

Attachment D

**Inspection Report
123-129 Clarence Street, Sydney**



**Council investigation officer Inspection and Recommendation Report
Clause 17(2), Part 8 of Schedule 5, of the Environmental Planning and Assessment
Act 1979 (the Act)**

CSM: 2240138

Officer: Tracey McCann

Date: 23 March 2020

Premises: 123 – 129 Clarence Street, Sydney NSW 2000 [Machiavelli Ristorante]

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 is located within a six (6) storey building on the lower ground (basement) floor and is used as a class six (6) restaurant and bar. The effective height of the building is considered to be more than 12 metres but less than 25 metres.

Observation of the external features of the building did not identify the existence of any potential combustible composite cladding on the façade of the building.

An inspection of the premises undertaken by a Council Investigation Officer in the presence of the duty Manager revealed that there were no significant fire safety issues occurring within the building.

The premises is 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 remains several minor fire safety "maintenance and management" works to attend to, 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/s through written instruction from Council.

Chronology:

Date	Event
07/02/2020	FRNSW correspondence received regarding premises 123-129 Clarence Street, Sydney [Machiavelli Ristorante].
10/02/2020	An initial desktop review of the subject building revealed that it has a current fire safety schedule and is required to submit annual fire safety statements to Council and FRNSW. The building has a current compliant annual fire safety statement, with the next one due on 05 Nov 2020.
14/02/2020	<p>An inspection of the subject premises was undertaken by a Council Officer in the presence of the duty Manager of Machiavelli Ristorante.</p> <p>The inspection revealed only minor non-compliances which could be addressed through appropriate maintenance and management. The outcomes of the inspection were discussed at the conclusion of the inspection with the Manager who was also advised that written advice on the findings would be issued following the inspection.</p>

24/02/2020	A letter outlining corrective action to be undertaken was sent via email and via post to the address of the operator. A copy was also sent to the strata managing agent responsible for the building. The remedial works outlined within the corrective action letter are to be completed on or before 17 March 2020.
24/03/2020	The premises has since inspected on 24 March 2020 to determine the level of compliance achieved in accordance with Councils letter of instruction dated 24 February 2020 and it was noted during the inspection that the issues raised by Council have now been addressed.

FIRE AND RESCUE NSW REPORT:

References: [BFS19/2571 (8404) & D20/9244]

Fire and Rescue NSW received correspondence on 05 August 2019, in relation to the adequacy of the provision of fire safety in connection with the premises.

Issues

The correspondence stated concerns with the following:

1. Obstructions of existing fire exits;
2. Extensive renovation have been undertaken without an approval;
3. There have been no fire safety reports since 2004 or 2005;
4. That the cooking equipment poses a safety risk to the public.

FRNSW Recommendations

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

1. Use its discretion as the appropriate regulatory authority, to determine whether further investigation is required in this instance.

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 preliminary site inspection undertaken by a Council Investigation Officer it is recommended that a compliance letter of instruction be issued to the building owners and further action be undertaken, as appropriate and any other matters that may be revealed during further investigations of the subject premises.

The above proposed correspondence will request that the building owner and operator of the restaurant attend to and resolve the issues identified by Council.

The premises has since inspected on 24 March 2020 to determine the level of compliance achieved in accordance with Councils letter of instruction dated 24 February 2020 and it was noted during the inspection that the issues raised by Council have now been addressed.

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:

No#	Document type	Trim reference
A1.	Fire and Rescue NSW report	2020/134812-01
A2.	Locality Plan	2020/134812-02
A3.	Attachment cover sheet	2020/134812-03
A4.	Corrective action letter	2020/134812-04

Trim Reference: 2020/134812

CSM reference No#: 2240138



File Ref. No: BFS19/2571 (8404)
TRIM Ref. No: D20/9244
Contact: [REDACTED]

7 February 2020

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear General Manager

**Re: INSPECTION REPORT
'MACHIAVELLI RISTORANTE'
123 CLARENCE STREET, SYDNEY ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 5 August 2019, in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated that:

- *The only level fire exit has been blocked by a wine fridge. This is a restaurant in a basement with no level exits. Essentially no fire exits. The fire hoses are not operational. I was employed here for many years. They have had up to 300 people in a cocktail party.*
- *There have been extensive renovations both in 2005 and again in 2016. There was never a council approval sought.*
- *There have been no fire safety reports since 2004 or 2005.*
- *I believe with all the fryers and equipment they have which is quite old now it poses a significant risk to 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 7 November 2019 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (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 lower ground floor level tenancy only, where an inspection had been conducted without copies of the development consent or copies of the approved floor plans.

Please be advised that details of this inspection have been provided in accordance with Section 9.32(4) of the EP&A Act. Therefore, on behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Schedule 5, Part 8, Section 17(1)(a) of the EP&A Act.

COMMENTS

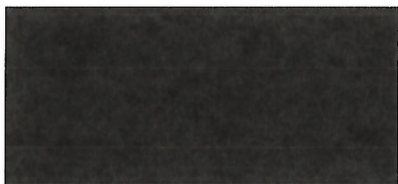
The tenancy is located on the lower ground floor level of the building and is provided with two exits, the main entry/exit on Clarence Street and a second exit at the rear of the tenancy, leading to Kent Street. At the time of the inspection, all exits and paths of travel to the exits were clear of any obstructions and egress was readily available from the tenancy. The fire hose reels and the internal fire hydrant valves contained maintenance tags which were date stamped May 2019, indicating the essential services were being maintained within the tenancy. The exit sign above the Clarence Street exit was not illuminated and had not been maintained, however the Manager advised FRNSW that she would have it repaired in a timely manner.

Therefore, based on the investigation conducted by FRNSW, it would appear that the issues raised in the correspondence received by FRNSW, relating to the exits and the operation of the fire hoses, were unsubstantiated.

Notwithstanding this, it would be at Council's discretion as the appropriate regulatory authority, to determine whether further investigation is required in this instance.

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 BFS19/2571 (8404) for any future correspondence in relation to this matter.

Yours faithfully



Fire Safety Compliance Unit