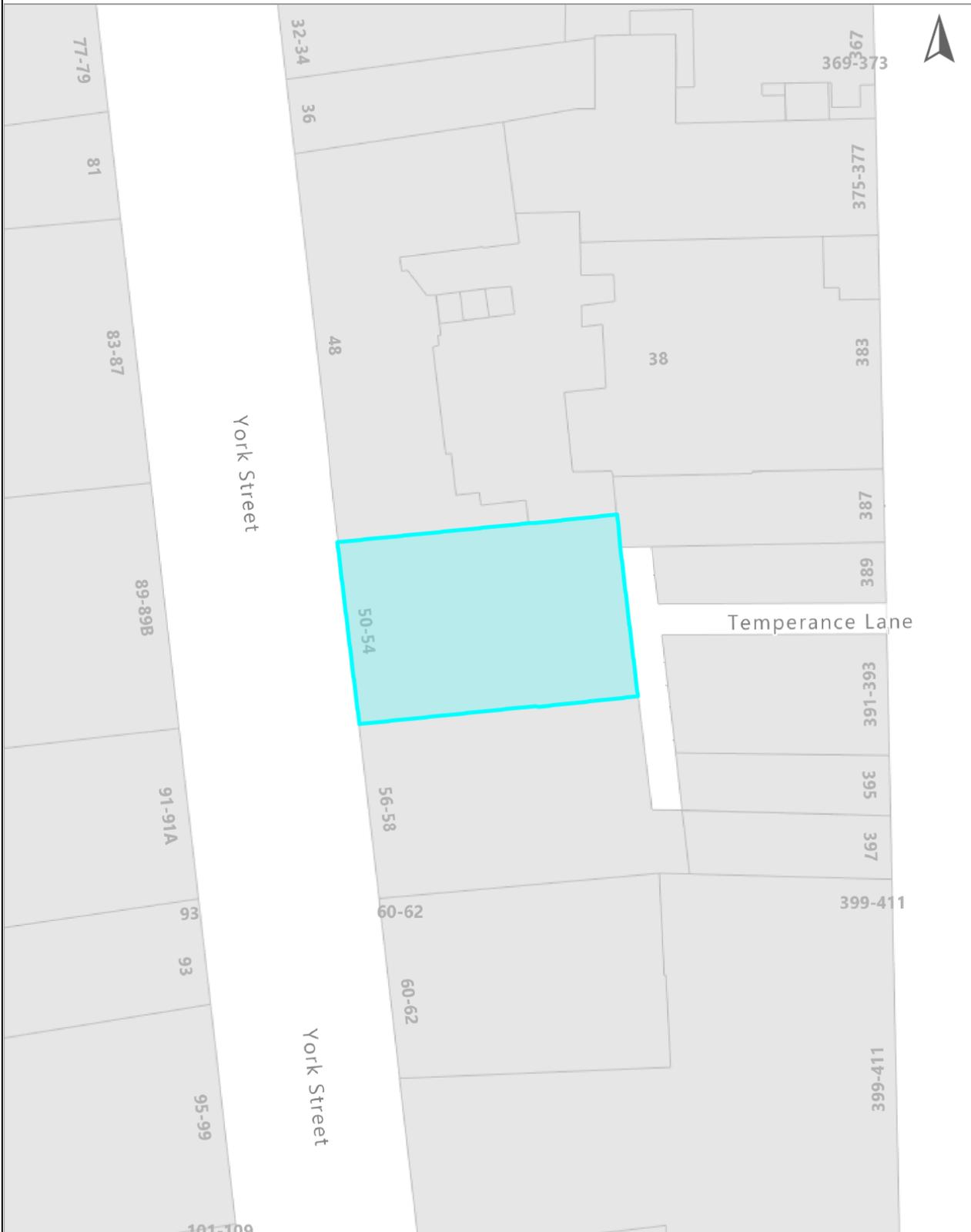


Attachment D

**Inspection Report
50-54 York Street, Sydney**

50-54 York Street, Sydney (1 Temperance Lane)



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Notes

27/09/2021

**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 2593341

Officer: Ashley Host

Date: 30 September 2021

Premises: 50-54 York Street, Sydney ('York House')

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 site contains an eight (8) storey mixed use commercial and office building known as 'York House' located on the eastern side of York Street with rear lane access to Temperance Lane. The ground and basement level are partially occupied by Esteban Restaurant, the subject of FRNSW's correspondence. The building is a heritage item under the Sydney Local Environmental Plan 2012.

An inspection of the premises undertaken by a Council investigation officer in the presence of the Esteban restaurant manager revealed that the premises are deficient in fire safety and egress provisions in the following areas:

- (i) Inadequate facilities to suppress fire (*the fire sprinkler system does not extend to all basement areas*)
- (ii) Deficient fire resisting construction to prevent the spread of fire (*the door located between the restaurant and the basement lift lobby is not tagged to indicate its fire rating, non-fire rated door frame, door lacks self-closing device*)
- (iii) Provision of safe and dignified emergency egress for occupants to safely evacuate the building in the event of a fire (*exit signage to principal entry/exit missing; items are being stored in exit paths of travel; lack of signage warning against interfering with exit door*)
- (iv) Lack of current annual fire safety certification on display

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 so as to ensure and promote adequate facilities for fire safety/fire safety awareness.

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

Chronology:

Date	Event
21.07.2021	FRNSW correspondence received regarding premises 50-54 York Street, Sydney
28.09.2021	An inspection of the subject premises was undertaken by Council investigation officer when the premises reopened for takeaway trading.

FIRE AND RESCUE NSW REPORT:

References: BFS20/3699 (13709), D21/84323, 2021/328421

Fire and Rescue NSW inspected the subject premises on 16 March 2021 after receiving correspondence in relation to the adequacy of the provision for fire safety in connection with the premises, namely that dining tables within the restaurant were blocking a required fire exit.

Issues

FRNSW investigations reported issues with regards to access and egress (fire safety) requirements, and the suitability of a fire door.

FRNSW Recommendations

FRNSW recommended that Council inspect and address any other deficiencies identified on 'the premises and require item no. 1A and 1B of their report be appropriately addressed.

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 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 the Council investigation officer. The NOI has been drafted and sent to Council's heritage team and to the NSW Heritage Council for comment, prior to sending to the building owners. Further inspections will be carried out to remedy more urgent fire safety concerns.

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 documents:

No#	Document type	Trim reference
A1.	Council Officer Report	2021/421981

Trim Reference: 2021/421981

CSM reference No#: 2593341

Unclassified



File Ref. No: BFS20/3699 (13709)

TRIM Ref. No: D21/84323

Contact: [REDACTED]

21 July 2021

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear Sir / Madam

**Re: INSPECTION REPORT
'ESTEBAN RESTAURANT'
1 TEMPERANCE LANE SYDNEY ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 19 November 2020, in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated that:

This restaurant is underground. In the middle of each table is a lit candle. 2 tables block the exit onto 50 York Street as shown in photos. The tables are directly under the exit sign. In the event of a fire, if the main entry stairs are not accessible the occupants of the tables that block the door would have to move the tables to get access to the emergency exit and these tables could block others from escaping. Restaurant had only been opened for 4 weeks.

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 16 March 2021 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

The inspection was limited to the following:

- A visual inspection of the essential Fire Safety Measures as identified in this report only.

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

Firesafety@fire.nsw.gov.au

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Unclassified

Unclassified

- 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

This report is limited to observations and sections of the building accessed at the time of the inspection. As such, this report lists potential deviations from the National Construction Code 2019 Building Code of Australia – Volume One Amendment 1 (NCC). Please be advised that whilst the report is not an exhaustive list of non-compliances, the items as listed may relate to the building's age or contradict development consent approval. In this regard, it is at council's discretion as the appropriate regulatory authority to consider the most appropriate action and determine whether an investigation is required.

The following items were identified as concerns during the inspection:

1. Access & Egress

- 1A. Path of Travel - At the time of the inspection, a table and chair were observed in front of the exit door on the lower ground floor section of the restaurant. When this was noted to management, they advised that the table and chair was temporarily positioned in front of the exit door to accommodate a staff meeting which had just concluded. The table and chair were moved and the path to the exit was cleared. It may be in council's interest to review its records regarding the approved floor plan layout of the restaurant.
- 1B. Fire Door – The abovementioned exit door provides egress to a common area lobby appears to be a separate fire compartment. In that regard, the following is noted:
 - A. The door did not incorporate a self-closing device, therefore the door failed to return to the fully closed position after each opening, contrary to the requirements of Clause C3.4 of the NCC.
 - B. No signage has been installed on the door to achieve compliance with the requirements of D2.23 of the NCC.
 - C. No metal tag has been attached to the edge of the door set, contrary to the requirements of Clause 6.1 of AS 1905.1-2015.

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

RECOMMENDATIONS

FRNSW recommends that Council:

Inspect and address any other deficiencies identified on 'the premises', and require item no. 1A & 1B 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 BFS20/3699 (13709) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

Fire Safety Compliance Unit