



Customer
Service

Attn. Proper Officer
Saiyu Construction Pty Ltd
1903 / 100 William St
WOOLLOOMOOLOO NSW 2011

Via email: gzhan@saiyu.com.au

21 October 2021

Stop Work Order

Section 29 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*

Saiyu Construction Pty Ltd (**the Developer**) is issued with this Stop Work Order (**this Order**) in relation to residential apartment building located at 47 Thomson Street, Kiama NSW 2533 (Lot B, DP 164747) (**the building**).

The Developer is required to ensure all work on the site stops by **5pm on Thursday 21 October 2021**.

Please read the Stop Work Order carefully and comply with the conditions.

Failure to comply with this Order is an offence and may result in criminal proceedings.

Background

1. The Department of Customer Service (the **Department**) administers the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* (the Act).
2. The building is located at 47 Thomson Street, Kiama NSW 2533 (Lot B, DP 164747) (the **Development**).
3. The Developer is currently carrying out, or organising to be carried out, building works to construct the Development (**Building Work**).
4. The Development is a Class 2 residential apartment building where work has previously been authorised to commence.
5. Under section 29 of the Act, the Secretary of the Department or her authorised delegate may order the Developer to ensure that work stops at the building if the Secretary forms the opinion that the building work is, or is likely to be, carried out in a manner that could result in:
 - a. Significant harm or loss to the public or occupiers or potential occupiers of the building to which the work relates; or

- b. Significant damage to property.
6. On 8 October 2021, an inspection was conducted at the Development by the Building Commissioner (the **Commissioner**), after a notification by SafeWork NSW. The observations of the Commissioner are noted below at paragraph 10 of this notice.
7. On 8 October 2021, an inspection was conducted at the Development by the Commissioner. At the inspection it was observed that the following works had been undertaken.
- Shoring and piling installations.
 - Basement drainage works.
 - Construction of basement and lower ground floors and walls
8. On 15 October 2021 a notice of intention to serve an Order and draft Order was served on the Developer. On the 19 October 2021 submissions were received by the Developer in response to the notice of intention to serve the Order.

Grounds for issuing this Order

9. I consider that shoring and piling installations and sub-surface drainage works are key elements of a building. The proper performance of these elements is critical to the safety and integrity of the building that is under construction.
10. I consider that the shoring and piling installations are not in accordance with the current construction certificate NW19/5809/1, which I have inspected.
11. Shoring and piling provide support for other structures above, including walls. In my opinion, failing to comply with the construction certificate in constructing the shoring and piling could lead to failure of those elements and result in significant harm to property and to persons working on the site, such as collapse of the structures.
12. I consider that basement drainage works are important to the stability of the building and the proper performance of those works is critical to the stability of the building and the safety of ongoing construction works.
13. I consider that the basement drainage works are not in accordance with the with the current construction certificate NW19/5809/1 that I have inspected.
14. In my opinion, failing to comply with the current construction certificate in constructing the basement will likely result in blocked water flows and could result in significant harm to property and to persons occupying the site, such as preventing safe use of the car park and affecting structural integrity of the building over time.
15. I have considered the submissions from Piper Alderman Lawyers dated 19th October 2021 outlining the proposed sequence of works to the site shoring, piling installations and basement drainage works. I remain of the view the works of concern, and any further building works onsite including remediation works (unless and until they are properly designed, assessed and appropriately approved) are, or are likely to be, carried out in a manner that could result in significant harm or loss to the public or occupiers or potential occupiers of the building to which the work relates or significant damage to property.

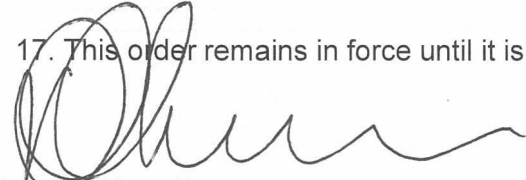
Direction to ensure Building Work stops

16. I, David Chandler, Order the Developer to ensure that Building work stops by **5pm on**

Thursday 21 October 2021.

Duration of this order

17. This order remains in force until it is revoked by the Secretary or their authorised delegate.

A handwritten signature in black ink, appearing to read 'David Chandler', written over the text of clause 17.

**David Chandler
Building Commissioner
Department of Customer Service**

Notes

- 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 of the notice of the order being given. Lodging an appeal does not stop the order taking effect, unless directed by the Court.
- Upon issuing this order, the Department has notified the relevant local council and the principal certifier for the building, in accordance with s 29(6) of the Act.