

Attachment D

**Inspection Report
241-243 Commonwealth Street, Surry Hills**

241-243 Commonwealth Street Surry Hills



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Notes
Locality Plan

2022/2023

**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 2917125

Officer: B. Badyari

Date: 2 February 2023

Premises: 241-243 Commonwealth Street, Surry Hills

Executive Summary:

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) on 17 January 2023 in relation to the premises 241-243 Commonwealth Street, Surry Hills with respect to matters of fire safety.

The premises is an eight storey commercial with ground floor retail tenancies and seven upper floors used for office space.

An inspection of the premises was undertaken by a Council investigation officer on 31 January 2023 in the presence of the building manager, which 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 the occupants in the event of a fire. A Fire Safety Statement for the premises has been provided and is displayed prominently within the building, as required by the Environmental Planning and Assessment Regulation 2021.

Council investigations have revealed that whilst there remains several fire safety “maintenance and management” works to attend to, including signage to electrical and communications room, maintenance of exit signage, and the updating of the block plan signage, 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.

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
17/01/2023	FRNSW correspondence received regarding premises referred to as 14 Foveaux Street (241 Commonwealth Street) Surry Hills, (being 241-243 Commonwealth Street, Surry Hills)
18/01/2023	A review of City records showed that: -The premises is commercial building containing 8 storeys with ground floor used as retail and seven upper floors for office use -The fire safety schedule for the premises contains nine (9) fire safety measures, including an automatic fire detection system, emergency lighting, fire hydrant system, hose reel system and other fire safety measures - The current Fire Safety Statement dated 2 May 2022 has been provided certifying 9 fire safety measures
31/01/2023	An inspection of the subject premises was undertaken by a Council officer, it was noted that: 1.A sign to electrical cupboard and comms room on level 5 was missing 2.A sign on fire door level 2 was missing 3.A fire door on northwest end of level 5 & 6 was not self-closing 4.The Fire Safety Statement is prominently displayed at the premises 5.Exit door on level 6 obstructed with the curtains. 6.Rear exit door of the Camy's Chargrill chicken shop has been infilled under a complying development certificate (CDC). Adequate fire exits remain however signage needs to be removed.
8/02/2023	Corrective action letter issued 8 February 2023
28/02/2023	Inspection revealed the works have been completed.

FIRE AND RESCUE NSW REPORT:

References: [BFS22/5304 (24298); 2023/060168]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving correspondence on 13 October 2022 concerning the adequacy of the provision for fire safety issues related to building.

Issues

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

Issue	City response
1. Fault on the fire indicator panel	Inspection revealed no fault on the fire indicator panel at the time
2. Exit signs did not operate or illuminate when the test button was pressed	Inspection revealed that exit signs were illuminated
3. Emergency lighting not operating	Inspection revealed that the emergency lighting within the building was operational
4. On both days, the isolations observed were from building work at the premises	Inspection revealed no isolations on the fire indicator panel at the time
5. New work on level 5 for fit out and infill of fire exit door on ground floor to Camy's Chargrill Chicken shop	Council records indicate works carried out under a consent (CDC) and inspection revealed that the Camy's chargrill chicken shop has an exit sign displayed which needs to be removed, Corrective action letter to be issued.
6. The fire doors on ground floor infilled	Works carried out under consent
7. Level 5 fire doors propped open	Corrective action letter issued
8. Closing a sign-posted exit door with plyboard	Corrective action letter issued

Issue	City response
9. Fire doors not self-closing	Corrective action letter issued
10. Exit signs obstructed	Corrective action letter issued

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

FRNSW Recommendations

Inspect and appropriately address items 1 to 10 of this report.

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 inspection undertaken by Council's investigation officers it was determined to issue the owners of the building a compliance letter of instruction to rectify the identified fire safety deficiencies noted by Council and FRNSW.

The above correspondence has requested that building management carry out remedial works 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 investigation officer to ensure the 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.

Referenced/Attached Documents:

2023/060168	Fire & Rescue NSW letter dated 13 January 2023
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Trim Reference: 2023/060119

CSM reference No: 2917125

Unclassified



File Ref. No: BFS22/5304 (24298)
TRIM Ref. No: D23/2542
Contact: [REDACTED]

13 January 2023

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
'CAMY'S CHARGRILL CHICKEN'
14 FOVEAUX ST (241 COMMONWEALTH ST) SURRY HILLS ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 13 October 2022 concerning the adequacy of the provision for fire safety in or in connection with 'the premises'.

The correspondence stated that:

Our fire escape has been block with a piece of timber, nobody gave us notice, my team and I are getting really nervous and worried working in this building. Last week was a fire emergency 2 blocks away from our location in a restaurant and it's really scary. The landlord doesn't say anything about it. Please we need help

Pursuant to Section 9.32(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW inspected 'the premises' on 15 November 2022.

On behalf of the Commissioner of FRNSW, the comments in this report are provided under Section 9.32(4) and Schedule 5, Part 8, Section 17(1) of the EP&A Act.

The items listed in the comments of this report are based on the following limitations:

Fire and Rescue NSW	ABN 12 593 473 110	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 7483
www.fire.nsw.gov.au		Page 1 of 8

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- A general overview of the building was obtained without using the development consent conditions or approved floor plans as a reference.
- Details of the Provisions for Fire Safety and Fire Fighting Equipment are limited to a visual inspection of the parts in the building accessed and the fire safety measures observed at the time.

NOTICE OF INTENTION TO SERVE AN ORDER

FRNSW issued a Notice of Intention to Serve an Order (1) dated 2 December 2022 (copy attached) under the provisions of Section 9.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

REPRESENTATIONS & INSPECTION

Written representations were received concerning the proposed **Order 1** under Schedule 5, Part 6, Section 8 of the EP&A Act. After receiving the representations, an inspection was conducted on 15 December 2022 under Section 9.32 of the EP&A Act. Upon hearing and considering the representation and subsequent inspection, FRNSW has decided not to give an Order under Schedule 5, Part 7, Section 15 of the EP&A Act.

COMMENTS

Please be advised that the items in this report are limited to observations of the building accessed at the time of the inspection and identify possible nonconformities with the National Construction Code 2019, Volume 1 Building Code of Australia (NCC) and provisions for fire safety. The items are not an exhaustive list of non-compliances. FRNSW acknowledges that the differences observed at the time may contradict development consent approval or relate to the building's age. Therefore, it's the Council's discretion as the appropriate regulatory authority to consider the most appropriate action.

The following items were identified during the inspection:

1. Essential Fire Safety Measures
 - 1A. Maintenance – Section 81 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR 2021) requires maintenance of the Essential Fire Safety Measure to a standard no less than when it was first installed. At the time of the inspection, authorised fire officers observed the following:
 - A. Exit signs – Many exit signs either did not operate when the test button was pressed or were not illuminated.
 - B. Emergency Lighting – Many spitfires were not operating when the test button was pressed.

- C. Smoke Hazard Management – Performance Requirement, EP2.2 of the NCC, requires that in the event of a fire, the conditions of a building in any evacuation route be maintained for a time to allow evacuation. The following observations are provided:
- i. The Fire Indicator Panel displayed isolations and faults on 15 November 2022 and 1 December 2022.
 - ii. On both days, the isolations observed were from building work at “the premises.”
 - iii. New work on Level 5 appeared to be a fit-out for new office space and new work to the ground floor back-of-house area. The new work also appeared to include the plyboard to ‘Camy’s Chargrilled Chicken.’
2. Compartmentation
- 2A. Compartmentation – Performance Requirement CP2, CP4 and CP8 of the NCC specifies the requirements to prevent the spread of fire to exits, SOUs, public corridors, openings and penetrations. The fire doors where the new work to the ground floor back of house area and level 5 were propped open. The Council may need to review the development consent.
3. Generally
- 3A. Investigation Outcomes – The following items are provided to the Council as part of the investigation on Tuesday, 15 November 2022:
- A. An inspection of the rear exit door from ‘Camy’s Chargrill Chicken’ revealed that plyboard had been attached to the sign-posted exit door, preventing the staff and occupants from exiting the shop.
 - B. An inspection of the Fire Indicator Panel for “the premises” revealed faults and isolations. FRNSW approached the property manager regarding the isolations to the FIP, and the blocked sign posted exit door.
 - C. The property manager advised that the floor area for ‘Camy’s Chargrill Chicken’ is less than 200 m². Furthermore, the advice he had received indicated that closing the sign-posted exit door was permitted as the exit door leading to the rear of the shop was redundant.
 - D. FRNSW advised the property manager that the installation of the plyboard may be “unauthorised development” and may require the Council’s approval before conducting any changes, which include but are not limited to:
 - i. Closing a sign-posted exit door with plyboard;

- ii. The removal of door signage from the door;
 - iii. The amendment of the exit signage in the tenancy to direct people to the front entry.
- E. The correspondence between FRNSW and the property manager resulted in the owner obtaining a Complying Development Certificate to close the rear sign-posted exit door.
- F. FRNSW reinspected the premises on 1 December 2022, issuing a Notice of Intention to Serve a Proposed Fire Safety Order dated 2 December 2022 for additional isolations to the FIP whilst the building remained occupied and while building work was being conducted.
- 3B. Items for Further Investigation – The Council may require an investigation to confirm the following:
- A. Unauthorised Development – The Council may need to verify whether the building work to “the premises” and closure of the sign-posted exit door to ‘Camy’s Chargrilled Chicken’ has been lawfully conducted and complies with the Council’s relevant development standards. A review may be required to determine whether the essential fire safety measures need upgrading due to the new work.
 - B. Review of Fire Safety Requirements – It is the Council’s discretion to confirm that the maintenance of the essential fire safety systems meets its obligations to enforce the Annual Fire Safety Statement and development approval. Specifically, the Council’s policy and procedures meet the commitments to maintain essential fire safety measures to a standard no less than initially designed and implemented.

FRNSW believes that there are inadequate provisions for fire safety within the building.

RECOMMENDATIONS

FRNSW recommends that Council:

- a. Review items 1 to 3 of this report and conduct an inspection.
- b. Address any other deficiencies identified on ‘the premises’.

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

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Please do not hesitate to contact [REDACTED] of FRNSW's Fire Safety Compliance Unit at FireSafety@fire.nsw.gov.au or call on [REDACTED] if there are any questions or concerns about the above matters. Please ensure that you refer to file reference BFS22/5304 (24298) regarding any correspondence concerning this matter.

Yours faithfully

[REDACTED]

[REDACTED]

Fire Safety Compliance Unit

Attachments [Appendix 1 – Proposed Fire Safety Order No.1 dated 2 December 2022 – 3 pages]

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Appendix 1 – Proposed Fire Safety Order No.1 dated 2 December 2022 – 3 pages



Unclassified

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]

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:

Marshall Investments Pty Limited
(name of the person whom Order is served)

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

with respect to the premise

'MIXED-USE – COMMERCIAL BUILDING'
LOT 1 DP1085126; 241 COMMONWEALTH STREET SURRY HILLS ("the premises")
(name/address of premises to which Order is served)

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

Reinstate the Smoke Detection and Alarm system to operate as designed, installed and commissioned by removing the isolations observed on the Fire Indicator Panel (FIP).

The terms of the Proposed Fire Safety Order – Order No.1 are to be complied with:

By no later than 14 days from the date of the Fire Safety Order – Order 1.

The reasons for the issue of the Proposed Fire Safety Order - Order No.1 are:

a. At the time of the inspection on 1 December 2022:

(i) The light for "ISOLATED" was lit.

Fire and Rescue NSW	ABN 12 593 473 110	www.fre.nsw.gov.au
Community Safety Directorate	1 Amarina Ave	T (02) 9742 7434
Fire Safety Compliance Unit	Greenacre NSW 2190	F (02) 9742 7843
www.fre.nsw.gov.au		Page 3 of 5

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- (ii) The LCD screen display identified 25 isolations as follows:

MCP Z1 ST:NORMAL/ISOL; Level 3 Security Trip – INOUT L1 S6 Z1
ST:NORMAL/ISO; L1 S6.1 Z1 ST:NORMAL/ISOL; L1 S6.2 Z1
ST:NORMAL/ISOL; L1 S6.3 Z1 ST:NORMAL/ISOL; L1 S6.7 Z1
ST:NORMAL/ISOL; L1 S68 Z1 ST:NORMAL/ISOL; L1 S69 Z1
ST:NORMAL/ISOL; L1 S70 Z1 ST:NORMAL/ISOL; L1 S70 Z1
ST:NORMAL/ISOL; L1 S72 Z1 ST:NORMAL/ISOL; L1 S74 Z1
ST:NORMAL/ISOL; L1 S75 Z1 ST:NORMAL/ISOL; L1 S77 Z1
ST:NORMAL/ISOL; L1 S78 Z1 ST:NORMAL/ISOL; L1 S79 Z1
ST:NORMAL/ISOL; L1 S80 Z1 ST:NORMAL/ISOL; L1 S81 Z1
ST:NORMAL/ISOL; L1 S82 Z1 ST:NORMAL/ISOL; L1 S8 Z4
ST:MAINT FLT/ISOL; L1 S9 Z5 ST:NORMAL/ISOL; L1 S12 Z6
ST:MISMACH FLT/ISOL; L1 S10 Z8 ST:NORMAL/ISOL; L1 S23 Z13
ST:NORMAL/ISOL; L1 S24 Z13 ST:NORMAL/ISOL;

- (iii) The LCD screen display identified the following zones isolated:

TAB, Level 7, Level 5, Level 4, Level 3, Disabled Toilet GND, Female Toilet GND, Male Toilet GND, Corridor ADJ Back Toilets, Telecom Room GND, Garbage Room GND, GND Lift Lobby, GND Bike Store, Electrical Meters GND, Main Switchboard GND, GND Corridor Loading Bay, GND Female Change Room, GND Male Change Room, GND Corridor to Toilets, Level 3 Security Trip and Front Panel Manual Call Point.

- b. Faults and isolations to the Fire Indicator Panel (FIP) are likely to delay the timely evacuation of the building in an emergency.
- c. Isolations to the automatic smoke detection and alarm system are likely to prevent an automated warning on the detection of smoke for the general public within the building, which may delay the occupants' evacuation to a safe place.
- d. The faults and isolations diminish the automatic identification and notification that the FIP provides. As a result, it is likely that the evacuation routes from "the premises" may be compromised by poor visibility and high levels of toxicity that may endanger human life.
- e. To do or refrain from doing such things specified in the Order to ensure or promote adequate fire safety or awareness.

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 a Fire Safety Order – Order 1 once it is issued, other than an order that prevents a person from using or entering premises.

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Non-Compliance with Fire Safety Order – Order No.1

Once issued, failure to comply with a Fire Safety Order – Order 1 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 a Fire Safety Order – Order No.1.

NOTE: Representations are to be made in writing and should be received by FRNSW no later than 5.00 pm on Tuesday, 20 December 2022.



This Proposed Fire Safety Order - Order No. 1 was sent by mail on 2 December 2022.