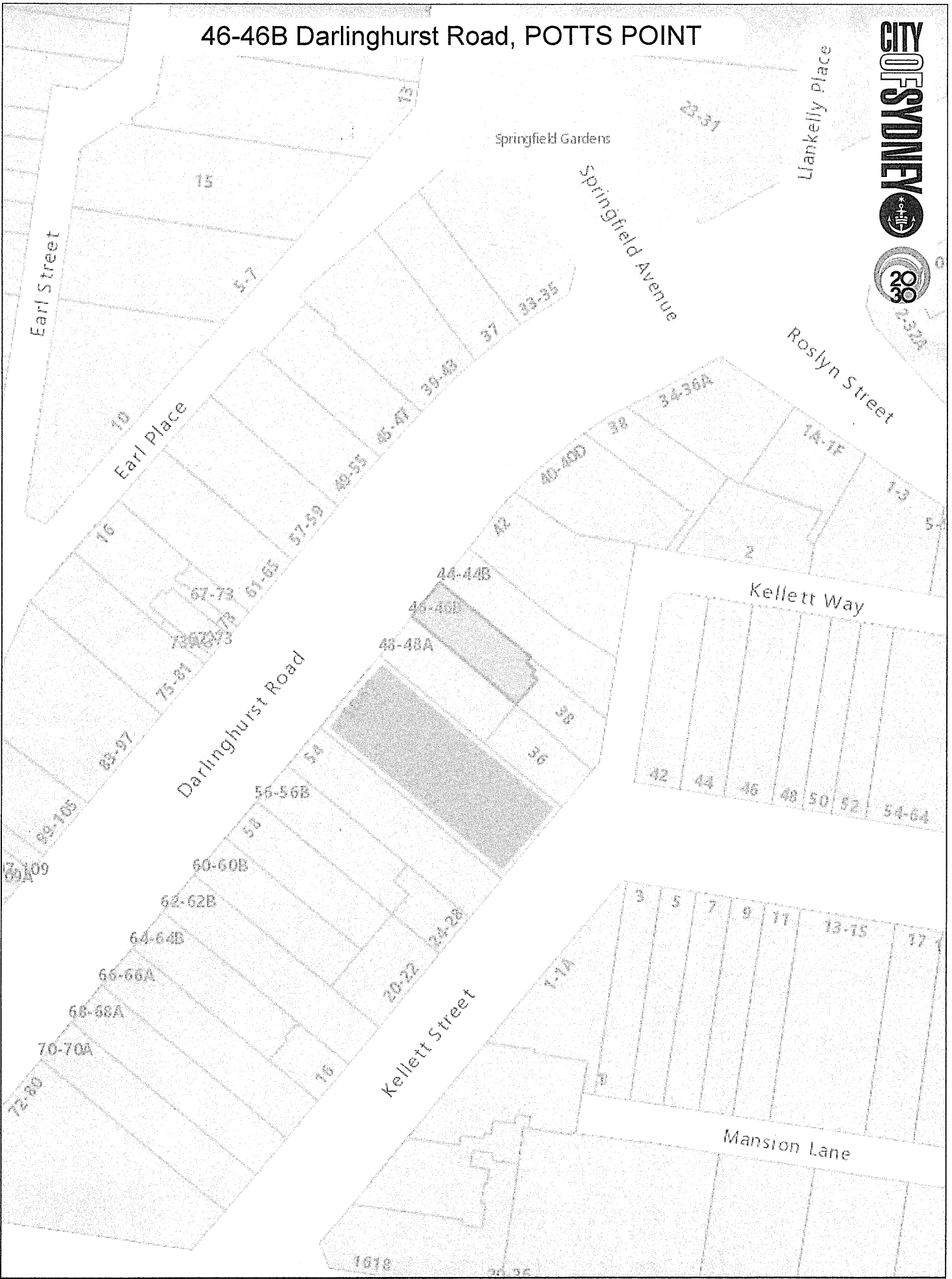


# **Attachment C**

**Council Officer Inspection Report -  
46-46B Darlinghurst Road, Potts Point**

# 46-46B Darlinghurst Road, POTTS POINT

**CITY OF SYDNEY**



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1:750 at A4  
10/10/2018



**Council investigation officer Inspection and Recommendation Report  
Clause 17(2) of Schedule 5, of the Environmental Planning and Assessment Act  
1979 (the Act)**

**File:** CSM 1952778

**Officer:** Michael Merlino

**Date:** 16 October 2018

**Premises:** 46-46B Darlinghurst Road, Potts Point

**Executive Summary:**

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises on 11 September 2018 with respect to matters of fire safety.

The premises consists of a 3 storey building used as retail at ground level and 2 storeys of residential flats above.

The premises was issued with a fire stagey upgrade order by Council on 3 April 1997 and on 13 April 2000. The works under the fire safety upgrade order were completed and subsequently finalised by Council on 13 December 2000.

Council investigations have revealed that the premises are deficient in fire safety and egress provisions in the following areas:

- (i) Lack of suitable fire resisting construction to prevent the spread of fire between floors of the building;
- (ii) A missing fire door to the exit stair that could result in an unsafe emergency egress route for occupants in the event of a fire;
- (iii) Fire safety measures missing from the buildings fire safety schedule.

Council investigations have revealed that the premises are deficient in the provisions for fire safety.

Following investigation, it was determined that a fire safety order under Schedule 5 of the Environmental Planning and Assessment Act, 1979, be issued without further delay so as to address the fire safety deficiencies identified by Council's investigation officer.

The above Order will ensure and promote adequate facilities for fire safety and fire safety awareness.

Observation of the external features of the building did not identify the existence of metallic sheet cladding on the façade of the building.

**Chronology:**

Date	Event
12/9/2018	FRNSW correspondence received regarding premises 46-46B Darlinghurst Road, POTTS POINT.
5/10/2018	An initial desktop review of the subject building revealed that the building has a fire safety schedule and is required to submit annual fire safety statements to Council and FRNSW. The building has a current annual fire safety statement, with the next one due by 1 November 2018. The premises was issued with a fire safety upgrade order by Council on 3 April 1997 and on 13 April 2000. The works under the fire safety upgrade order were completed and subsequently finalised by Council on 13 December 2000.
12/10/2018	An inspection of the subject premises was undertaken by a Council officer which revealed

	<p>the following:</p> <ol style="list-style-type: none"> <li>1. There is no fire separation to the enclosure beneath the stairs located in the restaurant area;</li> <li>2. There is a lack of fire separation provided between the floors of the building;</li> <li>3. The fire doors to each of the residential SOU's are not listed on the buildings fire safety schedule, and therefore may not be maintained.</li> <li>4. There is a fire door missing from the exit stair located on the first floor level;</li> <li>5. The cellar area and stair enclosure of the restaurant are provided with thermal detection in lieu of smoke detection;</li> </ol>

**FIRE AND RESCUE NSW REPORT:**

References: [BFS/18/820 (3110); D18/61380; 2018/479682]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving an enquiry (27/03/2018) about fire doors being chocked open and occupants not evacuating on the sounding of the fire alarm.

Issues:

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

1. Fire rated doors through were not automatically self-closing due to removal of self-closing devices or doors being wedged open;
2. Tags were missing from fire doors.

FRNSW Recommendations

FRNSW have made recommendations within their report. In general FRNSW have requested that Council:

1. Inspect the subject premises and take action to have the identified fire safety issues appropriately addressed;
2. Advise them in writing of its determination in relation to this matter in accordance with the provisions of clause 17 (4) Schedule 5, of the Environmental Planning and Assessment Act 1979

**COUNCIL INVESTIGATION OFFICER RECOMMENDATIONS:**

Issue Order(NOI)	Issue emergency Order	Issue a compliance letter of instruction	Cited Matters rectified	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 a Council investigation officer it was determined that concern for public safety required the giving of a notice of intention (NOI) for a fire safety order to be issued under Schedule 5 of the Environmental Planning and Assessment Act, 1979 without any further delay.

It is recommended that Council note the exercise of powers by Council's investigation officer in issuing a NOI to give a fire safety order in accordance with the above Act prior to the resolution of Council.

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.

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**Referenced documents:**

<b>No#</b>	<b>Document type</b>	<b>Trim reference</b>
A1.	Fire and Rescue NSW report	2018/524677-01
A2.	Locality Plan (cadastre please)	2018/524677-02
A3	Attachment cover sheet	2018/524677-03

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**Trim Reference:** 2018/524677

**CSM reference No#:** 1952778

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File Ref. No: BFS18/820 (3110)  
TRIM Ref. No: D18/61380  
Contact: Station Officer [REDACTED]

11 September 2018

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  
46 DARLINGHURST ROAD POTTS POINT ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 27 March 2018, in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated that:

- *Fire doors throughout are chocked open or missing their closer. Main fire door between front and rear of building is wide open and closer has been pulled off door surround. Manager was contacted last week to rectify asap. This has not occurred.*
- *Occupants do not evacuate on sounding of the alarm.*

Pursuant to the provisions of Section 9.32 (1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an inspection of 'the premises' on 11 April 2018 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

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

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Greenacre NSW 2190

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F (02) 9742 7483

[firesafety@fire.nsw.gov.au](mailto:firesafety@fire.nsw.gov.au)

Unclassified

Page 1 of 3



The inspection was limited to the following:

- A visual inspection of the essential Fire Safety Measures as identified in this report only.
- A conceptual overview of the building, where an inspection had been conducted without copies of the development consent or copies of the approved floor plans.

On behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Section 9.32 (4) and Schedule 5, Part 8, Section 17(1) of the EP&A Act. 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.

## COMMENTS

The following items were identified as concerns during the inspection:

### 1. Compartmentation

- 1A. Multiple fire rated doors throughout the premises were not able close automatically as the automatic self-closing devices on fire doors were either disconnected and/or were wedged open contrary to the requirements of Clause C3.5 of the National Construction Code 2016 Volume One, Building Code of Australia (NCC).
- 1B. Observations at th time revealed multiple tags specifying the FRL of doors appeared to have been removed and were no longer displayed, contrary to the requirements of Australian Standard (AS) 1905.1.

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

## RECOMMENDATIONS

FRNSW recommends that Council:

- a. Inspect and address any other deficiencies identified on 'the premises' and require item no. 1 of this report be addressed appropriately.

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

FIRE AND RESCUE NSW

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Fire Safety Compliance Unit

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Page 2 of 3



Should you have any enquiries regarding any of the above matters, please do not hesitate to contact Station Officer [REDACTED] of FRNSW's Fire Safety Compliance Unit on (02) 9742 7434. Please ensure that you refer to file reference BFS18/820 (3110) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]  
Station Officer [REDACTED]  
Acting Team Leader  
Fire Safety Compliance Unit