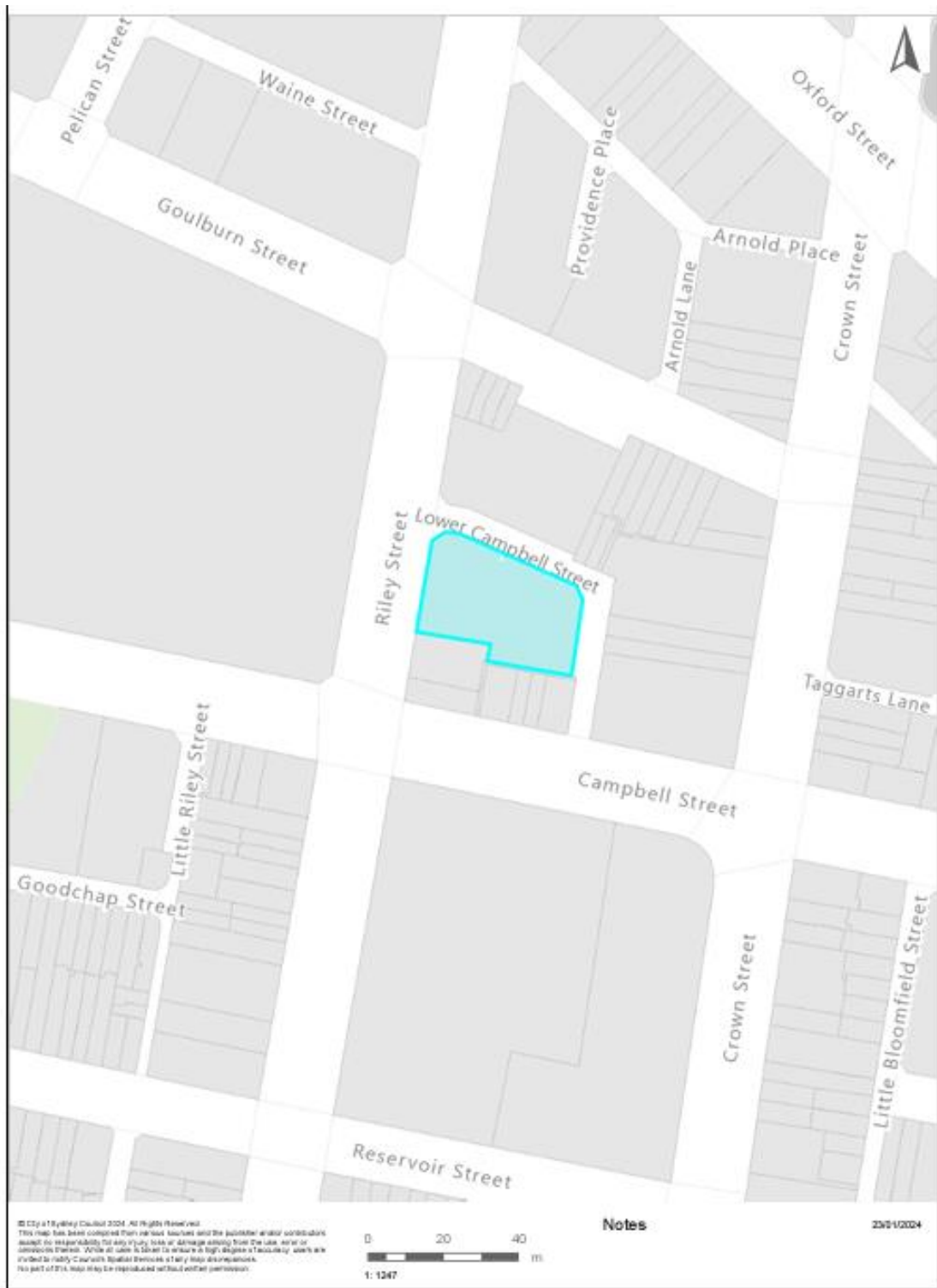


# **Attachment E**

**Inspection Report  
208-218 Riley Street, Surry Hills**



**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: CSM3117897**

**Officer: Joe Kalgovas**

**Date: 23/01/2024**

**Premises: 208-218 Riley 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 with respect to matters of fire safety.

The premises consists of a new 11 storey level building with the approved uses being a hotel with carparking.

An inspection of the premises undertaken by a Council investigation officer in the presence of the Manager 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 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 ([Development Certification and Fire Safety\) Regulation 2021](#)).

Council investigations revealed that whilst there remains a minor operational fire curtain raising procedure to attend to, the overall fire safety systems provided within the subject premises are considered adequate in the circumstances.

The above fire safety measure is currently being reviewed in relation to its suitability by FRNSW. Further discussion with the building manager on the 14 February 2024 has indicated that FRNSW may now have no concerns with the fire curtain and he is awaiting their final sign off. In the event that issues are still raised then this would be referred to the current Certifier to address who is yet to issue the final OC for the building.

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

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**Chronology:**

<b>Date</b>	<b>Event</b>
11/01/2024	FRNSW correspondence received regarding premises 212 Riley Street Surry Hills.
22/01/2024	An inspection of the subject premises was undertaken by a Council officer with the building manager which found smoke/fire curtains installed to operate across the lift doors and an isolating button marked on the Fire Indicator Panel.
23/01/2024	The matter is currently being reviewed by FRNSW to assess their concerns about firefighting. No further action is proposed. No fire safety defects found at the inspection that would warrant Council intervention.

## FIRE AND RESCUE NSW REPORT:

References: BFS23/7277 (32571), D23/139799, 2024/017272.]

Fire and Rescue NSW carried out an inspection of the subject building with regard to fire-fighting concerns.

### Issues:

FRNSW concerns relate to the operation of drop-down smoke/fire curtains installed in front of the lift doors which prevent firefighters from being able to use the emergency lift.

The report from FRNSW detailed a number of general comments and concerns as set out below:

Ref	Issue	City response
1.	Investigation Details The following items are provided to the Council as part of the investigation on Thursday 14 December 2023.	-
	1A. The powers of an investigation officer were used to inspect the concern relating to the safety of occupants in the event of a fire and prevent the spread of fire to determine whether there was a breach in any codes, policies, or legislation that may be considered an offence.	Noted, no response required.
	1B. The inspection assessed whether or not the provisions for fire safety were present at the premises and whether or not provision for fire safety were present at the premises and whether or not Regulation 112 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR2021) was compliant.	Noted, no response required.
	1C. A visual inspection was conducted of the areas, including photos of essential fire safety measures in the areas accessed. Discussions with the General Manager were also noted.	Noted, no response required.
2.	Fire Safety Inspection The following is provided as part of the investigation:	-
	2A. Evidence to Conduct an Investigation	-
	A. Discussions with the General Manager confirmed the concern in writing about the smoke/fire curtains and firefighter access.	Noted, no response required.
	2B. Provisions for Fire Safety	-
	A. The discussion with the General Manager confirmed that: <ul style="list-style-type: none"> <li>i The certifying authority had permitted the smoke /fire curtains and had been through the relevant approval process and inspection stages.</li> </ul>	Noted, the fire indicator panel is now fully operational.

Ref	Issue	City response
	<p>ii He was aware of the concern and referred the matter to the fire engineer upon being advised of the issue surrounding access to the lift. He also received the response as outlined in the concern.</p> <p>iii Despite the activation of the smoke/fire curtains, the hotel's occupants can exit the building. The staff were also trained in the evacuation procedures.</p> <p>iv He knew the faults and isolations displayed on the fire brigade panel resulted from the approved building work. He advised that the builders were responsible for the construction area where the faults and isolations are displayed.</p> <p>v Despite the faults and isolations, the smoke detection and alarm system could notify the hotel's occupants to evacuate.</p> <p>vi Two separate and independent fire brigade panels monitor the hotel and building containing permanent residents.</p>	
	<p>B. When asked, the General Manager produced a copy of the evacuation procedures for the premises and could show where an evacuation plan was displayed.</p>	<p>Noted, no response required.</p>
	<p>2C. Regulation 112 of EPAR2021</p>	<p>-</p>
	<p>A. Because of the building work, observations at the time indicated that new essential fire safety measures are being upgraded. However, the maintenance tags to the installed hydrant and sprinkler booster were last tagged in November 2022.</p>	<p>Current e licence is due 28 February 2024, no issue identified.</p>
	<p>2D. Outcomes</p>	<p>-</p>
	<p>A. The General Manager could provide sufficient evidence that the hotel's occupants could safely evacuate, which was also corroborated by the written concern.</p>	<p>Noted, no issue identified.</p>
	<p>B. The concern relating to the smoke/fire curtains to the lift doors did not reveal sufficient evidence of a violation of the require standard of proof. It did not provide reasonable grounds for further investigation by FRNSW.</p>	<p>Noted, no issue identified.</p>
	<p>C. Any change to the design and operation of the lifts falls outside FRNSW legislative powers. It would be at the Council's discretion to determine whether a review of the development consent is required and whether the building works comply with the consent conditions, which include the certification and maintenance of the installed and new essential fire safety measures despite the observed faults and isolations to the fire brigade panel while building work is occurring at the premises.</p>	<p>No building works are currently being undertaken with no faults or isolations on display.</p> <p>Development consent does not address the specific requirements of the building code.</p>

Ref	Issue	City response
		<p>A Private Certifier was appointed with the authority to determine operational requirements against the performance requirement of the building code.</p> <p>Additionally, the building is fire engineered to performance requirements.</p> <p>Occupation Certificate is on record dated 24 April 2023.</p> <p>No action is proposed.</p>
3.	Possible Non-Conformities The following comments are provided to the Council:	-
	3A. Should the Council consider reviewing the development consent, a review may evaluate whether there is safe access for emergency service personnel under E3P2 'Emergency lifts' of the NCC.	<p>E3P2 Emergency lifts:</p> <p><i>“One or more passengers lifts fitted as emergency lifts to serve each floor served by the lifts in a building must be installed to facilitate the activities of the fire brigade and other emergency personnel.”</i></p> <p>Operational requirements by FRNSW are currently being reviewed to determine if any changes are warranted.</p> <p>No action is proposed.</p>
	3B. The review may consider whether the approval of emergency lifts and smoke/fire curtains considered the activities of FRNSW and other emergency services personnel and whether an amendment is required.	<p>Construction compliance has been determined by a Private Certifier who was appointed with authority to determine operational requirements against the performance requirement of the building code.</p> <p>Occupation Certificate is on record dated 24 April 2023.</p> <p>Operational requirements have been proposed by the Owners and are currently being reviewed by FRNSW to determine if any amendment is warranted.</p> <p>No action is proposed.</p>

FRNSW is therefore of the opinion that there are fire safety concerns within the building.

FRNSW Recommendations:

FRNSW have made no direct recommendation within their report other than legislative notification.

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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	No further action
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That the Commissioner of FRNSW be advised of Council's actions and determination.

**Referenced/Attached Documents:**

<input type="checkbox"/> 2024/039031	Correspondence between FRNSW and Owners on proposed resolution in relation to the fire curtains installed to the lift doors.
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**Trim Reference:** 2024/020136

**CSM reference No#:** 3117897

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File Ref. No: BFS23/7277 (32571)  
TRIM Ref. No: D23/139799  
Contact: Edren Ravino

10 January 2024

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 General Manager

**Re: SECTION 9.32(4) – INSPECTION REPORT**

Pursuant to Section 9.32(4) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Fire and Rescue NSW (FRNSW) provides this report to the Council of the inspection conducted by Authorised Fire Officers under Section 9.32 of the EP&A Act.

The attached report is an investigation into the fire safety concern only. It may include, amongst other observations, a brief list of building non-conformities relating to the fire safety concern that the Council may need to determine are of a nature or scale regarded as a significant fire safety issue warranting further investigation as part of the Council's Development Control Enforcement Policy.

Please do not hesitate to contact Edren Ravino of FRNSW's Fire Safety Compliance Unit at [FireSafety@fire.nsw.gov.au](mailto:FireSafety@fire.nsw.gov.au) or call (02) 9742 7434 if you have any questions or concerns regarding the above matters. Please refer to file reference BFS23/7277 (32571) concerning this correspondence.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Edren Ravino".

Edren Ravino  
Senior Building Surveyor  
Fire Safety Compliance Unit

Fire and Rescue NSW

ABN 12 593 473 110

[www.fire.nsw.gov.au](http://www.fire.nsw.gov.au)

Community Safety Directorate  
Fire Safety Compliance Unit

1 Amarina Ave  
Greenacre NSW 2190

T (02) 9742 7434  
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## INSPECTION REPORT

**Our Reference** BFS23/7277 (32571)

**Concern in Writing** The premises has drop down smoke/fire curtains installed in front of the lift doors on each floor and these curtains are activated in the event of a fire alarm. The curtains prevent people using the lift from each floor and any persons who are in the lift at the time of the alarm being activated, can exit the lift at the ground floor (all lifts are called to the ground floor in the event of an alarm) using a button adjacent to the open lift doors. This will raise the curtains and allow persons to safely exit the lift.

Whilst this system allows for the safe egress of people in an emergency, it does not allow for firefighters to use the emergency lift in an incident. The lift is fitted with a fire service mode and fire service key however this does not raise the curtains thus not allowing firefighters to enter the lifts. Furthermore, if firefighters were to access the lifts at ground level and use it in fire service mode, they would not be able to exit the lift at any other floor as only the ground floor is fitted with the emergency exit button for the curtains. The only way to raise the curtains after they have been activated is to reset the FIP however this is obviously counter-intuitive. I have attended other premises with drop down curtains however this premises also has a fire service override which raises the curtains whilst depressed, allowing firefighters to enter the lift and use it in fire service mode.

This matter has been raised with the hotel General Manager who forwarded an email to the fire engineer responsible for the installation during construction and he was met with an email response along the lines of such override systems not being required under the BCA or any other legislation...

**Date Received** 10 December 2023

**Premises Address** 212 Riley Street Surry Hills (hereafter "the Premises")

**Name of Premises** ADGE Hotel

### 1. Investigation Details

The following items are provided to the Council as part of the investigation on Thursday, 14 December 2023:

- 1A. The powers of an investigation officer were used to inspect the concern relating to the safety of occupants in the event of a fire and prevent the

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spread of fire to determine whether there was a breach in any codes, policies, or legislation that may be considered an offence.

- 1B. The inspection assessed whether or not the Provisions for Fire Safety were present at the premises and whether or not Regulation 112 of the Environmental Planning And Assessment (Development Certification And Fire Safety) Regulation 2021 (EPAR2021) was compliant.
- 1C. A visual inspection was conducted of the areas in the building accessed at the time. Photos were taken of the areas, including photos of the essential fire safety measures in the areas accessed. Discussions with the General Manager were also noted.

**2. Fire Safety Inspection**

The following is provided as part of the investigation:

- 2A. Evidence to Conduct an Investigation
  - A. Discussions with the General Manager confirmed the concern in writing about the smoke/fire curtains and firefighter access.
- 2B. Provisions for Fire Safety
  - A. The discussion with the General Manager confirmed that:
    - i. The certifying authority had permitted the smoke/fire curtains and had been through the relevant approval processes and inspection stages.
    - ii. He was aware of the concern and referred the matter to the fire engineer upon being advised of the issue surrounding access to the lift. He also received the response as outlined in the concern.
    - iii. Despite the activation of the smoke/fire curtains, the hotel's occupants can exit the building. The staff were also trained in the evacuation procedures.
    - iv. He knew the faults and isolations displayed on the fire brigade panel resulted from the approved building work. He advised that the builders were responsible for the construction area where the faults and isolations are displayed.
    - v. Despite the faults and isolations, the smoke detection and alarm system could notify the hotel's occupants to evacuate.
    - vi. Two separate and independent fire brigade panels monitor the hotel and building containing permanent residents.

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- B. When asked, the General Manager produced a copy of the evacuation procedures for the premises and could show where an evacuation plan was displayed.
- 2C. Regulation 112 of EPAR2021
- A. Because of the building work, observations at the time indicate that new essential fire safety measures are being upgraded. However, the maintenance tags to the installed hydrant and sprinkler booster were last tagged in November 2022.
- 2D. Outcomes
- A. The General Manager could provide sufficient evidence that the hotel's occupants could safely evacuate, which was also corroborated by the written concern.
  - B. The concern relating to the smoke/fire curtains to the lift doors did not reveal sufficient evidence of a violation of the required standard of proof. It did not provide reasonable grounds for further investigation by FRNSW.
  - C. Any change to the design and operation of the lifts fall outside FRNSW legislated powers. It would be at the Council's discretion to determine whether a review of the development consent is required and whether the building works comply with the consent conditions, which include the certification and maintenance of the installed and new essential fire safety measures despite the observed faults and isolations to the fire brigade panel while building work is occurring at the premises.

**3. Possible Non-Conformities**

The following comments are provided to the Council:

- 3A. Should the Council consider reviewing the development consent, a review may evaluate whether there is safe access for emergency services personnel under E3P2 'Emergency lifts' of the NCC.
- 3B. The review may consider whether the approval of the emergency lifts and smoke/fire curtains considered the activities of FRNSW and other emergency services personnel and whether an amendment is required.



Edren Ravino  
Senior Building Surveyor  
Fire Safety Compliance Unit