

Attachment F

**Inspection Report
782 Bourke Street, Waterloo**

782 Bourke Street Waterloo



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Notes

3/05/2024

**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: 2024/280664

Officer: Andrew Porter

Date: 2 May 2024

Premises: 782 Bourke Road Waterloo

Executive Summary:

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) on 23 April 2024 and 1 May 2024 in relation to the premises with respect to matters of fire safety.

The site consists of 3 buildings of up to 15 storeys used for residential apartments, offices, retail and with all 3 buildings located over a common basement level carpark.

Inspections of the premises undertaken by a Council officer revealed that the premises are deficient in fire safety and egress provisions.

The annual fire safety statement for the buildings was due on 13 December 2023. Requests by the owners representatives have been made to obtain an extension of time to submit the Annual Fire Safety Statement with regard to requirement to rectify fire safety deficiencies in particular:

- (i) Inadequate fire detection and emergency warning and intercom systems that require repairs/replacement of components.
- (ii) Inadequate fire suppression systems, overhaul of system components urgently required and failing pump systems that require significant overhaul/replacement;
- (iii) Damaged fire rated doors, associated hardware and frames that require repair/replacement;
- (iv) Inadequate smoke control systems, system components have failed requiring urgent overhaul/replacement.

Council investigations have revealed that the premises are 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 to ensure and promote adequate facilities for fire safety/fire safety awareness.

Observation of the internal and external features of the building identified the existence of potential combustible composite cladding. The City's cladding compliance team are investigating this as a separate matter.

Chronology:

Date	Event
23/04/2024	FRNSW correspondence received concerning correspondence received by FRNSW on 30 January 2020 with relation to fire safety at the subject premises.
01/05/2024	Additional correspondence received concerning correspondence received by FRNSW on 13 March 2020 with relation to fire safety at the subject premises.
02/05/2024	An inspection of the subject premises was undertaken by a Council officer and confirmed that several fire safety deficiencies as mentioned above were occurring within the building that will require further action by Council.

21/5/2024	Notice of Intention to issue a fire safety Order served
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FIRE AND RESCUE NSW REPORT:

References: [BFS20/270; 2024/280664-02 and BFS20/426; 2024/280664-01]

Fire and Rescue NSW conducted an inspection of the subject premises on 13 March 2024 after receiving two written concerns notices about egress and fire alarm deficiencies within the subject buildings.

Issues

Issue	City response
1. Occupant warning system logbook documents a previous line fault.	Observation of the emergency warning and intercom system during the inspection of 2 May 2024 identify faults with the system that require action by the owners accredited fire safety practitioner. Notice of intention to give a fire safety order requires these matters to be suitably addressed.
2. Final fire exit door on Danks Street has a peep hole drilled through the door so Coles staff can identify delivery drivers prior to opening the door.	Doorways that open to a road/open space from a fire isolated stair / passageway are not required to be provided with a fire resisting door set in accordance with C4D9 of the NCC 2022. Therefore the hole drilled through the door is not a fire safety concern.

FRNSW Recommendations

The officer of Fire & Rescue NSW recommended that Council review the items in his report, that Council conduct an inspection of the premises, and address any other deficiencies identified at the premises.

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 a site inspection undertaken by Council's investigation officers it is recommended that Council exercise its powers to give a notice of intention (NOI) for a fire safety order to be issued under Schedule 5 of the Environmental Planning and Assessment Act, 1979 to address the fire safety deficiencies identified by FRNSW and Council's building officer. The NOI was issued on 21 May 2024.

The issue of a fire safety order will ensure that suitable fire safety systems are in position throughout the building to provide improved and adequate provisions for fire safety.

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

Referenced/Attached Documents:

2024/303438	Copy of proposed fire safety order (NOI)
2024/280664-02	FRNSW S9.32 report dated 23 April 2024
2024/280664-01	FRNSW S9.32 report dated 1 May 2024

Trim Reference: 2024/280664

CSM reference No#: CSM 3175892

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File Ref. No: BFS20/270 (8000010336)
TRIM Ref. No: D24/42221
Contact: Edren Ravino

23 April 2024

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: 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 relates to 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 or call (02) 9742 7434 if you have any questions or concerns regarding the above matters. Please refer to file reference BFS20/270 (8000010336) 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

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

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INSPECTION REPORT

Date	10 April 2024
Our Reference	BFS20/270 (8000010336)
Reason to Inspect	The Commissioner of FRNSW received a written concern [Section 9.32(2)(c) of the EP&A Act].
Details of Concern	<p>A number of concerns relating to the fire stairs that exit at 24 Danks Street, the exit adjacent to the cafe.</p> <ol style="list-style-type: none">1. The Milk Crate cafe's outdoor seating blocks the fire exit. Customers also often put luggage, bags and baby carriers in front of the fire exit doors, especially on weekends.2. The fire stairs are slippery due to an accumulation of leaves and litter, particularly on the lower levels. They are not regularly swept or cleaned.3. The Krystal nail salon business in the retail area, which shares the exit and has a door leading to the fire stairs, often uses the ground level exit corridor as a space to dry their towels. There are often two clothes airers put at the base of the stairs left to dry overnight which seriously restricts/blocks the exit.4. The fire exit door at street level is often propped open using milk crates or other objects as the lift access is regularly broken, despite the door having a sign saying it must be kept shut at all times. This is done by management and security. Residents only access to the building is via the lift, so if the lift is broken they must use the fire stairs. However, residents are not given key fob access to the fire stairs (only building management and security) so in the regular event of the lift being broken the door is kept open using a milk crate.
Date Received	30 January 2020
Premises Address	20-26 Danks Street Waterloo (hereafter "the premises")
Name of Premises	Meriton Sovereign
Date of Inspection	Wednesday, 13 March 2024

1. Investigation Details

The following explains how an Authorised Fire Officer (AFO) may use an investigation officer's powers to report the inspection of the concern.

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- 1A. An AFO may determine whether a breach exists in any codes, policies, or legislation. If the powers of an investigation officer are used, an AFO may assess – whether or not:
 - A. The Provisions for Fire Safety were present at the premises; OR
 - B. Regulation 112 of the Environmental Planning And Assessment (Development Certification And Fire Safety) Regulation 2021 (EPAR2021) was compliant.
- 1B. Based on the written concern, entry to the premises is for:
 - A. Part 15 of EPAR2021 regarding fire notices, fire exit areas, and doors.
- 1C. The AFO may report on the observed areas in the building accessed at the time. Photos may be taken of the areas, including photos of the essential fire safety measures in the areas accessed. The AFO may also note discussions with relevant people.

2. Fire Safety Investigation

The following is provided as part of the inspection:

- 2A. Evidence to Conduct an Investigation
 - A. Entry to the premises revealed that no exits were considered obstructed. As a result, there is insufficient evidence for FRNSW to investigate.
- 2B. Outcomes
 - A. As part of FRNSW's entry to the premises to determine whether an investigation is to be conducted, the following is provided:
 - i. The fire exit areas and doors identified in the concern were not obstructed.
 - ii. The inspection was conducted during business hours during the working week. The allegation that exits were blocked on the weekend could not be established.
 - iii. The concern about the door "*having a sign saying it must be kept shut at all times*" is inconclusive and is not considered an offence requiring enforcement.
 - B. There is insufficient evidence of a violation of the required standard of proof, and does not provide reasonable grounds for FRNSW to conduct an investigation.

3. Possible Non-Conformities

The following comments are provided to the Council for consideration:

- 3A. The following items relate to the exit door beside the café, identified as “Milk Crate” and faces Danks Street may require the Council’s inspection and review:
 - A. The door was observed with a hole through the door.
 - B. The door appeared to be constructed with an FRL requiring certification by an accredited practitioner.
 - C. The occupier of the café advised that this was a “peephole” used by the staff at Coles so that delivery drivers could be identified before entry.
- 3B. Ensuring the exit areas are not obstructed and clean to prevent pedestrians from slipping and that the door and key fob are provided to the residents may be dealt with under a management plan or strata by-law (which includes the weekend).
- 3C. Ensure the owners maintain the essential fire safety systems and meet the local Council’s obligations to regulate the development consent approval.
- 3D. Ensures that an accredited practitioner (fire safety) has assessed, inspected and verified the performance of each fire safety measure (including exits) that applies to the building. Furthermore, the owner submits an Annual Fire Safety Statement (AFSS) as part of their obligations under the EP&A Act.



Edren Ravino
Authorised Fire Officer

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File Ref. No: BFS20/426 (SRID8000010489)
TRIM Ref. No: D24/49038
Contact: Edren Ravino

1 May 2024

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: 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 relates to 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 or call (02) 9742 7434 if you have any questions or concerns regarding the above matters. Please refer to file reference BFS20/426 (SRID8000010489) 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

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F (02) 9742 7483

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INSPECTION REPORT

Date	30 April 2024
Our Reference	BFS20/426 (SRID8000010489)
Reason to Inspect	The Commissioner of FRNSW received a written concern [Section 9.32(2)(c) of the EP&A Act].
Details of Concern	<p>I wanted to report Meriton for failing to fix their emergency evacuation alarm. I am sure it is known to the fire department from the numerous amounts of times that it goes off and your time is wasted coming there.</p> <p>My concern whilst your time is important is more about the safety of the public IF there ever was an emergency. I think no better to the childhood story of the Boy Who Cried, Wolf. I can tell you first hand that the when the emergency alarm goes off most tenants lie in bed screaming at the ceiling rather than evacuating the building at all hours of the night.</p> <p>This alarm goes off so often and so frequently that it no longer serves its purpose of evacuating people and I fear that when something goes wrong this will be the reason for jeopardising the safety of many many people in the area.</p> <p>This alarm is connected to several buildings and could affect the safety of thousands of people.</p> <p>I am aware that each time your department goes out there unnecessarily you fine Meriton 2400. To them, this is pocket change and it is no surprise that they do nothing to fix the problem. I mean the fact that their lifts in our building have been broken for weeks on end is just another indicator of their lack of care for others.</p>
Date Received	13 March 2020
Premises Address	22 Danks Street Waterloo (hereafter "the premises")
Name of Premises	N/A
Date of Inspection	Wednesday, 13 March 2024

1. Investigation Details

The following explains how an Authorised Fire Officer (AFO) may use an investigation officer's powers to report the inspection of the concern.

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- 1A. While inspecting the concern, an AFO may obtain evidence at the premises to establish whether a breach exists in any codes, policies, or legislation.
- 1B. If an AFO uses the powers of investigation officer during the inspection, the use of the powers is to determine whether or not:
 - A. The Provisions for Fire Safety were present at the premises; OR
 - B. Regulation 112 of the Environmental Planning And Assessment (Development Certification And Fire Safety) Regulation 2021 (EPAR2021) was compliant.
- 1C. Based on the written concern, entry to the premises is for:
 - A. The safety of persons in the event of fire.
- 1D. The AFO may report on the observed areas in the building accessed at the time. Photos may be taken of the areas, including photos of the essential fire safety measures in the areas accessed. The AFO may also note discussions with relevant people.

2. Fire Safety Investigation

The following is provided as part of the inspection:

- 2A. Evidence to Conduct an Investigation
 - A. Entry to the premises revealed observations that provided no reasonable grounds to use the powers of an investigation officer.
 - B. The fire brigade panel displayed no faults or isolations for the smoke detection and alarm system. Moreover, the concern relating to occupant behaviour is inconclusive.
- 2B. Outcomes
 - A. As part of FRNSW's entry to the premises to determine whether an investigation is to be conducted, the following is provided:
 - i. While there were no faults or isolations, AFOs observed the Occupant Warning System (OWS) logbook, which identified a line fault.
 - ii. Based on the observations at the time, the fault does not:
 - a. Indicate there are false alarms, which is contrary to the concern.
 - b. The fault does not appear to prevent an automatic notification to emergency services in the event of a fire.

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Nor does the fault prevent the activation of the smoke detection and alarm system.

iii. The line fault to the OWS does not appear to create false notifications, as indicated in the concern, as they are separate systems. As such, the Council has the discretion to maintain the OWS to a standard no less than that specified in the schedule.

B. There is insufficient evidence of a violation of the required standard of proof requiring FRNSW to use its enforcement powers regarding the concern. The Council has discretion over compliance with the development consent and maintenance of the essential fire safety measures to maintain the OWS.

3. Possible Non-Conformities

The following comments are provided to the Council for consideration:

3A. The Council may require a review under Regulation 81(1) of the EPAR2021 to determine whether there is a violation of the required standard of proof concerning the maintenance of the approved essential fire safety measures in the fire safety schedule. To ensure:

A. Each measure is maintained to a standard no less than that specified in the schedule. OR;

B. If no schedule exists, the "original measure" is maintained to a standard no less than originally designed and implemented.

3B. Ensure the owners maintain the essential fire safety systems and meet the local Council's obligations to regulate the development consent approval.

3C. Ensures that an accredited practitioner (fire safety) has assessed, inspected and verified the performance of each fire safety measure (including exits) that applies to the building. Furthermore, the owner submits an Annual Fire Safety Statement (AFSS) as part of their obligations under the EP&A Act.



Edren Ravino
Authorised Fire Officer