

Attn: Proper Officer  
Shepherd Street Developments Pty Ltd  
ACN 600 668 120  
Level 2, 65 Wentworth Avenue  
Surry Hills NSW 2010

Service: By express post

Also by email: [REDACTED]

22 November 2023

## Building Work Rectification Order

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

Shepherd Street Developments Pty Ltd (ACN 600 668 120) is being given this Building Work Rectification Order (Order) in relation to 6A Atkinson Street, Liverpool NSW 2170 (SP97533).

Shepherd Street Developments Pty Ltd 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.

### Terms of this Order - requirements in relation to serious defects

1. I, David Chandler, under section 33(1)(b) of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 (RAB Act)*, require you Shepherd Street Developments Pty Ltd (ACN 600 668 120) to do the things specified in column 4 in Table 1 to eliminate, minimise or remediate each serious defect at **6A Atkinson Street, Liverpool NSW 2170 (SP97533)** described in columns 1, 2 and 3 of Table 1. Each requirement must be complied with by the time set out in column 5 of Table 1:

**Table 1: Requirements in respect of Serious Defects**

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
1.	Basement 1, Fire Pump Room	The horizontal floor surface within the combined hydrant and sprinkler pump room does not have an adequate slope to the drainage outlet/s causing accumulation of excess water throughout the room.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect,</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>
2.	Basement 3, Basement 2, Basement Carpark	<ol style="list-style-type: none"> <li>1. Inadequate in capturing and draining the water from the external walls. This was systemic throughout Basement Level 2 and Level 3.</li> <li>2. Inadequate in construction location, allowing water from the wet walls to pond on the piling capping beam structure before ending up in the installed perimeter drainage.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs 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
3.	Rooftop Area	<ol style="list-style-type: none"> <li>1. Inadequate falls to roof drainage</li> <li>2. Large volumes of ponding water to roof areas.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>
4.	Level 24, Rooftop	The substrate was not smooth and not adequate to accept the application of the liquid applied waterproof membrane.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>
5.	Level 24, Rooftop	<ol style="list-style-type: none"> <li>1. The perimeter of the roof area is bounded by a concrete upstand/hob.</li> <li>2. No overflow provisions were visible on the rooftop.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>

<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>
6.	Level 5, Podium Planter / Garden	<ol style="list-style-type: none"> <li>1. No evidence of a waterproofing membrane terminating a minimum 100 mm above the soil level within the Level 5 podium planter boxes.</li> <li>2. There does not appear to be any membrane applied to the outer face of the cement render lining to prevent water related damage to the finished surfaces.</li> <li>3. The membrane did not have a visible compliant termination detail.</li> <li>4. No protection boards were visible.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>
7.	Level 5 Podium and U1706 Balcony	<p>The horizontal floor surface of the waterproofing membrane under the pavers on pedestals on the Level 5 external common area, and Unit 1706's external balcony tiles does not have adequate slope to the drainage outlet/s causing accumulation of excess water throughout the area.</p> <p>Measured falls to drains: Podium: 3mm/1000mm, A1706 Balcony: 8mm/1000mm.</p>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs 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
8.	All Levels Podium and Occupancy Unit Balconies	<ol style="list-style-type: none"> <li>1. The balconies to Sole Occupancy Units had no visible overflow provisions.</li> <li>2. Podium terrace had no visible overflow provisions.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 120 days</p>
9.	Ground Floor, Hydrant Booster / Sprinkler Room	The centre line of the fire hydrant outlet feed valve serving the booster assembly was not installed between 750mm and 1200mm above the standing surface in front of the booster assembly.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
10.	Basement 1, Fire Pump Room	The unobstructed height from the finished floor level to pipe installation measured less than 2m in height.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

<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>
11.	Ground Floor, Basement (Common Area and Car Park), Fire Pump Room	A number of service penetrations passing through fire rated floors and walls within B1 and in service rooms on ground floor were not adequately protected against fire spread.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
12.	Basement 1, Basement (Common Area)	The water tank associated with fire services is not provided with external indicator for water level.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
13.	Basement 1, Fire Pump Room	Ventilation system within the fire pump room did not appear to be functioning correctly or adequate based on condition felt within the Pump room, and supply air vent did not appear to be connected to fresh air.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

<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>
14.	Ground Floor, Fire control room	<ol style="list-style-type: none"> <li>1. The room did not appear to contain a telephone directly connected to an external telephone exchange.</li> <li>2. The room did not appear to contain a sounder connected to the building occupant warning system.</li> <li>3. The room had unprotected service penetrations passing through fire rated elements.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
15.	All Levels, Whole of Site	The fire door frames were hollow when tapped indicating voids exist in the grout behind the frames that are not solid core filled.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
16.	Basement 3, Basement Carpark	There was no smoke detector in front of lift landing doors on level B3.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

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17.	All Levels, Basement Carpark, Whole of Site	<ol style="list-style-type: none"> <li>1. Basement carpark: jet fans in certain areas are spaced more than 20m apart, however, additional smoke detectors at maximum 20m spacing as required under the aforementioned report were not installed.</li> <li>2. Public corridors: louvres at ends of public corridors on ground floor to level 5 can be opened and closed manually (not fixed-open or automatic, as required under the fire engineering report).</li> <li>3. No louvres were installed on level 5 within the door at the end of the corridor leading to the swimming pool area.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
18.	Basement 1, Basement 2 and Basement 3, Basement Carpark	Storage cages were not provided with horizontal mesh on top and/or extended within 500mm underneath sprinkler deflectors.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs 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
19.	Basement 3, Basement Carpark	<ol style="list-style-type: none"> <li>1. Enclosing walls in parts consisted of 190mm thick hollow concrete block walls which are unlikely to achieve the required FRL of 240 minutes.</li> <li>2. There were unprotected service penetrations passing through walls bounding storage rooms.</li> <li>3. There were large, unprotected gaps/construction joints within walls bounding storage rooms.</li> <li>4. Tags to fire door to storage rooms indicated those doors have an FRL of -120/30 (not -/240/30).</li> <li>5. Fire door frames of storage rooms were partially hollow.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
20.	Basement 1, Basement (Common Area)	<ol style="list-style-type: none"> <li>1. Boiler equipment placed in the basement car park without being fire separated in own room.</li> <li>2. Boilers on the roof are open to sky.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

<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>
21.	Basement 1, Basement (Common Area), Basement Carpark	There were no exit signs to indicate location of alternative exit in B1.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
22.	Lifts, Other, Pump room	There were no WIP handsets in lifts, pump room, and on the (accessible) roof.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
23.	All Levels, Other, Corridor	<ol style="list-style-type: none"> <li>1. Large gaps in common area cupboards at wall floor junction.</li> <li>2. Cupboard walls are a fire separation wall between residential sole occupancy units.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <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 serious defect in accordance with the written report and designs provided at stage 1.	
24.	This defect has been removed.			
25.	All Levels, Electrical (EDB Sub) Room / Cupboard, Communications Room / Cupboard, Stairs (Fire Isolated)	Fire stopping for numerous service penetrations is lacking and/or inadequate.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect..</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
26.	All Levels, Stairs (Fire Isolated)	The 1m clearance directly in front of the hydrant has been encroached.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs 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
27.	Level 4, Stairs (Fire Isolated)	The door to fire isolated stair was locked from the inside of the stairway.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
28.	This defect has been removed.			
29.	Basement 1, Basement 2, Basement 3, Fire Pump Room, Basement (Common Area)	Areas of the concrete slab have not been properly vibrated or compacted which has created areas of segregation and honeycombing.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>
30.	Basement 1, Basement 2, Basement 3, Basement Carpark	<ol style="list-style-type: none"> <li>1. Uncontrolled cracking of up to 3mm in the basement slabs and soffits.</li> <li>2. Cracking has occurred immediately adjacent the sawn</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p>	<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
		joint and not contained within the joint. 3. Cracks have migrated through the full depth of the suspended post tension slab with water permeating through.	Stage 2.  Rectify the serious defect in accordance with the written report and designs provided at stage 1.	
31.	Basement 1, Basement 2, Basement 3, Basement Carpark	Isolation joints around the columns were absent and/or not installed correctly or partially installed.	Stage 1.  Submit a written report and designs to rectify the serious defect.  Stage 2.  Rectify the serious defect in accordance with the written report and designs provided at stage 1.	Stage 1 – 60 days  Stage 2 – 90 days
32.	Basement 2, Eastern Side	The unobstructed height from the finished floor level to the ceiling outside the Basement Level B2 eastern fire stairs measured less than 2m in height.	Stage 1.  Submit a written report and designs to rectify the serious defect.  Stage 2.  Rectify the serious defect in accordance with the written report and designs provided at stage 1.	Stage 1 – 60 days  Stage 2 – 60 days
33.	Level 7, Level 17, Level 18, Living Area, Bedroom/Room	1. Water ingress was evident through the external windows. 2. Staining on the window frames and adjacent flooring indicating possible non-compliant window system.	Stage 1.  Submit a written report and designs to rectify the serious defect.	Stage 1 – 80 days  Stage 2 – 180 days

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
			<p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	
34.	All Levels, All sides, Common Area, Balcony	<ol style="list-style-type: none"> <li>1. Inadequate interlinking top rail that would not support the loading requirements should a balustrade panel fail (systemic throughout the whole building).</li> <li>2. Glazing panels constructed of toughened glass (evident from the failure of a balustrade panel), no laminate layer installed to the glazing.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 90 days</p>
35.	All Levels, Other	Multiple full height windows and sliding doors to multiple units and levels of the building, where the panel can be mistaken for a doorway or opening, were missing required safety glass decals.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
36.	This defect has been removed.			

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37.	All Levels, Balcony, Podium	<ol style="list-style-type: none"> <li>1. Inadequate fixings. It appears that the fixing diameters are less than the minimum required to meet the loading requirements. Approximately 30mm diameter fixings were installed.</li> <li>2. Inadequate (oversized) spacings of the installed balustrade stand-off fixings.</li> </ol>	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
38.	Basement 1, Basement 2, Basement 3, Basement (Common Area)	Storage rooms in basement levels were enclosed by masonry walls and fire doors however there was no mechanical ventilation installed within those rooms. There was a non- operational jet fan in one of the storage rooms inspected.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>
39.	Basement 1, Basement 2, Basement 3, Basement (Common Area)	Sprinkler pipes in basement storage rooms were corroded.	<p>Stage 1.</p> <p>Submit a written report and designs to rectify the serious defect.</p> <p>Stage 2.</p> <p>Rectify the serious defect in accordance with the written report and designs provided at stage 1.</p>	<p>Stage 1 – 60 days</p> <p>Stage 2 – 60 days</p>

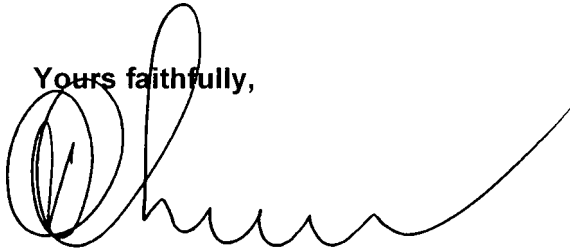
### Conditions of this Order

2. You must make good any consequential damage caused in carrying out the works specified in this Order.
3. A design that is prepared for a building element for building work or a design that is prepared for a performance solution for building work (including a building element) in this Order must comply with the *Design and Building Practitioners Act 2020 (DBP Act)*.
4. Where this Order requires you to submit a written report and designs, then written report and designs must:
  - a. be prepared by a suitably qualified person or specialist being a person who is a registered design practitioner under the DBP Act; and
  - b. be prepared with consideration to this Order and the Reasons for this Order; and
  - c. detail the specific building work necessary to meet the codes and relevant standards specified in column 5 of Table 2;
  - d. be prepared with consideration to other building work already constructed at the time of this Order and not the subject of a serious defect including designs for that building work, and other building work required by this Order including designs for that building work, and manufacturer's specifications; and
  - e. be submitted to the Project Intervene team via email to [projectintervene@customerservice.nsw.gov.au](mailto:projectintervene@customerservice.nsw.gov.au).

### Duration of this Order

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

Yours faithfully,



**David Chandler**  
NSW Building Commissioner  
Office of the Building Commissioner

22/11/23



# Reasons for the Building Work Rectification Order

7. The Department of Customer Service (**the Department**) administers the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 (RAB Act)*.
8. Under section 33 of the RAB Act, if the Secretary of the Department, or their authorised delegate, has a reasonable belief that building work was carried out in a manner that could result in a serious defect in relation a residential apartment building or that a residential apartment building has a serious defect, they may order the developer of that building to carry out or not carry out specified building work or to take other specified action to eliminate, minimise or reduce the serious defect or potential serious defect.
9. Section 3 of the RAB Act defines a serious defect. Section 3 of the RAB Act also defines to term “building element” by reference to the *Design and Building Practitioners Act 2020 (DBP Act)*. Section 4 of the RAB Act defines the term “developer”. Section 6 of the RAB Act provides the building work to which the RAB Act applies. Relevant excerpts from sections 3, 4 and 6 of the RAB Act and section 6 of the DBP Act are set out in **Attachment A** to this Order.
10. David Chandler, Building Commissioner, Department of Customer Service, is an authorised delegate of the Secretary of the Department.
11. Shepherd Street Developments Pty Ltd (ACN 600 668 120) (**Developer**) is the developer of the residential apartment building known as 6A Atkinson Street, Liverpool NSW 2170 (SP97533) (**the Development**) for the purposes of section 4(a) of the RAB Act.
12. The Development comprises carparking residential units, storage and a pool. The RAB Act applies to building work at the Development because it is a class 2 development, is currently occupied and less than 10 years old.
13. On 20 June 2023, with the consent of the owners corporation for the Development, a third party consultant engaged by the Department attended the Development (**Investigator**). The Investigator prepared a report on serious defects in the Development dated 3 July 2023 (**Inspection Report**).
14. I, David Chandler, have formed a reasonable belief that the Development has serious defects based on the following.
15. I have reviewed the Inspection Report.
16. 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**

<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>
1.	Waterproofing Systems	The horizontal floor surface within the combined hydrant and sprinkler pump room does not have an adequate slope to the drainage outlet/s causing accumulation of excess water throughout the room.	The inadequate falls on the floor are 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/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 Building Code of Australia (BCA) Volume One, Part F Damp and Weatherproofing, Performance Requirements FP1.3</li> </ul>
2.	Waterproofing Systems	<p>The perimeter drains to basement walls were:</p> <ol style="list-style-type: none"> <li>1. Inadequate in capturing and draining the water from the external walls. This was systemic throughout Basement Level 2 and Level 3.</li> <li>2. Inadequate in construction location, allowing water from the wet walls to pond on the piling capping beam structure before ending up in the installed perimeter drainage.</li> </ol>	The inadequate perimeter drainage to basement walls 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/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> <li>• Australian Standard AS/NZS3500.3 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Deemed-to-Satisfy provision F1.1 Stormwater drainage.</li> <li>• Deemed-to-Satisfy provision F1.1 is a pathway that can satisfy the Building Code of Australia (BCA)</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirements FP1.3.
3.	Waterproofing Systems	<ol style="list-style-type: none"> <li>1. Inadequate falls to roof drainage.</li> <li>2. Large volumes of ponding water to roof areas.</li> </ol>	The inadequate falls are 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 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 Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Deemed-to-Satisfy provision F1.4.</li> <li>• Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.</li> </ul>
4.	Waterproofing Systems	The substrate was not smooth and not adequate to accept the application of the liquid applied waterproof membrane.	The defective substrate 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 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 Building Code of Australia (BCA) Volume One, Section F</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				<p>Health and Amenity, Part F1 Damp and Weatherproofing, Deemed-to-Satisfy provision F1.4.</p> <ul style="list-style-type: none"> <li>Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.</li> </ul>
5.	Waterproofing Systems	<ol style="list-style-type: none"> <li>The perimeter of the roof area is bounded by a concrete upstand/hob.</li> <li>No overflow provisions were visible on the rooftop.</li> </ol>	The lack of overflow provisions 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/NZS3500.3 –2015 Plumbing and Drainage– Stormwater Drainage, Section 5 Surface Drainage Systems – Design, Clause 5.3.1.1 Roof areas.</li> <li>Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.</li> </ul>
6.	Waterproofing Systems	<ol style="list-style-type: none"> <li>No evidence of a waterproofing membrane terminating a minimum 100 mm above the soil level within the Level 5 podium planter boxes.</li> <li>There does not appear to be any membrane applied to the outer face of the cement render lining to prevent water related</li> </ol>	The inadequate waterproofing to the planter box 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 AS4654.2: Waterproofing membranes for external above ground use: Section 2 – Design and Installation, 2.13 Planter Boxes.</li> <li>Australian Standard AS4654.2 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Deemed-to-Satisfy provision F1.4.</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		<p>damage to the finished surfaces.</p> <p>3. The membrane did not have a visible compliant termination detail.</p> <p>4. No protection boards were visible.</p>		<ul style="list-style-type: none"> <li>Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4.</li> </ul>
7.	Waterproofing Systems	<p>The horizontal floor surface of the waterproofing membrane under the pavers on pedestals on the Level 5 external common area, and Unit 1706's external balcony tiles does not have adequate slope to the drainage outlet/s causing accumulation of excess water throughout the area.</p> <p>Measured falls to drains: Podium: 3mm/1000mm, A1706 Balcony: 8mm/1000mm.</p>	The inadequate falls on the floor are 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/NZS 3500.3 –2015 Plumbing and Drainage– Stormwater Drainage, Section 5 Surface water drainage system – Design, 5.3 Layout, 5.3..1.2 Other than roof areas.</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 Building Code of Australia (BCA) Volume One, Part F Damp and Weatherproofing, Performance Requirements FP1.3</li> </ul>
8.	Waterproofing Systems	1. The balconies to Sole Occupancy Units had no visible overflow provisions.	The lack of overflow provisions 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/NZS3500.3 Plumbing and Drainage. Part 3: Stormwater drainage, Section 3.8 Balcony and Terrace Areas,</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		2. Podium terrace had no visible overflow provisions		<ul style="list-style-type: none"> <li>Australian Standard AS/NZS3500.3 Plumbing and Drainage– Stormwater Drainage, Section 5 Surface Drainage Systems – Design, Clause 5.3.1.1 Roof areas,</li> <li>Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Deemed to Satisfy Provision F1.0, Performance Requirement FP1.4.</li> </ul>
9.	Fire Safety Systems	The centre line of the fire hydrant outlet feed valve serving the booster assembly was not installed between 750mm and 1200mm above the standing surface in front of the booster assembly.	The fire hydrant installation 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 AS2419.1 Fire hydrant installations Part 1 System design, installation and commissioning, Section 7 Fire brigade assembly.</li> <li>Australian Standard AS2419.1 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section E Services and equipment, Part E1.3 Fire hydrants.</li> <li>Deemed-to-Satisfy provision E1.3 is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section E Services and equipment, Part E1 Fire fighting equipment, Performance Requirement EP1.3.</li> </ul>
10.	Fire Safety Systems	The unobstructed height from the finished floor level to pipe	The height is attributable to the failure to comply with the	<ul style="list-style-type: none"> <li>Building Code of Australia (BCA) Volume One, Section D Access and</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		installation measured less than 2m in height.	Building Code referenced in column 5.	egress – Part D1.6 Dimensions of exist and paths of travel
11.	Fire Safety Systems	A number of service penetrations passing through fire rated floors and walls within B1 and in service rooms on ground floor were not adequately protected against fire spread.	The inadequate fire-protection to the penetration/s demonstrates is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> <li>• Building Code of Australia (BCA) Volume One, Section C Fire Resistance, Performance Requirements <ul style="list-style-type: none"> <li>○ CP2 Spread of fire,</li> <li>○ CP8 Fire protection of openings and penetrations,</li> <li>○ Part C3 Protection of openings, Deemed-to-Satisfy provisions:</li> </ul> </li> <li>• Deemed-to-satisfy provision C3.15 Openings for service installations is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Performance Requirement CP8.</li> </ul>
12.	Fire Safety Systems	The water tank associated with fire services is not provided with external indicator for water level.	The missing water level indicator 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 2419.1 Fire hydrant installations, Part 1: System design, installation and commissioning, Section 5 Water Storage Tanks.</li> <li>• Australian Standard AS 2419.1 appears as a standard referenced in the BCA Volume One, Section E Services and equipment Clause E1.3.</li> </ul>



Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
13.	Fire Safety Systems	Ventilation system within the fire pump room did not appear to be functioning correctly or adequate based on condition felt within the Pump room, and supply air vent did not appear to be connected to fresh air.	The insufficient ventilation 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 2419.1, Fire hydrant installations, Part 1: System design, installation and commissioning Section 6.11.2 Internal Pump Rooms, Clause (d) Where a compression ignition engine pump set is installed</li> <li>Australian Standard AS 2419.1 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section E Services and equipment, Part E1 Fire fighting equipment, E1.3 Fire hydrants</li> </ul>
14.	Fire Safety Systems	<p>The following observations were made in pump room (building is more than 50m in effective height):</p> <ol style="list-style-type: none"> <li>1. The room did not appear to contain a telephone directly connected to an external telephone exchange.</li> <li>2. The room did not appear to contain a sounder connected to the building occupant warning system.</li> <li>3. The room had unprotected service penetrations</li> </ol>	The defects are attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> <li>Building Code of Australia (BCA) Volume One, Section E Services and equipment, Part E1 Fire fighting equipment, E1.8 Fire control centres, and Specification E1.8 Fire control centres.</li> </ul>



Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		passing through fire rated elements.		
15.	Fire Safety Systems	The fire door frames were hollow when tapped indicating voids exist in the grout behind the frames that are not solid core filled.	The voids in the grouted door frame are 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 AS1905.1- Components for the protection of openings in fire-resistant wall Part 1: Fire resistant door sets, Section 5 Installation, 5.3 Metal doorframes in masonry walls, 5.3.2 Backfilling of metal door frames.</li> <li>Australian Standard AS1905.1 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Specification C3.4 Fire doors, smoke doors, fire windows and shutters, Clause 2. Fire doors</li> <li>Specification C3.4 Fire doors, smoke doors, fire windows and shutters, Clause 2. Fire doors, is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Performance Requirement CP2</li> </ul>
16.	Fire Safety Systems	There was no smoke detector in front of lift landing doors on level B3.	The absence of smoke detector is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS1670.1 Fire detection, warning, control and intercom systems - System design, installation and commissioning - Part 1 Fire, Clause 7.5.4 Locations of Detectors at doors to pressurised exits and lift landing doors.</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				<ul style="list-style-type: none"> <li>Australian Standard AS1670.1 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section E Services and equipment, E2.2 General requirements, Clause 5 of Specification E2.2a</li> </ul>
17.	Fire Safety Systems	<ol style="list-style-type: none"> <li>Basement carpark: jet fans in certain areas are spaced more than 20m apart, however, additional smoke detectors at maximum 20m spacing as required under the Fire Engineering report were not installed.</li> <li>Public corridors: louvres at ends of public corridors on ground floor to level 5 can be opened and closed manually (not fixed-open or automatic, as required under the fire engineering report).</li> <li>No louvres were installed on level 5 within the door at the end of the corridor leading to the swimming pool area.</li> </ol>	The defects are attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> <li>Fire Engineering Report No. 131375, Version F and dated 9 July 2018 which justifies compliance with Building Code of Australia (BCA) Volume One, Performance requirements including CP1, CP2, DP4, EP2.2, EP1.4.</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
18.	Fire Safety Systems	The storage cages were not provided with horizontal mesh on top and/or extended within 500mm underneath sprinkler deflectors.	The absence of fire sprinkler clearance protection is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS 2118. Automatic fire sprinkler systems, General Systems – Section 5 Spacing and location of sprinklers – 5.5 Obstruction to sprinkler discharge, 5.7.7 Clear space below sprinklers.</li> <li>Australian Standard AS2118 appears as a standard referenced in the Building Code of Australia (BCA) Volume One Section E Services and equipment, Part E1 Firefighting equipment, Deemed-to-Satisfy Provision E1.5 Sprinklers</li> </ul>
19.	Fire Safety Systems	<ol style="list-style-type: none"> <li>Enclosing walls in parts consisted of 190mm thick hollow concrete block walls which are unlikely to achieve the required FRL of 240 minutes.</li> <li>There were unprotected service penetrations passing through walls bounding storage rooms.</li> <li>There were large, unprotected gaps/construction joints within walls bounding storage rooms.</li> </ol>	The defects in relation to storage rooms within basement levels are attributable to the failure to comply with the Building Code and Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Building Code of Australia (BCA) Volume One Volume 1, Part C2 Compartmentation and separation, clause C2.8 Separation of classifications in the same storey and clause C2.9 Separation of classifications in different storeys.</li> <li>Building Code of Australia (BCA) Volume One, Specification C1.1 Fire Resisting Construction, Part 3 Type A Fire-Resisting Construction.</li> <li>Building Code of Australia (BCA) Volume One, Section 3 Fire resistance, Part C3 Protection of openings, Deemed-to-satisfy provision C3.16 Construction joints.</li> <li>Deemed-to-satisfy provision C3.16 Construction joints is a pathway that</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		<p>4. Tags to fire door to storage rooms indicated those doors have an FRL of -120/30 (not -/240/30).</p> <p>5. Fire door frames of storage rooms were partially hollow.</p>		<p>can satisfy the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Performance Requirement CP8.</p> <ul style="list-style-type: none"> <li>• Building Code of Australia (BCA) Volume One, Section C Fire Resistance, Performance Requirements <ul style="list-style-type: none"> <li>○ CP2 Spread of fire,</li> <li>○ CP8 Fire protection of openings and penetrations,</li> <li>○ Part C3 Protection of openings, Deemed-to-Satisfy provisions: C3.15 Openings for service installations</li> </ul> </li> <li>• Deemed-to-satisfy provision C3.15 Openings for service installations is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Performance Requirement CP8.</li> </ul>
20.	Fire safety systems	<p>1. Boiler equipment placed in the basement car park without being fire separated in own room.</p> <p>2. Boilers on the roof are open to sky.</p>	The location of the boiler is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> <li>• Building Code of Australia (BCA) Volume One, Part C2 Fire compartmentation and separation, clause C2.12 Separation of equipment</li> </ul>
21.	Fire safety systems	There were no exit signs to indicate location of alternative exit in B1.	The failure to ensure the adequate installation of exit signage is attributable to the	<ul style="list-style-type: none"> <li>• Building Code of Australia (BCA) Volume One, Section E Services and equipment, Part E4 Visibility in</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			failure to comply with the Building Code referenced in column 5.	<p>an emergency, exit signs and warning signs, Deemed-to-Satisfy provision E4.5 Exit signs.</p> <ul style="list-style-type: none"> <li>Deemed-to-Satisfy provision E4.5 Exit signs is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section E Services and equipment, Performance Requirement EP4.2 Identification of exits.</li> </ul>
22.	Fire safety systems	There were no WIP handsets in lifts, pump room, and on the (accessible) roof.	The missing WIP handsets are attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS 1670.4 Fire detection, warning, control and intercom systems-System design, installation and commissioning, Part 4: Emergency warning and intercom systems. Clause 5.4.</li> <li>Australian Standard AS 1670.4 appears as a standard referenced in the Building Code of Australia (BCA) Volume One Section E Services and equipment, clause E4.9 Emergency warning and intercom systems</li> </ul>
23.	Fire safety systems	<ol style="list-style-type: none"> <li>Large gaps in common area cupboards at wall floor junction.</li> <li>Cupboard walls are a fire separation wall between residential sole occupancy units.</li> </ol>	The gaps are attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> <li>Building Code of Australia (BCA) Volume One, Specification C1.1 Fire Resisting Construction, Part 3 Type A Fire-Resisting Construction.</li> <li>Building Code of Australia (BCA) Volume One, Section 3 Fire resistance, Part C3 Protection of openings, Deemed-to-satisfy provision C3.16 Construction joints.</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				<ul style="list-style-type: none"> <li>Deemed-to-satisfy provision C3.16 Construction joints is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Performance Requirement CP8.</li> </ul>
24.	This defect has been removed.			
25.	Fire safety systems	Fire stopping for numerous service penetrations is lacking and/or inadequate.	The inadequate fire-protection to the penetration/s is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> <li>Building Code of Australia (BCA) Volume One, Section C Fire Resistance, Performance Requirements <ul style="list-style-type: none"> <li>CP2 Spread of fire,</li> <li>CP8 Fire protection of openings and penetrations,</li> <li>Part C3 Protection of openings, Deemed-to-Satisfy provisions: <ul style="list-style-type: none"> <li>C3.12 Openings in floors and ceilings for services</li> <li>C3.15 Openings for service installations</li> </ul> </li> </ul> </li> <li>Deemed-to-satisfy provision C3.15 Openings for service installations is a pathway that can satisfy the Building Code of Australia (BCA) Volume One, Section C Fire resistance, Performance Requirement CP8.</li> </ul>
26.	Fire safety systems	The 1m clearance directly in front of the hydrant has been encroached.	The inadequate clearance to hydrant installation is attributable to the failure to	<ul style="list-style-type: none"> <li>Australian Standard 2419.1 Fire hydrant installations Part 1: system design, installation and</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			comply with the Australian Standards referenced in column 5.	commissioning, Section 3 Hydrant location, coverage and related provisions, 3.5 Fire hydrant accessibility and clearance. <ul style="list-style-type: none"> <li>Australian Standard AS2419.1 appears as a standard referenced in the Building Code of Australia (BCA) Volume One, Section E Services and equipment, Part E1.3 Fire hydrants.</li> </ul>
27.	Fire safety systems	The door to the fire isolated stair was locked from the inside of the stairway.	The lock provided to the fire doors are attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> <li>Building Code of Australia (BCA) Volume One, Part D2 Construction of exits, clause D2.22 Re-entry from fire-isolated exits.</li> </ul>
28.	This defect has been removed			
29.	Structural Systems	Areas of the concrete slab have not be properly vibrated or compacted which has created areas of segregation and honeycombing.	The honeycombing in the concrete installation is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS3600 Concrete Structures, <ul style="list-style-type: none"> <li>Section 4 – Design for durability, 4.10 Requirements for cover to reinforcing steel and tendons,</li> <li>4.10.3 Cover for corrosion protection,</li> <li>4.10.3.7 Embedded items cover</li> <li>Section 17 - Materials and construction requirements,</li> <li>17.1.7- Rejection of concrete,</li> <li>17.1.7.2 Hardened concrete,</li> <li>Section 17 - Materials and construction requirements,</li> </ul> </li> </ul>



Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				<ul style="list-style-type: none"> <li>○ 17.1.3 Handling, placing and compacting of concrete.</li> <li>• Australian Standard AS3610.1 Formwork for Concrete, Section 3.0 Surface finish &amp; Colour control, Table 3.2.1 requires Class 3 finish for concrete surfaces that are not concealed.</li> </ul>
30.	Structural Systems	<ol style="list-style-type: none"> <li>1. Uncontrolled cracking of up to 3mm in the basement slabs and soffits.</li> <li>2. Cracking has occurred immediately adjacent the sawn joint and not contained within the joint.</li> <li>3. Cracks have migrated through the full depth of the suspended post tension slab with water permeating through.</li> </ol>	The cracking is attributable to the failure to comply with the Australian Standards referenced in column 5.	<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 Building Code of Australia (BCA) Volume One, Section B Structure, Deemed-to-Satisfy provision B1.4 Determination of structural resistance of materials and forms of construction.</li> </ul>
31.	Structural Systems	Isolation joints around the columns were absent.	The absence of isolation joints is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> <li>• Approved documentation</li> <li>• Building Code of Australia (BCA) Volume One, Section B Structure, Part B1 Structural Provisions, Performance Requirements BP1.1</li> </ul>
32.	Building Enclosure	The unobstructed height from the finished floor level to the ceiling outside the Basement	The inadequate height clearance is attributable to the failure to comply with the	<ul style="list-style-type: none"> <li>• Building Code of Australia (BCA) Volume One, Section D Access and</li> </ul>



Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		Level B2 eastern fire stairs measured less than 2m in height.	Building Code referenced in column 5.	egress – Part D1.6 Dimensions of exist and paths of travel.
33.	Building Enclosure	<ol style="list-style-type: none"> <li>1. Water ingress was evident through the external windows.</li> <li>2. Staining on the window frames and adjacent flooring indicating possible non-compliant window system.</li> </ol>	The uncontrolled water ingress is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> <li>• Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> </ul>
34.	Building Enclosure	<p>The common balustrading elements at the property had:</p> <ol style="list-style-type: none"> <li>1. Inadequate interlinking top rail that would not support the loading requirements should a balustrade panel fail (systemic throughout the whole building).</li> <li>2. Glazing panels constructed of toughened glass (evident from the failure of a balustrade panel), with no laminate layer installed to the glazing.</li> </ol>	The inadequate balustrade construction 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 AS1288-2006 - Glass in Buildings, Section 7: Balustrades, 7.2 Loads and Other Actions, 7.2.3: Handrails</li> <li>• Building Code of Australia (BCA) Volume One, Section D – D2.16 Barriers to prevent falls</li> </ul>
35.	Building Enclosure	Multiple full height windows and sliding doors to multiple units and levels of the	The absence of glass markings on full height windows and doors is	<ul style="list-style-type: none"> <li>• Australian Standard AS1288-2006 Glass in Buildings - Section and Installation, Section 5 Criteria for</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
		building, where the panel can be mistaken for a doorway or opening, were missing required safety glass decals.	attributable to the failure to comply with the Australian Standards referenced in column 5.	Human Impact Safety, 5.19 Making Glass Visible (Manifestation).
36.	This defect has been removed.			
37.	Building Enclosure	<p>1. Inadequate fixings. It appears that the fixing diameters are less than the minimum required to meet the loading requirements. Approximately 30mm diameter fixings were installed.</p> <p>2. Inadequate (oversized) spacings of the installed balustrade stand-off fixings.</p>	The inadequate balustrading construction is attributable to the failure to comply with the Australian Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS1170.1-2002 - Structural Design Actions, Section 3: Imposed Actions, Part 3.6 - Barriers.</li> </ul>
38.	Building Essential Services	Storage rooms in basement levels were enclosed by masonry walls and fire doors however there was no mechanical ventilation installed within those rooms. There was a non-operational jet fan in one of the storage rooms inspected.	The insufficient ventilation is attributable to the failure to comply with the Building Code referenced in column 5.	<ul style="list-style-type: none"> <li>Building Code of Australia (BCA) Volume One, Section F Health and Amenity, Part F4 Light and Ventilation, Deemed-to-Satisfy Provision, Clause F4.5 Ventilation of Rooms</li> </ul>
39.	Building Essential Services	Sprinkler pipes in basement storage rooms were corroded.	The corroded pipes are attributable to the failure to comply with the Australian	<ul style="list-style-type: none"> <li>Australian Standard AS 2118.1 Automatic fire sprinkler systems, Part 1: General requirements.</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			Standards referenced in column 5.	<ul style="list-style-type: none"> <li>Australian Standard AS 2118.1 appears as a reference in the Building Code of Australia (BCA) Volume 1, Part E1 Fire fighting equipment, clause E1.5 Sprinklers.</li> </ul>

### Why is it appropriate to give this Order?

17. I am aware that the Development is occupied which may delay the Developer doing the things ordered to be done by this Order. I have taken this into account when specifying the time periods in column 5 of Table 1. I am of the view the periods above for serious defects reference numbers 1-23 (inclusive), 25-27 (inclusive), 29-35 (inclusive) and 37-39 (inclusive) are reasonable periods for compliance in all the circumstances for the specified actions required by this 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.
18. The potential consequence of the serious defects set out in this Order are that they may negatively impact the amenity of the Development for owners and occupiers of the Development and may reduce the ability of the Development being used for its intended purposes by owners and occupiers of the Development such as a reduction in the habitability of apartments by their residents.
19. Considering the potential consequences, I give greater weight to the seriousness of each defect and failure to adhere to the Building Code of Australia, Australian Standards and 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 this Order requiring the Developer to carry out the building works or take the actions described above within the periods described above.
20. I have considered all of the circumstances. I accept that this Order requires considerable further building works and actions that are 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 owners and occupiers of the Development in having the Development constructed according to approved plans, the Building Code of Australia and Australian Standards.
21. I am aware that obtaining reports from third parties required by this Order will pose time constraints and costs on the Developer. However, I balance these considerations against the serious defects outlined in this Order and the consequences these serious defects pose.

### **Consideration of written representations**

22. On 25 August 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. The served parties were invited to provide written representations relating to the Order to the Department by 15 September 2023.
23. Written representations were received from MN Builders on 14 September 2023 and on 18 October 2023, on behalf of Shepherd Street Developments Pty Ltd (ACN 600 668 120). Submissions provided allowed the closure of certain defects included in the draft Order so that they have not been included in the finalisation of this Order.
24. Written representations were received from Net Strata on 16 October 2023, on behalf of Owners Corporation. Submissions provided have been considered.
25. I have considered the written representations pursuant to section 47 of the RAB Act. I am satisfied that the Developer was provided with sufficient opportunity to respond to the draft Order and has not provided any submissions of substance. I am satisfied that the Developer was properly served with a copy of the Inspection Report and has had the opportunity to consider it. Considering all of the circumstances, I am satisfied it is appropriate to issue the Order.

### **Conclusion**

26. Having regard to the above and the benefits arising from eliminating, minimising or remediating the serious defects, I find that it is appropriate, in the exercise of my discretion, to make this Order.

#### 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).