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| --- | --- |
| 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 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:

1. Within 30 days prior to commencement of works under this Fire Safety Order, submit to insert the following:
2. Plans showing:
3. the location of the existing external combustible cladding panels (“**ACP**”); and
4. sequentially numbered panels for identification purposes.
5. Details of the specific colour of the proposed substitute replacement material proposed to be used to replace the existing ACP on the external walls of the buildings. Any deviation from the existing colour scheme must be approved by insert.
6. The test reports under AS 1530.1 demonstrating that the proposed substitute replacement material is “non-combustible”, as defined in the National Construction Code, the Building Code of Australia Volume 1 2016 Amendment Volume One (”**BCA**”), or otherwise demonstrate that the replacement material is compliant with the current BCA.
7. Architectural plans, drawings and specifications as referred to in **Attachment 1** of this Fire Safety Order for the proposed substitute replacement material referred to in term 1B and 1C above.

The plans, drawings and specifications must be certified by an independent unrestricted A1 or C10 accredited certifier under the *Building Professional Act 2005*, as compliant with the BCA where the proposed substitute non-combustible replacement material affects:

1. the structural stability of the building;
2. the waterproofing of the premises
3. the fire safety of the premises;
4. safe movement and access to and within the premises;
5. the health and amenity of the occupants of the building; and
6. the energy efficiency of the building.
7. A list of any proposed new or modified fire safety measures for the building, if applicable, by updating the fire safety schedule at **Attachment 2** of the Fire Safety Order.
8. Following completion of term 1 above:
   1. remove all the existing combustible panels on the external walls of the building;
   2. install the substitute replacement material identified in terms 1B and 1C in accordance with the plans, drawings and specifications identified in term 1D above; and
   3. install any proposed new or modified fire safety measures identified in term 1E above.

Note: Before hoardings and scaffolding can be erected on a public road and/or footpath, you must obtain approval under the *Roads Act 1993* from the local council.

1. Following completion of terms 1, 2 and 3 above, submit to insert:

A. a completion certificate signed by the accredited certifier referred to in term 1D above, certifying:

* + 1. the works have been carried out in accordance with the plans, drawings and specifications referred to in term 1D above; and
    2. the proposed substitute replacement material specified in term 1B and 1C above and the method of installation including that the replacement panels were installed in accordance with the specified method and comply with the BCA;
       - 1. a final fire safety certificate.

1. a) Develop and implement interim measures to ensure or promote adequate fire safety of the buildings pending rectification works being completed on the building; and

b) Provide written notification to the insert to confirm these interim measures are being implemented.

1. Within 30 days prior to commencement of works under this Fire Safety Order, notify the occupants of the building of the terms of this Fire Safety Order.

**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 - Plans and Documents for Building Work

1. All plans and documents must be submitted in digital format on a single USB. Each group of plan types, e.g. site plan, floor plans, sections, elevations and documents must be supplied as separate PDF files, not larger than 20MB in size - Digital files must be virus free
2. Include location plan clearly showing the address of the site and the location of the site with respect to the adjoining streets
3. Site plan drawn at a scale of 1:200 (preferred) but not smaller than 1:500 showing the relation of the building to the boundaries of the allotment
4. Detailed drawings:

* A plan of each floor indicating location of the proposed works in relation to the whole floor, including existing exits, lifts and services, partitioning etc., plus elevations and cross sections sufficient to indicate completely the proposed design and construction
* A plan of each elevation of the building
* At least one sectional drawing of the building/works at the most typical point
* The levels of the lowest floor and of any yard or unbuilt on area belonging to that floor and the levels of the adjacent ground
* Indicate the height (preferably to Australian Height Datum), design, construction and provision for fire safety and fire resistance (if any)
* Structural drawings and certification from a practising structural engineer

1. New work shown on plans shall be appropriately coloured so as to adequately distinguish the various materials to be used and to distinguish new work from existing
2. Detailed specification shall be submitted when the construction and materials are not fully described on the plan. The specification must:

* Describe the construction and materials of which the building is to be built
* State whether the materials proposed to be used are new or secondhand and give particulars of any secondhand materials to be used
* State the relevant Australian Standards applicable to the proposed work.

1. Where the application involves an alternative solution to meet the performance requirements of the BCA, the application must also be accompanied by:

* details of the performance requirements that the alternative solution is intended to meet, and
* details of the assessment methods used to establish compliance with those performance requirements
* justifications (including detailed computer printouts, calculation sheets and verification statements) that the proposed alternative solutions comply with relevant performance requirements.

1. Evidence of any accredited component, process or design sought to be relied upon.
2. Plans and specifications for the work must be certified as being compliant with the BCA by a competent fire safety practitioner

\*\*\* competent fire safety practitioner is an independent fire safety engineer category C10, accredited by the Building Professionals Board

Attachment 2 - Fire Safety Schedule

*{insert table}*