

# Factsheet



## Council and Fire Orders

Within NSW, Councils have the authority under the Environmental Planning and Assessment Act 1979 and the Local Government Act 1993 to issue orders to the Owners or Occupiers of premises to require certain actions to be taken. These orders can be given for a large range of reasons but one of the common reasons which is of great interest to Strata Schemes are those orders given requiring works to be carried out to repair or upgrade existing buildings, often referred to as a "Fire Order" or "Structural Order". This fact sheet seeks to outline the common reasons for such Orders, the way in which these Orders are generally given and the actions to take if such an Order is received by your strata scheme. It is noted that although this sheet is written for NSW legislation, similar arrangements exist in other states of Australia.

Who are  
SPMA?

### Common Reasons Council Issue These Orders

Under the Acts noted above, Council have within their powers the options to give Orders to require upgrades or repairs to an existing building *"To do or refrain from doing such things as are specified in the order so as to ensure or promote adequate fire safety or fire safety awareness"*, *"To erect or install on or around a building such structures or appliances as are necessary to protect persons or property on or in a public place"* and to *"To repair or make structural alterations to a building"*. These orders for repairs or upgrades generally stem from one of two key causes.

SPMA are a company of professional consultants who offer our services in client side project management across the construction industry and related fields. SPMA have a long history of successfully delivering our clients projects with a high level of professionalism and technical expertise.

SPMA specialise in the management of complex projects involving remedial works, alterations and additions and works involving large strata schemes. SPMA also have extensive experience in the management of the defect and litigation process on behalf of our clients.

Our services include:

- Project Management
- Remedial Works
- Tender Review
- Feasibility Studies
- Site Inspection & Reporting
- Contract Advice / Admin
- Civil Works
- Litigation
- Diagnostic Investigations
- Defect Reporting
- Fitout Management

### Compliance Upgrades

All new buildings are required to be fully compliant to the applicable Codes/Standards for the time they were built. As building codes and standards are updated over the years there is not generally a requirement for existing buildings to upgrade to meet the new standards through retrospective legislation (save for some occasional exceptions). As a result of this many buildings exist which do not meet current standards and Orders are commonly given by Council to enforce the requirement for these items to be upgraded. An example of some such upgrades commonly seen in Council orders include works such as installation of emergency lighting, compliant balustrades, smoke detection systems through to major works such as hydrant systems, new access stairs or the like.

If you have a project, you think we can help with call us on (02) 9319 6366



## Dilapidation

Where existing buildings have been poorly maintained, structures and services can reach a point of dilapidation where they fail to adequately perform their required functions. Scenarios where Council become aware of such issues represent another common cause for the issuing of orders for works to be carried out. Some examples of common dilapidation items include concrete spalling (concrete cancer), failed retaining walls, failed structural elements, unmaintained emergency systems, etc.

## Notice of Proposed Order

Prior to the issuing of an Order it is required under the Act that a Notice is provided of the intention to give the order which should include:

- The terms of the proposed order, and
- The period proposed to be specified as the period within which the order is to be complied with.

These notices will generally also include a nominated time period (often two weeks) for any submission to be made either to avoid the issuing of the Order or to seek modifications to the requirements of the Order prior to its formal issue. SPMA strongly recommend that Owners who have received such a Notice should seek immediate assistance if any doubt exists as to the requirements proposed. It is **EXTREMELY** important at this stage to review the terms in detail to ensure that they are reasonable in both what is being requested and in the period given for compliance to be achieved. Where they are not reasonable a submission should be made to Council within the nominated time period outlining all requested modifications and the technical basis behind these. All items on a proposed Order are generally open for negotiation providing a reasonable basis for the request exists. Once an Order is issued however it is very difficult to have the Order changed and the only method of appeal is through the Land and Environment Court. Examples of such requested amendments to an order may include proposing alternate methods of protection or compliance from those specified which may be more desirable to Owners, seeking more reasonable time frames for items of major work if these have been underestimated by Council and even avoiding terms within Orders which may not be achievable/certifiable from a practical sense. It is noted that Council have the ability to Order works above and beyond the requirements of the Building Code of Australia and Australian Standards.

## The Order

Once the nominated notice period has passed Council are required to hear and consider any received representations and can then elect to issue the Order either as per the original notice, as per the requested modifications or to not issue the Order at all if applicable.

Once received the Order will list the required works or actions and the time periods for compliance and it is then a matter of proceeding with the works. It is noted that works instructed under such an Order do not require further development consent and can proceed immediately. It is important to act early to tender and commence required works as delays can place undue time pressures on the completion works often resulting in increased costs for the works.

## SPMA'S

## Feature Project

Wunulla Rd,  
Point Piper NSW



Remedial – Alterations & Additions

This challenging and rewarding project comprising of seven (7) existing luxury units encompassed many technical challenges including:

- ❖ Construction of a new underground car park abutting Sydney Harbour.
- ❖ Underpinning/shoring to the existing structure whilst tanking the new underground car park.
- ❖ Construction of a new luxury unit on existing ground level.
- ❖ Removal of building core and installation of a new underground to top floor lift.
- ❖ Construction of new front of building glass façade.
- ❖ Construction of a new in-ground swimming pool and landscaping to all grounds.
- ❖ Remediation of the existing balconies including remove and replace all tiles and waterproofing membrane.

**Winner of the 2012 Master Builders Association - Excellence in Housing Awards for home unit renovation \$5 Million & Over**



## Completion of the Order

Once all works are complete Council will require certification to be submitted confirming the completion and compliance of the new works. Once all certifications are received Council will generally issue a notice that the Order has been complied with and is now satisfied.

## Avoiding Orders

The best way to avoid your building become the subject of such an Order in the first place is to actively ensure that the building is well maintained and to consider voluntarily upgrading some systems to current codes. Works such as exit signage, emergency lighting, smoke detection systems, fire doors, etc are all relatively inexpensive, improve safety and can all go a long way to ensuring that your building does not become a target for Council Orders. If you would like advice on remedial maintenance or voluntary upgrade works, then give us a call.

## Summary

If you receive a Notice of Intention to give an Order from Council, then act quickly. This is the most important stage in the process of ensuring that the Order you receive is correct for your building and does not place undue and sometimes unintended requirements on your building.

SPMA have assisted many Clients through the process of negotiating with Councils to achieve the correct orders for their building and in then managing the completion of the works in a timely and cost effective manner. If you have received a Notice or an Order and need assistance, please call us on (02) 9319 6366

## SPMA

### On Social Media

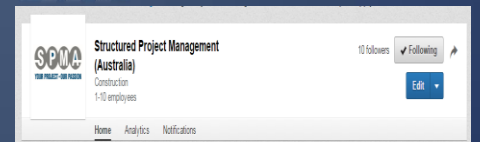
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