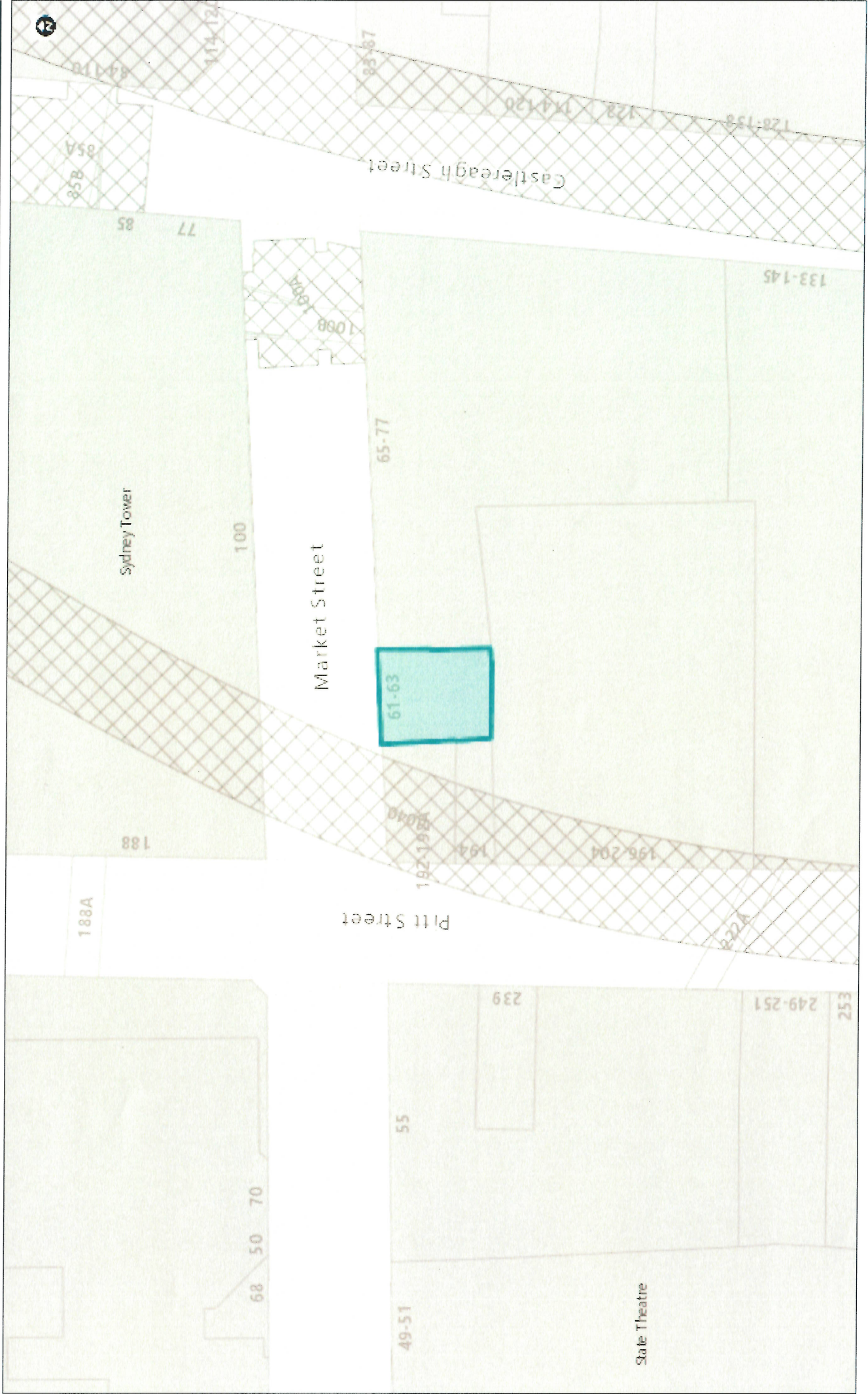


Attachment G

**Council Officer Inspection Report -
61-63 Market Street, Sydney**



**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 2257179

Officer: Ashley Host

Date: 15 April 2020

Premises: 61-63 Market Street, Sydney

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 consists of a twelve storey professional and commercial office building.

Council investigations have revealed that the premises are deficient in fire safety and egress provisions in the following areas:

- (i) Inadequate fire detection and alarm systems;
- (ii) A lack of adequate facilities for firefighting;
- (iii) Suitable fire resisting construction to prevent the spread of fire;
- (iv) Safe and dignified emergency egress for occupants to safely evacuate the building in the event of a fire
- (v) Poor fire safety management systems (signs/notices/not displayed etc.) in place

Following investigation it was determined that a fire safety order (fire safety notice of intention to give an order) under Schedule 5 of the Environmental Planning and Assessment Act, 1979, be issued without further delay so as to address the fire safety deficiencies identified by FRNSW and Council's Investigation Officer.

Observation of the external features of the building identified the existence of potential combustible composite cladding on the façade of the building.

The matter was referred to the City's cladding compliance team who have conducted a preliminary investigation and found the cladding to be limited to the ground and first floor area of the premises and presents as a potential low fire risk. Notwithstanding the initial finding further consultation will be undertaken to establish material composition and potential fire hazard behaviour.

Chronology:

Date	Event
28/02/2020	FRNSW correspondence received regarding premises 61-63 Market Street, Sydney
05/03/2020	An inspection of the subject premises was undertaken by Building Surveyor Ashley Host with the building Facilities Manager, Serge Makroousov of TGC. The inspection disclosed that items 1A(i)(ii) & (iii) of the report have been resolved.
15/04/2020	Council officer issues Notice of Intention (NOI) to issue a fire safety order against the owners of the subject premises.

FIRE AND RESCUE NSW REPORT:

References: BFS20/275, D20/15641, 2020/097594

Fire and Rescue NSW received correspondence in relation to the adequacy of the provision for fire safety in connection with the premises.

The correspondence stated that *“some fire exits were padlocked throughout the premises. No site plan for emergency systems/detectors”*.

Issues

The report from FRNSW details the following issues with regards to the building located at 61-63 Market Street, Sydney:

1. Essential Fire Safety Measures

1A. Maintenance – Clause 182 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) requires that an Essential Fire Safety Measure must be maintained to a standard no less than when it was first installed. The following essential services were identified as concerns:

- i. Sprinkler Pump – The Fire Indicator Panel (FIP) indicated that the ‘Sprinkler Diesel Pump Running’ input had been isolated.
- ii. Emergency Warning and Intercommunication System – The Emergency Warning and Intercommunication System Panel indicated that Zone 3 on Level 2 had an audio fault.
- iii. Fire Indicator Panel – On the inspection of 21 February 2020, 4 isolations were noted on the FIP, associated with the Automatic Fire Detection and Alarm System. Discussions with the building manager revealed that the isolations were related to fit-out works on Level 9. An inspection was carried out on Level 9, which confirmed that fit-out works were ongoing.
- iv. Maintenance – The service label/tag provided to the hydrant booster was date stamped November 2018, indicating the system had not receiving routine maintenance, contrary to the requirements of Clause 182 of the EP&A Regulation and Section 4.2 of Australian Standard (AS) 1851-2012.
- v. Maintenance – The service label/tag provided to the sprinkler pump was date stamped July 2014, indicating the system had not receiving routine maintenance, contrary to the requirements of Clause 182 of the EP&A Regulation and Section 3.2 of AS 1851-2012.

1B. Zone Block Plan – Typically, Section 3.10 of the AS 1670.1 -2015 requires a Zone Block Plan to be securely mounted and located adjacent to the FIP. At the time of the inspection, a Zone Block Plan could not be located beside the FIP.

1C. Hydrant Block Plan – Clause 7.11 of AS 2419.1–2005 requires a block plan to be fixed within a booster cabinet, enclosure, recess, fire control room and/or pump room where it can be instantly seen. At the time of the inspection, a block plan could not be located.

1D. Storz – Storz couplings, compatible with FRNSW firefighting hose connections have not been provided to the booster inlets, in accordance with the requirements of AS2419 and ‘FRNSW Fire safety guideline, Technical information – FRNSW Compatible hose connections – Document no. D15/45534 – Version 09 – Issued 10 January 2019’.

1E. Strobe Light – A red strobe light was not located on the outside of the building, visible from the main approach to the building to indicate the location of the fire indicator panel, contrary to the requirements of Clause 3.8 of AS1670.1–2004.

1F. Local Alarm – A water motor alarm has not been located on the outside of the building, contrary to the requirements of Clause 3.3 of AS2118.

2. Access & Egress

2A. Fire Isolated Stair – The fire isolated stair was accessed via the Fire Exits from the ‘Breitling’ tenancy, at the lower ground level and level 1. From the fire stair it was observed that two (2) fire exit doors had been padlocked shut at ground level and mezzanine level. It appears that at the time of the fit-out of the ‘Breitling’ tenancy (shop front at ground level of Market Street), these doors have been closed off through the construction of gyprock walls within the tenancy. Council may need to review its records to confirm whether the installation of the gyprock walls has been approved and conduct a review of the overall exit strategy for the ‘Breitling’ tenancy.

3. Compartmentation

3A. Penetrations – Clause C3.15 and Specification C3.15 of the NCC requires services passing through a building element required to have a Fire Resistance Level (FRL) to be protected by an approved fire stopping system. At the time of the inspection the service pipes in the sprinkler pump room through the brick wall appeared to lack appropriate fire stopping.

FRNSW Recommendations

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

FRNSW recommends that Council inspect and address item no. 1 through to item no. 4 of this report and any other deficiencies identified on ‘the premises’. *NB; this is a clerical error as there is no item 4 listed on the referral letter.*

FRNSW have also requested that as soon as practical after the above recommendations have been tabled and considered 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 the site inspection’s undertaken by Council investigation officers it was determined that a significant public safety concern existed and that to address the identified fire safety deficiencies a fire safety order was required to be issued as a matter of urgency without further legislative consultation.

The Order was issued under Schedule 5 of the Environmental Planning and Assessment Act, 1979.

The issue of a Notice of Intention to Give an Order (NOI) prior to the resolution of Council will help to accelerate compliance response from building owners in rectifying fire safety deficiencies.

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

Referenced documents:

No#	Document type	Trim reference
A1.	Fire and Rescue NSW report	2020/126469-01
A2.	Locality Plan	2020/126469-02
A3	Attachment cover sheet	2020/126469-03
A4	Copy of Council Fire Safety Notice (d.15/04/2020)	2020/126469-04

Trim Reference: 2020/126469

CSM reference No#: 2257179

15 April 2020

HIPROF HOLDINGS PTY LIMITED
C/- TGC Pty Ltd
PO BOX Q1288
QUEEN VICTORIA BUILDING NSW 1230

ANNEXURE A

Our Ref: FIRE/2020/48
Premises: 61-63 Market Street, SYDNEY NSW 2000

NOTICE OF INTENTION TO GIVE AN FIRE SAFETY ORDER
Schedule 5, clause 6, Environmental Planning and Assessment Act 1979

An inspection of the building by Council investigation officer, Ashley Host on 6 March 2020 has revealed that the abovementioned premises are deficient in fire safety and egress facilities.

City of Sydney Council intends to give you a Fire Safety Order under Schedule 5, Part 2 of the Environmental Planning and Assessment Act, 1979.

A copy of the proposed order, which includes the period within which it must be complied with and the reasons for the proposed order, is attached.

You may make representations to Council's North Area Manager Matthew Cruickshank as to why the Order should not be given or as to the terms of or period for compliance with the Order.

In this respect written advice of your intention to make representations including specific contact details to assist Council in informing you of the time and date of your representations should be received by Council within 21 days from the date of this notice.

After hearing and considering any such representations Council may determine:

- (a) to give an order in accordance with the proposed order;
- (b) to give an order in accordance with modifications made to the proposed order;
- (c) not to give an order.

In the event that Council serves an Order under the said Act in the abovementioned terms, a person on whom such an Order is served may appeal against the Order to the Land and Environment Court of New South Wales within 28 days after service of the Order.

Compliance Cost Notice

If Council issues you with an Order under Schedule 5, Part 2 following this Notice of Intention it may also issue you with a Compliance Cost Notice under Schedule 5 section 37 of the Act. Where such a notice is issued it will require you to pay a specified amount, being Council's reasonable costs and expenses incurred in monitoring works and ensuring

DN

copy of order

compliance with the Order. This may include the time spent by Council staff, including time spent undertaking inspections, as well as any other expenses incurred in taking steps to ensure the Order is complied with.

For further information regarding this notice please contact Mr Ashley Host of the Health and Building - North Area on telephone number (02) 9265 9683 and ahost@cityofsydney.nsw.gov.au.

Yours sincerely



Ashley Host
Building Surveyor - North Area
Health & Building

PROPOSED

HIPROF HOLDINGS PTY LIMITED
C/- TGC Pty Ltd
PO BOX Q1288
QUEEN VICTORIA BUILDING NSW 1230

Licence No: FIRE/2020/48

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979
Schedule 5, Part 2, FIRE SAFETY ORDER
Premises: 61-63 Market Street, SYDNEY NSW 2000

You being the owner in respect of the property at the abovementioned premises are ordered by City of Sydney Council to do such things as are specified in the order so as to ensure and promote adequate fire safety and fire safety awareness within the subject premises. The specified works given below shall be completed to the satisfaction of Council within the compliance period detailed below.

Circumstances in which an Order under Schedule 5 Part 2 number 1 can be given:

- (a) Provisions for fire safety or fire safety awareness are inadequate to prevent fire, suppress or prevent the spread of fire or ensure or promote the safety of persons in the event of fire.
- (b) Maintenance or the use of the premises constitutes a significant fire hazard

Premises the subject of the Order:

61-63 Market Street SYDNEY NSW 2001; Lot 1 of Deposited Plan 56190, Lot 1 of Deposited Plan 124246, Lot 1 of Deposited Plan 184968

Compliance Period:

Pursuant to s.121M of the Environmental Planning and Assessment Act 1979, the period for compliance with this order is **90 days** (Date T.B.A.) from the date of this order.

Relevant Authority:

The relevant legislative provisions are Division 9.3 and Schedule 5 of the Environmental Planning and Assessment Act, 1979.

Modification of Orders:

The terms of this development control order can only be modified by Council in writing, and only if the person to whom the Order was given agrees to that modification. In no circumstances can the terms of the Order be amended orally.

Any application to Council seeking an amendment of this Order must be in writing clearly setting out:

- the term(s) to be modified,
- the reasons for the modification of the term(s) and
- any substitute term(s) to be added to the Order (if applicable)

Submission of Fire Safety Certificate:

That a person to whom a fire safety order is given, must within the time specified in the order, cause a copy of the final fire safety certificate for the building (being a certificate issued after the requirements of the order have been complied with) to be given to the Council.

Failure to provide a copy of the final fire safety certificate is an offence under the Environmental Planning and Assessment Regulation 2000 and can be the subject of an infringement notice.

PROPOSED

REASONS FOR GIVING THE FIRE ORDER

Pursuant to Schedule 5, section 5 of the Environmental Planning and Assessment Act 1979, this Order was given for the following reasons:

GENERAL

1. The City received written correspondence dated 28 February 2020 from Fire & Rescue New South Wales (FRNSW) under Schedule 5, Part 8, Section 17(1) of the Environmental Planning and Assessment Act 1979 advising of inadequate provision for fire safety and egress facilities in the building. A copy of the correspondence is attached to this order (Attachement A).

CONSTRUCTION

2. There is a penetration in the masonry wall of the sprinkler pump room for service pipes which lacks appropriate fire stopping means so as to prevent the spread of fire contrary to C3.15 and Specification C3.15 of the BCA;

MEANS OF EGRESS

3. Access to the buildings fire-isolated stair on the ground and upper ground floors of the building has been obstructed contrary to Clause 184 and Clause 185 of the Environmental Planning and Assessment Regulation 2000.

Partitions/walls constructed on the ground and upper ground floors within the Breittling tenancy, and padlocks installed to the fire-isolated exit doors on these levels of the building is preventing access to the buildings fire-isolated stair.

The fire-isolated stair is required to be accessible at all times to enable evacuation from the building and to assist FRNSW personnel to undertake search and rescue and fire fighting operations in an emergency.

FIRE SERVICES AND EQUIPMENT

1. Storz couplings compatible with FRNSW fire fighting connections have not been provided to the buildings fire hydrant booster inlets in accordance with 'FRNSW fire safety guideline, technical information – FRNSW compatible hose connections – document no. D15/45534 – version 09 – issued 10 January 2019'.
2. The fire indicator panel located in the ground floor lobby of the building lacks a zone block plan to assist FRNSW personnel in a fire emergency;
3. The buildings hydrant booster cabinet, fire control room and sprinkler pump room lack a hydrant block plan to assist FRNSW in a fire emergency;
4. The buildings fire suppression system (sprinkler) lacks a water motor alarm installed to the external facade of the building to assist FRNSW personnel in a fire emergency;

Terms:

The terms of the Order are:

THE SPECIFIED WORKS

1. SAFETY OF PERSONS IN THE EVENT OF FIRE

1.01 Access to fire-isolated stair

The obstructions, being the partitions/walls blocking access to the fire-isolated stair and the padlocks installed to the fire exit doors on the ground and upper ground floor levels, must be removed so that the access to the stair is available at all times;

1.02 Exit signs

Exit signage shall be reinstated above the required fire exit doors to the fire-isolated stair on the ground and upper ground floors. Exit signs shall be installed to the standard expressed in E4.5, E4.6 and E4.8 of the BCA;

1.03 Signs on exit doors

That suitable signage shall be installed to alert persons that the operation of certain doors must not be impaired in accordance with D2.23 of the BCA;

1.04 Display of fire safety notices outlining offences relating to fire exits

That notices outlining the offences relating to fire exits shall be displayed in a conspicuous position adjacent to a doorway providing access to, but not within, the passageway, ramp or stairway in accordance with Clause 183 of the Environmental Planning and Assessment Regulation 2000;

1.05 Fire Safety Audit/Final Fire Safety Certificate

- (1) The Owner shall carry out an inspection and audit of all required fire safety measures installed within the building and contained within the Fire Safety Schedule attached to this Order; and
- (2) The Owner shall undertake all such remedial works necessary to ensure that those required fire safety measures contained within the attached Fire Safety Schedule are capable of operating/performing to at least the standard for which the measure was originally designed and implemented; and
- (3) A Final Fire Safety Certificate shall be submitted to Council, to the effect that each essential fire safety measure specified in the current Fire Safety Schedule for the building to which the certificate relates;
 - (a) has been assessed by an appropriately qualified person, and
 - (b) was found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued;

3. DETECTION OF FIRE

3.01 Local water alarm

That the fire suppression (sprinkler) system serving the building shall be fitted with a local water alarm in accordance with the requirements of Clause 3.3 of AS2118.1. The alarm shall be installed as near as practicable to the alarm valves;

3.02 Zone block plan

That the fire indicator panel located in the ground floor lobby of the building shall be provided with a block plan in accordance with the requirements of Clause 3.10 of AS1670.1;

3.03 Hydrant block plans

That the booster cabinet, sprinkler pump room and fire control centre serving the building shall be provided with a hydrant block plan in accordance with the requirements of Clause 7.11 of AS2419.1;

4. THE PREVENTION OF THE SPREAD OF FIRE

4.01 Wall penetrations in sprinkler pump room

That all penetrations through the masonry wall of the sprinkler pump room shall be sealed with a material no less fire resistant than the wall or ceiling itself in accordance with Part C3.15 and Spec C3.15 of the BCA of the BCA;

5. THE SUPPRESSION OF FIRE

5.01 Installation of Storz couplings

That FRNSW compatible Storz couplings shall be fitted to the inlet valves of the fire hydrant system serving the building in accordance with the requirements of 'FRNSW fire safety guideline, technical information – FRNSW compatible hose connections – document No. D15/45534 – version 09 – issued 10 January 2019';

IMPORTANT NOTES

You are advised that the provisions of the Environmental Planning and Assessment Act, 1979 and Regulations made under the Act are not being complied with.

The requirements of the paragraph above include items which are classified as Essential Fire Safety measures pursuant to Part 9 of the Environmental Planning and Assessment Regulation 2000.

Such items are listed in the attached schedule of this Order together with the minimum standard to which those services are required to be designed, installed and maintained.

APPEAL

THAT THE PERSON TO WHO THE ORDER IS ADDRESS MAY APPEAL AGAINST THE ORDER.

AN APPEAL MAY BE MADE TO THE LAND AND ENVIRONMENT COURT, LEVEL 4, 225 MACQUARIE STREET, SYDNEY WITHIN 28 DAYS OF THE SERVICE OF THIS ORDER UPON YOU.

BUILDING USE AND CLASSIFICATION

The building the subject of this order has been classified as a class 5 and class 6 determined in accordance with A3.2 of the BCA.

The building is used primarily as commercial tenancies and professionals offices having a rise in storeys of fifteen (15) pursuant to C1.2 of the BCA and an effective height of less than more than 25 metres.

FIRE AND RESCUE NSW NOTIFICATION

A copy of this Order has been sent to the Commissioner of Fire and Rescue NSW pursuant to the requirements of schedule 5, section 10 of the Environmental Planning and Assessment Act 1979.

PENALTY

Tier 1 offences under the Environmental Planning and Assessment Act 1979 that are intentional and give rise to significant harm to the environment or cause the death or serious injury or illness to a person can give rise to fines of a maximum of \$5,000,000 in the case of a corporation and daily fines of \$50,000. Tier 2 offences, if applicable, can give rise to fines of \$2,000,000 in the case of a corporation and daily fines of \$20,000.

Failing to comply with the terms of a fire safety order can also be the subject of an infringement notice.

Also if the Order is not complied with, Council may give effect to the Order and recover the costs of doing so from you.

COMPLIANCE COST NOTICE

As a result of the issue of this Order, Council may also issue you with a Compliance Cost Notice under Schedule 5, section 37 of the Act. Where such a notice is issued it will require

you to pay a specified amount, being Council's reasonable costs and expenses incurred in monitoring works and ensuring compliance with the Order. This may include the time spent by Council staff, including time spent undertaking inspections, as well as any other expenses incurred in taking steps to ensure that the Order is complied with. Where Council issues you with a Compliance Cost Notice you will have a right of appeal to the Land and Environment Court in accordance with section 8.24 of the Act.

MAINTENANCE OF EXISTING FIRE SAFETY MEASURES

That all existing fire safety measures installed within the building are to be maintained to the degree necessary whilst upgrading works are carried out under the requirements of the fire safety order. Failure to maintain existing fire safety measures to the degree necessary may incur a penalty infringement notice

WORK HOURS AND MISCELLANEOUS APPROVALS

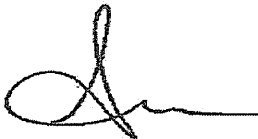
Work associated with this Order must only be carried out between the hours of 7:30am and 5:30pm on Mondays to Fridays, inclusive and 7:30am and 3:30pm on Saturdays and no work must be carried out on Sundays or public holidays;

Any and all works on or over the public way shall require prior temporary approval from the Council under section 68 of the Local Government Act 1993. An application for a temporary permit may be made through Council's Construction Regulation team. They may be contacted by telephone on 9265 9333.

CONTACT DETAILS

For further information regarding this notice please contact Mr Ashley Host of the Health and Building - North Area on telephone number (02) 9265 9683 and ahost@cityofsydney.nsw.gov.au

Yours sincerely



Ashley Host
Building Surveyor - North Area
Health & Building

FIRE SAFETY SCHEDULE
CLAUSE 168 ENVIRONMENTAL PLANNING & ASSESSMENT REGULATION 2000
FIRE SAFETY MEASURES CURRENTLY OR
PROPOSED TO BE IMPLEMENTED IN THE BUILDING
MINIMUM STANDARD OF PERFORMANCE

Premises: 61-63 Market Street, SYDNEY NSW 2000
Date of Order: To Be Advised
Our Ref: FIRE/2020/48

FIRE SAFETY MEASURES		Current	Proposed	Minimum Standard or Standard of Installation
1.	Alternative Solution Reports, Fire Engineering Report No 03185 R1.2 dated 4 May by Defire	✓		
2.	Auto fail safe devices	✓		BCA D2.19 & D2.21
3.	Access panels, doors and hoppers to fire-resisting shaft	✓		G3.13 of the BCA AS 1530.4
4.	Automatic fire detection and alarm systems	✓	✓	Clause 4 of Specification E2.2 / Spec. E2.2a, AS 1670.1-1995, AS 1668-2004 "Fire Engineering Report" No. 03185 R1.2, dated May 2004 and issued by Defire Pty Ltd Fire Engineering Report 18-91JW97 FER R1 by i-Fire Engineers Pty Ltd
5.	Automatic fire suppression system with fast response sprinkler heads	✓	✓	CA 16-1962, AS2118.1 BCA E1.5 Spec. E1.5 "Fire Engineering Report" No. 03185 R1.2, dated May 2004 and issued by Defire Pty Ltd
6.	Automatic air pressurisation system (fire isolated stair)	✓		E2.2 of the BCA / AS/NZS 1668.1-1998 "Fire Engineering Report" No. 03185 R1.2, dated May 2004 and issued by Defire Pty Ltd
7.	Automatic air pressurisation (fire isolated passageway)	✓		E2.2 of the BCA / AS/NZS 1668.1-1998 "Fire Engineering Report" No. 03185 R1.2, dated May 2004 and issued by Defire Pty Ltd
8.	Emergency lighting	✓		E4.2, E4.4 of the BCA / AS/NZS 2293.1-1998

9.	Emergency lifts	✓		Ord 70 Clause 55.9 / AS 1735.1, AS 1735.2
10.	Emergency warning & intercommunication system	✓		E4.9 of the BCA / AS1670.4, AS 2220.1 and AS 2220.2 AS 2220-1989
11.	Exit signs	✓	✓	E4.5, E4.6, E4.8 of the BCA / AS/NZS 2293.1-1998
12.	Fire control centre.	✓	✓	E1.8 and Specification E1.8 of the BCA
13.	Fire dampers.	✓		C3.15 of the BCA AS/NZS 1668.1 / AS 1682.1 / AS 1682.2
14.	Fire doors	✓		Section C of the BCA / AS 1905.1
15.	Fire hose reel system	✓		Ord 70 Clause 27.2 / Ministerial Specification 10 / AS 2419.1-1980
16.	Fire hydrants systems	✓		Ord 70 Clause 27.1 & 27.3 / Ministerial Specification 10
17.	Fire seals protecting openings to fire resisting components of the building	✓	✓	BCA C3.12, C3.15 Spec. C3.15 AS 1530.4, AS 4072.1
18.	Light weight construction (Part Breittling ground floor ceiling)	✓		Spec C1.1 CSR 6140 installation guidelines and manufactures specifications.
19.	Mechanical air handling systems	✓		BCA E2.2 Spec, E2.2b, F4.5, F4.11, F4.11, / AS/NZS 1668.1 & .2.
20.	Portable fire extinguishers.	✓		E1.6 of the BCA / AS 2444
21.	Protection of openings within 3m of the side boundaries or/and exposed to path of emergency travel	✓		C3.2, C3.4 of the BCA "Fire Engineering Report" No. 03185 R1.2, dated May 2004 and issued by Defire Pty Ltd
22.	Warning and operational signs	✓		D2.23, E3.3 of the BCA

23.	Zone smoke control system on all levels (excluding retail tenancy on ground, upper ground levels, first and basement levels)	✓		BCA E2.2 & AS/NZS 1668.1-1998 "Fire Engineering Report" No. 03185 R1.2, dated May 2004 and issued by Defire Pty Ltd
24.	Performance Solution Report No SY170103 Rev R1.3, prepared by Greg Leah C10-BPB 2402 of Defire, dated 30/05/2017 for reduced FRLs, confirmation of consistency with existing base building FER arrangements, 1m reduce paths of travel in retail tenancy, snib lock front entry and use of Quadrillo wall material	✓		CP1, CP2, DP2, DP4 and DP6 EP4.2
25.	Performance solution report	✓		Fire Engineering Report 18-91JW97 FER R1 by i-Fire Engineers Pty Ltd

On completion of the work, the owner of the building shall cause the Council to be furnished with a "Final Fire Safety Certificate" in relation to each essential fire or other safety measure included in this schedule. The certificate shall meet with the requirements of Part 9 Division 4 of the Environmental Planning and Assessment Regulation 2000.

A copy of the certificate shall be given to the Commissioner of Fire and Rescue NSW and a further copy shall be prominently displayed in the building in a location specified by the Council.

In addition to the above, it will be necessary at least once in each period of 12 months from the date of the above "Final Fire Safety Certificate" for the owner of the building to furnish the Council with respect to each essential fire or other safety measure implemented in the building, an "Annual Fire Safety Statement" pursuant to the requirements of Part 9 Division 5 of the Environmental Planning and Assessment Regulation 2000 the details of which will be available on application.

Glossary

Term	Definition
Appropriately Qualified Person	A professional person/organisation having the specific knowledge and expertise that relates to the field the subject of the submitted report/certification/investigation and that that person or organisation possesses the relevant academic qualifications within that particular discipline and is recognised by the appropriate authority (where accreditation is applicable in that field).
NCC (BCA)	<p>The National Construction Code (NCC) is an initiative of the Council of Australian Governments developed to incorporate all on-site construction requirements into a single code.</p> <p>The NCC is produced and maintained by the Australian Building Codes Board (ABCB) on behalf of the Australian Government and each State and Territory government.</p> <p>The NCC is a uniform set of technical provisions for the design and construction of buildings and other structures, and plumbing and drainage systems throughout Australia. It allows for variations in climate and geological or geographic conditions.</p> <p>The edition (year) of the NCC used in compliance with the order will be the edition current at the time of the Order being issued.</p>
Certification	Means a certificate or other approved form of written correspondence issued by an appropriately qualified person stating that the properties and/or performance of a material, product or system, method of construction or design meet with the specific requirements of the order.
AS - AS/NZS	Means an Australian Standard, (New Zealand) which sets out specifications (design/installation/maintenance) for certain fire safety protection equipment/services.
FRL	<p>Fire-resistance level (FRL). Means the fire resistance [in minutes] of a building element determined in accordance with Specification A2.3 of the BCA, for the following criteria:</p> <p><input type="checkbox"/> Structural adequacy; and <input type="checkbox"/> Integrity; and <input type="checkbox"/> Insulation, expressed in that order</p>
Details (to be submitted)	Means architectural building plans, drawn to industry standards, having an appropriate scale(s), elevations, sections and accompanied with suitable specification dealing with materials methods of construction and design.
Smoke Resistive Construction	A form of non-combustible construction which has subdividing walls, floors or other smoke barriers in it required to contain/minimise smoke movement throughout a building during a fire.
Penetration	An aperture in a fire separating element of construction, which could, in the event of a fire, allow the passage of fire to another fire compartment or other structurally separated area of a building.
Final Fire Safety Certificate	<p>A final fire safety certificate is a certificate issued by or on behalf of the owner of a building to the effect that each essential fire safety measure specified in the current fire safety schedule for the building to which the certificate relates:</p> <p>(a) has been assessed by a properly qualified person, and</p> <p>(b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.</p> <p>NOTE: A person to whom a fire safety order is given in relation to any building must, within the time specified in the order, cause copies of a final fire safety certificate for the building (being a certificate issued after the requirements of the order have been complied with) to be given to the person by whom the order was given (and, if that person was not the council, to the council).</p>



File Ref. No: BFS20/275 (10339)
TRIM Ref. No: D20/15641
Contact: [REDACTED]

28 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 Sir / Madam

**RE: INSPECTION REPORT
61-63 MARKET STREET, SYDNEY (“the premises”)**

Fire and Rescue NSW (FRNSW) received correspondence on 31 January 2020, in relation to the adequacy of the provision for fire safety in or in connection with ‘the premises’.

The correspondence stated that:

*Some fire exits were padlocked throughout the building.
No site plan for emergency systems/detectors.*

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 5 February 2020 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 during the inspection:

1. Essential Fire Safety Measures

- 1A. Maintenance – Clause 182 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) requires that an Essential Fire Safety Measure must be maintained to a standard no less than when it was first installed. The following essential services were identified as concerns:
 - i. Sprinkler Pump – The Fire Indicator Panel (FIP) indicated that the 'Sprinkler Diesel Pump Running' input had been isolated.
 - ii. Emergency Warning and Intercommunication System – The Emergency Warning and Intercommunication System Panel indicated that Zone 3 on Level 2 had an audio fault.
 - iii. Fire Indicator Panel – On the inspection of 21 February 2020, 4 isolations were noted on the FIP, associated with the Automatic Fire Detection and Alarm System. Discussions with the building manager revealed that the isolations were related to fit-out works on Level 9. An inspection was carried out on Level 9, which confirmed that fit-out works were ongoing.
 - iv. Maintenance – The service label/tag provided to the hydrant booster was date stamped November 2018, indicating the system had not receiving routine maintenance, contrary to the requirements of Clause 182 of the EP&A Regulation and Section 4.2 of Australian Standard (AS) 1851-2012.

- v. Maintenance – The service label/tag provided to the sprinkler pump was date stamped July 2014, indicating the system had not receiving routine maintenance, contrary to the requirements of Clause 182 of the EP&A Regulation and Section 3.2 of AS 1851-2012.
- 1B. Zone Block Plan – Typically, Section 3.10 of the AS 1670.1 -2015 requires a Zone Block Plan to be securely mounted and located adjacent to the FIP. At the time of the inspection, a Zone Block Plan could not be located beside the FIP.
- 1C. Hydrant Block Plan – Clause 7.11 of AS 2419.1–2005 requires a block plan to be fixed within a booster cabinet, enclosure, recess, fire control room and/or pump room where it can be instantly seen. At the time of the inspection, a block plan could not be located.
- 1D. Storz – Storz couplings, compatible with FRNSW firefighting hose connections have not been provided to the booster inlets, in accordance with the requirements of AS2419 and ‘FRNSW Fire safety guideline, Technical information – FRNSW Compatible hose connections – Document no. D15/45534 – Version 09 – Issued 10 January 2019’.
- 1E. Strobe Light – A red strobe light was not located on the outside of the building, visible from the main approach to the building to indicate the location of the fire indicator panel, contrary to the requirements of Clause 3.8 of AS1670.1–2004.
- 1F. Local Alarm – A water motor alarm has not been located on the outside of the building, contrary to the requirements of Clause 3.3 of AS2118.

2. Access & Egress

- 2A. Fire Isolated Stair – The fire isolated stair was accessed via the Fire Exits from the ‘Breitling’ tenancy, at the lower ground level and level 1. From the fire stair it was observed that two (2) fire exit doors had been padlocked shut at ground level and mezzanine level. It appears that at the time of the fit-out of the ‘Breitling’ tenancy (shop front at ground level of Market Street), these doors have been closed off through the construction of gyprock walls within the tenancy.

Council may need to review its records to confirm whether the installation of the gyprock walls has been approved and conduct a review of the overall exit strategy for the ‘Breitling’ tenancy.

3. Compartmentation

- 3A. Penetrations – Clause C3.15 and Specification C3.15 of the NCC requires services passing through a building element required to have a Fire Resistance Level (FRL) to be protected by an approved fire stopping system. At the time of the inspection the service pipes in the sprinkler

pump room through the brick wall appeared to lack appropriate fire stopping.

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

NOTICE OF INTENTION TO SERVE AN ORDER NO. 1

FRNSW issued a Notice of Intention to Serve an Order (1) dated 6 February 2020 (copy attached), in accordance with the provisions of Section 9.34 of the EP&A Act to have items no. 1A(i) & 1A(ii) of this report rectified. FRNSW received written representations in relation to the proposed Order No 1 in accordance with the provisions of Schedule 5, Part 6, Section 8 of the EP&A Act.

Upon receipt of representations, an inspection was conducted on 21 February 2020 in accordance with Section 9.32 of the EP&A Act. At the time of the inspection, the terms of the proposed Order No. 1 were compliant. Please be advised that FRNSW has determined not to give an Order in accordance with Schedule 5, Part 7, Section 15 of the EP&A Act.

RECOMMENDATIONS

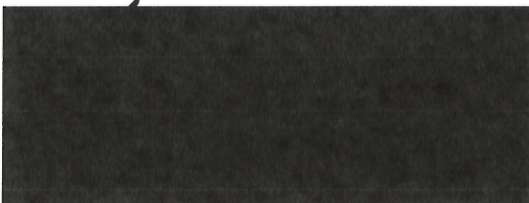
FRNSW recommends that Council:

Inspect and address item no. 1 through to item no. 4 of this report and any other deficiencies identified on 'the premises'.

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 BFS20/275 (10339) for any future correspondence in relation to this matter.

Yours faithfully



Fire Safety Compliance Unit

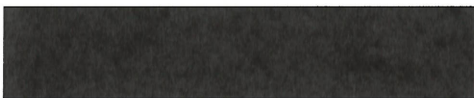
Attachments [Appendix 1 – Notice of Intention to Serve an Order No 1 – 5 pages]

Appendix 1 – Notice of Intention to Serve an Order



File Ref. No: BFS20/275 (10339)
TRIM Ref. No: D20/8992
Contact: [REDACTED]

6 February 2020



Dear Sir / Madam

Re: **NOTICE OF INTENTION – PROPOSED FIRE SAFETY ORDER
LOT 1 DP56190 AND LOT 1 DP124246
61-63 MARKET STREET SYDNEY NSW 2000 (“the premises”)**

An inspection of the premises was conducted by Officers from the Fire Safety Compliance Unit of Fire & Rescue NSW (FRNSW) on 5 February 2020. The inspection identified fire safety matters that were of concern to FRNSW during the inspection.

Accordingly, FRNSW hereby gives Notice of Intention to give a Fire Safety Order (Order no. 1), in accordance with the provisions of Section 9.34 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) and pursuant to Schedule 5, Part 6, Section 8 (owner) of the EP&A Act. A copy of the proposed order is attached, which includes the terms of the proposed Order and the period proposed within which the Order is to be complied with.

You may make representation to FRNSW as to why the proposed Order should not be given or as to the terms of or the period for compliance with the Order, in accordance with the provisions of Schedule 5, Part 7, Section 13 of the EP&A Act. Representations are to be made in writing and should be received by FRNSW by no later than close of business 13 February 2020.

After hearing and considering any such representations, in accordance with the provisions of Schedule 5, Part 7 (Section 14 and Section 15) of the EP&A Act, FRNSW may determine:

- to give an Order in accordance with the Proposed Order;
- to give an Order in accordance with modifications made to the Proposed Order;
- not to give an Order.

Fire and Rescue NSW

ABN 12 563 473 110

www.fire.nsw.gov.au

Community Safety Directorate
Fire Safety Compliance Unit

1 Amarina Ave
Greenacre NSW 2190

T (02) 9742 7434
F (02) 9742 7843

www.fire.nsw.gov.au

Page 1 of 5

Unclassified

A report of the inspection will be forwarded to City of Sydney Council, in accordance with the provisions of Sections 9.32, Schedule 5, Part 8 (Section 16 and Section 17) 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 BFS20/275 (10339) for any future correspondence in relation to this matter.

Yours faithfully



Fire Safety Compliance Unit

CC:





Proposed Fire Safety Order

ORDER No. 1

Under the *Environmental Planning and Assessment Act 1979 (EP&A Act)*
Part 9 Implementation and Enforcement – Division 9.3 Development Control Orders
Fire Safety Orders in accordance with the table to Part 2 - Schedule 5.
Intend to give an Order in accordance with Section 9.34(1)(b)

I, [redacted] [redacted] [redacted]
(name) (rank) (number)

being an authorised Fire Officer within the meaning of Schedule 5, Part 8, Section 16 of the *Environmental Planning and Assessment Act 1979*, and duly authorised for the purpose, hereby order:

[redacted] Owner
(name of person whom Order is served) (position i.e. owner, building manager)

with respect to the premises:

LOT 1 DP56190 AND LOT 1 DP124246
61-63 MARKET STREET SYDNEY NSW 2000 ("the premises")
(name/address of premises to which Order is served)

to do, or refrain from doing, the following things:

1. Ensure the Automatic Fire Sprinkler System installed in 'the premises' is fully operational, by deisolating the 'Sprinkler Diesel Pump Running' input on the Fire Indicator Panel.
2. Ensure the Emergency Warning and Intercommunication System (EWIS) installed in 'the premises' is fully operational, by repairing the audio fault displayed on the EWIS Panel.

The terms of the Order are to be complied with:

By no later than 7 days from the date of the order.

The reasons for the issue of this Order are:

- a. At the time of the inspection on 5 February 2020, the Fire Indicator Panel indicated that the 'Sprinkler Diesel Pump Running' input had been isolated.
- b. At the time of the inspection on 5 February 2020, the Emergency Warning and Intercommunication System Panel indicated that Zone 3 on Level 2 had an audio fault.
- c. To ensure that the Automatic Fire Sprinkler System is capable of operating to the standard of performance to which it was designed, installed and commissioned.
- d. To ensure the Automatic Fire Sprinkler System is capable of performing to the degree necessary to control the development and spread of fire in 'the premises'.
- e. To ensure that the Emergency Warning and Intercommunication System is capable of operating to the standard of performance to which it was designed, installed and commissioned.
- f. To ensure the Emergency Warning and Intercommunication System is capable of performing to the degree necessary to warn occupants of an emergency and assist evacuation of 'the premises'.
- g. To ensure or promote the safety of persons in the event of fire.
- h. To ensure compliance with the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000.

Appeals

Pursuant to Section 8.18 of the Environmental Planning & Assessment Act 1979 (EP&A Act), there is no right of appeal to the Court against this Order, other than an order that prevents a person using or entering premises.

Non-Compliance with the Order

Failure to comply with this Order may result in further Orders and/or fines being issued.

Substantial penalties may be imposed under Section 9.37 of the EP&A Act for failure to comply with an Order.

NOTE: Representations are to be made in writing and should be received by FRNSW by no later than close of business 13 February 2020.



Fire Safety Compliance Unit

This Proposed Fire Safety Order No. 1 was sent by mail on 6 February 2020.