

Attn: Proper Officer  
Mitchell Avenue Development Pty Ltd  
ACN 615 564 586  
c/ SMART WEALTH ADVISORS  
Suite 1204, 219-227 Elizabeth Street  
SYDNEY NSW 2000

Service: By express post and by email

DATE: 01 February 2024

## Building Work Rectification Order

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

Mitchell Avenue Development Pty Ltd (ACN 615 564 586) is being given this Building Work Rectification Order (Order) in relation to 11 - 15 Mitchell Avenue, JANNALI NSW 2226 (SP102187).

Mitchell Avenue Development Pty Ltd (ACN 615 564 586) 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. Elizabeth Stewart, Acting Executive Director Building Operations and Assistant Building Commissioner, Building Commission NSW is an authorised delegate of the Secretary of the Department.
5. Mitchell Avenue Development Pty Ltd (ACN 615 564 586) is the developer of the residential apartment building known as **11 - 15 Mitchell Avenue, JANNALI NSW 2226 (SP102187) (the Development)** for the purposes of section 4(a) 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, is currently occupied and less than 10 years old.
7. On 16 March 2023 with the consent of the owners corporation, a third-party consultant engaged by the Department attended the Building (**Investigator**). The Investigator prepared a report on serious defects in the Building (**Inspection Report**).

## Requirements in relation to Serious Defects

8. I, Elizabeth Stewart, under section 33 of the Act, require you Mitchell Avenue Development Pty Ltd (ACN 615 564 586) 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**

<b>Serious Defect Reference Number</b>	<b>Location of Serious Defect</b>	<b>General description of Serious Defect</b>	<b>Requirement</b>	<b>Time for compliance with Requirement</b>
1.	Basement 1 Carpark — Wash Bay	<p>The horizontal floor surface does not have an adequate slope to the drainage outlet/s causing accumulation of excess water in the area.</p> <p>No evidence of drainage in the vicinity of the area where water would accumulate.</p>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
2.	Basement 1 Carpark — bin room	It was observed that the horizontal floor surface does not have an adequate slope to the drainage outlet/s causing accumulation of excess water in the area.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
3.	Basement 1 Carpark – adjacent basement entrance gate	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Water ingress via the basement walls.</li> <li>2. No evidence of perimeter drainage along the basement walls.</li> </ol>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ol> <p>Stage 2.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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4.	Basement 1 Carpark – main switch room	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Water staining in the wall bases and, on the floors, indicating water ingress via the walls.</li> <li>2. No evidence of drainage provisions in the room.</li> </ol>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ol> <p>Stage 2.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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5.	Basement 1 carpark	It was observed that the horizontal floor surface does not have an adequate slope to the drainage outlet/s causing accumulation of excess water in the area.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			<p>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>	
6.	Basement 2 carpark – adjacent to car spaces 16 and 17	It was observed that water is not being discharged (i.e. water is ponding/accumulating) in the 'channel' along the wet wall. Granular aggregates prevent water discharge.	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>



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7.	Basement 2 carpark – fire stairs	Water ingress and ponding were observed at the base of the fire stairs.	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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8.	Apartment G05 – bedroom adjacent to external common walkway	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Water had entered the interior of the building (i.e. Unit G05) at the wall / floor interface.</li> <li>2. No waterproofing upturn along the external walls of the subject room.</li> </ol>	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			<p>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>	
9.	<p>Apartment G05 – external courtyard landing</p> <p>Rear courtyard to complex – adjacent BBQ area</p> <p>Apartment 402 – Balcony</p> <p>Apartment 305 - Balcony</p>	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. The horizontal tiled floor surface in the courtyard does not have an adequate slope to the drainage outlet/s causing accumulation of excess water in the area.</li> <li>2. The drainage pit is significantly higher than the remaining grass area in the courtyard.</li> </ol>	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			<p>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>	
10.	External rear courtyard – all planter boxes	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Water egress and staining at the light fitting in the external planter box wall.</li> <li>2. Efflorescence in the base of the outer face of the planter box wall, indicating water egress from the planter box.</li> <li>3. No evidence of waterproofing membrane terminating minimum 100mm above the soil level. The membrane did not have a visible compliant termination detail.</li> <li>4. No evidence of a protection board at the internal face of the planter box (i.e. between</li> </ol>	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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		the wall and the soil).	specification and manufacture's recommendation  Stage 2.  Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
11.	Apartment 402 balcony	The following observations were made:  1. Efflorescence to the base of the wall.  2. Absence of adequate waterproofing upturns along the perimeter walls.	Within the time period specified in column 5,  Stage 1.  Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a>  The written report required to be submitted must:  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	Stage 1 – 60 days  Stage 2 – 120 days

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12.	Rooftop	It was observed that the rooftop horizontal surface does not have an adequate slope to the drainage outlet/s causing ponding and accumulation of excess water in the area.	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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			<p>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>	
13.	Rooftop	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Bubbling of the rooftop membrane across most roof areas.</li> <li>2. Inadequate application of the membrane around the fixings, plinth and plant.</li> <li>3. Water ingress into the area positioned directly beneath the rooftop</li> </ol>	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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14.	Apartment 305 – balcony parapet wall	Limited visible pressure equalisation slots to the external Hebel walls.	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>



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15.	Apartment 305	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Absence of adequate waterproofing upturns along the perimeter walls.</li> <li>2. Moisture damage at the base of the wall.</li> </ol>	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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16.	External planter boxes adjacent to carpark entrance	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Efflorescence and moisture staining from the planter, which indicates moisture egress from the planter box.</li> <li>2. No waterproofing membrane to the internal face of the planter box wall above the soil level.</li> <li>3. No protection board to the internal face of the planter box wall.</li> </ol>	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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17.	Main switch room- basement 1	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Gaps between concrete block walls and concrete floor bounding the main switchboard room in Basement 1.</li> <li>2. Unprotected service penetrations and/or relatively deep recess within the concrete floor which compromises fire resistance.</li> </ol>	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

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18.	Pump room- basement 2	Gaps between concrete block wall and concrete floor bounding the pump room in Basement 2.	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

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19.	Basement 1	Redundant unprotected penetrations and recesses in the concrete slab above the basement floor, in multiple locations.	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

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20.	Basement 1	Inadequate and/or non-compliant protection of services passing through concrete slab above basement floor including sealant being applied on the pipe insulation.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to The Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

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			<p>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>	
21.	All residential floors	No protection and/or inadequate protection of services passing through fire rated concrete slabs and walls.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>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>	
22.	All levels	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Partially hollow door frames.</li> <li>2. Rectification works of door frames have been carried out.</li> </ol>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>



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>	
23.	Level 3	Gap between fire door leaf and door frame exceeds 5mm (up to ~12mm).	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <p>i) be prepared by a suitably qualified and registered specialist</p> <p>ii) be prepared with consideration to this Order and the Reasons for this Order;</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

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>	
24.	Residential floors	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Unprotected gaps at the junction of fire rated walls bounding residential apartments and concrete slabs.</li> <li>2. damaged lightweight (hebel) fire rated wall between residential apartment and/or ventilation shaft, and service cupboard in public corridor.</li> </ol>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
25.	Residential floors	Vertical gap at the junction of fire rated Hebel walls.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
26.	Basement carpark	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. A fire shutter has been installed to divide the two</li> </ol>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
		<p>levels of the basement carpark into 2 fire compartments.</p> <p>2. Nonetheless, large non-protected (walk-through) opening connects between the 2 fire compartments which represents a path of fire spread between the fire compartments.</p> <p>3. It was also observed that a storage cage was placed within the abovementioned connecting area in basement 2.</p> <p><b>Note-</b> Fire engineering performance solution report No 138309.FER001b, Version B dated 09/05/2019 relating to the fire shutter also requires a fire wall between the 2 basement levels.</p>	<p>email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
27.	All residential floors	Doors to electric and communication service cupboards in public corridors are not provided with fire protective or non-combustible covering and/or smoke seals.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
28.	Basement 2 exit stairway near pump room	The clear height above the stairway landing is less than 2m (~1955mm).	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
29.	Fire isolated exit, lower ground floor & level 1	There is no separation between exit stair flight rising from the lower ground floor (towards the final exit door at the ground floor level) and stair flights descending from Level 1 above.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>



Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
30.	Final exit gate/main entrance	The lever handle of the final exit gate at the main entrance is lower than 900mm above ground (~850mm).	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
31.	All levels - fire hydrant outlets	Fire hydrant outlets, in multiple locations, are oriented towards the wall at an angle and therefore don't have adequate clearance of not less than 1m directly in front.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
32.	Basement carpark	Heat detectors in the basement carpark are placed more than 3.5m from walls, and there are areas on the ceiling of the carpark located more than 5m from nearest detector.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
33.	Basement 1- level 4	<p>Structural drawings S1001 Level 1 Concrete outline plan by Xavier Night Structural Engineers, Revision 8, dated 05.09.2019 indicate the following:</p> <ol style="list-style-type: none"> <li>1. 20mm stepdown in bathrooms and/or 180mm slab thickness in the wet areas.</li> <li>2. A fire engineered solution is required to allow reduction of the fire resistance level (FRL) of the slabs in bathrooms from 90 minutes down to 60 minutes (due to reduction of slab thickness down to 180mm).</li> </ol> <p><b>Note:</b> Required fire resistance of concrete slabs is 90 minutes between residential floors and 120 minutes between the carpark and the residential ground floor. Based on documents available to us, there is no evidence that reduction of</p>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ol> <p>Stage 2.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
		FRL was allowed under a fire engineered solution.	Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
34.	Basement 1 Carpark – various areas	Foreign objects embedded within the concrete slab and segregated concrete were observed, which are surface defects in hardened concrete and will lead to the reduced service life of the concrete.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>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>	
35.	<p>Basement 2 Carpark – fire stairs</p> <p>Level 4 - fire stairs</p>	Areas of the concrete slab have not been properly vibrated or compacted which has created areas of segregation and honeycombing.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>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>	
36.	Basement 2 carpark – fire stairs	Damaged/chipped concrete was observed, which reduces concrete cover over reinforcement bars	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>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>	
37.	Apartment 402 – external balcony hob	Cracking in the external balcony hob was observed	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>



Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>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>	
38.	Rooftop	Embedded formwork in the concrete was observed	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>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>	
39.	Level 4 fire stair landing soffit	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Cracked and damaged concrete.</li> <li>2. Exposed and rusted reinforcement.</li> </ol> <p>The above defects result in corrosion of the reinforcement bars and reduce the structural performance of the slab.</p>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>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>	
40.	Apartment 305 - balcony	Corrosion to fixings of louver tracks, where these are embedded into the concrete slab edge and support the external sliding louvre panels.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

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			<p>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>	
41.	Basement 1 Carpark – Adjacent carpark entrance gate	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Mortar joints to the structural masonry walls did not appear to be fully bedded.</li> <li>2. The blocks appear to have displaced from their original position.</li> <li>3. Inconsistent placement of block work wall (i.e. uneven blockwork and bondek above).</li> <li>4. Unable to determine if the block walls are core filled or provide structural adequacy to the bondek slab above.</li> <li>5. No structural documentation for this block wall was shown</li> </ol>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
		in the 'For Construction' drawings.	specification and manufacture's recommendation  Stage 2.  Rectify the works in accordance with the specialist report and drawings provided at stage 1.	
42.	Ramp between B1- B2	The following observations were made:  1. Galvanized shelf angles not fixed to concrete beams to support bondek.  2. Details not found on 'for construction' documentation.	Within the time period specified in column 5, Stage 1.  Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a>  The written report required to be submitted must:  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	Stage 1 – 60 days  Stage 2 – 90 days

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>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>	
43.	Apartment 402 - balcony	Substantial lateral deflection in the balustrade when pushed by hand was observed.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>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>	
44.	Carpark entrance	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Cracks in the wall.</li> <li>2. Efflorescence and moisture staining from the façade/wall above the carpark entrance</li> </ol>	<p>Within the time period specified in column 5, Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ol style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation</li> </ol>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>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>	
45.	External Façade - slab edges, wall under the roof and overflow outlets from balconies above (i.e. concrete elements).	Efflorescence was observed across all facades, particularly at overflow outlets from balconies, balcony slab edges, and under the roof parapet wall, which indicates moisture egress and failure of the waterproofing system for the balconies, slab edges and rooftop.	<p>Within the time period specified in column 5, Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>



Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<ul style="list-style-type: none"> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <p>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
46.	External Facades – cladding elements	<p>The following observations were made:</p> <ol style="list-style-type: none"> <li>1. Cracks were observed in the external cladding in the northern elevation, which may result in water ingress into the interior of the building.</li> <li>2. Cracking in the wall cladding and reportedly removed section of the cladding to investigate leaks in the wall (i.e. northern elevation).</li> </ol>	<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 the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p> <ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> </ul>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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>	
47.	External façade / elevations	Limited visible pressure equalisation slots to the external Hebel walls.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Carry out inspections that will satisfy the department that all locations of this recurring defect have been identified.</p> <p>Submit a written report and drawings prepared for the raised defect to the Department via email to <a href="mailto:ocaudits@customerservice.nsw.gov.au">ocaudits@customerservice.nsw.gov.au</a></p> <p>The written report required to be submitted must:</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<ul style="list-style-type: none"> <li>i) be prepared by a suitably qualified and registered specialist</li> <li>ii) be prepared with consideration to this Order and the Reasons for this Order;</li> <li>iii) detail the specific building work necessary to meet the codes and relevant standard.</li> <li>iv) be prepared with consideration to relevant design and installation specification and manufacture's recommendation</li> </ul> <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

9. Making good any consequential damage caused in carrying out the works specified in this Order.
10. 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

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

12. This order is given on the date that it is listed above in accordance with section 67 of the RAB Act



**Elizabeth Stewart**

Acting Executive Director  
Building Operations and Assistant Building Commissioner  
Building Commission NSW

# Reasons for the Building Work Rectification Order

13. I, Elizabeth Stewart, have formed a reasonable belief that the Development has a serious defect based on the following.
14. I have formed this belief after reviewing:
- An Inspection Report (dated 10 July 2023) prepared by an authorised officer of the Department, who conducted an inspection of the Development by consent of the owners corporation on 16 March 2023.
15. 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.	Waterproofing systems	The horizontal floor surface to the car wash bay in basement 1 has inadequate slopping to the drainage outlets. This is causing an accumulation of excess water in the area, where there is no drainage.	<p>The inadequate slopping is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that stormwater (from other than roof areas) needs to be collected and conveyed via stormwater channels and inlets to site stormwater drains. Further, with the exception of OSD systems, ponding of stormwater shall only occur temporarily at sag pits.</p>	<ul style="list-style-type: none"> <li>Australian Standard AS/NZS3500.3 Plumbing and Drainage–Stormwater Drainage, Section 5 Surface water drainage system – Design, 5.3 Layout – General criteria</li> <li>Australian Standard AS/NZS3500.3 appears as a standard referenced in the BCA Volume One, Part F Damp and Weatherproofing, Performance Requirements FP1.3</li> </ul>

<b>Serious Defect Reference</b>	<b>Building element</b>	<b>Defect</b>	<b>Reason why defect is a serious defect</b>	<b>Applicable approved plan, Code or Australian Standard</b>
2.	Waterproofing systems	The horizontal floor surface to the bin room in basement 1 has inadequate slopping to the drainage outlets. This is causing an accumulation of excess water in the area, where there is no drainage.	<p>The inadequate slopping is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that stormwater (from other than roof areas) needs to be collected and conveyed via stormwater channels and inlets to site stormwater drains. Further, with the exception of OSD systems, ponding of stormwater shall only occur temporarily at sag pits.</p>	<ul style="list-style-type: none"> <li>• Australian Standard AS/NZS3500.3 Plumbing and Drainage–Stormwater Drainage, Section 5 Surface water drainage system – Design, 5.3 Layout – General criteria</li> <li>• Australian Standard AS/NZS3500.3 appears as a standard referenced in the BCA Volume One, Part F Damp and Weatherproofing, Performance Requirements FP1.3</li> </ul>
3.	Waterproofing systems	There is insufficient drainage to dispose of water ingress along the perimeter walls to basement levels.	<p>The insufficient drainage is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that a roof and external wall must prevent the penetration of water. Further, a drainage system for the disposal of surface water must avoid surface water damaging the building.</p>	<ul style="list-style-type: none"> <li>• BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> <li>• BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirements: FP1.3 Rainwater drainage systems</li> </ul>
4.	Waterproofing systems	There is insufficient drainage provisions to the main switch room, causing water ponding.	The insufficient drainage is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>• BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> </ul>

<b>Serious Defect Reference</b>	<b>Building element</b>	<b>Defect</b>	<b>Reason why defect is a serious defect</b>	<b>Applicable approved plan, Code or Australian Standard</b>
			These require, amongst other things, that a roof and external wall must prevent the penetration of water. Further, a drainage system for the disposal of surface water must avoid surface water damaging the building.	<ul style="list-style-type: none"> <li>• BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirements: FP1.3 Rainwater drainage systems</li> </ul>
5.	Waterproofing systems	The horizontal floor surface does not have adequate slop to the drainage outlets. This is causing an accumulation of excess water in the area.	<p>The inadequate sloping is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that stormwater (from other than roof areas) needs to be collected and conveyed via stormwater channels and inlets to site stormwater drains. Further, with the exception of OSD systems, ponding of stormwater shall only occur temporarily at sag pits.</p>	<ul style="list-style-type: none"> <li>• Australian Standard AS/NZS3500.3 Plumbing and Drainage—Stormwater Drainage, Section 5 Surface water drainage system – Design, 5.3 Layout – General criteria</li> <li>• Australian Standard AS/NZS3500.3 appears as a standard referenced in the BCA Volume One, Part F Damp and Weatherproofing, Performance Requirements FP1.3</li> </ul>
6.	Waterproofing systems	Water is not being discharged and is ponding or accumulating in the channel along the wet well.	<p>The ponding of water is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that subsoil drains for stormwater drainage must be laid so that any</p>	<ul style="list-style-type: none"> <li>• Australian Standard AS/NZS3500.3:2015, Plumbing and drainage – Stormwater drainage, Section 6 Surface and subsoil drainage systems - installation, 6.4 Subsoil drains, Clause 6.4.1 General</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			pipe or geo-composite drain can be flushed out. Further, a drainage system for the disposal of surface water must convey surface water to an appropriate outfall to prevent moisture.	<ul style="list-style-type: none"> <li>Australian Standard AS/NZS3500.3 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Deemed-to-Satisfy provision F1.1 Stormwater drainage</li> </ul>
7.	Waterproofing systems	There is water ingress and ponding at the base of the fire stairs.	<p>The water ingress and ponding is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that a roof and external wall must prevent the penetration of water. Further, a drainage system for the disposal of surface water must avoid surface water damaging the building.</p>	<ul style="list-style-type: none"> <li>BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> <li>BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirements: FP1.3 Rainwater drainage systems</li> </ul>
8.	Waterproofing systems	There is no waterproofing upturn along the external walls in the common walkway adjacent to apartment G05, allowing water to enter the interior of the building.	<p>The insufficient waterproofing is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that where membrane termination is to prevent water entry, the finished height of the membrane above the finished surface level must be sufficient to prevent water flowing over the top. Further, a roof and external wall must prevent the</p>	<ul style="list-style-type: none"> <li>Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation, 2.8 Termination of membranes, 2.8.1.1 Height</li> <li>Australian Standard AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and</li> </ul>



Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			penetration of water that could cause undue dampness.	Weatherproofing, Performance Requirement FP1.4
9.	Waterproofing systems	The courtyard surface does not have an adequate slope to the drainage outlet/s, and floor drainage surface finish on a higher level than adjacent areas.	<p>The inadequate slopping is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that stormwater (from other than roof areas) needs to be collected and conveyed via stormwater channels and inlets to site stormwater drains and that falls in finishes shall ensure water drains to the drainage outlet. Further, with the exception of OSD systems, ponding of stormwater shall only occur temporarily at sag pits.</p>	<ul style="list-style-type: none"> <li>• Australian Standard AS/NZS 3500.3 –2015 Plumbing and Drainage–Stormwater Drainage, Section 5 Surface water drainage system – Design, 5.3 Layout – General criteria</li> <li>• Australian Standard 4654.2 - Waterproofing Membranes for External Above Ground Use, Section 2 Design and installation, 2.5 Substrate, 2.5.2 Falls</li> <li>• Australian Standard AS4654.2 appears as a standard referenced in the BCA Volume One, Part F Damp and Weatherproofing, Performance Requirements FP1.3</li> </ul>
10.	Waterproofing systems	There is inadequate waterproofing membrane termination and protection board in the planter boxes, causing efflorescence and water egress.	<p>The inadequate waterproofing is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, for the membrane to be sealed to the</p>	<ul style="list-style-type: none"> <li>• Australian Standard AS4654.2: Waterproofing membranes for external above ground use: Section 2 – Design and Installation, 2.13 Planter Boxes</li> <li>• Australian Standard 4654.2 Waterproofing membranes for external above-ground use –</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			drainage outlet and extend vertically to a height of 100 mm above the soil or fill level. Further, sheet membranes need to be secured along the top edge or bottom edge of the planter boxes to prevent the penetration of water.	Design and installation, Section 2 Design and installation, 2.8 termination of membranes, 2.8.1 Upward terminations <ul style="list-style-type: none"> <li>Australian Standard AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> </ul>
11.	Waterproofing systems	Inadequate waterproofing upturns along the perimeter wall, causing efflorescence to the base of the wall.	<p>The inadequate waterproofing upturns is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, for the finished height of the membrane above the finished surface level to be sufficient to prevent water, including wind driven, flowing over the top of the membrane to prevent the penetration of water.</p>	<ul style="list-style-type: none"> <li>Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation, 2.8 Termination of membranes, 2.8.1.1 Height</li> <li>Australian Standard AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> </ul>
12.	Waterproofing systems	The rooftop has inadequate slopping to the drainage outlets, causing an accumulation and ponding of water.	<p>The inadequate slopping is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that falls in finishes must ensure water drains to the outlet to avoid</p>	<ul style="list-style-type: none"> <li>Australian Standard 4654.2-2012, Waterproofing Membranes for External Above Ground Use - Design and Installation, Section 2 - Design and installation</li> <li>Australian Standard AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and</li> </ul>

<b>Serious Defect Reference</b>	<b>Building element</b>	<b>Defect</b>	<b>Reason why defect is a serious defect</b>	<b>Applicable approved plan, Code or Australian Standard</b>
			water being retained on the finished surface. Further, a roof and external wall must prevent the penetration of water.	<p>Amenity, Part F1 Damp and Weatherproofing, Deemed-to-Satisfy provision F1.4</p> <ul style="list-style-type: none"> <li>Deemed-to-Satisfy provision F1.4 is a pathway that can satisfy the BCA Volume 1, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> </ul>
13.	Waterproofing systems	Inadequate application of the rooftop membrane, causing bubbling of the membrane and water ingress.	<p>The inadequate application of membrane is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that membranes must result in the substrate surface being smooth, without protrusions and free from contamination and that a roof and external wall must prevent the penetration of water.</p>	<ul style="list-style-type: none"> <li>Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation, 2.5 Substrate, 2.5.3.1 Fully bonded or liquid-applied</li> <li>Australian Standard AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Deemed-to-Satisfy provision F1.4</li> <li>Deemed-to-Satisfy provision F1.4 is a pathway that can satisfy the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> </ul>
14.	Waterproofing systems	Limited visible pressure equalisation slots to the external Hebel walls.	The limited visible pressure equalisation slots are attributable to the failure to comply with the	<ul style="list-style-type: none"> <li>BCA Volume One, Section F Health and Amenity, Part F1</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			<p>Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that a roof and external wall must prevent the penetration of water.</p>	Damp and Weatherproofing, Performance Requirement FP1.4
15.	Waterproofing systems	Inadequate waterproofing upturns along the perimeter walls, resulting in moisture damage at the base of the wall.	<p>The inadequate waterproofing upturns is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, for the finished height of the membrane above the finished surface level to be sufficient to prevent water, including wind driven, flowing over the top of the membrane to prevent the penetration of water. Further, these require that waterproofing membranes result in a smooth, clean and dry surface.</p>	<ul style="list-style-type: none"> <li>• Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation, 2.8 Termination of membranes, 2.8.1.1 Height and 2.5 Substrate, 2.5.3.1 Fully bonded or liquid-applied</li> <li>• Australian Standard AS/NZS4654.2 appear as standards referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> </ul>
16.	Waterproofing systems	There is insufficient waterproofing membrane and protection board in the planter boxes, causing water egress.	<p>The insufficient waterproofing is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, for the membrane to be sealed to the drainage outlet and extend vertically</p>	<ul style="list-style-type: none"> <li>• Australian Standard AS4654.2: Waterproofing membranes for external above ground use: Section 2 – Design and Installation, 2.13 Planter Boxes</li> <li>• Australian Standard 4654.2 Waterproofing membranes for external above-ground use – Design and installation, Section 2 Design and installation, 2.8</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			to a height of 100 mm above the soil or fill level. Further, sheet membranes need to be secured along the top edge or bottom edge of the planter boxes to prevent the penetration of water.	<p>termination of membranes, 2.8.1 Upward terminations</p> <ul style="list-style-type: none"> <li>Australian Standard AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> </ul>
17.	Fire safety systems	There are unsealed construction joint junctions and unprotected service penetrations within the main switch room.	<p>The unprotected construction joint junctions and service penetrations are attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, construction joints and spaces to be fire-resisting with respect to integrity and insulation. Further, where a service penetrates a building element that is required to have an FRL, that installation has been tested and achieved the required FRL. Finally, a main switchboard must be separate from any other part of the building by construction having an FRL of not less than 120/120/120.</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part C2: Compartmentation and separation, C2.13</li> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.12 and Specification C3.12</li> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.15 and Specification C3.15</li> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.16</li> </ul>
18.	Fire safety systems	There are unsealed junctions between the fire rated walls and the concrete floor bounding the pump room in the basement.	The unsealed construction joint junctions between the fire rated walls and concrete floor are attributable to the failure to comply with the	<ul style="list-style-type: none"> <li>Australian Standard AS 2419.1: Fire Hydrant Installations, Part 1- System design, installation and commissioning</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			<p>Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, for pumprooms located within a building to be enclosed with walls with an FRL not less than that prescribed by the BCA for a firewall for that particular building classification. Further, construction joints, spaces and between building elements are required to be fire-resistant and achieve the require FRL.</p>	<ul style="list-style-type: none"> <li>Australian Standard AS 2419.1 appears as a standard referenced in the NCC BCA Volume One, E1.3</li> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.16</li> </ul>
19.	Fire safety systems	Unprotected penetrations and recesses in the concrete slab soffit within the basement levels.	<p>The unprotected penetrations and recesses are attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that every building element provided to resist the spread of fire must be protected so that an adequate level of performance is maintained.</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.12 and Specification C3.12</li> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.15 and Specification C3.15</li> <li>NCC BCA Volume One, Section C Fire Resistance, Performance Requirements, CP8 Fire protection of openings and penetrations</li> </ul>
20.	Fire safety systems	Inadequate fire protection of services passing through concrete slab soffit above basement floor.	<p>The inadequate protection of services is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that where a service penetrates a</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.12 and Specification C3.12</li> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.15 and Specification C3.15</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			building element it must have the required FRL and be installed in accordance with the regulations.	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Section C Fire Resistance, Performance Requirements, CP8 Fire protection of openings and penetrations</li> </ul>
21.	Fire safety systems	No protection and/or inadequate protection of services passing through fire rated concrete slabs and walls	<p>The inadequate protection of services is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that where a service penetrates a building element it must have the required FRL and be installed in accordance with the regulations.</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.12 and Specification C3.12</li> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.15 and Specification C3.15</li> <li>NCC BCA Volume One, Section C Fire Resistance, Performance Requirements, CP8 Fire protection of openings and penetrations</li> </ul>
22.	Fire safety systems	Door frames are partially hollow due to frame being inadequately filled.	<p>The partially hollow door frames are attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, metal doorframes in non-masonry walls which are sufficiently backfilled.</p>	<ul style="list-style-type: none"> <li>Australian Standard AS 1905.1 Components for the protection of openings in fire resistant walls, Part 1: Fire-resistant doorsets, Section 5: Installation</li> <li>Australian Standard AS 1905.1 appears as a standard referenced in the NCC BCA Volume One, Specification C3.4 Fire doors, smoke doors, fire windows and shutters</li> </ul>
23.	Fire safety systems	Excessive gap between the fire door leaf and door frame (up to 12mm).	The excessive gap is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS 1905.1 Components for the protection of openings in fire resistant walls,</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			These require, amongst other things, that the clearances around door leaves must not exceed 5mm,	Part 1: Fire-resistant doorsets, Section 5: Installation <ul style="list-style-type: none"> <li>Australian Standard AS 1905.1 appears as a standard referenced in the NCC BCA Volume One, Specification C3.4 Fire doors, smoke doors, fire windows and shutters</li> </ul>
24.	Fire safety systems	Unprotected junctions between the slab soffit and bounding wall construction to residential apartments.	<p>The unprotected junctions are attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that any wall required to have an FRL must extend to the underside of the floor next above, the underside of the roof or provide other specified alternative fire protection. Further, construction joints and spaces are to be fire-resistant with respect to integrity and insulation.</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part C1: Fire resistance and stability, Specification C1.1- Fire resisting construction</li> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.16</li> </ul>
25.	Fire safety systems	Unprotected construction joints to the bounding Hebel wall junctions.	<p>The unprotected construction joints are attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that construction joints and spaces are to be fire-resistant with respect to integrity and insulation.</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part C1: Fire resistance and stability, Specification C1.1- Fire resisting construction</li> <li>NCC BCA Volume One, Part C3: Protection of Openings, C3.16</li> </ul>



<b>Serious Defect Reference</b>	<b>Building element</b>	<b>Defect</b>	<b>Reason why defect is a serious defect</b>	<b>Applicable approved plan, Code or Australian Standard</b>
26.	Fire safety systems	Large, non-protected, openings connecting the two fire compartments in the carpark.	<p>These unprotected openings are attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that any openings in a fire wall must not reduce the FRL required and that a sprinkler system must be installed in a building or part of a building where required.</p>	<ul style="list-style-type: none"> <li>• NCC BCA Volume One, Part C2: Compartmentation and separation, C2.7</li> <li>• NCC BCA Volume One, Part E1: Firefighting equipment, E1.5 Sprinklers</li> </ul>
27.	Fire safety systems	Absence of fire protection or non-combustible covering and lack of smoke seals to the electrical and communication cupboard doors.	<p>The lack of fire protection and smoke seals is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that service cupboards are enclosed by non-combustible construction or a fire-protective covering with doorways or openings suitably sealed against smoke spreading from the enclosure.</p>	<ul style="list-style-type: none"> <li>• NCC BCA Volume One, Part D2: Construction of exits, D2.7</li> </ul>
28.	Fire safety systems	Insufficient clear height above the stairway landing in the fire isolated stairs.	<p>The insufficient clear height is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that in a required exit or path of</p>	<ul style="list-style-type: none"> <li>• NCC BCA Volume One, Part D1: Provision for escape, D1.6</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			travel to an exit the unobstructed height throughout must be not less than 2 m.	
29.	Fire safety systems	Lack of separation between exit stair flight rising from the lower grounds floor and stair flights from the floor above.	<p>The lack of separation is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that if a stairway is serving as an exit it is required to be fire-isolated with no direction connection from the flight of stairs above.</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part D2: Construction of exits, D2.4</li> </ul>
30.	Fire safety systems	The lever handle of the final exit gate at the main entrance is lower than 900mm above ground (~850mm).	<p>The insufficient height of the exit gate is attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.</p> <p>These require, amongst other things, that a door in a required exit must be readily openable without a key, between 900mm and 1.1 mm from the floor.</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part D2: Construction of exits, D2.21</li> </ul>
31.	Fire safety systems	Lack of minimum clearance directly in front of hydrant outlet as they are oriented towards the wall.	<p>The lack of minimum clearance for fire hydrants demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that the valve outlet of a fire hydrant to be facing away from the wall</p>	<ul style="list-style-type: none"> <li>AS 2419.1: Fire Hydrant Installations, Part 1- System Design, Installation and Commissioning</li> <li>AS 2419.1 appears as a standard referenced in the NCC BCA Volume One, E1.3</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			immediately behind it, with a clearance of 1000mm directly in front of it for the connection and laying of house.	
32.	Fire safety systems	Excessive gaps between heat detectors in the basement carpark, including the ceiling	<p>The excessive gaps between heat detectors demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that detectors shall be arranged so that the distance between detectors and the ceiling does not exceed 5m, and the distance from the nearest row of detectors to any wall does not exceed 3.5m.</p>	<ul style="list-style-type: none"> <li>Australian Standard AS 1670.1, Fire detection, warning, control and intercom systems- System design, installation and commissioning, Part 1: Fire, Section 4: Heat Detectors</li> </ul>
33.	Fire safety systems	Insufficient horizontal fire resistance level separation due to reduced slab thickness in wet areas.	<p>The insufficient fire resistance level demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, the minimum requirements for the fire resistance of building elements.</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part C1: Fire resistance and stability, Specification C1.1</li> </ul>
34.	Structural systems	Foreign objects embedded within the concrete slab and segregated concrete	The foreign objects and segregated concrete demonstrate a failure to comply with the Australian Standard and Building Code provision referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS3600 Concrete Structures: Section 4 – Design for durability, 4.10 Requirements for cover to reinforcing steel and tendons, 4.10.3 Cover for corrosion</li> </ul>

<b>Serious Defect Reference</b>	<b>Building element</b>	<b>Defect</b>	<b>Reason why defect is a serious defect</b>	<b>Applicable approved plan, Code or Australian Standard</b>
			These require, amongst other things, embedded items to be protected from corrosion or deterioration. Further, that hardened concrete is subject to rejection if it is segregated. Finally, concrete must be handled to limit segregation.	<p>protection, 4.10.3.7 Embedded items cover</p> <ul style="list-style-type: none"> <li>• Section 17 - Materials and construction requirements, 17.1.7- Rejection of concrete, 17.1.7.2 Hardened concrete</li> <li>• Section 17 - Materials and construction requirements, 17.1.3 Handling, placing and compacting of concrete</li> </ul>
35.	Structural systems	Segregation and honeycombing in the concrete slabs	<p>The segregation and honeycombing of concrete demonstrate a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, embedded items to be protected from corrosion or deterioration. Further, that hardened concrete is subject to rejection if it is segregated or honeycombed. Finally, concrete must be handled to limit segregation.</p>	<ul style="list-style-type: none"> <li>• Australian Standard AS3600 Concrete Structures: Section 4 – Design for durability, 4.10 Requirements for cover to reinforcing steel and tendons, 4.10.3 Cover for corrosion protection, 4.10.3.7 Embedded items cover</li> <li>• Section 17 - Materials and construction requirements, 17.1.7- Rejection of concrete, 17.1.7.2 Hardened concrete</li> <li>• Section 17 - Materials and construction requirements, 17.1.3 Handling, placing and compacting of concrete</li> </ul>
36.	Structural systems	Concrete is damage and chipped, reducing concrete cover over reinforcement bars	The damaged concrete demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.	<ul style="list-style-type: none"> <li>• Australian Standard AS3600 Concrete Structures: Section 4 – Design for durability, 4.10 Requirements for cover to reinforcing steel and tendons,</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			These require, amongst other things, embedded items to be protected from corrosion or deterioration. Further, that hardened concrete is subject to rejection if it contains surface defects. Finally, concrete must be handled to limit segregation or premature stiffening.	<p>4.10.3 Cover for corrosion protection, 4.10.3.7 Embedded items cover</p> <ul style="list-style-type: none"> <li>Section 17 - Materials and construction requirements, 17.1.7- Rejection of concrete, 17.1.7.2 Hardened concrete</li> <li>Section 17 - Materials and construction requirements, 17.1.3 Handling, placing and compacting of concrete</li> </ul>
37.	Structural systems	Cracking in the external balcony slab	<p>The cracking in the slab demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that general cracking must be controlled to ensure structural performance, durability and appearance of the structure is not compromised.</p>	<ul style="list-style-type: none"> <li>Australian Standard 3600-2009 Concrete structures, Section 2 Design procedures, actions and loads, 2.3, Design for serviceability, 2.3.3, Cracking</li> <li>Australian Standard AS3600 appears as a standard referenced in the BCA Volume One, Section B Structure, Deemed-to-Satisfy provision B1.4 - Determination of structural resistance of materials and forms of construction</li> </ul>
38.	Structural systems	Foreign object embedded in the concrete	<p>The foreign object embedded demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that embedded items to be protected</p>	<ul style="list-style-type: none"> <li>Australian Standard AS3600 Concrete Structures: Section 4 – Design for durability, 4.10 Requirements for cover to reinforcing steel and tendons, 4.10.3 Cover for corrosion protection, 4.10.3.7 Embedded items cover</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			from corrosion or deterioration. Further, that hardened concrete is subject to rejection if it contains surface defects. Finally, concrete must be handled to limit segregation and limit premature stiffening.	<ul style="list-style-type: none"> <li>Section 17 - Materials and construction requirements, 17.1.7- Rejection of concrete, 17.1.7.2 Hardened concrete</li> <li>Section 17 - Materials and construction requirements, 17.1.3 Handling, placing and compacting of concrete</li> </ul>
39.	Structural systems	Cracked and damage concrete and exposed and rusted reinforcement	<p>The damaged concrete demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that hardened concrete is subject to rejection if it contains surface defects. Finally, concrete must be handled to limit segregation and limit premature stiffening.</p>	<ul style="list-style-type: none"> <li>Australian Standard AS3600 Concrete Structures: Section 4 – Design for durability, 4.10 Requirements for cover to reinforcing steel and tendons, 4.10.3 Cover for corrosion protection, 4.10.3.7 Embedded items cover</li> <li>Section 17 - Materials and construction requirements, 17.1.7- Rejection of concrete, 17.1.7.2 Hardened concrete</li> <li>Section 17 - Materials and construction requirements, 17.1.3 Handling, placing and compacting of concrete</li> </ul>
40.	Structural systems	Corrosion to fixings where the louver tracks are embedded into the concrete slab edge	<p>The corrosion demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that a building or structure must</p>	<ul style="list-style-type: none"> <li>BCA Volume One, Section B Structure, Part B1 Structural Provisions, Performance Requirements BP1.1</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			perform adequately under all expected design actions, withstand extreme or frequently repeated design actions and be designed to sustain local damage.	
41.	Structural systems - potential serious defect	Inadequate installation of the blockwork in the structural masonry walls	<p>The inadequate installation of the block demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that a building or structure must perform adequately under all expected design actions, withstand extreme or frequently repeated design actions and be designed to sustain local damage. Further, the mortar joints in masonry structures must be installed in accordance with the type of unit and joint and set out in the standard.</p>	<ul style="list-style-type: none"> <li>• BCA Volume One, Section B Structure, Part B1 Structural Provisions, Performance Requirements BP1.1</li> <li>• Australian Standard AS3700 Masonry structures, Section 12 Construction, 12.4.2 Mortar joints</li> </ul>
42.	Structural systems	Galvanized shelf angles are not fixed to concrete beams	<p>The lack of fixing demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that a building or structure must perform adequately under all expected design actions, withstand extreme or frequently repeated</p>	<ul style="list-style-type: none"> <li>• BCA Volume One, Section B Structure, Part B1 Structural Provisions, Performance Requirements BP1.1</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			design actions and be designed to sustain local damage.	
43.	Structural systems	Substantial deflection of the balustrades when pushed	<p>The deflection of balustrades demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that balustrades which provide structural support must be designed to sustain the imposed actions. Further, the resistance of a building or structure must be greater than the most critical action</p>	<ul style="list-style-type: none"> <li>• Australian Standard 1170.1 Structural design actions. AS1170, Section 3 Imposed actions, 3.6, Barriers</li> <li>• Australian Standard AS1170 appears as a standard referenced in the BCA Volume One, Part B Structural Provisions, Deemed-to-Satisfy provision B1.1 – Resistance to actions</li> <li>•</li> </ul>
44.	Building enclosure	Cracking in the façade walls, and efflorescence and moisture staining from the façade/wall above the carpark entrance	<p>The cracking and moisture demonstrate a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that general Cracking in concrete structures must be controlled so that structural performance, durability and appearance of the structure are not compromised. Further, membranes must result in the substrate surface being smooth, without protrusions and free from contamination. A roof and external</p>	<ul style="list-style-type: none"> <li>• Australian Standard 3600-2009 Concrete structures, Section 2 Design procedures, actions and loads, 2.3, Design for serviceability, 2.3.3, Cracking</li> <li>• Australian Standard AS3600 appears as a standard referenced in the BCA Volume One, Section B Structure, Deemed-to-Satisfy provision B1.4 - Determination of structural resistance of materials and forms of construction</li> <li>• Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and</li> </ul>



Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			wall must prevent the penetration of water.	<p>Installation, 2.5 Substrate, 2.5.3.1 Fully bonded or liquid-applied</p> <ul style="list-style-type: none"> <li>Australian Standard AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Deemed-to-Satisfy provision F1.4</li> </ul>
45.	Building envelope	Failure of the waterproofing system for the balconies, slab edges and rooftop which has caused water egress.	<p>The failure of the waterproofing system demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that where membrane termination is to prevent water entry, the finished height of the membrane above the finished surface level must be sufficient to prevent water flowing.</p>	<ul style="list-style-type: none"> <li>Australian Standard AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation, 2.8 Termination of membranes, 2.8.1.1 Height</li> </ul>
46.	Building envelope	Cracking in the external cladding, which may result in water ingress into the interior of the building	<p>The cracking of the cladding demonstrates a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that a roof and external wall must prevent the penetration of water.</p>	<ul style="list-style-type: none"> <li>BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4 Weatherproofing</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
47.	Building envelope	Limited visible pressure equalisation slots to the external Hebel walls,	<p>The limited visible pressure slots demonstrate a failure to comply with the Australian Standard and Building Code provision referenced in column 5.</p> <p>These require, amongst other things, that a roof and external wall must prevent the penetration of water.</p>	<ul style="list-style-type: none"> <li>BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> </ul>

16. I am of the view the time periods set out in column 5 of table 1 for Defects 1 - 47 (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.
17. Considering the potential consequences as outlined in my reasons and the order, I give greater weight to the seriousness of the defect and failure to adhere to the Building Code of Australia, Australian Standards & the approved plans and the benefits arising from remediating the defects and I find that it is appropriate, in the exercise of my discretion, to make the building work rectification order to carry out the building work described above within the specified period.
18. I have considered all of the circumstances. I accept that the Order requires considerable further building work that is likely to be costly, and I give this consideration moderate weight. However, the cost to the developer must be balanced against the benefit to the occupiers in having the development constructed to the Building Code of Australia and Australian Standards.

#### Other matters considered relevant

19. I am aware that obtaining reports from third parties will pose time constraints and costs on the developer and the impact on the period of time it will take to give effect to the rectification work. However, I balance this risk against the serious defects outlined in this Order and the serious consequences these serious defects pose.

20. I am aware that there are residents occupying this location as the Building is completed which will delay rectification work.

### **Consideration of written representations**

21. On 31 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, Owners Corporation and Certifier.
22. The served parties were invited to provide written representations before 21 August 2023.
23. The Developer provided a response on 1 August 2023, indicating their commitment to resolving the issues concerning the property. The Developer raised concerns regarding the builder and questioned why they were also not being pursued, and noting litigation commenced by the builder against the Developer.
24. The Owners Corporation provided a response on 3 August 2023 also noting that the builder was not included in the Order.
25. I have considered the representations provided and am of the view that it is appropriate to issue the order on Mitchell Avenue Development Pty Ltd (ACN 615 564 586). In circumstances where the Developer has indicated that they are committed to resolving the issues at the Development and no representations have been received concerning the terms of the Order, I am satisfied that it is appropriate to issue the Order without variation.

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

26. I have considered all of the circumstances. I accept that the order requires considerable further work that is likely to be costly, and I give this consideration moderate weight. However, the cost to the developer must be balanced against the benefit to the occupiers in having the development constructed to the Building Code of Australia and Australian Standards with respect to building elements.
27. Considering these potential consequences as outlined in this order, I give greater weight to the seriousness of the defects and failure to adhere to the Australian Standards and Building Code of Australia, and the benefits arising from remediating them and I find that it is appropriate, in the exercise of my discretion, to require Mitchell Avenue Development Pty Ltd (ACN 615 564 586) to carry out the building work described, within the period specified in the above Order.
28. I have considered and accept that the Order requires considerable further construction work that is likely to be costly, and I give this consideration moderate weight. However, the cost to the developer must be balanced against the benefit to the occupiers at the development in having the building constructed to the Building Code of Australia and Australian Standards. Considering the potential consequences as outlined in my reasons and the order, I give greater weight to the seriousness of the defect and failure to adhere to the Building Code of Australia, Australian Standards

and the benefits arising from remediating the defects and I find that it is appropriate, in the exercise of my discretion, to make the building work rectification order to carry out the building work described above within the specified period

### 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:

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

## Annexure 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—

- (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).

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.

**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).