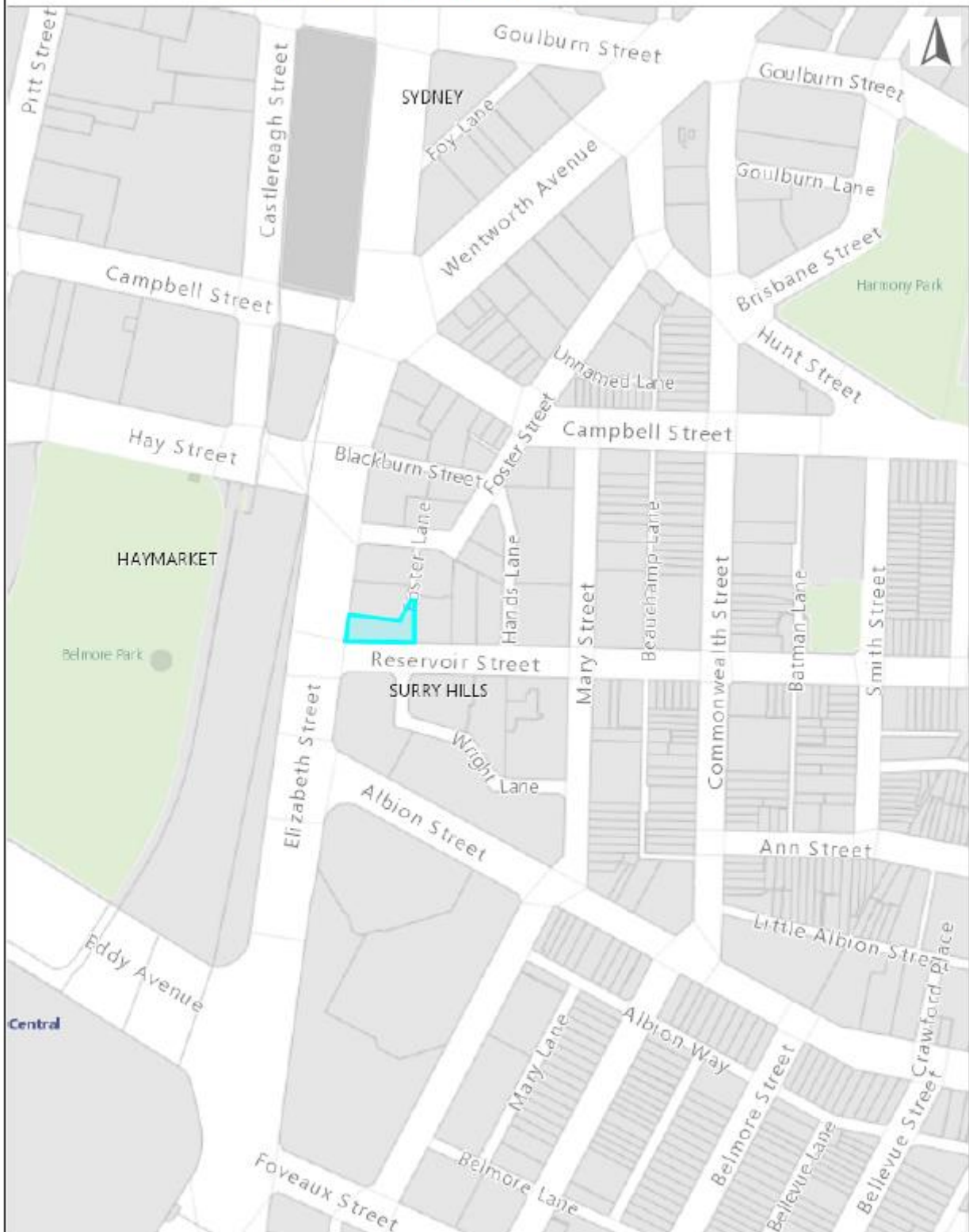


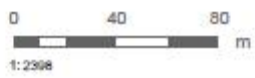
# **Attachment J**

**Inspection Report  
238-240 Elizabeth Street, Surry Hills**

# 238 Elizabeth Street, Surry Hills



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Notes

21/03/2023

**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)**

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**File: CSM 2951154**

**Officer: Joe Kalgovas**

**Date: 20/03/2023**

**Premises: 238-240 Elizabeth Street, Surry Hills**

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**Executive Summary:**

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises on 9 March 2023 with respect to matters of fire safety.

The premises consists of a three-storey building used for backpacker accommodation on upper levels with shops at ground floor. The building is approximately 90 years old. The building was upgraded with works completed on 27 August 2009.

It should be noted that the report from FRNSW involves two buildings 232-236A and 238-240 Elizabeth Street Surry Hills. This report focuses on the building 238-240 Elizabeth Street Surry Hills only, 232-236A is the subject of a separate council report.

An inspection of the premises undertaken by a Council investigation officer in the presence of the managing agent revealed 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

Council investigations have revealed that the premises are deficient in the provisions for fire safety and that a Notice of intention to issue fire safety order was issued on 31 March 2023 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 metallic sheet or any combustible composite cladding on the façade of the building.

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**Chronology:**

Date	Event
09/03/2023	FRNSW correspondence received regarding premises 238-240 Elizabeth Street, Surry Hills.
27/03/2023	An inspection of the subject premises was undertaken by a council officer with the managing agent which identified two buildings occupied and operating.
31/03/2023	A Notice of Intention to issue a Fire Safety Order served.

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**FIRE AND RESCUE NSW REPORT:**

References: BFS23/337, D23/019264; our Trim reference (2023/123535]  
Fire and Rescue NSW conducted an inspection of the subject premises after receiving an enquiry about egress for persons sleeping in the rear of the property on 30 December 2022.

**Issues**

Generally, a lack of operational maintenance and noncompliance with the current building code were found. The report from FRNSW detailed a number of issues, in particular.

Issue	City response
1. Essential Fire Safety Measures	
1A. Automatic Fire Sprinkler System	-
A. Main stop valve not secured open by chain or strap as required by clause 8.2 of AS 2118.1-1999.	Refers to neighbouring building 232-236A see Attachment I.
B. Stock of sprinklers and spanners not located as required by clause 6.7 of AS 2118.1-1999.	Refers to neighbouring building 232-236A see Attachment I
1B. No hydrant system installed as required by NCC clause E1.3.	Refers to neighbouring building 232-236A & 238-240. Total floor area is greater than 500m <sup>2</sup> . Current building code requires a hydrant system to be installed. Building is approximately 90 years old; installation would involve significant works and likely to adversely affect other features such as exit widths. Provision of street hydrants to be investigated. Addressed in the Notice of Intention.
1C. Fire Detection Control and Indicating Equipment AS 1670.1-2018	
A. A curtain obstructed access to the Fire Panel against the requirements of clause 3.9.1.	Refers to neighbouring building 238 – 240. Curtain found obstructing access to fire panel. Obstructive curtain to be removed. Addressed in the Notice of Intention
B. VAD strobe was not located external to the building at the main entry in accordance with clause 3.8.	Refers to neighbouring building 232-236A & 238-240. A strobe light could not be found. Records show that the system was installed to the 2004 standard which requires a strobe light. Strobe light to be provided. Addressed in the Notice of Intention
C. Review heat detectors installed in lieu of smoke detectors contrary to clause 3.27.1.	Refers to neighbouring building 232-236A & 238-240. Advised by Building Manager that smoke detectors are provided. Audit to be carried out to confirm suitability of the detector type installed. Addressed in the Notice of Intention.

Issue	City response
1D. Exit signs not operational.	Refers to neighbouring building 232-236A Item below refers to 238-240. Not all exit signage was working. All signage to repaired/replaced to working order. Addressed in the Notice of Intention.
2. Access and Egress	
2A. Building B travel distances exceed 6m to exit or choice not in accordance with clause D1.4 of NCC.	Refers to neighbouring building 232-236A.
2B. Final exit door to Reservoir Street does not swing in the direction of egress and not fitted with a hold open device in accordance with clause D2.20 of NCC.	Refers to 238-240. Door found to swing against the direction of egress with no hold open device installed. Hold open device to clause D2.20 to be installed. Addressed in the Notice of Intention.
2C. The final exit door from the first-floor terrace contains a latch which is 1300mm from the floor not in accordance with clause D2.21.	Refers to 238-240 Unable to find non-compliant latch. All final exit doors are to have latches comply with clause D2.21. Addressed in the Notice of Intention.
3. Compartmentation	
3A. Contrary to the requirements of clause 3.4 of the NCC a door chock was observed holding open the fire door at the first-floor kitchen.	Refers to neighbouring building 232-236A & 238-240. Chocks were not found.
3B. It is unclear whether the enclosure of the cupboard under the non-fire isolated stairway in building B achieves an FRL of not less than 60/60/60 and self-closing door -/60/30 as required by clause D2.8(b) of the NCC.	Refers to neighbouring building 232-236A.
4. Generally,	
4A. At the time of inspection, the displayed AFSS did not appear to be up to date.	Refers to 238-240. On inspection the AFSS was found to be displayed. Refers to neighbouring building 232-236A On inspection the AFSS was not displayed. City's records show the AFSS is current. AFSS is to be displayed. Addressed in the Notice of Intention.
4B. Balustrade along the first-floor terrace is less than 1m in height contrary to clause D2.16(c) of the NCC.	Refers to 238-240. Parapet acting as balustrading to terrace to be increased in height. Addressed in the Notice of Intention.
4C. Unclear whether the flat roof section of the first-floor terrace complies with the structural provisions of Part B1 of the NCC or has been designed and built as a trafficable area.	Refers to 238-240 Addressed in the Notice of Intention. Structural engineer to confirm structural adequacy of flat roof.

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

#### FRNSW Recommendations

FRNSW have made a number of recommendations within their report. In general, FRNSW have requested that Council review the fire safety issues that were identified by their inspection and report, conduct an inspection and address noted (and other) deficiencies identified within their report.

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**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)
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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:**

2023/145678	Copy of Notice of Intention to issue Fire Safety Order
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**Trim Reference:** 2023/141845

**CSM reference No#:** 2951154

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File Ref. No: BFS23/337  
TRIM Ref. No: D23/019264  
Contact: [REDACTED]

8 March 2023

General Manager  
City of Sydney  
GPO Box 1591  
SYDNEY NSW 2001

Email: [council@cityofsydney.nsw.gov.au](mailto:council@cityofsydney.nsw.gov.au)

Attention: Manager Compliance/Fire Safety

Dear Sir / Madam

**Re: INSPECTION REPORT  
'HOME BACKPACKERS ACCOMODATION'  
238 ELIZABETH STREET SURRY HILLS ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 30 December 2022 concerning the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated that:

*The premises is being used as a backpackers accommodation.*

*The street front 1st floor accommodation is also joined to a rear accommodation premises with access via a flat rooftop of the shops below on the ground floor. The building does not have adequate signage or egress from the for the people sleeping in the rear of the property*

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 7 February 2023.

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	<a href="http://www.fire.nsw.gov.au">www.fire.nsw.gov.au</a>
Community Safety Directorate	1 Amarina Ave	T (02) 9742 7434
Fire Safety Compliance Unit	Greenacre NSW 2190	F (02) 9742 7483
<a href="http://www.fire.nsw.gov.au">www.fire.nsw.gov.au</a>		Page 1 of 4

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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.

**COMMENTS**

Please be advised that the items in this report are limited to observations of the building accessed during 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. Automatic Fire Sprinkler System -
    - A. The main stop valve was not secured open by a padlocked chain or riveted strap under the requirements of Clause 8.2 of AS 2118.1-1999.
    - B. Clause 6.7 of AS 2118.1-1999 requires a stock of replacement sprinklers and spanners at the premises. At the time of the inspection, a stock of replacement sprinklers and a spanner could not be located.
  - 1B. Fire Hydrant System – Clause E1.3 of the NCC requires a building with a total floor area greater than 500m<sup>2</sup> to be provided with a fire hydrant system installed per AS2419.1. Currently, no such system is installed within the building.
  - 1C. Fire Detection Control and Indicating Equipment (FDCIE) – The following comments consider Australian Standard AS1670.1:2018 – 'Fire detection, warning, control and intercom systems—System design, installation and commissioning.'
    - A. Location – Clause 3.9.1 requires the Fire Brigade Panel (FBP) to have unobstructed access to controls and indicators. At the time of the inspection, a curtain obstructed access to the FBP.
    - B. Visual Alarm Device (VAD) Strobe – Clause 3.8 requires a strobe to be visible from the main approach of "the premises" and be as near as practicable to the Designated Building Entry Point (DBEP).



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At the time of the inspection, a VAD strobe could not be located external of the building.

- C. Thermal / Heat Detectors – Clause 3.27.1 outline circumstances where smoke detectors can be replaced with heat detectors. Council may need to review its records to confirm whether the circumstances surrounding the installation of heat detectors have been approved, as many of the detectors at 'the premises' appeared to be heat.
  - 1D. Exit signs – Multiple exit signs throughout the building were either not operating or had not been maintained. In this regard, a number of exit signs were not illuminated.
2. Access and Egress
- 2A. Travel Distance - It appears that travel distances from multiple Sole Occupancy Units (SOU) in Building B exceeds 6m to an exit or point of choice to two exits, contrary to the requirements of Clause D1.4 of the NCC.
  - 2B. Final Exit Door – The final exit doors to Reservoir Street swing against the direction of egress and are not fitted with a device for holding it in the open position, contrary to the requirements of Clause D2.20 of the NCC.
  - 2C. Operation of Latch – Clause D2.21 of the NCC requires that a door must be readily openable without a key from the side that faces a person seeking egress. The latch must be a single-hand downward action on a single device between 90 mm and 1100mm from the floor. The final exit door from the first-floor terrace contains a latch which is 1300mm from the floor.
3. Compartmentation
- 3A. Fire Door - A door chock was observed holding open the fire door at the first-floor kitchen, prohibiting the door from self-closing contrary to the requirements of Clause 3.4 and Specification C3.4 – Clause 3 of the NCC.
  - 3B. Under stair storage - Enclosure under stairs – The space beneath the non fire-isolated stair in building B appears to have been enclosed to form a cupboard. It is unclear if the enclosure achieves an FRL of not less than 60/60/60 and includes a self-closing -/60/30 fire door, per Clause D2.8(b) requirements of the NCC.
4. Generally
- 4A. Annual Fire Safety Statements (AFSS) – Clause 89(4)(b) of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR 2021) requires the owner of the building to prominently display in the building a copy of the AFSS and a

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copy of the current fire safety schedule. At the time of the inspection, the displayed AFSS did not appear to be up to date.

- 4B. Continuous Barrier - The balustrade along the first-floor terrace is, in part, less than 1m high, contrary to the requirements of Clause D2.16(c) of the NCC.
- 4C. Trafficable Area - The first-floor terrace includes a flat roof section which appears to be constructed with 'Klip-Lock' roof sheeting. This section of roof has not been separated from the remainder of the terrace by a continuous barrier. It is unclear if this roof complies with the Structural Provisions of Part B1 of the NCC or has been designed and built as a trafficable area. Further investigation by Council may be required.

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

**RECOMMENDATIONS**

FRNSW recommends that Council:

- a. Review items 1 to 4 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.

Please do not hesitate to contact [REDACTED] of FRNSW's Fire Safety Compliance Unit at [FireSafety@fire.nsw.gov.au](mailto:FireSafety@fire.nsw.gov.au) or call [REDACTED] if there are any questions or concerns about the above matters. Please refer to file reference BFS23/337 regarding any correspondence concerning this matter.

Yours faithfully

[REDACTED]

[REDACTED]  
Fire Safety Compliance Unit