

# **Attachment B**

**Inspection Report  
81-81A (formerly 69-81) Foveaux Street  
Surry Hills**

# 81-81A Foveaux Street Surry Hills



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Notes

17/05/2022

**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)**

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**File:** CSM 2748908

**Officer:** T. Zeljkovic

**Date:** 12 May 2022

**Premises:** 81-81A (formerly 69-81) Foveaux Street, Surry Hills

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**Executive Summary:**

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) on 28 March 2022 in relation to the premises 81-81A Foveaux Street Surry Hills, with respect to matters of fire safety.

FRNSW's inspection resulted from the 'Project Remediate' program being undertaken by the NSW Department of Customer Service, which is a three-year program to help remove combustible cladding on buildings throughout NSW. The City has an estimated twenty-eight affected buildings within the local government area.

The premises consist of a six storey masonry building with basement carparking, primarily used as residential units, with ground/basement commercial tenancies including a gymnasium. The residential and commercial tenancies are subject of separate stratum contained within the one building. FRNSW referred to the premises as 69-81 Foveaux Street, Surry Hills, however City records indicate the premises address has been updated and is identified as 81 and 81A Foveaux Street, Surry Hills.

The subject premises is fitted with an area of combustible cladding. The City's cladding compliance team have issued a fire safety notice requiring cladding removal and replacement. Appropriate precautionary interim fire safety measures are currently in place to assist in safeguarding occupants whilst cladding removal and replacement works are scheduled. The interim measures include raising site cladding risk awareness with all building occupants; the removal of potential fire hazards/processes from critical potential fire start areas; the introduction of site management procedure plans and or temporary rules to carefully manage hot/building maintenance works and the implementation of any expert given recommendations.

An inspection of the premises undertaken by a Council investigation officer in the presence of the building manager revealed there were no other significant fire safety issues occurring within the building.

The premises are equipped with numerous fire safety systems (both active and passive) that would provide adequate provision for fire safety for occupants in the event of a fire. The annual fire safety certification is on display, within the building in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000.

Council investigations have revealed that whilst there remains several minor fire safety "maintenance and management" works to attend to, which include updating the pressure signage/block plan, clearing a smoke curtain panel fault, upgrading a lock, two handles and minor hydrant maintenance, the overall fire safety systems provided within the building are considered adequate.

It is considered that the above fire safety concerns are of a degree which can be addressed by routine preventative and corrective maintenance actions undertaken by the owner's fire service contractor(s) through written instruction from Council.

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**Chronology:**

<b>Date</b>	<b>Event</b>
28/02/2022	FRNSW correspondence received, the correspondence dated 22 March 2022 regarding their attendance(s) to premises 69-81 Foveaux St Surry Hills, updated and referred to in City property records as 81 & 81A Foveaux Street Surry Hills.
29/02/2022	A desktop audit and review of City records revealed: <ul style="list-style-type: none"><li>- Development consent was issued for a six storey mixed use building with ground floor retail, fifty-three residential apartments and basement car parking [D/2013/1777]</li><li>- Private Certified Construction certificates (CC) issued pertaining to approved work.</li><li>- Stratum subdivision approved [S/2017/6]</li></ul> Fire Safety Order issued pertaining to replacement of cladding issued 26 July 2021 [FIRE/2021/46]
08/04/2022	Site inspection was undertaken by a Council officer accompanied by the building manager, which revealed the following: <ul style="list-style-type: none"><li>- annual fire statement present, requires updated version (noting the Fire Order)</li><li>- hydrant block plan, floor layout inaccurate - ground level exits</li><li>- hydrant booster door lacked hold open device and pressure/boost signage</li><li>- hydrant valves maintenance tags not updated</li><li>- pump room lacked 003 key lock, an exhaust pipe partially protected/lagged, signage/block plan/ maintenance books required</li><li>- smoke curtain panel adjacent lift noted a fault</li><li>- egress door rear of foyer/commercial, hardware required adjusting</li><li>- commercial tenancy No. 2 door-closer door faulty</li></ul> Issues specifically raised by FRNSW and responses to those issues, are summarised in the following table.
13/04/2022	A corrective action letter was issued, pertaining to maintenance matters and required repairs [CSM 2748908]

## FIRE AND RESCUE NSW REPORT:

References: [BFS21/4894; D/22/21936]

Fire and Rescue NSW conducted an inspection of the subject premises after becoming aware of cladding issues related to building.

Issues: The report from FRNSW detailed the following issues:

Issue	City response
<p>1. <u>Essential Fire Safety Measures</u></p> <p>1A, A(i-iii) <u>Fire hydrant system</u> – Booster assembly</p> <ul style="list-style-type: none"> <li>• Doors to the booster enclosure not fitted with a device capable of securing the door, in not less than a 90-degree open position.</li> <li>• The block plan depicted incorrect layout of ground floor exits.</li> <li>• Booster and test pressure signage not provided, contrary to AS2419.1-2005</li> </ul>	<p>Corrective action letter issued, requiring a new door open device, updated block plan depicting existing/approved layout and approved pressure(s)/ signage.</p>
<p>1A, B (i-iii) <u>Fire hydrant pumpset/pumproom</u></p> <ul style="list-style-type: none"> <li>• Pump room access door (Sofia Street), was not fitted with 003 Key or a lever handle, preventing direct access from the street.</li> <li>• A block plan of the fire hydrant system not provided within pump room.</li> <li>• Exhaust system to diesel pumpset not suitable guarded/ lagged.</li> </ul> <p>All the above contrary to AS2941</p>	<p>Corrective action letter issued, requiring upgrade of a 003 lock and or / FRNSW local command liaison, updated block plan depicting existing/approved layout and additional protection for the exhaust pipe.</p>
<p>1A, C, (i-ii) <u>Maintenance</u></p> <ul style="list-style-type: none"> <li>• Service records for fire hydrant diesel pumpset last conducted July 2021, not tested monthly as per Section 3 AS1851-2012 Cl of 81 of Environmental Planning and Assessment Regulation 2021</li> <li>• Hydrant valve service tags nominate March 2021 contrary to Section 4 of AS1851-2012 and Clause 81 of the EPAR 2021</li> <li>•</li> </ul>	<p>Corrective action letter issued; requiring hydrant system maintenance check/ certification to be furnished and retention of records on site.</p>

Issue	City response
<p>1 B <u>Fire Doors</u></p> <ul style="list-style-type: none"> <li>Tenancy No. 2 back of house corridor, fire door failed to fully self-latch in closed position contrary to requirements of NCC and AS1905.1</li> </ul>	<p>Corrective action letter issued; requiring repairs to door closer and furnishing certification attesting to compliance.</p>
<p>1C <u>Fire and Smoke Curtains</u></p> <ul style="list-style-type: none"> <li>The control panel for the western lift ground level lobby inside fire stair, displaying a fault, shut down battery, not being maintained contrary to Clause 81 of the EPAR 2021</li> </ul>	<p>Corrective action letter issued; requiring; repairs to system and furnishing certification attesting to compliance.</p>
<p>2. <u>Additional Comments</u></p> <p>2A. <u>Access and Egress</u> –</p> <ul style="list-style-type: none"> <li>The basement 1 car park requiring 2 exits currently necessities access via Bunker tenancy. Door is not readily openable without a key from car park side, (contrary to Clause D of the NCC Volume one of Building Code of Australia), unable to determine if fitted with fail safe device which would unlock upon activation of smoke detection system</li> </ul>	<p>Corrective action letter issued/ liaison with fire contractor pertaining to replacement of door hardware and proposed follow up inspection</p>

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

#### FRNSW Recommendations

FRNSW have made a recommendation within their report and FRNSW have requested that Council:

1. Inspect and address items 1 and consider item 2 and any other deficiencies identified on the premises, and to require 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) of Schedule 5 of the Environmental Planning and Assessment Act 1979

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**COUNCIL INVESTIGATION OFFICER RECOMMENDATIONS:**

Note issue of a fire safety Order by delegated authority (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 the above site inspection undertaken by Council's investigation officer it is recommended that the owners of the building continue to comply with the written fire safety compliance instructions as issued by Council's officer 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 investigation officer to ensure already identified fire safety matters are suitably addressed and that compliance with the terms of Councils correspondence and the recommendations of FRNSW occur.

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

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

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**Referenced/Attached Documents:**

2022/277580 -01	FRNSW S9.32 report dated 22 March 2022
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**Trim Reference:** 2022/277580

**CSM reference No#:** 2748908

Unclassified



File Ref. No: BFS21/4894 (18736)  
TRIM Ref. No: D22/21936  
Contact: [REDACTED]

22 March 2022

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  
69-81 FOVEAUX STREET, SURRY HILLS ("the premises")**

In response to the Project Remediate programme being undertaken by the NSW Department of Customer Service, to remove high-risk combustible cladding on residential apartment buildings in NSW, an inspection of 'the premises' on 18 March 2022 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW), pursuant to the provisions of Section 9.32(1)(b) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

In this instance, the inspection revealed fire safety concerns that may require Council as the appropriate regulatory authority to use its discretion and address the concerns observed at the time of the inspection.

In this regard, 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.

Fire and Rescue NSW	ABN 12 593 473 110	<a href="http://www.fire.nsw.gov.au">www.fire.nsw.gov.au</a>
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](http://www.fire.nsw.gov.au) Page 1 of 4

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## COMMENTS

Please be advised that this report is not an exhaustive list of non-compliances. The proceeding items outline concerns in general terms, deviations from the fire safety provisions prescribed in Section 9.32(1)(b) of the EP&A Act and Clause 112 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR 2021).

The following items were identified as concerns at the time of the inspection:

### 1. Essential Fire Safety Measures

#### 1A. Fire Hydrant System:

##### A. The hydrant booster assembly:

- i. The doors to the booster enclosure were not fitted with a device capable of securing the door in not less than a 90° open position, contrary to the requirements of Clause 7.9.2 of AS2419.1-2005.
- ii. Block Plan - The block plan at the booster is located within the adjacent enclosure to the booster assembly and is not installed in a location that can readily be seen, contrary to the requirements of Clause 7.11 of AS2419.1-2005. Furthermore, the diagrammatic layout of the building as depicted on the block plan is incorrect. In this regard, the arrangement and discharge of the ground floor exits differs from to the 'as built' layout.
- iii. Boost pressure and test pressure signage was not provided at the booster assembly, contrary to the requirements of Clause 7.10.1 of AS 2419.1-2005.

##### B. The hydrant pumpset/pumproom:

- i. The access door providing entry into the hydrant pump from Sofia Street was not fitted with a 003 lock compatible with FRNSW access key and the lever handle associated with the door hardware had been removed, therefore preventing direct access from the street.
- ii. A block plan of the fire hydrant system had not been provided within the pumproom, contrary to the requirements of Clause 7.11 of AS 2419.1-2005.
- iii. The exhaust system to the diesel pumpset was not suitably guarded or lagged to prevent fire hazards and injuries to operators, contrary to the requirements of Section 9 of AS 2941-2013.

C. Maintenance:

- i. Service records for the fire hydrant diesel pumpset indicated the last routine service was in July 2021, indicating the pump had not been inspected and tested on a monthly basis, contrary to the requirements of Section 3 of AS 1851–2012 and Clause 81 of the EPAR 2021.
- ii. The hydrant booster assembly and the hydrant valves throughout 'the premises' contained service labels/tags which indicated the hydrants have not received any routine servicing since March 2021, contrary to the requirements of Section 4 of AS 1851-2012 and Clause 81 of the EPAR 2021.

1B. Fire Doors:

- A. The fire door at the rear of retail tenancy No.2, into the back of house corridor, failed to fully return to the closed position (and self-latch) immediately after each manual opening when tested, contrary to the requirements of Clause C3.5 of the NCC and AS1905.1. In this regard the base of the door was wedging open on the tactile indicators.

1C. Fire and Smoke Curtains:

- A. The fire and smoke curtain control panel for the western lift at the ground floor lobby, which is located inside the fire stair above the fire stair discharge door into the lobby, was displaying a 'Fault' along with the following message "Shut down very low battery", indicating the system had not been maintained, contrary to the requirements of Clause 81 of the EPAR 2021.

FRNSW is therefore of the opinion that the fire safety provisions prescribed for the purposes of 9.32(1)(b) of the EP&A Act, have not been complied with.

**ADDITIONAL COMMENTS**

In addition to the items identified above, relating to the Fire Safety Provisions prescribed by Clause 112 of the EPAR 2021, the following items were also identified as concerns at the time of the inspection and it would be at council's discretion as the appropriate regulatory authority to conduct its own investigation and consider the most appropriate action.

2. Generally

2A. Access and Egress:

- A. Access to exits and operation of latch – The Basement 1 carpark level which requires not less than 2 exits in accordance with D1.2(c) of the National Construction Code Volume One Building Code of

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Australia (NCC), necessitates passing through another SOU ('The Bunker' tenancy) in order to gain access to the second exit, contrary to the requirements of Clause D1.2(g) of the NCC. Furthermore, the door was not readily openable without a key from the side that faces a person seeking egress (i.e. the door was locked on the carpark side), contrary to the requirements of Clause D2.21(a) of the NCC and it is unclear whether the door is fitted with a fail-safe device which automatically unlocks the door upon activation of the smoke detection system installed in the building in accordance with the requirements of Clause 2.21(iv) of the NCC.

## RECOMMENDATIONS

FRNSW recommends that Council:

- a. Inspect and address item no. 1 of this report.
- b. Give consideration to the other deficiencies identified on 'the premises' identified in item no. 2 of this report.

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 [REDACTED]. Please ensure that you refer to file reference BFS21/4894 (18736) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

[REDACTED]  
Fire Safety Compliance Unit