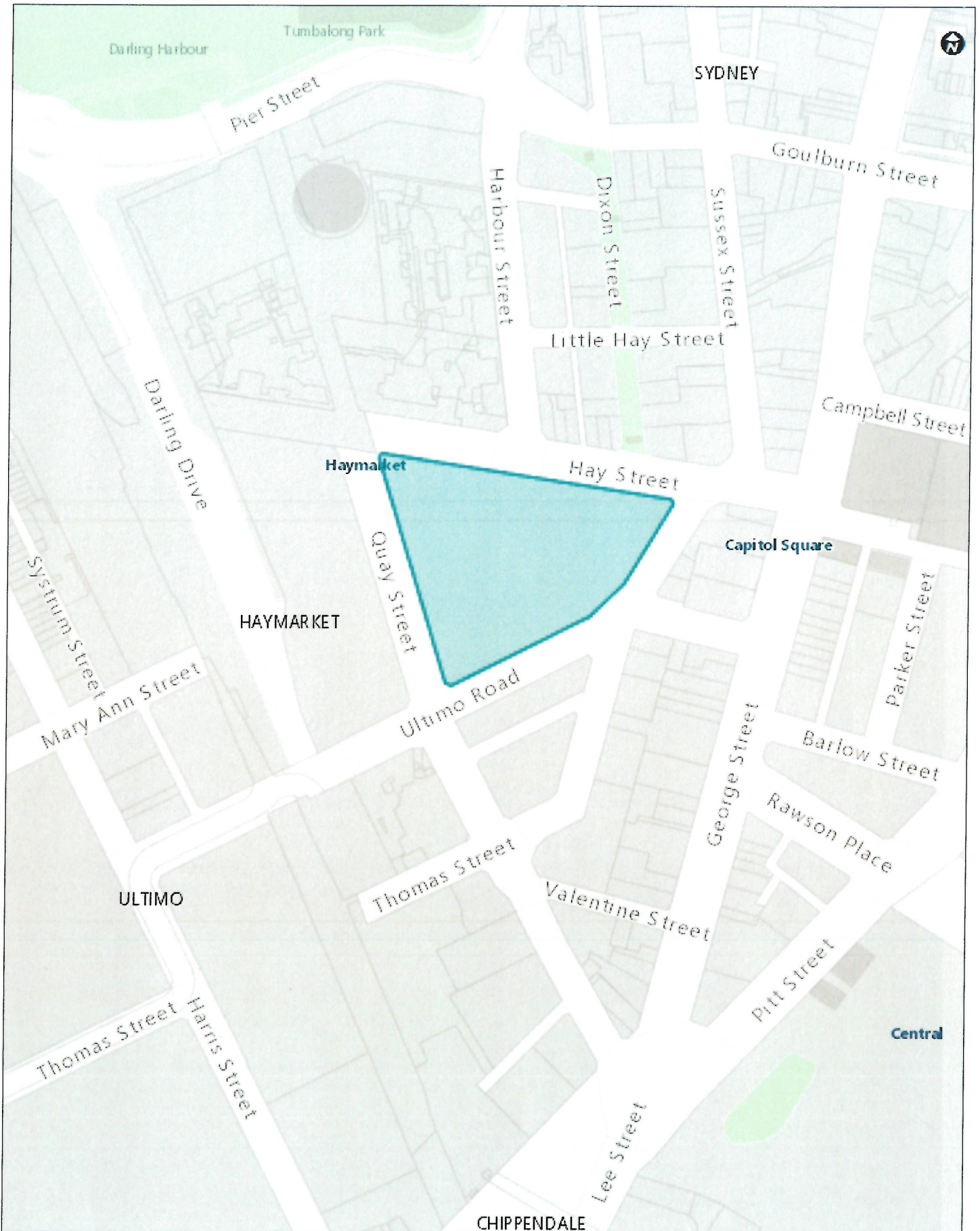


# **Attachment F**

**Inspection Report -  
9-13 Hay Street, Haymarket**



**Council investigation officer Inspection and Recommendation Report  
 Clause 17(2) of Schedule 5, of the Environmental Planning and Assessment Act  
 1979 (the Act)**

**File: CSM 2117993                      Officer: G. Scotton                      Date: 23 July 2019**

**Premises: 9-13 Hay Street, Haymarket**

**Executive Summary:**

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises with respect to matters of fire safety.

The premises, known as Market City, comprises three retail levels, and is located on a large 4 hectare site bounded by Hay Street, Quay Street, Thomas Street and Ultimo Road. The site also includes Paddy’s Markets at ground floor level, and a high rise residential apartment building above Market City.

An inspection of the premises undertaken by a Council investigation officer in the presence of the building manager revealed that there were no significant fire safety issues occurring within the building.

The premises are equipped with numerous fire safety systems, both active and passive, that would provide adequate provision for fire safety for occupants in the event of a fire. The annual fire safety certification is current and compliant and is on display within the building in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000.

Council investigations have revealed that whilst there are several minor fire safety maintenance and management works to attend to such as maintenance of the fire alarm system, and removal of locks on certain exit doors, the overall fire safety systems provided within the subject premises are considered adequate in the circumstances.

It is considered that the above fire safety works are of a degree which can be addressed by routine preventative and corrective maintenance actions undertaken by the owner’s fire service contractor through written instruction from Council.

Observation of the external features of the building did not identify the existence of metal composite cladding.

**Chronology:**

Date	Event
5/7/2019	FRNSW correspondence received regarding premises 9-13 Hay Street, Haymarket
18/7/2019	An inspection of the subject premises was undertaken by a Council officer, when matters were discussed with the building manager and fire engineer, and it was noted that: <ol style="list-style-type: none"> <li>1. The fire safety schedule for the premises includes an extensive array of fifty five fire safety measures including sprinklers, smoke detection, emergency warning system, fire control centre, smoke control system, smoke vents, and evacuation plans</li> <li>2. Most fire safety measures, including emergency lighting, exit signs, fire doors and emergency warning system, appeared adequately maintained</li> <li>3. The fire alarm displayed faults and required maintenance</li> <li>4. Exit doors were readily openable, except for a door in a path of travel to an exit near The Tavern, and to certain exits in Paddy’s Markets, below Market City</li> <li>5. Fire shutters were open during the inspection, and it was noted that when the fire shutters are closed upon activation of the fire alarm, alternative egress is available via two nearby doors in paths of travel to exits on level 1 (near The Tavern), each provided with exit signs</li> <li>6. No stored materials were obstructing exits doors or exit passageways</li> </ol>

	<p>7. The fire engineer was of the opinion that the operation of the fire shutters were generally consistent with a performance solution in the fire engineering report, although one of the shutters required repair, and he advised that this repair was completed since the date of the FRNSW report</p> <p>8. The building manager advised that fire safety measures are currently undergoing testing and maintenance in relation to the fire safety statement due by 27 August 2019.</p>
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**FIRE AND RESCUE NSW REPORT:**

References: [BFS19/2054, 2019/361677-03]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving correspondence alleging inadequate fire safety in a restaurant tenancy, including inadequate egress, emergency lighting and stored items in exits.

Issues

The report from FRNSW detailed a number of issues, in particular noting:

1. Fire safety measures not maintained adequately, namely exit signage, fire doors, and fire shutters;
2. Exit not readily openable without a key and items stored in a fire exit;
3. Egress strategy outlined in a fire engineering report not operating effectively when building in fire mode.

FRNSW Recommendations

FRNSW have made three recommendations within their report. In general FRNSW have requested that Council:

1. FRNSW have recommended that Council inspect and address any other deficiencies identified on the premises and require the identified deficiencies to be addressed appropriately;

FRNSW have also requested that notice of any determination in respect of the recommendations is forwarded to them in accordance with clause 17(4) of Schedule 5 of the Environmental Planning and Assessment Act 1979.

**COUNCIL INVESTIGATION OFFICER RECOMMENDATIONS:**

Issue Order(NOI)	Issue emergency Order	Issue a compliance letter of instruction	Cited Matters rectified	Continue to undertake compliance action in response to issued Council correspondence	Continue with compliance actions under the current Council Order	Other (to specify)

As a result of site inspections undertaken by Council investigation officers it is recommended that the owners of the building be issued with written instructions to rectify certain identified fire safety deficiencies noted by FRNSW.

The above written instructions will direct the owners of the premises to carry out remedial actions to existing fire systems to cause compliance with required standards of performance.

Follow-up compliance inspections are currently being undertaken, and will continue to be undertaken by a Council officer to ensure all identified fire safety matters are suitably addressed and that compliance with the terms of Councils correspondence and the recommendations of FRNSW occur.

It is recommended that Council not exercise its powers to give a fire safety order at this time.

That the Commissioner of FRNSW be advised of Council's actions and determination.

**Referenced documents:**

<b>No#</b>	<b>Document type</b>	<b>Trim reference</b>
A1.	Fire and Rescue NSW report	2019/361677-03
A2.	Locality Plan	2019/361677-02
A3	Attachment cover sheet	2019/361677-01

**Trim Reference:** 2019/361677

**CSM reference No#:** 2117993





File Ref. No: BFS18/2786 (4956), BFS19/1318 (7185) & BFS19/2054 (7906)  
TRIM Ref. No: D19/47055  
Contact: [REDACTED]

10 July 2019

General Manager  
City of Sydney  
GPO Box 1591  
SYDNEY NSW 2001

Email: [council@cityofsydney.nsw.gov.au](mailto:council@cityofsydney.nsw.gov.au)

Attention: Manager Compliance/Fire Safety

Dear General Manager

**Re: INSPECTION REPORT  
'MARKET CITY'  
9-13 HAY STREET, HAYMARKET ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 1 October 2018, 23 April 2019 and 22 June 2019 in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence on 1 October 2018, relating to 'The Eight' Restaurant on Level 3, stated that:

- *Large busy yum cha restaurant on the upper floor of market city centre doesn't appear to have emergency lighting in working order.*

The correspondence on 23 April 2019, relating to 'The Eight' Restaurant on Level 3, stated that:

- *Storage of items such as boxes, chairs, and infant high seats is blocking at least half of the quite wide double fire doors (approx 3m wide). During service restaurant staff were also routinely using the area immediately prior to the fire doors as a staging area for collecting dirty dishes, trolleys, etc. This could impede or restrict passage for evacuees. In the worst case, if left to accumulate, the items could completely block the doors and also prevent evacuees from reaching the door release latch bar, which would completely prevent all egress and therefore pose a very severe and major hazard.*

The correspondence on 22 June 2019 stated that:

- *I am writing to express my grave concerns regarding the fire safety measures of Market City, Haymarket, Sydney following the experiences of my daughter and I below at the Market City shopping centre on 22 June 2019 at 12:25pm.*
- *My daughter was shopping at Forcast (a clothing store) at Level 2 of Market City at 12:25pm when the fire alarm at the shopping centre went off.*
- *Upon hearing the fire alarm, my daughter immediately went down the escalator (which is right outside Forcast) to go to Level 1.*
- *By the time my daughter reached Level 1, the fire alarm had already stopped.*
- *There was a smoky smell within the shopping centre so my daughter tried to find an exit to leave the building. The closest exit to the escalator was the entrance that is next to Market City Tavern. However, she noticed that one of the metal gates to the entrance have now been pulled down. The other remaining metal gate at the side of the entrance was mostly pulled down with around one feet above the ground.*
- *My daughter saw this situation and tried to find another exit to leave the shopping centre. She had to leave using the exit near Novo Shoes because the third exit (the one near Thai Kee IGA) was closed due to renovation.*
- *At around 12:30pm, I finished my grocery shopping at Paddy's Market. I did not know that there was a fire alarm at Market City so I went up the escalator that is at the main entrance of Paddy's market (i.e. the same entrance at Point 2 above) to meet my daughter at Forcast as planned.*
- *Once I reached the top of the escalator, I realised that the metal gates at the entrance were pulled down so there were many people that were crowding in the small space (around one feet) between the escalator and the gate.*
- *I was surprised to see that the metal gates were pulled down suddenly within ten minutes because I left Market City to go to Paddy's Market using this exit at 12:15pm.*
- *I was unable to get off the escalator and nearly fell backwards because a few young people cannot move away immediately to give me room as they were also blocked by people in front of them. I had to push them away immediately with force before I can step onto the ground, so the others immediately behind me on the escalator can also have room when they reach the level.*
- *I immediately instructed the group to go back down using the escalator to leave room for others that are coming up.*
- *I also went down the escalator immediately. I ran to the Paddy's Market information booth. I told the middle-aged male staff with a green "Paddy's Market" vest who was manning the booth to stop the escalator at once and to*



*call the Market City Management to report the dangerous situation of the escalator.*

- *As I didn't hear any alarms or announcements, I thought it might have been a terrorist attack or a hostage situation because the gates were pulled down, so I quickly ran away from the exit.*
- *This is the first time I saw a shopping mall pulling down the gates at the entrance without any announcements, directions or alarms. I was worried it was another Lindt cafe catastrophe.*
- *For more information, please review the CCTV footage from the start of the fire alarm.*
- *Please investigate and rectify the safety hazards at once. I have informed all my friends and relatives not to visit Market City until I receive your report confirming that the shopping centre is safe again for the public.*

Pursuant to the provisions of Section 9.32 (1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an inspection of 'the premises' on 26 June 2019 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

The inspection was limited to the following:

- A visual inspection of the essential Fire Safety Measures as identified in this report only.
- A conceptual overview of the building, where an inspection had been conducted without copies of the development consent or copies of the approved floor plans.

On behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Section 9.32 (4) and Schedule 5, Part 8, Section 17(1) of the EP&A Act. Please be advised that Schedule 5, Part 8, Section 17(2) requires any report or recommendation from the Commissioner of FRNSW to be tabled at a Council meeting.

## COMMENTS

This report is limited to observations and sections of the building accessed at the time of the inspection. As such, this report lists potential deviations from the National Construction Code 2019 Building Code of Australia – Volume One (NCC). Please be advised that whilst the report is not an exhaustive list of non-compliances, the items as listed may relate to the building's age or contradict development consent approval. In this regard, it is at council's discretion as the appropriate regulatory authority to consider the most appropriate action and determine whether an investigation is required.



The following items were identified as concerns at the time of inspection:

1. Essential Fire Safety Measures

- 1A. Exit signs – Multiple exit signs throughout ‘The Eight’ restaurant were not illuminated and had not maintained, contrary to the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).
- 1B. Fire Shutters – The correspondence received on 22 June 2019 which stated, *“The other remaining metal gate at the side of the entrance was mostly pulled down with around one feet above the ground”*, indicated the fire shutters (which are located around the top of escalators on Level 1 at the Thomas Street/Ultimo Road Entry) may not have returned to the fully closed position when operated, contrary to the requirements of Clause C3.5, C3.6 and Specification C3.4 of the NCC. FRNSW were unable confirm whether this allegation was valid as a simulated test was not undertaken at the time of the inspection.

2. Access and Egress

- 2A. The break out door located adjacent to the fire shutters on Level 1, directly adjacent to “Market City Tavern”, which is marked with a directional exit sign, was not readily openable without a key from the side that faces a person seeking egress (i.e. the Market City Tavern side), contrary to the requirements of Clause D2.21 of the NCC.
- 2B. Storage in fire exits – Multiple items including garbage bins and food trolleys were stored within the passageway at the rear of “The Eight” Restaurant on Level 3, contrary to the requirements of Clause 184 and Clause 186 of the EP&A Regulation. Building Management from Market City, advised that the items would be removed following the inspection.

3. Compartmentation and Separation

- 3A. Fire doors - Multiple fire doors, located at the back of house area in ‘The Eights’ restaurant, were being chocked open, therefore preventing the doors from returning to the fully closed position, contrary to the requirements of Clause C3.4 and Clause C3.8 of the NCC. The doors were returned to the closed position, prior to FRNSW’s departure.

4. Generally

- 4A. Egress strategy in fire mode – Building Management from Market City advised that the egress strategy surrounding the main entry escalators and fire shutters on Level 1, at the Thomas Street/Ultimo Road entry/exit, was subject to a fire engineered solution. Given the confusion outlined in the correspondence received on 22 June 2019, and the fact that occupants were ascending the escalators whilst the fire shutters were in the closed position with little or no room to manoeuvre, FRNSW

recommends Council review the egress strategy to determine whether the strategy is appropriate in this instance.

FRNSW is therefore of the opinion that there are inadequate provisions for fire safety within the building.

## RECOMMENDATIONS

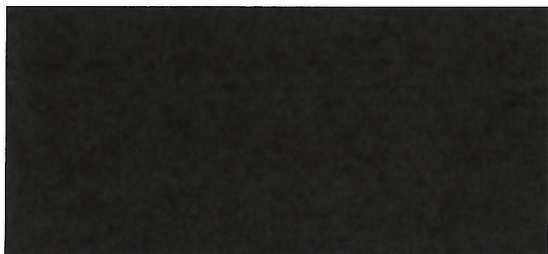
FRNSW recommends that Council:

- a. Inspect and address any other deficiencies identified on 'the premises', and require item no. 1 through to item no. 3 of this report be addressed appropriately.

This matter is referred to Council as the appropriate regulatory authority. FRNSW therefore awaits Council's advice regarding its determination in accordance with Schedule 5, Part 8, Section 17 (4) of the EP&A Act.

Should you have any enquiries regarding any of the above matters, please do not hesitate to contact [REDACTED] of FRNSW's Fire Safety Compliance Unit on (02) 9742 7434. Please ensure that you refer to file reference BFS18/2786 (4956), BFS19/1318 (7185) & BFS19/2054 (7906) for any future correspondence in relation to this matter.

Yours faithfully



Fire Safety Compliance Unit