|  |  |
| --- | --- |
| Issued to: | Company or Corporation Name/ First and Surname  |
|  | Address |
| Attention: | Name of contact person |
| Date: | Day Month Year |

**DEVELOPMENT CONTROL ORDER: FIRE SAFETY ORDER UNDER ITEM 1, PART 2, SCHEDULE 5, SECTION 9.34 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

I, insert, as delegate of insert, pursuant to the powers conferred by Section 9.35 of the *Environmental Planning & Assessment Act 1979* (**Act**) give insertthis Fire Safety Order. The Fire Safety Order is given for the purposes of ensuring or promoting adequate fire safety or fire safety awareness to prevent fire, suppress fire, or prevent the spread of fire or to ensure or promote the safety of persons in the event of fire.

The order is served to you as the owner of the premises.

**Premises**

The land comprising Lot insert in DP insert, known as xx street address, suburb.

**Development Consent**

Development Consent insert for the development at insert (“**Building**”) was approved by insert on insert (“**Consent**”) under section insert of Act.

**Terms of the Order**

You must comply with the terms of the Fire Safety Order as follows:

**Part A – requirements for auditing of external wall cladding**

1. Within 28 days of the date of this Fire Safety Order, engage an independent1 building surveyor Category A1 and/or an independent1 fire safety engineer Category C10, accredited by the Building Professionals Board2, to carry out an audit of the external cladding of the building, at your own expense.
2. Within 8 weeks of the date of this condition, you must submit an audit report to insert prepared by the independent1 building surveyor and/or fire safety engineer appointed under item 1 above, and include the following:
3. audit findings detailing how the external wall cladding complies with the Building Code of Australia (BCA), including copies of any certificates, reports or other material relied upon in the audit of the external wall cladding;
4. recommendations to improve the fire safety of the building and/or recommendations to make the external wall cladding compliant with the BCA; and
5. action plan, including timeframes, to implement those recommendations3.

**Part B – requirements if external wall cladding does not comply with the BCA or if compliance cannot be determined**

1. In the event the external wall cladding does not comply with the requirements of the BCA or if compliance with the BCA cannot be determined then you must:
2. With 28 days of submitting the audit report to insert, referred in term 2 of Part A, engage an independent1 fire safety engineer Category C10, accredited by the Building Professionals Board2, to assess the fire safety risk posed by the external wall cladding of the building, at your expense.
3. Within 8 weeks of engaging the independent1 fire safety engineer, submit an assessment report to insert prepared by the independent1 fire safety engineer appointed under term 4(a) of Part B, which includes the following:
4. assessment findings including copies of any certificates, reports or other material relied upon in the assessment of the fire safety risk posed by the external wall cladding;
5. details of any consultation undertaken with Fire & Rescue NSW as part of the assessment of the external wall cladding, including copies of any written comments made by Fire & Rescue NSW;
6. recommendations to reduce or negate the fire safety risk posed by the external wall cladding, including to suppress fire, prevent the spread of fire or ensure or promote the safety of persons in the event of fire; and
7. an action plan to implement those recommendations3.

Note 1: "independent" means someone who has not been involved in the certification or design of the building, ie: was not involved in the construction certificate (CC) or occupation certificate (OC). This would include:

* the certifying authority and the principal certifying authority (mandatory inspections and OC), and
* someone who prepared an alternative solution in accordance with the performance provisions of the BCA for a product, system or other design element of the building.

Note 2: NSW register of accredited certifiers: <http://search.bpb.nsw.gov.au/bpb/BPB_Search.jsp>.

Note 3: It is possible that a further order may be issued as the mechanism for implementing the action plan in Parts A or B above.

**Time for Compliance with the Order**

Specify a time for compliance for each term of the order.

**Reasons for Issuing Order**

The reasons should set out the factual background of the basis on which the order is issued (i.e. the legal basis in the table in Schedule 5). It should also set out any relevant discretionary factors, such as harm to the environment and safety concerns. Unless obvious from the terms of the order itself, the reasons should set out the rationale for the terms of the order and the time for compliance. It is not necessary to include a detailed procedural history of the matter, but it is useful to provide some background information to give context to the reasons. It is good practice to note the procedural fairness steps that have been taken (notice of intention and how representations where considered).

**Non-compliance with Order**

It is an offence pursuant to section 9.37 of the Act to fail to comply with this order. The maximum penalty for breaching or failing to comply with an order issued under section 9.34 of the Act is $5 million and a further penalty of $50,000 for each day that the offence is continuing.

**Appeal**

You may appeal to the Land and Environment Court of NSW against this order under section 8.81 of the Act. The appeal may only be made within 28 days of giving this order to you and does not affect the requirement for you to comply with the terms of this order.

**Contact**

The contact for this matter is insert who may be contacted on insert phone or at insert email.

Name
Title

CC: FRNSW

Attachment 1 - Fire Safety Schedule

*{insert table}*