) The resulting calculated R_w value for the window glazing incorporates the R_w value of the wintergarden's glass louvres (closed) and the reverberation build-up within the balcony.</div>	Area / Room	Window Reference	Required R_w of Window/Glass Door System	Minimum Glazing Recommended		Option 1 (Preferred)	Option 2	Block A – Ground Floors					Living Rooms facing Briens Rd	North Facing	39	Double Glazing: 5mm toughened / 60mm airgap / 6.38mm laminated	Double Glazing: 6mm float glass / 16mm airgap / 8.5mm VLam Hush	Block A – First & Second Floors					Living Rooms facing Briens Rd	North Facing	26 ²	6.38mm VLam Hush	6mm monolithic	Block A – Third Floor					Living Rooms facing Briens Rd	North Facing	37	12.5mm VLam Hush (fixed panels) / 10.5mm VLam Hush (sliding panels)	Double Glazing: 10mm monolithic / 12mm airgap / 6.38 laminated	Bedrooms facing Briens Rd	North Facing	40	Double Glazing: 5mm toughened / 60mm airgap / 6.38mm laminated	Double Glazing: 8mm float glass / 16mm airgap / 8.5mm VLam Hush	All other windows			Standard glazing will be adequate to achieve internal sound level criteria.		thermal performance
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15.	Fire safety system	The fire fan control panel did not incorporate indicator lights	The fans are required for the operation of the fire pump. The regulated design provides that run/fault status should be included in the fire fan control panel	<p>The lack of indicator lights demonstrates a failure to comply with approved plan titled “VESDA Data, Cause and Effect Diagram Electrical Services” ref E21 dated 24/3/23 rev 4 by Viscona Pty Ltd</p> <p>And</p> <p>Approved plant titled “Mechanical Switchboard Summary and Details Mechanical Services” ref “M13” dated 24/3/23 rev 4 by Viscona Pty Ltd</p>	In an emergency, it may not be apparent that the fans are operational																																															
16.	Mechanical services	Weatherproof cowls have not been installed on	Weatherproof cowls prevent the	The lack of weatherproof cowls demonstrates a failure to comply with approved plan titled “Roof Plan Mechanical Services” ref M10 dated 24/3/23 rev 4 by Viscona Pty Ltd	Uncontrolled water entry may occur and could cause																																															

		ventilation intakes and discharges	entry of water into ventilation shafts.		deterioration of the building element and potentially render the mechanical systems inoperable.																																																												
17.	Mechanical services	The suction side attenuator/silencer has not been installed on car park supply fan CSF01	The attenuator reduces noise attenuation and potential noise breakout to habitable spaces and neighbouring property	<p>The lack of attenuator demonstrates a failure to comply with approved plan titled “Schedules, Details and Notes Mechanical Services” ref M2 dated 24/3/23 rev 4 by Viscona Pty Ltd which provides:</p> <table><tr><th colspan="13">SCHEDULE OF SILENCER</th></tr><tr><th rowspan="2">SILENCER NO.</th><th rowspan="2">LOCATION</th><th rowspan="2">NO. OFF</th><th rowspan="2">AIR QTY (L/S)</th><th rowspan="2">DIMENSIONS</th><th colspan="8">STATIC INSERTION LOSS, dB</th></tr><tr><th>63</th><th>125</th><th>250</th><th>500</th><th>1K</th><th>2K</th><th>4K</th><th>8K</th></tr><tr><td>S-1</td><td>CEF-1</td><td>2</td><td>4600</td><td>900 LONG x 710 DIA</td><td>3</td><td>4</td><td>8</td><td>14</td><td>14</td><td>9</td><td>7</td><td>6</td></tr><tr><td>S-2</td><td>CSF-1</td><td>2</td><td>1600</td><td>600 LONG x 560 DIA</td><td>2</td><td>4</td><td>6</td><td>10</td><td>14</td><td>10</td><td>8</td><td>7</td></tr></table>	SCHEDULE OF SILENCER													SILENCER NO.	LOCATION	NO. OFF	AIR QTY (L/S)	DIMENSIONS	STATIC INSERTION LOSS, dB								63	125	250	500	1K	2K	4K	8K	S-1	CEF-1	2	4600	900 LONG x 710 DIA	3	4	8	14	14	9	7	6	S-2	CSF-1	2	1600	600 LONG x 560 DIA	2	4	6	10	14	10	8	7	Noise could break out to habitable spaces and neighbouring properties
SCHEDULE OF SILENCER																																																																	
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18.	Mechanical services	Seismic restraints have not been installed on fans, ductwork and condenser units	Seismic restraints protect mechanical services from fall during seismic events	<p>The lack of seismic restraints demonstrates a failure to comply with approved plans titled “Basement Plan Mechanical Services” ref M4 dated 24/3/23 rev 4 by Viscona Pty Ltd</p> <p>And “Seismic Restraint and Notes” ref M16 dated 24/3/23 rev 4 by Viscona Pty Ltd which provides:</p>	In a seismic event, improperly restrained services could fall and cause damage																																																												

					
19.	Electrical services	Lighting on the entry ramp is permanently switched on	Lighting should operate via a daylight sensor to maintain energy efficiency	<p>The permanently switch on light demonstrates a failure to comply with the BCA 2019 Volume 1 Amendment 1 J6.3(h), which provides:</p> <p><i>“Artificial lighting for daytime travel in the first 19 m of travel in a carpark entry zone must be controlled by a daylight sensor in accordance with Specification J6.”</i></p> <p>And approved plan titled “Lighting and Dry Fire Layout Ground and Lower Ground Floor Plan Electrical Services” ref E04 dated 24/3/23 rev 4 by Viscona Pty Ltd</p>	Lighting does not meet appropriate energy efficiency levels and will result in additional building running costs

20.	Mechanical services	The platform lift handrail is more than 500mm from the control buttons	The handrail should not be more than 500mm from control buttons so that people with limited mobility can safely operate the lift	<p>The improper location of the handrail demonstrates a failure to comply with BCA 2019 Volume 1 Amendment 1 Table E3.6b.</p> <p>And AS 1735.12:1999 clause 5.3 Handrails 5.3.1 Provision of handrail which provides: <i>A handrail shall be provided, which shall have a length of not less than 600mm additional to ..."</i></p>	People with mobility limitations must be afforded with suitable handrails to exit a building safely in an emergency.
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Consideration of written representations

5. Representations from the Developer between 8 September 2023 to 13 September 2023 (inclusive) were considered and I note the following:
 - a. Defect no 9: there is sufficient amount of weepholes with unobstructed path for water from condensation to escape the building enclose. However, we have engaged a bricklayer to complete a report to satisfy this line item. This should be made available mid next week. In the interim, please see attached photos of weepholes throughout the building.
 - b. Defect no. 10: Platform lift handrails not returned to wall. We concede this point. We have consulted the lift manufacturer and the lift consultant. We will rectify this within the next several days. We believe this to be a minor defect.
 - c. Defect no. 22: Isolation joints between the floor and columns and lift shafts. We disagree with this point. We have previously provided photos of cold joints; we now make a submission from structural engineer which has inspected the isolation joints on floor and columns.
6. I have considered the above submissions from the developer and have decided to proceed with the Order, noting that the submissions do not directly address any issues referred to within the Order.

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

5. 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.
6. 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.
7. I am of the view that the periods above for Defect 1 through 20 (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).