

Attachment D

**Inspection Report
389-393 Bourke Street, Surry Hills**

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CITY OF SYDNEY



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Notes

24/02/2022

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: 2022/041516

Officer: G. Scotton

Date: 28 February 2022

Premises: 389-393 Bourke Street, Surry Hills

Executive Summary:

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises on 4 February 2022, with respect to matters of fire safety.

The premises is a strata-titled ten-storey building with a brick façade, which includes two ground floor shops, and nine levels of residential units above, and is a heritage item, under the Sydney Local Environmental Plan 2012.

An inspection of the premises undertaken by a Council investigation officer, in the presence of the building manager, revealed that the premises are deficient in fire safety measures and egress provisions in the following areas:

- (i) Inadequate maintenance, including fire detection, alarm, fire doors and sprinkler systems
- (ii) A lack of adequate facilities for fire-fighting personnel
- (iii) Egress issues affecting safe evacuation of the building in the event of a fire, including provision of a clear exit pathway, appropriate height and type of hardware to exit doors for ease of egress
- (iv) Poor fire safety management systems, including attending to routine maintenance indicated in logbooks, clearing of faults in the fire indicator panel, signs/notices/not displayed and the like

Council investigations have revealed that the premises is deficient in the provisions for fire safety and that a fire safety Order is to be issued under Schedule 5 of the Environmental Planning and Assessment Act, 1979 so as to ensure and promote adequate facilities for fire safety/fire safety awareness.

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

Chronology:

Date	Event
03/02/2022	FRNSW correspondence received regarding correspondence dated 8 August 2021 regarding premises 389 Bourke Street, Surry Hills, referred to in City property records as 389-393 Bourke Street, Surry Hills
18/02/2022	<p>A review of City records showed:</p> <ul style="list-style-type: none">-The current fire safety schedule for the building contains eight fire safety measures, including sprinklers and a fire alarm system-A fire safety statement dated 30 November 2021 has been provided for the premises-The premises underwent fire safety improvement to standards applicable in the 1980s (2021/537718-01)-The premises is undergoing repairs to a waterproofing membrane on the roof of the building (HWC/2019/38)
22/02/2022	<p>An inspection of the subject premises was undertaken by a Council officer, when the following items were noted:</p> <ul style="list-style-type: none">-Fire safety measures are not being adequately maintained, including faults in several zones of the fire indicator panel, non-functional and outdated smoke alarms and heat detectors, missing self-closers to fire doors, an obstructed egress pathway, and non-compliant exit door hardware located at an inappropriate height and type-The building lacks certain fire safety measures associated with high-rise buildings under current requirements, including a fire control room, emergency warning and intercommunication system, two fire exits serving each level, enhanced fire hydrant system, and fire exit pressurisation to exclude smoke from the exit in the event of a fire-Whilst typical current day high rise building fire safety measures were not mentioned in the FRNSW correspondence, it is noted that whilst some of these measures cannot readily be incorporated into the building due to the floor plan layout, building design, and heritage nature of the building, it is considered that some maintenance and upgrading to the fire safety measures can be addressed by way of a fire safety Order-Issues specifically raised by FRNSW and responses to those issues, are summarised in the following table

FIRE AND RESCUE NSW REPORT:

References: [BFS21/3168; 2022/065246-01]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving correspondence about an obstructed egress pathway to Campbell Street, caused by a hoarding associated with crane equipment used in repairing the roofing membrane to the building.

Issues: The report from FRNSW detailed the following issues:

Issue	City response
Fire hydrant system to an older standard, which does not incorporate certain features of the current standard, recommending either a complete or partial upgrade to the hydrant system	To be addressed in the Notice of intended fire safety Order, to require partial upgrade enhancements such as signage, access, block plan, fittings and the like
Booster obstructed with bin storage, and is located close to building	Whilst it is not proposed to require the booster relocated (for reasons including the remote location of the single storey building adjoining), otherwise to be addressed in the Notice such as to require clear access to the booster
Inadequate booster signage, and no fire hydrant block plan required by current standard	To be addressed in the Notice of intended fire safety Order, to require enhancements
Exit door hardware too high and difficulty to use a turn snib rather than a lever handle	To be addressed in the Notice of intended fire safety Order, to require compliant hardware
Exit doors swing inward	To be addressed in the Notice of intended fire safety Order, to provide hold-open devices
Hoardings at rear of premises relating to building repairs are affecting or preventing egress to Campbell Street, albeit that primary egress to Bourke Street is available	To be addressed in the Notice of intended fire safety Order, to require a clear path of travel to Campbell Street

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

FRNSW Recommendations

FRNSW have made a recommendation within their report. FRNSW have requested that Council:

1. Inspect and address any other deficiencies identified on the premises, and to require the identified fire safety issues appropriately addressed
2. Advise them in writing of its determination in relation to this matter in accordance with the provisions of clause 17(4) of Schedule 5 of the Environmental Planning and Assessment Act 1979

COUNCIL INVESTIGATION OFFICER RECOMMENDATIONS:

Note issue of a fire safety Order by delegated authority (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)
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As a result of site inspections undertaken by a Council investigation officer it was determined that concern for public safety requires the giving of a notice of intention (NOI) for a fire safety order to be issued under Part 2 of Schedule 5 of the Environmental Planning and Assessment Act, 1979 without any further delay.

It is recommended that Council note the exercise of powers by Council's investigation officer, to issue a NOI to give a fire safety Order in accordance with the above Act, prior to the resolution of Council.

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 and will assist to ensure that occupants are not exposed to unnecessary fire safety risks.

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

Referenced/Attached Documents:

2022/065246-01	FRNSW S9.32 report dated 3 February 2022
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Trim Reference: 2022/065246

CSM reference No#: 2718051

Unclassified



File Ref. No: BFS21/3168 (17081)
TRIM Ref. No: D22/7773
Contact: [REDACTED]

3 February 2022

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
'BELGENNY'
389 BOURKE STREET SURRY HILLS NSW 2010 ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 8 August 2021, in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated that:

Belgenny is a ten storey Art Deco building located on the corner of Bourke and Campbell Streets near Taylor Square. This building has two doors, the first on Bourke Street (the front door) and the second on Campbell Street (the back door). Two weeks ago Dapcor contractors installed without any notice two metal side fences blocking egress through the evacuation door to the back door into Campbell Street.

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 18 January 2022 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.

Fire and Rescue NSW

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- 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. Fire Hydrant System – The fire hydrant system appears to be installed in accordance with Ordinance 70 and Ministerial Specification No.10. Notwithstanding this, the following deviations from AS2419.1-2005 have been identified to the hydrant/sprinkler booster assembly, which are of concern to FRNSW:
 - A. The booster assembly is located within the rear yard of the premises, in a position which is partially obscured behind a bin storage area, and is not readily accessible to firefighters, contrary to the requirements of Clause 7.3 of AS2419.1-2005.
 - B. Boost pressure and test pressure signage was not provided at the booster assembly, contrary to the requirements of Clause 7.10.1 of AS2419.1-2005.
 - C. The booster assembly is located in a position less than 10m from the building, contrary to the requirements of Clause 7.3 of AS 2419.1-2005.
 - D. A block plan, A3 minimum size, has not been provided at the booster assembly, contrary to the requirements of Clause 7.11 of AS 2419.1-2005;
- 1B. The following represents FRNSW's formal position regarding 'Ordinance 70' systems in existing premises:

When the consent authority (e.g. Council) is assessing the adequacy of an existing fire hydrant system installed in accordance with the provisions of Ordinance 70 and Ministerial Specification 10 (or earlier), FRNSW recommend that the system be upgraded to meet the requirements of the current Australian Standard AS 2419.1 to facilitate the operational needs of FRNSW.

It may be appropriate for a partial upgrade of the existing fire hydrant system be undertaken. A partial upgrade may be proposed to address deficiencies in the design and/or performance of the existing fire hydrant system, when assessed against the requirements of Australian Standard AS 2419.1, so that the upgraded fire hydrant system will meet the operational needs of FRNSW. Where a hybrid fire hydrant system is proposed, which incorporates the design and performance requirements from two different standards, the proponent should consult with FRNSW on the requirements for the fire hydrant system.

2. Access & Egress

- 2A. Operation of latch – The final exit door discharging out to the rear courtyard contains a handle which is located greater than 1.2m above the floor, contrary to the requirements of D2.21 of the NCC.
- 2B. Operation of latch – The final exit door discharging to Bourke Street contains a fixed handle in lieu of a downward action lever handle, contrary to the requirements of D2.21 of the NCC.
- 2C. Door swing – The front and rear exit doors swing against the direction of egress, contrary to the requirements of Clause D2.20 of the NCC.

3. Generally

- 3A. Investigation Outcomes – At the time of inspection, Type A hoarding was observed at “the premises.” Whilst there is direct access to ‘open air’ for occupants upon exiting the rear of the building, it may be in council’s interest to audit the development against the approved consent. The review may include the approved location of hoarding and egress for the occupants whilst under construction.

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

RECOMMENDATIONS

FRNSW recommends that Council:

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

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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 BFS21/3168 (17081) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

[REDACTED]

Fire Safety Compliance Unit

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