

Attachment E

**Inspection Report –
243 -271 Pymont Street Pymont**



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**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)**

File: CSM 2329504

Officer: Tracey McCann

Date: 23 June 2020

Premises: 243-271 Pyrmont Street, Pyrmont, NSW 2009

Executive Summary:

Council received correspondence dated 12 June 2020 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 nine (9) storey building known as Oaks Goldsbrough Suites used for hotel and serviced apartment accommodation. The site is situated on Pyrmont Street and is bounded by the Western Distributor and Camden Lane.

The building was previously subject to a Fire Safety Order dated 19 March 2009 which was completed to the satisfaction of the City.

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

An inspection of the premises undertaken by Council's Officer with the Building Manager revealed that there were no significant fire safety issues 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 show there remains several minor fire safety "maintenance and management" works to attend to, however the overall fire safety systems provided are considered adequate in the circumstances.

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
12/06/2020	FRNSW correspondence received regarding premises at 243 -271 Pyrmont Street, Pyrmont [Oaks Goldsbrough Suites]
13/06/2020	A desktop review revealed the building 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 25 September 2020. The building has been subject to a previous Fire Safety Order issued by Council reference: [FIRE/2009/5]
24/06/2020	An inspection was undertaken with the Building Manager and revealed minor non-compliances which could be addressed through appropriate maintenance and management. The inspection also revealed that the majority of the issues raised by FRNSW had been addressed by the fire contractor. 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.

FIRE AND RESCUE NSW REPORT:

References: [BFS20/1087 (11138), D20/43618]

Fire and Rescue NSW conducted an inspection of the subject premises in response to receipt of correspondence from a member of the public on 04 May 2020, in relation to the adequacy of the provision for fire safety.

Issues

Following an inspection of the premises by FRNSW on 05 May 2020. A report was issued to Council which detailed the following:

1. Faults identified on Fire Indicator Panel – which have since been addressed by an notice of intention by FRNSW;
2. The northern fire-isolated stair may not meet the non-combustible or fire resistance level required of the BCS as it appears to be constructed of timber. A review of council's records is required;
3. Building materials and equipment were being stored in a number of the fire-isolated stairs as a result of repair work;
4. The path of travel from the point of discharge of the fire isolated exits into Camden Lane appears to pass within 6m of unprotected window openings in the external wall of the same building, contrary to the requirements of Clause D1.7 and Specification C3.4 of the NCC;
5. There are insufficient cues to identify where the exits are located. A review of the exit strategy may be required;
6. It could not be confirmed that the timber beams and columns provide the appropriate fire-resistance level in accordance with Clause C1.1 and Specification C1.1 of the NCC.
7. It could not be ascertained if the central well and roof constitute an atrium under the definition of the BCA;

FRNSW Recommendations

FRNSW have recommended that Council inspect the subject premises and take action to have the listed fire safety issues appropriately addressed.

FRNSW have also requested that as soon as practical after the above report has 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 preliminary site inspection undertaken by Council's officer it is recommended that a compliance letter of instruction be issued to the building owners and further action be undertaken, as appropriate, to address the fire safety deficiencies identified by FRNSW and any other matters that may be revealed during further investigations.

The above proposed correspondence will request that the building owner and hotel management attend to the issues identified by FRNSW in their correspondence to Council.

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.	Council Officer Report	2020/271615

Trim Reference: 2020/271615

CSM reference No#: 2329504

Unclassified



File Ref. No: BFS20/1087 (11138)
TRIM Ref. No: D20/43618
Contact: [REDACTED]

12 June 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
'GOLDSBROUGH BUILDING'
243 PYRMONT STREET PYRMONT NSW 2009 ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 4 May 2020, in relation to the adequacy of the provision for fire safety in or in connection with 'the premises'.

The correspondence stated that:

I went there after a B/E where a person was able to gain access to the top floor or roof via the internal fire stairs. The locking barrel of the very top floor, which leads to the plant room was not function properly. I went there after the incident and spoke with the building manager. The building manager agree to change the broken lock, and add second lock within the plant room, leading to the roof. But, the building manager refused to lock the internal side of the fire doors. This meant that anyone in the building has access to any other level.

The doors themselves have a locking mechanism / barrel on each door, but they are all left unlocked. The building manager claimed that because their building was so old that they were "allowed" to keep these doors unlocked from the internal fire stairs.

Fire and Rescue NSW

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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 May 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 at the time of the inspection:

1. Essential Fire Safety Measures
 - 1A. Maintenance – Clause 182 of the Environmental Planning and Assessment Regulation 2000 requires that an Essential Fire Safety Measure must be maintained to a standard no less than when it was first installed. At the time of the inspection the Fire Indicator Panel (FIP) displayed faults and isolations. Despite the owner's compliance with the Notice of Intention to Serve a Fire Safety Order (attached), it is at council's discretion to determine whether further enforcement action is required regarding the maintenance of the FIP and the automatic smoke detection and alarm system generally.
2. Access & Egress
 - 2A. Fire Isolated Stairs – Clause D2.2 of the NCC requires a stairway, ramp, and landings within a fire resisting shaft to be non-combustible and of fire resisting construction. The northern fire-isolated stair was constructed of timber. A review of council's records may be required.

- 2B. Egress – Having regard to the requirements of Clause 184 and 186 of the Environmental Planning and Assessment Regulation 2000 it is at council's discretion to determine whether the building materials and equipment stored in a number of the fire-isolated stairs as a result of repair work to the units requires enforcement.
- 2C. Travel via fire-isolated exits – Although measurements were not taken at the time of the inspection, the path of travel from the point of discharge of the fire isolated exits into Camden Lane appears to pass within 6m of unprotected window openings in the external wall of the same building, contrary to the requirements of Clause D1.7 and Specification C3.4 of the NCC.
- 2D. Exit Signs - The Performance Requirement EP4.2 of the NCC requires that suitable signs be installed to identify the location of exits. At first sight, there is insufficient cues to identify where the exits are located. A review of the exit strategy may be required

3. Compartmentation

- 3A. Fire Resisting Construction – It is understood that the building has historical significance, and the construction materials for some of the structural elements remain within the building. Specifically, large timber columns and beams were observed throughout the building. Assertions from the building manager indicated that the Land and Environment court approved the development and considered the structural elements of the building, however he could not confirm that the timber beams and columns provide the appropriate fire-resistance level (FRL) in accordance with Clause C1.1 and Specification C1.1 of the NCC. A review may be required.
- 3B. Retractable Roof – The building was observed to contain an open central well connecting 14 storeys. There was an awning that appeared to include a retractable roof covering over the opening of the central well. Based on the observation alone the roof and central well could be considered an Atrium under the definition of the NCC. Without access to the development consent approvals, it is council's discretion as the appropriate regulatory authority to determine whether the retractable roof as constructed is considered an atrium and what, if any, of the requirements of Part G3 of the NCC for atriums may apply.

4. Generally

- 4A. Council Considerations – The proceeding comments provide inferences from the investigation of the fire safety concern, and as such, the comments are considered 'informative'. The following items are provided to council as part of the investigation on 5 May 2020:

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- A. Discussions with the facilities manager held at the time of the inspection revealed that the premises are subject to a Fire Engineering Report (FER).
- B. The fire safety schedule refers to a 'Council Order' issued November 2010. A copy of the FER has not been made available to FRNSW and as such may account for some of the anomalies noted in this report regarding the Deemed to Satisfy (DTS) provisions of the NCC.
- C. It is at councils discretion, as the appropriate regulatory authority, to consider a review of the contents of the FER and determine whether any further enforcement action is warranted.

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

PROPOSED FIRE SAFETY ORDER NO. 1

The inspecting Authorised Fire Officers' of FRNSW issued a Notice No. 1, dated 7 May 2020, in accordance with the provisions of Section 9.34 of the EP&A Act, to have item no. 1A this report.

In accordance with the provisions of Schedule 5, Part 6, Section 12 of the EP&A Act, a copy of the Notice is attached for your information. FRNSW will conduct further inspections of the building to assess compliance with the terms of this Notice and will advise Council accordingly.

In this regard, FRNSW does not consider Council is required to take action in relation to item no. 1A of this report.

RECOMMENDATIONS

FRNSW recommends that Council:

Inspect and address item no. 1 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) [REDACTED]. Please ensure that you refer to file reference BFS20/1087 (11138) for any future correspondence in relation to this matter.

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Yours faithfully



Senior Building Surveyor
Fire Safety Compliance Unit

Attachments: Appendix 1 – Notice of Intention – Proposed Fire Safety Order – 7 May 2020



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] (name) Building Surveyor [REDACTED] (rank) [REDACTED] (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:

The Owners of Strata Plan No. 50946
(name of person whom Order is served)

Owner
(position i.e. owner, building manager)

with respect to the premises

STRATA PLAN No. 50946
THE GOLDSBROUGH BUILDING
243 PYRMONT ROAD DARLING HARBOUR NSW 2009 (“the premises”)
(name/address of premises to which Order is served)

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

Ensure the automatic smoke detection and alarm system installed in ‘the premises’ is fully operational, by repairing the faults and isolations to the Fire Indicator Panel.

The terms of the Order are to be complied with:

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

Fire and Rescue NSW

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The reasons for the issue of this Order are:

- a. At the time of the inspection on 5 May 2020, the Fire Indicator Panel displayed the following:
 - 2 (two) Faults on Level 6, Room 638;
 - 19 (nineteen) Isolations on Level 1 North;
- b. To ensure that the automatic system is capable of operating to the standard of performance to which it was designed, installed and commissioned.
- c. Failure to repair and maintain the automatic smoke detection and alarm system, is likely to delay the timely response of firefighting operations by Fire and Rescue NSW.
- d. To ensure or promote the safety of persons in the event of fire.
- e. To ensure compliance with the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000.

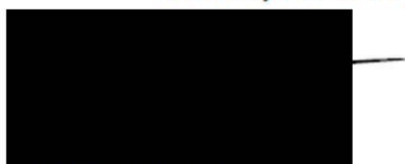
Appeals

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 May 2020.



Building Surveyor
Fire Safety Compliance Unit

This Proposed Fire Safety Order No. 1 was sent by mail on 7 May 2020.