

# **Attachment D**

**Inspection Report  
249 George Street, Waterloo**



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Notes

24/05/2024

**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)**

**File:** CSM 3180962

**Officer:** Tanya O'Casey

**Date:** 24 May 2024

**Premises:** 'Joseph Banks' Building 249 George St Waterloo

**Executive Summary:**

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject site on 7 May 2024 with respect to matters of fire safety.

The site, known as the 'Joseph Banks' building consists of a 17 storey residential building with two levels of carparking on the ground and basement levels.

Inspections of the building undertaken by a Council investigation officer revealed that the premises have sprinklers installed in the common areas of each level.

The building is equipped with numerous fire safety systems (both active and passive) that provide adequate provision for fire safety.

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

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

**Chronology:**

| Date       | Event   |
|------------|---|
| 07/05/2024 | FRNSW correspondence received regarding premises "Joseph Banks Building" 249 George St Waterloo.  |
| 24/05/2024 | An inspection of the subject premises was undertaken by a Council officer and revealed the generally the fire services within the building were being maintained. <ul style="list-style-type: none"><li>- Automatic fire suppression sprinkler system accurate block plan not provided.</li><li>- No annual fire safety statement is displayed within the building.</li></ul> |
| 30/05/2024 | Prepared and sent a corrective action letter, requiring the building owners to address all relevant maintenance/non-compliant issues to ensure that fire safety measures are being maintained to the required standard of performance.  |

**FIRE AND RESCUE NSW REPORT:**

**References:**

Fire and Rescue NSW conducted inspections of the subject site on 1 May 2024 in response to correspondence received concerning the adequacy of the provision of fire safety in connection with 'the premises'.

**Issues** The report from FRNSW detailed a single issue:

| Ref. | Issue  | City response  |
|------|--|--|
| 2B.  | <p>Outcomes</p> <p>A. As part of FRNSW's entry to the premises to determine whether an investigation is to be conducted, the following is provided:</p> <ul style="list-style-type: none"> <li>i. Entry was provided by the security officer.</li> <li>ii. The annual fire safety statement and logbooks displayed regular maintenance of the essential fire safety measures.</li> <li>iii. Sprinklers were installed on the premises. The block plan identified a combined sprinkler and hydrant booster.</li> <li>iv. The installed sprinklers were identified as protecting the ground floor lobby and carpark only.</li> </ul> <p>B. FRNSW acknowledges that the age of the building may contribute to the possible non-conformities from the current building code.</p> <p>C. There is insufficient evidence of a violation of the required standard of proof requiring FRNSW to use its enforcement powers regarding the concern. Compliance with the development consent and maintenance of the essential fire safety measures are at the Council's discretion.</p> | <p>Site inspection confirmed sprinkler protection throughout whole building.</p> <p>Corrective action letter issued to modify the block plan to include location of all sprinklers.</p>                                    |
| 3A.  | <p>The Council may require a review under Regulation 81(1) of the EPAR2021 to determine whether there is a violation of the required standard of proof concerning the maintenance of the approved essential fire safety measures in the fire safety schedule. To ensure:</p> <ul style="list-style-type: none"> <li>A. Each measure is maintained to a standard no less than that specified in the schedule. OR;</li> <li>B. If no schedule exists, the "original measure" is maintained to a standard no less than originally designed and implemented.</li> </ul>  | <p>The owners have confirmed that existing measures are being maintained. No further action required.</p>  |
| 3B.  | <p>Ensure the owners maintain the essential fire safety systems and meet the local Council's obligations to regulate the development consent approval.</p>   | <p>The owners have confirmed that existing measures are being maintained. No further action required.</p> <p>The owners have been required to display an Annual Fire Safety Statement in the corrective action letter.</p> |
| 3C.  | <p>Ensures that an accredited practitioner (fire safety) has assessed, inspected and verified the performance of each fire safety measure (including exits) that applies to the building. Furthermore, the owner submits an Annual Fire Safety Statement (AFSS) as part of their obligations under the EP&amp;A Act.</p>   | <p>The owners have confirmed that existing measures are being maintained. No further action required.</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. In general FRNSW have requested that Council:

1. Inspect the subject premises and review and suitably address item no.1 of their report.
2. Give consideration to and address any other deficiencies identified on 'the premises'.
3. 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:**

| 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 site inspection undertaken by a Council investigation officer the owners of the building were issued with written instructions to rectify the identified fire safety deficiencies noted by FRNSW and the Council investigation officer.

The written instructions direct the owners of the premises to carry out remedial actions to the existing fire systems to cause compliance with the required standards of performance.

Follow-up compliance inspections will be undertaken by the Council investigation officer to ensure the identified fire safety matters are suitably addressed and compliance with the terms of Councils correspondence and the recommendations of FRNSW are satisfied.

It is recommended that Council not exercise its powers to give a fire safety order at this time, and that the Commissioner of FRNSW be advised of Council's actions and determination.

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### **Referenced/Attached Documents:**

|  |  |
|--|--|
|  | FRNSW S9.32 report dated 07 May 2024                               |
|  | Copy of written instructions to building owners dated 30 May 2024. |

**Trim Reference:**

**CSM reference No#: 3180962**

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File Ref. No: BFS19/3938 (SRID8000009727)  
TRIM Ref. No: D24/50238  
Contact: Edren Ravino

7 May 2024

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 General Manager

**Re: SECTION 9.32(4) – INSPECTION REPORT**

Pursuant to Section 9.32(4) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Fire and Rescue NSW (FRNSW) provides this report to the Council of the inspection conducted by Authorised Fire Officers under Section 9.32 of the EP&A Act.

The attached report relates to the fire safety concern only. It may include, amongst other observations, a brief list of building non-conformities relating to the fire safety concern that the Council may need to determine are of a nature or scale regarded as a significant fire safety issue warranting further investigation as part of the Council's Development Control Enforcement Policy.

Please do not hesitate to contact Edren Ravino of FRNSW's Fire Safety Compliance Unit at [FireSafety@fire.nsw.gov.au](mailto:FireSafety@fire.nsw.gov.au) or call (02) 9742 7434 if you have any questions or concerns regarding the above matters. Please refer to file reference BFS19/3938 (SRID8000009727) concerning this correspondence.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Edren Ravino".

Edren Ravino  
Senior Building Surveyor  
Fire Safety Compliance Unit

Fire and Rescue NSW

ABN 12 593 473 110

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## INSPECTION REPORT

|                           |   |
|---------------------------|---|
| <b>Date of Report</b>     | 1 May 2024  |
| <b>Our Reference</b>      | BFS19/3938 (SRID8000009727)   |
| <b>Reason to Inspect</b>  | The Commissioner of FRNSW received a written concern [Section 9.32(2)(c) of the EP&A Act].                                  |
| <b>Details of Concern</b> | This residential building is 17 levels high with a height in excess of 25M. The building has no Sprinkler System installed. |
| <b>Date Received</b>      | 28 November 2019  |
| <b>Premises Address</b>   | 249 George Street Waterloo (hereafter "the premises")   |
| <b>Name of Premises</b>   | Joseph Banks  |
| <b>Date of Inspection</b> | Wednesday, 13 March 2024  |

### 1. Investigation Details

The following explains how an Authorised Fire Officer (AFO) may use an investigation officer's powers to report the inspection of the concern.

- 1A. While inspecting the concern, an AFO may obtain evidence at the premises to establish whether a breach exists in any codes, policies, or legislation.
- 1B. If an AFO uses the powers of investigation officer during the inspection, the use of the powers is to determine whether or not:
  - A. The Provisions for Fire Safety were present at the premises; OR
  - B. Regulation 112 of the Environmental Planning And Assessment (Development Certification And Fire Safety) Regulation 2021 (EPAR2021) was compliant.
- 1C. Based on the written concern, entry to the premises is for:
  - A. The suppression of fire.
- 1D. The AFO may report on the observed areas in the building accessed at the time. Photos may be taken of the areas, including photos of the essential fire safety measures in the areas accessed. The AFO may also note discussions with relevant people.

### 2. Fire Safety Investigation

The following is provided as part of the inspection:

- 2A. Evidence to Conduct an Investigation



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- A. Entry to the premises revealed observations that provided no reasonable grounds to use the powers of an investigation officer.
  - B. Upon entry to the premises, observations revealed sprinklers were installed in the entry foyer.
- 2B. Outcomes
- A. As part of FRNSW's entry to the premises to determine whether an investigation is to be conducted, the following is provided:
    - i. Entry was provided by the security officer.
    - ii. The annual fire safety statement and logbooks displayed regular maintenance of the essential fire safety measures.
    - iii. Sprinklers were installed on the premises. The block plan identified a combined sprinkler and hydrant booster.
    - iv. The installed sprinklers were identified as protecting the ground floor lobby and carpark only.
  - B. FRNSW acknowledges that the age of the building may contribute to the possible non-conformities from the current building code. However, as the repository for all development consents, the Council may need to review the development consent for the premises to confirm whether the building was approved without sprinklers throughout.
  - C. There is insufficient evidence of a violation of the required standard of proof requiring FRNSW to use its enforcement powers regarding the concern. Compliance with the development consent and maintenance of the essential fire safety measures are at the Council's discretion.

**3. Possible Non-Conformities**

The following comments are provided to the Council for consideration:

- 3A. The Council may require a review under Regulation 81(1) of the EPAR2021 to determine whether there is a violation of the required standard of proof concerning the maintenance of the approved essential fire safety measures in the fire safety schedule. To ensure:
  - A. Each measure is maintained to a standard no less than that specified in the schedule. OR;
  - B. If no schedule exists, the "original measure" is maintained to a standard no less than originally designed and implemented.



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- 3B. Ensure the owners maintain the essential fire safety systems and meet the local Council's obligations to regulate the development consent approval.
- 3C. Ensures that an accredited practitioner (fire safety) has assessed, inspected and verified the performance of each fire safety measure (including exits) that applies to the building. Furthermore, the owner submits an Annual Fire Safety Statement (AFSS) as part of their obligations under the EP&A Act.



Edren Ravino  
Authorised Fire Officer

