

# **Attachment C**

**Inspection Report  
16-28 Foster Street, Surry Hills**



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

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**File:** CSM 2603441

**Officer:** T. Zeljkovic

**Date:** 1 September 2021

**Premises:** 16-28 Foster 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 with respect to matters of fire safety.

The property is a five-storey brick building, circa early twentieth century, located in Foster Street near Campbell Street South, in Surry Hills. This building is not listed as a heritage item or contained within a conservation area under Sydney's Local Environmental Plan 2012. Primarily used as commercial suites, the building also contains a licenced restaurant on the ground level.

The building is subject to a current Council fire safety order issued on 16 March 2021. The specified works includes general maintenance and integration of existing and new fire safety systems, affected by ground level tenancy works.

An inspection of the building was undertaken by a Council investigation officer on 1 September 2021. The inspection did not identify any additional significant fire safety issues that otherwise have been identified within the current fire safety order.

The premises are equipped with numerous fire safety systems (both active and passive) that would provide adequate fire safety provision for occupants in the event of a fire.

Council investigations have revealed that whilst there remains several fire safety "maintenance and management" works to attend to, the overall fire safety systems provided within the subject premises are considered adequate in the circumstances.

It is considered that the cited fire safety deficiencies and works are being addressed through compliance with the current fire safety order. Council has scheduled future inspections to ensure the fire safety order works are carried out to the required specifications.

It is considered that the matters identified by FRNSW have been addressed by the scope of works specified under the above fire safety order, and further, a corrective action letter has been issued to the building owner so as to bring additional attention and urgent response.

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

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## Chronology:

Date	Event
10/08/2021	FRNSW correspondence dated 9 August 2021 received pertaining to their inspection of premises identified as "China Heights", conducted on 26/02/2021 matters raised: <ul style="list-style-type: none"><li>• lack of the annual fire safety statement and hydrant/sprinkler block plans being present, limited access to sprinkler control valves, and general comments pertaining to fire sealing/compartments, access &amp; egress and doors being wedged open.</li><li>• FRNSW was in receipt of correspondence pertaining to a historical fire incident and warning, sprinkler and storage issues</li></ul>
12/08/2021	A review of City records was undertaken by a Council officer which revealed that the premises has been subject to a number of development works and approvals.
20/08/2021	Written request sent to owner regarding maintenance items raised by FRNSW
01/09/2021	Premises inspected by a Council officer, revealed: <ul style="list-style-type: none"><li>- restaurant closed</li><li>- base building sprinkler and fire detection systems online/ no faults, sprinkler block plan present, no storage issues, egress clear</li><li>- maintenance issues pertaining to open doors, hydrant block plan/ AFSS not present and fire link query.</li><li>- a compliance letter was issued to the owner requiring rectification of matters within 30 days</li></ul>

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## **FIRE AND RESCUE NSW REPORT:**

References: [BFS19/3005, D21/89257]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving an enquiry about an historic fire incident and claims of inoperative fire safety equipment. The inspection was carried out on 26 February 2021.

### Issues

The report from FRNSW detailed a number of issues, in particular noting the lack of display of fire safety certification, absence of required fire system plans, queries on means of egress, and deficiencies with fire compartmentation.

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

### FRNSW Recommendations

FRNSW has recommended that Council inspect and address the items identified within their report and any other fire safety deficiencies that may be determined by Council at the premises.

FRNSW has referred this matter 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.

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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	Council investigation officer inspect the building and prepare a further report for the next meeting of Council
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As a result of the above site inspection undertaken by Council investigation officers it is recommended that the owners of the building continue to comply with the written fire safety compliance instructions as issued by Council officers to rectify the identified fire safety deficiencies noted by FRNSW.

Follow-up compliance inspections are currently being undertaken and will continue to be undertaken by a Council officer to ensure all identified fire safety matters are suitably addressed and that compliance with the terms of Councils correspondence occur.

It is recommended that Council not exercise its powers to issue a fire safety order at this time.

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

**Referenced documents:**

No#	Document type	Trim reference
A1.	Fire and Rescue NSW report	2021/354499

**Trim Reference:** 2021/389075

**CSM reference No:** 2603441

Unclassified



File Ref. No: BFS19/3005 (8812)  
TRIM Ref. No: D21/89257  
Contact: [REDACTED]

9 August 2021

General Manger  
City of Sydney Council  
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: INSPECTION REPORT  
'CHINA HEIGHTS'  
16-18 FOSTER STREET SURRY HILLS ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence, in relation to a fire incident at 'the premises', as a result a fire safety concern was lodged.

The correspondence stated in part that:

*...No Sprinkler bell not operating, no indication on FIP that sprinklers operating, FIP in fault, ASE not operational.*

*Warning system (EWIS) not working on arrival, luckily occupants raised the alarm verbally throughout the building.*

*The Rep from the building owners (redacted) attended and I handed the building over to him, he had workers onsite to repair the sprinkler system as well as work out what is going on with the FIP and ASE.*

*there was also debris stored in front of FIP and Sprinkler Valve cupboard.*

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 26 February 2021 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

Fire and Rescue NSW

ABN 12 593 473 110

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Fire Safety Compliance Unit

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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

<b>Date / Time of Fire:</b>	11 September 2019; 15:09 hrs
<b>Extent of Fire:</b>	Confined to level one of "the premises."
<b>Damage:</b>	Fire, smoke and water damage
<b>Type of Alarm:</b>	Triple zero call (000)

Please be advised that this report is not an exhaustive list of non-compliances. The proceeding items are limited to observations of the building accessed at the time of the inspection and identifies possible deviations from the National Construction Code 2019, Volume 1 Building Code of Australia (NCC). FRNSW acknowledges that the deviations may contradict development consent approval or relate to the building's age. It is therefore council's discretion as the appropriate regulatory authority to consider the most appropriate action.

FRNSW noted the following during the investigation of this incident:

1. Essential Fire Safety Measures
  - 1A. Annual Fire Safety Statement (AFSS) – Clause 177(3)(b) of the Environmental Planning and Assessment Regulation 2000 the statement must be prominently displayed in the building, at the time of the inspection the AFSS could not be located. An inspection and a review of council's records may be required.
  - 1B. Sprinkler System Generally – Clause 8.3 of Australian Standard AS2118.1:2017 – "Automatic Fire Sprinkler Systems - General systems", requires the installation of a block plan. The plan must display the protected building, including the position of the main stop valve and other specific information. The plan should be placed adjacent to each set or group of installation control assemblies where it can be readily seen by

firefighters and others responding to the alarm. At the time of the inspection, a block plan could not be located as access to the various cabinets were locked.

2. Access & Egress

2A. Alternative Solution – As an Annual Fire Safety Statement (AFSS) could not be located at the time of the inspection, it was difficult to establish whether an alternative solution has been applied to the building. As such the following observations may require council review its records to confirm whether an approval has been granted:

A. Egress Strategy – Performance Requirement DP4 and DP6 of the NCC specifies the requirements for exits and path of travel to an exit. The second stairwell on the northern side of the building appears to create a second exit from the various storeys, and consists of lightweight construction to create a fire isolated stairwell.

B. Paths to an Exit – Clause 184 of the Environmental Planning and Assessment Regulation 2000 (EPAR) requires that anything in the path of travel leading to a building's fire exit, including a stairway, passageway or ramp serving as (or forming part of) a building's fire exit, must not impede the free passage of occupants. It appears that the common stairwell providing access from Foster Street to the various tenancies and storeys is also a fire isolated stairwell. At the time of the inspection a security roller door on the first storey was installed and locked shut to the vacant tenancy.

3. Compartmentation

3A. Compartmentation – Performance Requirement CP2, CP4 and CP8 of the NCC, specifies the requirements to prevent the spread of fire to exits, SOUs, public corridors, openings, and penetrations, subject to confirmation that the northern stairwell and common stairwell have been approved the following observations were noted:

A. The elevator within the common stairwell appears to include a fire rated enclosure. The enclosure consists of a door that covers the elevator. The door includes a self-closing mechanism. A number of doors to the elevator were wedged open preventing the door from closing.

B. Similarly, there were numerous doors on different storeys within the common stairwell that led to hallways and onto other tenancies. The subject doors appeared to be fire rated and were also wedged open.

C. There was pink foam observed in and around both the northern stairwell and common stairwell. The pink foam appeared to seal numerous openings and penetrations. A review may be required

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to confirm whether this method of fire stopping has been approved as part of the propriety fire rated systems.

4. Generally

- 4A. Access – Entry to the sprinkler control valves at the time of inspection was restricted, as the door was fitted with a lock that restricts access for emergency services. Typically, a 003-lock compatible with FRNSW access key is preferred.

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 through to item no. 4 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.

Should you have any enquiries regarding any of the above matters, please do not hesitate to contact [REDACTED] of FRNSW's Fire Safety Compliance Unit on (02) [REDACTED]. Please ensure that you refer to file reference BFS19/3005 (8812) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

[REDACTED]

Fire Safety Compliance Unit