

Attn: Proper Officer  
Phoenix Palm Development Pty Limited  
PKF Sydney  
Level 8, 1 O'Connell Street  
Sydney NSW 2220

Service: By registered post

8 September 2023

## Building Work Rectification Order

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

Phoenix Palm Development Pty Limited (ACN 163 682 040) is being given this Building Work Rectification Order (Order) in relation to 351 Hume Highway, Bankstown NSW 2200 (SP95613).

Phoenix Palm Development Pty Limited is required to cause building work to be carried out to remediate the serious defects as set out below in this Order.

Failure to comply with the requirements in this Order is a criminal offence.

#### **Background**

1. The Department of Customer Service (**the Department**) administers the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* (**the Act**).

2. Under section 33 of the Act, if the Secretary of the Department, or their authorised delegate, has a reasonable belief that building work was carried out in a manner that could result in a serious defect in relation to the Building, they may order the developer to rectify building work to remediate the serious defect or potential defect.
3. Section 3 of the Act defines a serious defect. Section 3 of the Act also defines the term “building element” by reference to the *Design and Building Practitioners Act 2020 (DBP Act)*. Section 4 of the Act defines the term “developer”. Section 6 of the Act provides the building work to which the Act applies. Relevant excerpts from sections 3, 4 and 6 of the Act and section 6 of the DBP Act are set out in **Attachment A** to this order.
4. David Chandler, Department of Customer Service is an authorised delegate of the Secretary of the Department.
5. Phoenix Palm Development Pty Limited (ACN 163 682 040) is the developer of the residential apartment building known as 351 Hume Highway, Bankstown NSW 2220 (SP95613) (**the Development**) for the purposes of section 4(a) of the Act.
6. The Development comprises of 92 residential apartments (lots) consisting of basement carparking, and 4 residential blocks (C,D,E and F). 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 February 2023, with the consent of the owners corporation, third party consultants engaged by the Department of Customer Service 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, David Chandler, under section 33 of the Act, require you Phoenix Palm Development Pty Limited (ACN 163 682 040) 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 Defect**

Serious Defect Reference Number	Location of Serious Defect	General description of Serious Defect	Requirement	Time for compliance with Requirement
1	Building D - West Side garden beds  Typical throughout the complex	<ul style="list-style-type: none"> <li>No evidence of a waterproofing membrane terminating a minimum 100 mm above the soil level within the planter boxes in areas.</li> <li>Where the membrane did terminate up the wall, it did not have a visible compliant termination detail.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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.	
2	Building D - West Elevation entry canopy	<ul style="list-style-type: none"> <li>No visible overflow provision to the front entry canopy.</li> <li>Overflows are noted in the "for construction" Architectural Drawing AR-1231, Block D, Level 1, floor plan.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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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3	Building D - East elevation, adjacent to units G14 & G17	<ul style="list-style-type: none"> <li>Insufficient membrane upturn of 55mm in areas.</li> <li>Due to the fall of the substrate, the upturn decreases the membrane height to zero at its lowest point (the membrane typically terminates at the bottom of the weephole).</li> <li>The drainage from the adjacent garden beds appears to discharge into this area.</li> <li>Image 1.3.5 – 'For construction' drawing ar-4300 (Rev b01) Typical Details showing extent of membrane and location of weep hole.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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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4	Basement ceiling, under the courtyard - North of Building C  Under Building C and D Courtyards	<ul style="list-style-type: none"> <li>An expansion joint is located to the ceiling slab when the basement is accessed from the roller doors.</li> <li>The expansion joint runs mostly east to west and stops at the first column.</li> <li>Multiple areas of the expansion joint had efflorescence's leaching at the joint and/or had signs of water stains.</li> <li>It is assumed that the 2 slabs have been dowelled together.</li> <li>The ingress of water through the joint may also compromise the dowel.</li> <li>Visible evidence of being chemically injected in a few areas that had signs of water ingress.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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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5	Basement ceiling, under C and D  Building E - lower floors carpark, towards the north wall	<ul style="list-style-type: none"> <li>Evidence of water staining to the drainage pipe located to the ceiling just in front of the garage's roller door.</li> <li>This pipe transferred to the garden bed located directly above.</li> <li>Lack of visible protection boards to the planter box above.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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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6	Rooftop Building D & E - systemic	<ul style="list-style-type: none"> <li>The vent pipes and conduit penetrations did not have a collar fixed to the membrane on buildings D and E.</li> <li>It should also be noted that this was also observed from a distance to buildings F and C.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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7	Roof exterior - systemic	<ul style="list-style-type: none"> <li>Most of the fixings and brackets for the mechanical ventilation system and the roof aerial's, had not been sealed as part of the rooftop membrane system on buildings D and E.</li> <li>It should also be noted that this was also observed from a distance to buildings F and C.</li> </ul>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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8	<p>Roof exterior, Building D &amp; E - systemic.</p> <p>Building E, South Side of the mechanical plinth</p>	<ul style="list-style-type: none"> <li>Observed systemic blistering, delamination of the membrane on building D.</li> <li>Although not as widespread, it was noted that blisters and delamination of the membrane were also located to some areas of building E roof exterior.</li> <li>Failure of the membrane around the mechanical plinth on Building E.</li> </ul>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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9	Roof top - systemic	<ul style="list-style-type: none"> <li>Visibly incomplete remedial / rectification works undertaken to the membrane and/or substrate.</li> <li>The membrane has been scabbled / ground.</li> <li>A 'V' joint mechanically cut into the slab to follow the crack.</li> <li>The crack has been filled with an unidentified material.</li> <li>The affected area has not been re-waterproofed. At time of inspection, the affected area appeared to lack the application of a waterproofing membrane.</li> </ul>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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10	Roof exterior - systemic	Observed uneven surface and inadequately prepared substrate to waterproofing membrane along the vertical faces of hobs and lift shaft to Buildings D and E.	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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11	Roof exterior - systemic	<ul style="list-style-type: none"> <li>The membrane did not adequately terminate into the overflows on buildings D and E.</li> <li>Absence of a bond breaker bridging the transition between the outlet pipe and the hob.</li> </ul>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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12	Building E - basement ceiling between Building F and E	<ul style="list-style-type: none"> <li>• In excess of 12 drip trays had been installed on the basement ceiling.</li> <li>• Multiple cracks to the ceiling, some of the cracks extended past the extent of the drip trays.</li> <li>• Efflorescence through the cracks and on the ground directly beneath.</li> <li>• Common area between buildings E and F are situated above.</li> <li>• Water seeping through the full depth cracks in the slab may compromise the structural integrity of the slab.</li> <li>• No visible sign of drain points or collected</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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13	Building E - roof exterior	<ul style="list-style-type: none"> <li>Observed the waterproof membrane did not have an appropriate termination detail.</li> <li>The membrane terminated on the vertical face of the hob</li> <li>No visible metal capping across the hob. Refer to Photographs 1.13.1 to 1.13.3.</li> <li>The 'for construction' drawing ar-4300 (Rev b01) Typical Details shows a metal capping across the top of the parapet hob. Detail 1 Typical Roof Parapet Detail.</li> <li>The 'for construction' drawing ar-2604 (Rev b02).</li> </ul>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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14	Systemic - facades	<ul style="list-style-type: none"> <li>Flashings not consistently visible or protruding from sections of building D east elevation's masonry walls.</li> <li>Where flashings were observed, it was located directly beneath the weepholes.</li> <li>Although visibility was limited to the weepholes, the type of flashing was not readily identifiable.</li> <li>This was typical of the external facades of buildings D &amp; E and at all floors.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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15	All carpark levels	No protection and/or inadequate protection to services penetrating fire rated concrete slab and fire rated 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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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16	All residential floors	No protection and/or inadequate protection of services passing through concrete slabs and fire rated 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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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17	All levels	Redundant unprotected penetrations 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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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18	<p>Block C &amp; D parking level</p> <p>Main switch room</p>	<ul style="list-style-type: none"> <li>Large gaps and broken hollow concrete blocks within walls bounding main switchboard room. Refer to Photograph 2.4.1.</li> <li>The broken blocks are located adjacent to fire damper within the wall which also compromises the performance of the fire damper (in addition to the wall itself). Refer to Photograph 2.4.2.</li> <li>Unprotected and/or redundant service penetrations within the ceiling and the walls of the main switch room. Refer to Photograph 2.4.2.</li> <li>Doorway to main switch room is protected with -/60/30 fire door, (in lieu of -/120/30 fire). Refer to Photograph 2.4.3.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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19	<p>All residential floors</p> <p>Public corridors</p>	<p>Intumescent fire dampers in public corridors/lobbies are fixed to the exposed face of the walls (lined with plasterboard), and to a fire extinguisher sign in at least one instance.</p> <p>The fire extinguisher sign has been obstructed by the fire damper and its components.</p>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 1 – 60 days</p> <p>Stage 2 – 120 days</p>

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20	All residential floors	Doors to electric and communication service cupboards in public corridors are not provided with smoke seals.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
21	All levels	Gaps underneath fire door exceed 10mm (up to ~20mm).	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
22	<p>All levels</p> <p>Fire hydrant outlets, multiple locations</p>	<p>Fire hydrants 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>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
23	All carparks	<ul style="list-style-type: none"> <li>Storage cages are constructed within 500 mm of the ceiling which affects required clearance for sprinkler heads.</li> <li>No horizontal mesh installed to prevent storage of materials within 500mm of sprinkler heads</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
24	All carpark levels	<ul style="list-style-type: none"> <li>Sprinkler heads (within same pipes) are spaced ~4.5~4.8m apart, approximately. Refer to Photograph 2.10.1</li> <li>Distance between rows of sprinkler is ~4.6m, approximately. Refer to Photograph 2.10.2.</li> <li>Based on the above observations, each sprinkler head covers an area of around 21m<sup>2</sup>, approximately. However, carparks under AS 2118.1 are normally treated as 'Ordinary Hazard 2 Occupancies' and therefore require coverage of not more than 12m<sup>2</sup> per sprinkler head.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
25	Carpark levels	<ul style="list-style-type: none"> <li>▪ Mechanical ducts in carpark levels are less than 500mm from the concrete slab/ceiling.</li> <li>▪ Sprinklers near ducts do not have the required clearance (including horizontal clearance) pursuant to AS 2118.1.</li> <li>▪ No clearance between top of storage cage and mechanical duct for sprinkler spray.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
26	Fire isolated exits, multiple locations	Height of last riser in stair flight within fire isolated stairway differs from height of adjacent riser by more than 5mm (~18mm).	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
27	All residential floors	Unprotected gaps between the fire rated elements (walls and slabs) within the service cupboards, and damaged lightweight fire rated wall (Hebel).	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
28	Block E, Level 3	Large panel within the fire rated wall bounding lift shaft didn't appear to be fire rated or packed with fire-rated material.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
29	<p>Basement C &amp; D - Ceiling at car spot 22</p> <p>Basement C &amp; D - the ceiling in front of car spot 85</p> <p>Basement E - the Ceiling between carspaces 8-11</p> <p>Basement C &amp; D - South wall of storage cage near car space 92</p> <p>Building D – L3 Fire escape Ceiling</p> <p>Basement E - Fire escape</p>	Observed exposed and unprotected reinforcement in multiple locations	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
30	Basement C & D - the ceiling in front of car spot 85	It was observed to the ceiling that the concrete slab had not been properly vibrated or compacted, which has created areas of segregation and honeycombing.	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
31	<p>Basement C &amp; D - Garbage room - west wall</p> <p>Basement E - lower floors carpark - typical</p>	<ul style="list-style-type: none"> <li>Multiple penetrations through the walls.</li> <li>It appears the wall has been cut to retrofit a vent or pipe that has not been installed.</li> <li>There is no evidence that the wall has been treated to prevent corrosion to the reinforcement.</li> </ul>	<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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
32	<p>Basement C &amp; D - Between car spaces 71 - 37 &amp; 47 - 48</p> <p>Building D - Rooftop parapet</p> <p>Building D - car space 76 ceiling</p>	<p>It was observed that areas of the ceiling concrete slab had not been properly vibrated or compacted, which has created areas of segregation, honeycombing and unprotected reinforcement.</p>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
33	Beneath the common courtyards of Building C and D	Uncontrolled cracking of the concrete soffit and slabs was observed 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 project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
34	West elevation, near the entry to Building D	<p>The following observations were made:</p> <ul style="list-style-type: none"> <li>• I observed a crack on the west face of the wall north of the entry to building D that travelled 1.4m and was 1mm wide.</li> <li>• A crack also appeared on the inner face of the wall above this which was 2.25mm wide and 1.5m long.</li> <li>• It should also be noted that the face of the brickwork has moved out of alignment at the crack.</li> <li>• It is recommended that this area be monitored for any further deterioration for the next 12 months.</li> </ul>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>Rectify the works in accordance with the specialist report and drawings provided at stage 1.</p>	
35	Façade	<ul style="list-style-type: none"> <li>Observed a unique / unspecified attachment or repair to the façade.</li> <li>Not shown on the 'for construction' drawings, elevations external colour &amp; finishes legend.</li> <li>The attachment appears to have failed with a risk of it falling from the building.</li> <li>The purpose or intention of the attachment may be compromised due the failure.</li> </ul>	<p>Within the time period specified in column 5,</p> <p>Stage 1.</p> <p>Submit a written report and drawings prepared for the raised defect to project intervene team via email to <a href="mailto:projectintervene@customerservice.nsw.gov.au">projectintervene@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 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>Stage 2.</p> <p>If required, 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.

### Reasons for this Order

12. I, David Chandler, have formed a reasonable belief that the Development has a serious defect based on the following.
13. I have formed this belief after reviewing an Inspection Report (dated 24 April 2023) by Investigators, who conducted an inspection of the Development by consent of the owners corporation on 16 February 2023.
14. 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).

A handwritten signature in black ink, appearing to read 'D Chandler', with a large, stylized initial 'D' and a long, sweeping horizontal stroke at the end.

David Chandler  
**NSW Building Commissioner**  
**Office of the Building Commissioner**  
**Department of Customer Service**

**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	<p>Inadequate planter box construction: no evidence of a waterproofing membrane terminating a minimum of 100mm above the soil oil.</p> <p>Where the membrane does terminate up the wall, it does not have a visible compliant termination detail.</p>	<p>The inadequate planter box construction demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require the membrane to be sealed to the drainage outlet and extend vertically to a height of 100 mm above the soil or fill level, the sheet membranes to be secured along the top or bottom edge and that a roof and external wall must prevent the penetration of water.</p>	<ul style="list-style-type: none"> <li>AS4654.2: Waterproofing Membranes for External Above Ground Use: Section 2, Design And Installation, 2.13 Planter Boxes, 2.8 Termination Of Membranes, 2.8.1 Upward Terminations</li> <li>AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirements FP1.4</li> </ul>
2	Waterproofing systems	Lack of overflow provisions in the balcony and terrace areas	<p>The lack of overflow provisions demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require the stormwater from balconies to have the provision to be discharged through overflow devices when necessary. Further, a roof and external wall must prevent the penetration of water.</p>	<ul style="list-style-type: none"> <li>AS/NZS3500.3: Plumbing and Drainage, Part 3, Stormwater Drainage, Section 3.8 Balcony and Terrace Areas and Section 5, Surface Drainage Systems - Design, Clause 5.3.1.1, Roof Areas</li> <li>AS/NZS3500.3 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirements FP1.4</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
3	Waterproofing systems	Insufficient waterproofing membrane applied to the wall and floor junction	<p>The insufficient waterproofing membrane applied to the wall and floor junction demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require the finished height of a membrane above the finished service level to be sufficient to prevent moisture entering above the membrane height.</p>	<ul style="list-style-type: none"> <li>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>
4	Waterproofing systems	Uncontrolled water ingress from the basement ceiling	<p>The uncontrolled water ingress in the basement ceiling demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require any roofs or external walls to prevent the penetration of water that could cause unhealthy or dangerous conditions, undue dampness or deterioration of building elements. Further, a drainage system for the disposal of rainwater 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 Waterproofing, Performance Requirement FP1.3 and FP1.4</li> </ul>
5	Waterproofing systems	Inadequate planter box construction with a lack of membrane termination detail into the drain point	<p>The lack of membrane termination detail into the drain point in the basement ceiling demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p>	<ul style="list-style-type: none"> <li>AS4654.2: Waterproofing Membranes for External Above Ground Use - Section 2, Design and Installation, 2.13 Planter Boxes</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			These require the membrane to be sealed to the drainage outlet and extend vertically to a height of 100 mm above the soil or fill level. Further, a drainage system for the disposal of surface water from a storm must convey surface water to an appropriate outfall and avoid surface water damaging the building.	<ul style="list-style-type: none"> <li>AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.3</li> </ul>
6	Waterproofing Systems	Failure to install a collar to the membrane of the vent pipes	<p>The failure to install a collar to the membrane of the vent pipes demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require all pipes, ducts and vents to be located within a collar mechanically fixed to the substrate as an extension to the penetration. Alternatively, a collar may be cast into the substrate to form the penetration.</p>	<ul style="list-style-type: none"> <li>AS4654.2: Waterproofing Membranes for External Above Ground Use - Part 2, Design and Installation, Section 2 - Design and Installation, 2.8.4 Penetrations</li> </ul>
7	Waterproofing Systems	Absence of sealant to the penetration of the membrane	The absence of sealant to the penetration of the membrane demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.	<ul style="list-style-type: none"> <li>AS4654.2: Waterproofing Membranes for External Above Ground Use - Part 2, Design and Installation, Section 2 - Design and Installation, 2.8.4 Penetrations</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			These require any fixings that penetrate the membrane to be sealed to avoid water penetration, and that the sealant be compatible with the surface material.	<ul style="list-style-type: none"> <li>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 Waterproofing</li> </ul>
8	Waterproofing Systems	Incorrectly applied waterproofing membrane	<p>The incorrectly applied waterproofing membrane demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require the preparation of the substrate for fully bonded or liquid applied membranes to result in the surface being smooth and clean, dry and free from dust and contamination.</p>	<ul style="list-style-type: none"> <li>AS4654.2: Waterproofing Membranes for External Above Ground Use - Part 2, Design and Installation, Section 2 - Design and Installation, 2.5 Substrate, 2.5.3.1 fully bonded or liquid-applied</li> <li>AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement F1.4</li> </ul>
9	Waterproofing Systems	Waterproofing membrane has been applied to a defective substrate	<p>The waterproofing applied to the defective substrate demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require the preparation of the substrate for fully bonded or liquid applied membranes to result in the surface being smooth and clean, dry and free from dust and contamination.</p>	<ul style="list-style-type: none"> <li>AS4654.2: Waterproofing Membranes for External Above Ground Use - Part 2, Design and Installation, Section 2 - Design and Installation, 2.5 Substrate, 2.5.3.1 fully bonded or liquid-applied.</li> <li>AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				Requirement FP1.4 Waterproofing
10	Waterproofing Systems	Uneven surface and inadequate prepared substrate to waterproofing membrane	<p>The inadequately prepared substrate demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require the preparation of the substrate for fully bonded or liquid applied membranes to result in the surface being smooth and clean, dry and free from dust and contamination.</p>	<ul style="list-style-type: none"> <li>AS4654.2: Waterproofing Membranes for External Above Ground Use - Part 2, Design and Installation, Section 2 - Design and Installation, 2.5 Substrate, 2.5.3.1 fully bonded or liquid-applied.</li> <li>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 Waterproofing</li> </ul>
11	Waterproofing Systems	Lack of membrane termination to the overflow pipe	<p>The lack of membrane termination to the overflow pipe demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require that stormwater from roof areas shall be collected and conveyed in gutters and downpipes or discharged through overflow devices. Further, the finished height of the membrane above the finished surface level shall be sufficient to prevent water entry.</p>	<ul style="list-style-type: none"> <li>AS/NZS3500.3 (2015): Plumbing and Drainage, Stormwater Drainage, Section 5 Surface Drainage Systems - Design Clause 5.3.1.1 Roof Areas</li> <li>AS4654.2 Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation, 2.8 Terminations of Membranes, 2.8.1.1 Height</li> <li>AS/NZS3500.3 appears as a standard reference in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Weatherproofing, Performance Requirement FP1.4</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
12	Waterproofing Systems	Uncontrolled water ingress through basement ceiling	<p>The uncontrolled water ingress through the basement ceiling demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require that a roof and external wall must prevent the penetration of water that could cause unhealthy or dangerous conditions or undue dampness or deterioration of building elements. Further, a drainage system must dispose of surface water to an appropriate outfall.</p>	<ul style="list-style-type: none"> <li>• BCA Volume One, Section F Health and Amenity, Part F1 Damp and Waterproofing, Performance Requirement FP1.3 and FP1.4</li> <li>•</li> </ul>
13	Waterproofing Systems	Inadequate waterproof membrane termination detail	<p>The inadequate waterproof membrane determination detail demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These requires the top edges of the membrane to be protected by the downturn of the cavity flashing to prevent the penetration of water.</p>	<ul style="list-style-type: none"> <li>• AS4654.2: Waterproofing Membranes for External Above Ground Use, Section 2 Design and Installation, 2.8 Termination of Membranes, 2.8.2 Vertical Downward Terminations, 2.8.2.2 Parapet</li> <li>• AS4654.2 appears as a standard referenced in the BCA Volume One, Section F Health and Amenity, Part F1 Damp and Waterproofing, Deemed to Satisfy Provision F1.4</li> </ul>
14	Waterproofing Systems	Incorrect installation of flashings	The incorrect installation of flashings demonstrates a failure to comply with the Australian Standards and	<ul style="list-style-type: none"> <li>• AS3700: Masonry Structures Membranes for External Above Ground Use: Section 4, General Design Aspects, 4.7 Penetration</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 provisions referenced in column 5.</p> <p>These require damp proof courses (DPCs) and flashings to be incorporated into the masonry to prevent moisture from entering the building.</p>	<p>of Moisture Penetration, 4.7.3 Damp Proof Courses and Flashings</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>
15	Fire Safety Systems	Missing and/or inadequate protections for service penetrations passing through fire rated elements	<p>The missing and/or inadequate protections for service penetrations demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require that where a service penetrates a building element, there must be an adequate Fire Resistance Level (FRL) with respect to integrity, insulation or a resistance to the spread of fire.</p>	<ul style="list-style-type: none"> <li>• NCC BCA Volume One, Part C3: Protection of Openings, C3.15 and Specification C3.15</li> </ul>
16	Fire Safety Systems	Missing and/or inadequate protections for service penetrations passing through fire rated elements	<p>The missing and/or inadequate protections for service penetrations demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require that where a service penetrates a building element, there</p>	<ul style="list-style-type: none"> <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
			must be an adequate Fire Resistance Level (FRL) with respect to integrity, insulation or a resistance to the spread of fire.	
17	Fire Safety Systems	Inadequate fire-resisting sealing of redundant penetrations	<p>The inadequate fire-resisting sealing demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require any building element provided to resist the spread of fire must be protected so that an adequate level of performance is maintained where openings or penetrations occur.</p>	<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>
18	Fire Safety Systems	Unprotected openings within fire rated walls to the main switch room	<p>The unprotected openings within fire rated walls demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These requires that a main switchboard located within the building which sustains emergency equipment must be separated from the rest of the building by having an FRL no 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, C3.15 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
19	Fire Safety Systems	Fire dampers are installed incorrectly and fire extinguisher signage has been obstructed by a fire damper.	<p>The obstruction of the fire extinguisher signs demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require that fire dampers must be installed in accordance with the manufacturers installation instructions to resist the spread of fire.</p>	<ul style="list-style-type: none"> <li>AS 1682.2, Fire Dampers, Part 2: Installation</li> <li>AS 1682.2 appears as a referenced document in AS 1668.1</li> <li>AS 1668.1 appears as a standard referenced in the NCC BCA Volume One, 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	Doors to electrical and communication service cupboards in public corridors are missing smoke seals.	<p>The lack of smoke seals demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require that services or equipment may only be installed in exits, corridors or hallways if they are enclosed by non-combustible construction or a fire-protective covering with doorways/openings suitably sealed.</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part D2: Construction of exits, D2.7</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>
21	Fire Safety Systems	Gaps underneath fire door are too excessive	<p>The gaps underneath the fire door being too excessive demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require that the gaps around door leaves to be no more than 10 mm between the leaf and the top service of the floor, and 25 mm between the leaf and the top of the non-combustible threshold.</p>	<ul style="list-style-type: none"> <li>AS 1905.1 Components for the protection of openings in fire resistant walls, Part 1: Fire-resistant doorsets, Section 5: Installation</li> <li>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>
22	Fire Safety Systems	Lack of minimum clearance in front of hydrant outlets	<p>The lack of minimum clearance in front of hydrant outlets demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require that fire hydrants be installed with a clearance of 1000 mm directly in front of it.</p>	<ul style="list-style-type: none"> <li>AS 2419.1: Fire Hydrant Installations, Part 1- System Design, Installation and Commissioning</li> <li>Australian Standard AS 2419.1 appears as a standard referenced in the NCC BCA Volume One, E1.3</li> </ul>
23	Fire Safety Systems	Insufficient clearance between storage cages and sprinkler heads	<p>The insufficient clearance and lack of horizontal mesh demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These require clearance of at least 500 mm between stored materials and sprinkler deflectors.</p>	<ul style="list-style-type: none"> <li>AS 2118.1</li> <li>Australian Standard AS 2118.1 appears as a standard referenced in the NCC BCA Volume One, E1.5 &amp; Specification E1.5</li> <li>Environmental Planning and Assessment (Development</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				Certification and Fire Safety) Regulation 2021, Clause 81
24	Fire Safety Systems	Excessive spacing between sprinkler heads	<p>The excessive spacing between sprinkler heads demonstrates a failure to comply with the Australian Standards and and Building Code provisions referenced in column 5.</p> <p>These requires sprinkle coverage of no more than 12m2 for each sprinkler head and require uniform staggering.</p>	<ul style="list-style-type: none"> <li>Australian Standard AS 2118.1, Section 5: Spacing and Location of Sprinklers</li> <li>Australian Standard AS 2118.1, Section 2: Classification of Sprinkler System and Design Data</li> <li>Australian Standard AS 2118.1, Appendix A</li> <li>Australian Standard AS 2118.1 appears as a standard referenced in the NCC BCA Volume One, E1.5 &amp; Specification E1.5</li> </ul>
25	Fire Safety Systems	Insufficient clearance of sprinklers near mechanical ducts in the carpark	<p>The insufficient clearance of sprinklers demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These set out the requirements for spacing and location of sprinklers, including the minimum distance between ducts and sprinklers.</p>	<ul style="list-style-type: none"> <li>AS 2118.1</li> <li>Australian Standard AS 2118.1 appears as a standard referenced in the NCC BCA Volume One, E1.5 &amp; Specification E1.5</li> </ul>
26	Fire Safety Systems	Inconsistent heights in rising and goings of stairway	The inconsistent heights in last riser of stairway demonstrates a failure to comply with the Australian	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part D2: Construction of exits, D2.13</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			<p>Standards and Building Code provisions referenced in column 5.</p> <p>These set out that the difference in height between adjacent risers in a stairway must not exceed 5mm.</p>	
27	Fire Safety Systems	Unprotected gaps and joints between fire rated walls and fire rated floors	<p>The unprotected gaps and joints demonstrate a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These set out the requirements for fire-resistance of building elements, including that any internal wall and its joints and spaces are required to be fire protected and this must extend to the underside of the floor or roof above.</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>
28	Fire Safety Systems	Large panel within the lift shaft is not fire rated	<p>The lift shaft panel which is not fire rated demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These set out that openings in fire-isolated lift shafts must be backed by construction having an FRL of not less than /60/60.</p>	<ul style="list-style-type: none"> <li>NCC BCA Volume One, Part C3: Protection of openings, C3.10</li> </ul>
29	Structural Systems	Exposed and unprotected structural reinforcement	The exposed and unprotected structural reinforcement demonstrates a failure to comply	<ul style="list-style-type: none"> <li>AS3600 Concrete structures, Section 4, Design for Durability 4.10, 4.10.3 and 4.10.3.7</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
			<p>with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These set out that for corrosion and deterioration protection, cover to reinforcing steel must be between 20mm and 70mm (depending on exposure classification and strength). It also sets out requirements for coating of particular types of metals.</p>	<ul style="list-style-type: none"> <li>AS3600 - 17.1.3 Handling, Placing and Compacting of Concrete</li> <li>AS3600 appears as a standard referenced in the the BCA Volume One, Part B1 Structural provisions BP1.1 Structural reliability</li> </ul>
30	Structural Systems	The concrete slab is insufficiently vibrated or compacted, causing areas of segregation and honeycombing.	<p>The concrete slab being insufficiently vibrated or compacted demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These set out that embedded items shall be protected from corrosion or deterioration and that concrete shall be handled, placed and compacted in a way that limits compacting of the concrete.</p>	<ul style="list-style-type: none"> <li>AS3600 Concrete Structures, Section 4 – Design for durability, 4.10, 4.10.3, 4.10.3.7</li> <li>Section 17 - Materials and construction requirements, 17.1.7- Rejection of concrete, 17.1.7.2 Hardened concrete, 17.1.3 Handling, placing and compacting of concrete</li> </ul>
31	Structural Systems	Cutting of penetrations through the walls, with no treatment for prevention of corrosion	The concrete slab being insufficiently vibrated or compacted demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.	<ul style="list-style-type: none"> <li>BCA Volume 1: (i) 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
			These set out that a building must perform adequately, within extreme or frequently repeated design actions and be designed to sustain local damage.	
32	Structural Systems	Honeycombing in the ceiling concrete slab	<p>The honeycombing of the concrete slab demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>The referenced standards set out that embedded items must be protected from corrosion or deterioration, and that hardened concrete can be liable to rejection if it is honeycombed. Further, it sets out the requirements for handling, placing and compacting of concrete.</p>	<ul style="list-style-type: none"> <li>AS3600 Concrete Structures Section 4 – Design for durability, 4.10, 4.10.3, 4.10.3.7</li> <li>Section 17 - Materials and construction requirements, 17.1.7- Rejection of concrete, 17.1.7.2 Hardened concrete, 17.1.3 Handling, placing and compacting of concrete</li> </ul>
33	Structural Systems	Uncontrolled cracking of the concrete soffit and slabs	<p>The uncontrolled cracking demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These state that general cracking in concrete structures shall be controlled so that structural performance, durability and appearance of the structure are 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 the BCA Volume One, Section B Structure, Deemed-to-Satisfy Provision B1.4 - Determination of Structural Resistance of</li> </ul>

Serious Defect Reference	Building element	Defect	Reason why defect is a serious defect	Applicable approved plan, Code or Australian Standard
				Materials and Forms of Construction.
34	Building Enclosure	Cracking and misalignment of the masonry	<p>The cracking and misalignment of the masonry demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These states that a building must perform adequately, withstand extreme or frequently repeated design actions, be designed to sustain local damage and avoid causing damage to other properties.</p>	<ul style="list-style-type: none"> <li>AS3700 Masonry structures</li> <li>BCA Volume One, Section B Structure, Performance Requirements, BP1.1</li> </ul>
35	Building Enclosure	Unique or unspecified attachment or repair to the façade	<p>The failure of the attachment or unspecified repair demonstrates a failure to comply with the Australian Standards and Building Code provisions referenced in column 5.</p> <p>These set out that a building must perform adequately, withstand extreme or frequently repeated design actions, be designed to sustain local damage and avoid causing damage to other properties.</p>	<ul style="list-style-type: none"> <li>BCA Volume One, Section B Structure, Performance Requirements, BP1.1</li> </ul>

15. I am of the view the periods above for Defect 1.1 through to Defect 4.2 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.
16. 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.
17. 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**

18. 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.
19. I am aware that there are residents occupying this location as the Building works will be undertaken which will delay rectification work.

#### **Consideration of written representations**

20. I have, as decision maker, considered written representations pursuant to section 47 of the Act. On 5 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. The served parties were invited to provide written representations relating to the Order to the Department by 26 July 2023.
21. As a decision maker I have also considered the written representations received from Profile project management on 26 July 2023.
22. As a decision maker I have also considered the written representations received from the owners Corporation on 10 July 2023.

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

23. 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.
24. 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 Phoenix Palm Development Pty Limited (ACN 163 682 040) to carry out the building work described, within the period specified in the above Order.
25. 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).