

2 March 2020

At the conclusion of the Cultural and Community Committee



Transport, Heritage and Planning Committee

Agenda

- 1. Disclosures of Interest**
- 2. Commencement of the Low Rise Medium Density Housing Code**
- 3. Fire Safety Reports**

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1. Register to speak by calling Secretariat on 9265 9310 or emailing secretariat@cityofsydney.nsw.gov.au before 12.00 noon on the day of the meeting.
2. Check the recommendation in the Committee report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker (with a warning bell at two minutes) and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the Committee may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

Committee meetings can continue until very late, particularly when there is a long agenda and a large number of speakers. This impacts on speakers who have to wait until very late, as well as City staff and Councillors who are required to remain focused and alert until very late. At the start of each Committee meeting, the Committee Chair may reorder agenda items so that those items with speakers can be dealt with first.

Committee reports are available at www.cityofsydney.nsw.gov.au with printed copies available at Sydney Town Hall immediately prior to the meeting. City staff are also available prior to the meeting to assist.

Item 1.

Disclosures of Interest

Pursuant to the provisions of the City of Sydney Code of Meeting Practice and the City of Sydney Code of Conduct, Councillors are required to disclose pecuniary interests in any matter on the agenda for this meeting.

Councillors are also required to disclose any non-pecuniary interests in any matter on the agenda for this meeting.

This will include receipt of reportable political donations over the previous four years.

In both cases, the nature of the interest must be disclosed.

Written disclosures of interest received by the Chief Executive Officer in relation to items for consideration at this meeting will be laid on the table.

Local Government and Planning Legislation Amendment (Political Donations) Act 2008

The Local Government and Planning Legislation Amendment (Political Donations) Act 2008 ("the Act") requires the disclosure of relevant political donations or gifts when planning applications are made to minimise any perception of undue influence. The amendments to the Act require disclosure to the Electoral Funding Authority of:

- a **reportable political donation** as defined in the Election Funding and Disclosures Act 1981 (a donation of \$1000 or more made to or for the benefit of the party, elected member, group or candidate or made by a major political donor to or for the benefit of a party, elected member, group or candidate, or made to the major political donor), or
- a **gift** (as defined in the Election Funding and Disclosures Act 1981) to any local councillor or council employee (and includes a disposition of property or a gift of money or the provision of other valuable or service for no consideration or for inadequate consideration) when a relevant planning application is made to a council.

A donation of less than \$1000 can be a reportable political donation if the aggregated total of such donations was made by an entity or person to the same party, elected member, group or candidate or person.

Item 2.

Commencement of the Low Rise Medium Density Housing Code

File No: X030568

Summary

The City is one of 45 councils with a temporary exemption from the Low Rise Medium Density Housing Code (Code). The exemption expires at the end of June with the Code commencing operation on 1 July 2020. The Code is part of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the SEPP). It allows the development of terrace houses, dual occupancies and manor houses with a complying development certificate issued by a Principal Certifier, usually a private certifier.

In June 2019 the Department of Planning, Industry and Environment (Department) commissioned the University of Technology Sydney to undertake an independent review of the Code. The review, published in July 2019, broadly supported the Code and did not recommend any substantive changes, however it recognised the concerns of councils about the potential impact of the Code on local character.

In September 2019, on the recommendation of the UTS review, the Department extended the deferral of the Code to 1 July 2020. The extended deferral was to allow councils to identify and map areas of "exceptional local character", where, with Ministerial approval, the Code would not apply. It also afforded councils the opportunity to review their local environmental plans to ensure the land uses permitted in their land use zones affected by the Code were appropriate.

In the City of Sydney, application of the Code largely affects the R2 - Low Density Residential zoned land in Rosebery, where sites are large enough to meet the prescriptive requirements of the Code, and development potential available under the Code exceeds that under local planning controls.

The City has reviewed various options to amend the Sydney Local Environmental Plan 2012 (the LEP) to mitigate the potential impacts of the Code, however these options were found to have little to no effect, be inconsistent with Ministerial directions or have unintended negative consequences. Therefore, the most appropriate option is to not make any amendments to the local planning instruments.

Land zoned R2 in Rosebery is identified as a Special Character Area in the LEP because it retains the original subdivision pattern of the original Rosebery Estate, designed by John Sulman to reflect the ideals of the 19th century Garden City Movement. While the City has previously requested exemptions for Rosebery from other parts of the SEPP on the basis of its special character, these exemptions have not been supported by the Department.

This report recommends the Lord Mayor write to the Minister for Planning and Public Spaces asking for the Rosebery Special Character Area currently identified in the LEP be exempt from application of the Code.

The City will also consult with residents in the R2 zone in Rosebery to advise them of the Code's commencement and seek their feedback.

Recommendation

It is resolved that:

- (A) Council note the Low Rise Medium Density Housing Code will come into effect on 1 July 2020;
- (B) Council note the City will consult with residents in the R2 zone in Rosebery to advise them of the commencement of the Low Rise Medium Density Housing Code and to seek their feedback; and
- (C) the Lord Mayor be requested to again write to the Minister for Planning and Public Spaces, requesting the Rosebery Special Character Area identified in Sydney Local Environmental Plan 2012 be exempted from the Low Rise Medium Density Housing Code.

Attachments

Nil.

Background

History of the Low Rise Medium Density Housing Code

1. State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the SEPP) includes a series of prescriptive codes for low impact development that can be undertaken without a development application being lodged. The SEPP includes a Housing Code, which permits the building of single occupancy, detached, one or two storey dwellings with a Complying Development Certificate issued by a Principal Certifier authorising the development.
2. The Department of Planning, Industry and Environment published a discussion paper on 27 November 2015 promoting the expansion of the SEPP to include more housing options. This was followed by an Explanation of Intended Effects and a draft Medium Density Design Guide (draft Guide) on 12 October 2016 for public consultation.
3. The City made a submission on the draft Guide, supporting the overarching objectives to increase diversity of housing supply and enable densification where it is appropriate, and highlighting concerns with increasing reliance on the private certification process and specific issues with the draft Guide. The City also contributed to a submission prepared by Local Government NSW on behalf of all councils.
4. The NSW Government Architect ran a "Missing Middle Design Competition" in November 2016 to promote and test the draft Medium Density Design Guide. The Department included feedback from this process, along with issues raised in submissions by the City, Local Government NSW and other stakeholders, and released the Low Rise Medium Density Housing Code (the Code) in April 2018 for commencement on 6 July 2018.
5. In media surrounding the announcement the Minister for Planning suggested applications from councils to seek a deferral from the Code would be considered, to allow them time to assess the impact of the Code and make necessary changes to their local planning controls. The City requested temporary exemption from the Code, which was granted to 1 July 2019.
6. In the intervening time the Department commissioned the University of Technology Sydney to undertake an independent review into the Code, and further extended the deferral to 31 October 2019 awaiting the findings of the review.
7. The review, published in July 2019, broadly supported the Code and did not recommend any substantive changes, however it recognised the concerns of councils about the potential impact of the Code on local character.
8. In September 2019, on the recommendation of the review, the Department extended deferral of the Code to 1 July 2020. The extended deferral was to allow councils to identify and map areas of "exceptional local character", where, with Ministerial approval, the Code would not apply. It also afforded councils with the opportunity to review their local environmental plans to ensure the land uses permitted in their land use zones affected by the Code were appropriate.

How and where the Code applies in the City of Sydney

9. The Code draws on local planning instruments to determine where it is applicable. It only applies to land zoned RU5 - Village, R1 - General Residential, R2 - Low Density Residential or R3 Medium Density Residential. Further, the development types it covers, being multi dwelling housing (terraces and manor houses) and dual occupancies, must be permissible in the relevant land use zone in the local planning instrument.
10. In Sydney Local Environmental Plan 2012 (the LEP), R1 - General Residential allows multi dwelling housing and dual occupancies, and R2 - Low Density Residential allows dual occupancies. Sydney LEP 2012 has no RU5 - Village or R3 - Medium Density Residential zones. That means landowners will be able to use the Code to deliver terrace houses, manor houses and dual occupancies in R1 zoned areas, and just dual occupancies in R2 zoned areas.
11. The Code also establishes a prescriptive set of minimum controls for site area, site width, landscape site coverage, front, rear and side setbacks, road access, car parking and other requirements. Where these minimums cannot be achieved on a site, the Code does not apply and the local planning controls would instead apply and a development application is required.
12. If the Code applies, it then provides development standards, including maximum height and gross floor area, instead of the local planning controls.
13. To test the impact of the Code, geographic information system (GIS) testing was undertaken to identify the number of sites the Code would apply to. Sites zoned R1 and R2 were counted, while sites that are ineligible according to the Code due to being heritage listed, being in a heritage conservation area, or having a site area less than 400 square metres were removed. Strata subdivided sites, and sites owned by Land and Housing Corporation were also removed. While the remaining sites could undertake complying development, they must also comply with the maximum floor space ratio (FSR) in the Code. In cases where the available FSR under the LEP is higher, it is likely the landowner would pursue a development application to access the greater development capacity, despite possible time savings under the Code's planning pathway.
14. The Code applies to 675 sites in the local area, and 603 of those sites would reasonably choose to develop under the Code. These sites are between 400 and 850 square metres in size and mostly located in the suburb of Rosebery. These sites would be eligible to develop a certain type of 'dual occupancies' under the Code.
15. These dual occupancies, described under Division 2 of the Code, are defined as two dwellings delivered on a site which may be detached or attached, but where no part of a dwelling is located above any part of another dwelling. For these, the Code requires a minimum site area of 400 square metres, and allows a maximum height of 8.5 metres and maximum floor space ratio equivalent to 25% of the site area + 300 square metres. This translates into an FSR of 1:1 for a 400 square metre site, scaling down to 0.8:1 for a 550 square metre site and 0.6:1 for an 850 square metre site. The development controls contained in the Code and the LEP are compared at Table 1.

Table 1: Comparison of development standards

	Sydney LEP 2012 and DCP 2012 (Rosebery Estate)	Low Rise, Medium Density Housing Code - Division 2 Dual Occupancies
Floor space control	FSR 0.6:1 (GFA: 60% of site area)	GFA: 25% of site area + 300 square metres (FSR <0.6:1 to 1:1)
Maximum height	7.5 metres	8.5 metres
Site area	N/A	400-2000 square metres
Minimum site width	N/A	12 metres
Parking	Maximum 2 spaces per dwelling	Minimum 1 space per dwelling

16. The Code does not apply to secondary dwellings or "laneway housing".

Assessing the impact of the Code

17. While it is estimated that 603 sites may deliver dual occupancies under the Code, the likelihood of these sites developing under the Code is lower. This is because the Code includes prescriptive site-specific controls such as minimum site width, street access configuration, setbacks, landscape coverage and off-street parking, which not every site is capable of accommodating. Further, there is little apparent market interest in dual occupancies in this area, demonstrated by the few examples of the building typology observed in the area, despite it being permitted under the Sydney LEP 2012 and the South Sydney LEP 1998 previously.
18. Noting the limited applicability of the Code in the local area, the City remains concerned about the outcomes it may deliver. A complying development pathway for this form of development can result in lower quality design, potential impacts on local character, lack of consultation with neighbours and increased amenity impacts for neighbours. The City's preference is for appropriate medium density development, such as dual occupancies, to be determined through a development application pathway.

Options for mitigating impacts

19. The City has explored strategic planning options to respond to the commencement of the Code and mitigate the potential impacts of the Codes introduction.
20. One option is to remove dual occupancies from the R2 - Low Density Residential land use table. This would largely remove the application of the Code from the local area. However, this would make dual occupancies prohibited development, and not permissible even with a development application.

21. Dual occupancies have been permissible in the R2 zone since the South Sydney local environmental plan was introduced in 1998. Dual occupancies are a suitable use in the zone because of the generous lot sizes and because the use contributes housing diversity in the local area. Dual occupancies, similar to terrace or semi-detached houses, are very common throughout the council area. This aligns with the zone objective to provide for the housing needs of the community within a low density residential environment. Dual occupancies can also be designed to respect local character and minimise impacts to neighbours.
22. This option to prohibit dual occupancies would therefore work against the objectives of the zone. It would also be inconsistent with Ministerial Direction for residential zones, which says a planning proposal must broaden the choice of housing types and not reduce residential density.
23. Another option is to increase development capacity controls in the LEP to meet or exceed those available under the Code, to increase the incentive for using a development application planning pathway rather than the Code. This would entail “up zoning” the 603 identified sites to have increased maximum height and FSR controls, removing some of the incentive of the Code. However, this would not remove the complying development option for landowners, who may still pursue the option for time and money savings. This option would involve a major change to the prevailing planning controls for the area, with limited justification and no guarantee that development would not be undertaken under the Code.
24. It is recommended that no changes are made to the LEP as the above options are inconsistent with Ministerial directions, have unintended negative consequences or would have little to no effect.
25. A further consideration is that the R2 zoned land in Rosebery is mapped and identified in the LEP as a Special Character Area. If the Minister also agrees the area is of exceptional local character, it can become exempt from application of the Code. Given most eligible sites are in this part of Rosebery, exemption would mean a significant reduction in its impact on the local area.
26. The City has previously requested this area to be exempt from application of the General Housing Code in the SEPP due to its Special Character Area status. However, the Department have not supported this approach in the past.
27. Notwithstanding the above, this report recommends the Lord Mayor write to the Minister for Planning and Public Spaces again asking that the Rosebery Special Character Area currently identified in the LEP be exempt from application of the Code.
28. The City will also consult with residents living in R2 – Low Density Residential zoned properties in Rosebery to advise them of the commencement of the Code and seek their feedback.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

29. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:

(a) Direction 8 - Housing for a Diverse Population

Medium density housing contributes to the vital "missing middle" in new housing development, between residential apartment buildings and single dwelling detached houses. Dual occupancy development is an important avenue for residents with changing needs to "right size" their housing while remaining in the area.

(b) Direction 9 - Sustainable Development, Renewal and Design

The City's development assessment process ensures new housing performs well for residents, achieves design excellence and high sustainability performance, and meets the expectations of neighbours and the local community. The complying development pathway sidesteps this process in favour of a standardised and prescriptive code.

Strategic Alignment – City Plan 2036: Local Strategic Planning Statement

30. City Plan 2036 sets out a 20-year land use planning vision, balancing the need for housing and economic activities while protecting and enhancing local character, heritage, public places and spaces. This report is aligned with the following actions:

(a) Action L3.2 – Increase the mix of dwelling types, tenures and sizes to support a diverse community.

Low and medium density housing serves social and cultural needs of specific groups, delivering much needed diversity and choice of housing. Dual occupancy development is a way to more efficiently use land and deliver detached and attached housing in existing residential areas. The retention of standalone housing also contributes to housing diversity in the local area.

(b) Action L3.3 – Work with the NSW Government to facilitate medium density housing that is designed and built to respect the established local character or an area and the amenity of future residents and the existing community through a process in which the community is consulted.

This report recommends seeking Rosebery's exemption from the Code, to ensure medium density development is subject to development assessment and community consultation.

Relevant Legislation

31. Environmental Planning and Assessment Act 1979.

32. State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Options

33. An alternative option is for Council to request the Chief Executive Officer to prepare a planning proposal to prohibit dual occupancies from the R2 - Low Density Residential land use table. A planning proposal would also need to be approved by the Central Sydney Planning Committee. This option is not recommended for the reasons described in this report.

Critical Dates / Time Frames

34. The City's temporary exemption from application of the Low Rise Medium Density Housing Code will expire on 1 July 2020.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Jarrood Booth, Planner

Item 3.

Fire Safety Reports

File No: S105001.002

Summary

The City of Sydney has received inspection reports with recommendations from Fire and Rescue NSW in relation to inspections carried out on buildings located within the City's local government area.

Fire and Rescue NSW has powers under the Environmental Planning and Assessment Act 1979 (the Act) to carry out inspections of buildings and it is required to forward its findings to the City.

Fire and Rescue NSW reports received by the City are required to be tabled before Council. Council is then required to determine whether or not to exercise its power to give a fire safety order under Division 9.3 and Schedule 5 of the Act (previously s121B of the Act).

This determination may be made at the next meeting of Council held after the tabling of the Fire and Rescue NSW reports.

Attached are details of the reports received by the City from Fire and Rescue NSW that are required to be tabled.

The attachments deal with a specific property and include the Fire and Rescue NSW report and the findings (preliminary or final) by the City's Investigation Officer, along with other documentation relevant to that property.

A recommendation is made in the attachment setting out the action that is recommended to be the most appropriate to take in the circumstances.

Recommendation

It is resolved that Council:

- (A) note the contents of the Fire Safety Reports Summary Sheet, as shown at Attachment A to the subject report;
- (B) note the inspection reports by Fire and Rescue NSW, as shown at Attachments B to E of the subject report;
- (C) not exercise its power to issue a Fire Safety Order under the Environmental Planning and Assessment Act 1979 at this time but note the compliance action taken as recommended by the City's Investigation Officer for 174-178 King Street, Newtown, as detailed in Attachment B to the subject report;
- (D) not exercise its power to issue a Fire Safety Order under the Environmental Planning and Assessment Act 1979 at this time but note the compliance action taken as recommended by the City's Investigation Officer for 91 Parramatta Road, Camperdown, as detailed in Attachment C to the subject report;
- (E) exercise its power under the Environmental Planning and Assessment Act 1979 to issue a Fire Safety Order as recommended by the City's Investigation Officer to address the identified fire safety deficiencies in 1-21 Darlinghurst Road, Potts Point, as detailed in Attachment D to the subject report;
- (F) exercise its power under the Environmental Planning and Assessment Act 1979 to issue a Fire Safety Order as recommended by the City's Investigation Officer to address the identified fire safety deficiencies in 2 Roslyn Street, Potts Point, as detailed in Attachment E to the subject report.

Attachments

- Attachment A.** Fire Safety Reports Summary Sheet
- Attachment B.** Inspection Report - 174-178 King Street, Newtown
- Attachment C.** Inspection Report - 91 Parramatta Road, Camperdown
- Attachment D.** Inspection Report - 1-21 Darlinghurst Road, Potts Point
- Attachment E.** Inspection Report - 2 Roslyn Street, Potts Point

Background

1. The City receives inspection reports and recommendations from Fire and Rescue NSW in relation to inspections carried out on buildings located within the City's local government area.
2. Under the Environmental Planning and Assessment Act 1979 (the Act), Fire and Rescue NSW has the power to carry out inspections of certain buildings to determine if the building has adequate provision for fire safety and/or is compliant with legislation.
3. On average, the City receives approximately 50 such reports each year. They can be prompted by reports from the Police or other people who have a concern relating to fire safety in a building.
4. When Fire and Rescue NSW carries out such an inspection, a report and any recommendations must be provided to the City.
5. Under the Act, Council is then required to table the report and make a determination as to whether it will exercise its power to issue a Fire Safety Order 1 or 2 in Schedule 5, Part 2 of the Act. Fire Safety Order 1 requires a person to do, or stop doing certain specified things to improve fire safety; Fire Safety Order 2 requires a person to cease conducting an activity on premises where that activity constitutes, or is likely to constitute, a life-threatening hazard or a threat to public health or public safety.
6. Attached are the details of the reports received from Fire and Rescue NSW, including recommendations for further action. The properties have also been reviewed by a City Investigation Officer.
7. Personal information has been redacted from these reports in accordance with the Privacy and Personal Information Protection Act 1998.

Relevant Legislation

8. Environmental Planning and Assessment Act 1979.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

George Lim, Late Night and Licensed Premises Specialist

Attachment A

Fire Safety Report Summary Sheet

Fire Safety Report Summary Sheet
Cl.17, Schedule 5 of the Environmental Planning and Assessment Act 1979, reports to Council, S105001.002

Total number of properties tabled: 4

Report- March 2020

Summary table

Att. (A-E)	Premises Specifics (<i>predominate building use</i>)	Actions/ Recommendation
A	Not applicable – Summary Sheet	Summary of clause 17, Schedule 5 matters tabled at Council meeting.
B	174-178 King Street, Newtown Hotel	Premises inspected, owners have been served with corrective action correspondence; follow up compliance site inspections are to be undertaken to ensure fire safety works are satisfactorily completed.
C	91 Parramatta Road, Camperdown Hotel with upper floor accommodation	Premises inspected, owners have been served with corrective action correspondence; follow up compliance site inspections are to be undertaken to ensure fire safety works are satisfactorily completed.
D	1-21 Darlinghurst Road, Potts Point Hostel accommodation with ground floor retail tenancies	Premises inspected, Council officer has determined that a notice of intention to issue a fire safety order is required to be given to remedy identified fire safety deficiencies.
E	2 Roslyn Street, Potts Point Accommodation Hotel with bar/nightclub	Premises inspected, Council officer has determined that a notice of intention to issue a fire safety order is required to be given to remedy identified fire safety deficiencies.

Attachment B

**Council Officer Inspection Report
174 – 178 King Street Newtown**

174 - 178 King Street Newtown NSW 2042

The Newtown Hotel



**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 2218379

Officer: Eyman Balta

Date: 22 January 2020

Premises: 174 - 178 King Street Newtown NSW 2042 - The Newtown Hotel

Executive Summary:

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

The premises consists of a three storey building used as an approved bar and restaurant over three levels and is located at 174 - 178 King Street Newtown. The building is known as The Newtown Hotel and is located on the corner of King Street, Watkin Street and Buckland Lane Newtown.

The ground floor level contains a number of uses such as internal and external bar and seating areas, dining areas and back of house areas.

The first floor level contains a restaurant with a commercial kitchen, a bar and associated seating areas.

The second floor predominantly contains back of house offices, staff rooms and storage rooms associated with the operation of the Newtown Hotel, however additional bar seating areas are also located on this level.

The building is also of heritage significance and is listed as a local heritage item under the Sydney LEP 2012.

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

An inspection of the premises undertaken by a Council investigation officer in the presence of the hotel licensee and the buildings fire services contractor revealed that there were no 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 buildings annual fire safety certification is current (25 September 2019) and compliant and 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, the overall fire safety systems provided within the subject premises are considered adequate in the circumstances.

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

Chronology:

Date	Event
03/01/2020	FRNSW correspondence received regarding the Newtown Hotel located at 174 - 178 King Street Newtown NSW.
09/01/2020	<p>An inspection of the subject premises was undertaken by a Council investigation officer in the presence of the hotel licensee and the buildings fire services contractor for the Newtown Hotel.</p> <p>The inspection was undertaken for the purposes of addressing the issues raised in Items 1 - 3 of the FRNSW correspondence dated the 2 January 2020, as well as any other deficiencies that may be identified during the inspection.</p> <p>The inspection revealed only minor non-compliances which could be addressed through appropriate maintenance and management. The inspection also revealed that some of the issues raised by FRNSW had already been addressed by the hotel licensee and the buildings fire services contractor.</p> <p>The outcomes of the inspection were discussed throughout and at the conclusion of the inspection with the hotels licensee and the buildings fire services contractor who were also advised that written advice on the findings would be issued in due course.</p>

FIRE AND RESCUE NSW REPORT:

References: BFS19/3674 (9465) and D19/93339.

Fire and Rescue NSW conducted an inspection of the subject premises on the 29 November 2019 in conjunction with the NSW Police and Licenced Premises officers from the City of Sydney as a part of a proactive joint inspection program of licenced premises in the City of Sydney Local Government Area.

Issues

The report from FRNSW detailed a number of issues in relation to the Newtown Hotel, in particular noting concerns with:

1. That the required directional signage indicating the location of the combined fire hydrant and sprinkler booster in Buckland Lane was not installed on the external wall adjacent to the main entrance of the hotel on King Street.
2. That a fire hydrant landing valve located on the second floor level of the building had its hand wheel secured with a chain and padlock to prevent vandalism and non-required use.
3. That doors to the fire hydrant and sprinkler booster cabinets located in Buckland Lane did not open in a position of not less than 90° and that the cabinets were not secured with a lock compatible with FRNSW operational requirements.
4. That there are issues associated with the location and distribution of portable fire extinguishers on the second floor level of the building.
5. That there is inadequate exit and directional signage provided to the second floor level commercial kitchen area and external balcony areas.
6. That there were issues associated with the obstruction of paths of travel to exits by stored items.

7. That a doorway in the path of travel to an exit located on the ground floor level of the building which contains locking devices.
8. That the final exit door from the ground floor level external bar area of the building which discharges to Buckland Lane is fitted with a magnetic locking device. It is advised that it is unknown whether this locking device is provided with an automatic fail safe device which unlocks the door upon any sprinkler activation in the building.
9. That a room on the second floor level of the building is being used for the display of movies and is considered to be a cinema and hence an Entertainment Venue under the Environmental Planning and Assessment Regulation 2000, and that Council may need to consider this change of use.
10. That at the time of FRNSW's inspection the buildings Annual Fire Safety Statement was not displayed in a prominent position, and that FRNSW requested an additional copy of the statement to be provided adjacent to the buildings fire indicator panel located in the fire services pump room.

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 and any other deficiencies identified appropriately addressed;
2. In its capacity as the regulatory authority take action to have the abovementioned items appropriately addressed.
3. Advise them in writing of its determination in relation to this matter in accordance with the provisions of Schedule 5, Part 8, Section 17 (4) 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	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 preliminary site inspection undertaken by Council investigation officers it is recommended that a compliance letter of instruction be issued to the building owners and further action be undertaken, as appropriate, to address the fire safety deficiencies identified by FRNSW.

The above proposed correspondence will request that the building owner and the hotel licensee attend to the issues identified by FRNSW in their correspondence to Council.

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.

Referenced documents:

No#	Document type	Trim reference
E1.	Fire and Rescue NSW report	2020/028067-01
E2.	Locality Plan	2020/028067-02
E3.	Attachment cover sheet	2020/028067-03

Trim Reference: 2020/028067

CSM reference No#: 2218379



File Ref. No: BFS19/3674 (9465)
TRIM Ref. No: D19/93339
Contact: [REDACTED]

2 January 2020

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear General Manager

**Re: INSPECTION REPORT
'NEWTOWN HOTEL'
174 KING STREET, NEWTOWN ("the premises")**

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 29 November 2019 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW). The inspection was also conducted in the company of Officers from the NSW Police Force and City of Sydney Council.

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

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.

The following items were identified as concerns during the inspection:

1. Essential Fire Safety Measures

1A. Hydrants and Sprinkler System – Having regard to Australian Standard AS2419.1, AS2118.1 and Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) Clause 188 Exemption, the following items were noted:

A. Condition 6 of FRNSW's Clause 188 Exemption dated 20 December 2014 (Ref NFB/12790) requires signage immediately adjacent to the building main pedestrian entrance on King Street, indicating the location of the combined sprinkler and hydrant booster to be installed on the external wall of the building. At the time of the inspection, signage could not be located.

B. Lock and Chain – At the time of the inspection, a lock and chain were attached to the internal hydrant sprinkler wheel (in the 3rd floor cabinet). Typically, where vandalism poses a problem, a handwheel cover may be used in accordance with Australian Standard AS2419.2 – 2009.

C. Booster Assembly Cabinets and Enclosures – Clause 11.2.2 of AS2419.1 requires doors to be fitted with doors that are capable of securing the door in not less than a 90° open position, including a lock compatible with fire brigade operation procedures/requirements. At the time of the inspection, the doors to the Booster Assembly Cabinet on Watkins lane did not meet the requirements of Clause 11.2.2.

1B. Portable Fire Extinguishers (PFEs) – Clause 3.2 of Australian Standard AS 2444-2001 requires PFEs to be in a readily accessible position and located away from hazards to the potential user. Where practicable, extinguishers shall be located along normal paths of travel and near exits. Observations revealed a number of PFEs obstructed within the kitchen and back of house areas.

2. Access and Egress

2A. Exit Signs – Performance Requirement EP4.2 of the NCC requires that suitable signs be installed to identify the location of exits. At first sight,

there is insufficient cues to identify where the exits are located. A review of the exit strategy may be required. Hence the following observations were noted:

- A. Exits from the kitchen on the second floor could not be easily be identified.
 - B. Once on the balcony on the second floor, the exit doors could not be easily identified.
- 2B. Paths of Travel to Fire Exits – Paths of travel from ‘the premises’ to a fire exit, including the operation of the Fire Exit door were either obstructed or impeded in contravention of Clause 184 & Clause 186 of the EP&A Regulation, such items include but are not limited to:
- A. The width of the path on the third floor (beside the lift) was reduced as a result of the stage platform that was stored along the wall.
 - B. The final exit door on the ground floor leading to Buckland Lane (on the south western elevation):
 - i. The final path from the office area via the stairs to the final exit door was reduced as a result of various stored items.
 - ii. The final exit door was obstructed by boxes.
 - iii. A single leaf of the two doors for the final exit door was sticking and made opening the door difficult.
 - C. The door to the courtyard from the ground floor bar, includes a cylinder lock and slide lock (as an aside the door opens inward against the path of egress).
 - D. The two required exit doors on the ground floor bar, that exits onto Princes Highway and Watkin Street include magnetic locks that release via security notification i.e. the lock is not released unless it is initiated by security. There are no smoke detectors to release the door from the locked position. Given there is no Annual Fire Safety Statement available to reference, it is also unclear whether the door opens upon activation of the sprinkler system.

3. Generally

- 3A. Entertainment Venue – Whilst the use of the premises does not fit strictly within the definition for an entertainment venue in accordance with the EP&A Regulation, the Department of Planning guideline “Bringing Back the Music – Planning for Entertainment” highlights issues that may require consideration for development consent approval particularly as there were rooms that appeared to be used as a small cinema (“the animal cinema” on the 3rd floor, and various function rooms on the second floor), in this regard council may need to consider:

- A. Whether there is a change of use from a pub to a nightclub/assembly building changes the classification of the building from a Class 6 to a Class 9b building (assembly building).
 - B. Whether the principal purpose of the public using a nightclub/assembly building is to be entertained or be involved in the entertainment whether or not a cover charge or entrance fee is charged.
- 3B. Annual Fire Safety Statement (AFSS) – Clause 177(3)(b) of the EP&A Regulation indicates that the statement must be prominently displayed in the building, at the time of the inspection the AFSS could not be located. For ease FRNSW prefers the statement be located beside the Fire Indicator Panel. An inspection and a review of council's records may be required.

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. 3 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) 9742 7434. Please ensure that you refer to file reference BFS19/3674 (9465) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

Fire Safety Compliance Unit

Attachment C

**Council Officer Inspection Report
91 Parramatta Road Camperdown**



**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)**

CSM: 2218384

Officer: Tracey McCann

Date: 07 January 2020

Premises: 91 Parramatta Road, Camperdown (Lady Hampshire)

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 premises was constructed in the 1920's and consists of external masonry walls & timber framed /metal roof construction. The internal walls are of masonry construction with timber floors and stairway.

The premises consists of a two storey building used for Class 3 hotel accommodation on level one, Class 6 bar and restaurant on ground floor and a cellar is located within the basement area. The effective height of the building is considered to be less than 12 metres.

The building was subject to the issue of a Fire Safety Order by the City of Sydney on the 01 March 2013 which was completed and finalised to the satisfaction of the City on the 27 July 2017.

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

An inspection of the premises undertaken by a Council investigation officer in the presence of the manager of Lady Hampshire and fire contractor revealed that there were no 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 current and compliant and 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, the overall fire safety systems provided within the subject premises are considered adequate in the circumstances.

It is considered that the above fire safety works 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.

Chronology:

Date	Event
03/01/2020	FRNSW correspondence received regarding premises 91 Parramatta Road, Camperdown [Lady Hampshire].
07/01/2020	An initial desktop review of the subject building revealed that it has a current fire safety schedule and is required to submit annual fire safety statements to Council and FRNSW. The building has a current compliant annual fire safety statement, with the next one due on 12 April 2020. The building has been subject to a previous Fire Safety Order issued by Council reference: S103125 [FIRE/2012/73]

14/01/2020	<p>An inspection of the subject premises was undertaken by a Council officer in the presence of the manager of Lady Hampshire and the appointed fire contractor.</p> <p>The inspection revealed only minor non-compliances which could be addressed through appropriate maintenance and management. The inspection also revealed that the majority of the issues raised by FRNSW had been addressed by the fire contractor. The outcomes of the inspection were discussed at the conclusion of the inspection with the manager who was also advised that written advice on the findings would be issued in due course.</p>
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FIRE AND RESCUE NSW REPORT:

References: [BFS19/3672 (9462) & D19/92587]

Fire and Rescue NSW conducted an inspection of the subject premises on 29 November 2019 as part of a routine joint inspection in the company of Officers from the NSW Police Force and City of Sydney Council.

Issues

The report from FRNSW detailed a number of issues in relation to Lady Hampshire, in particular noting concerns with:

1. That the sprinkler booster was not being regularly maintained;
2. That the commercial kitchen did not contain a specific type of portable fire extinguisher to cover hazards associated with the deep fat fryer;
3. That portable fire extinguisher signage was not identifiable in the beer garden or kitchen;
4. That heat detectors had been installed within the bar area and hallway next to the Fire Indicator Panel in lieu of smoke detectors;
5. That required exit doors facing Parramatta Road & doors leading to the beer garden had been fitted with slide locks or cylinder locking mechanisms;
6. That the front entrance door from Parramatta Road leading to the Fire Indicator Panel and all required exits facing Parramatta Road swing against the path of egress;
7. Issues associated with the provision of exit and directional signage within the premises;
8. Issues associated with extended travel distances to an exit;
9. That a polycarbonate roof has been installed to the adjoining building leading to the beer garden;
10. Issues associated with compartmentation within the premises;
11. That the door providing access from the bar to the accommodation via the stairway, contained a glass opening and it was unclear whether the door was suitably fire rated or approved without fire rating;
12. Issues associated with the buildings Annual Fire Safety Statement.

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. In its capacity as the regulatory authority take action to have the abovementioned items appropriately addressed.
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.

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 preliminary site inspection undertaken by Council Investigation Officers it is recommended that a compliance letter of instruction be issued to the building owners and further action be undertaken, as appropriate, to address the fire safety deficiencies identified by FRNSW and any other matters that may be revealed during further investigations of the subject premises.

The above proposed correspondence will request that the building owner and hotel management attend to the issues identified by FRNSW in their correspondence to Council.

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.

Referenced documents:

No#	Document type	Trim reference
A1.	Fire and Rescue NSW report	2020/024170-01
A2.	Locality Plan	2020/024170-02
A3	Attachment cover sheet	2020/024170-03
A4	Corrective action letter issued to Owners	2020/024170-04

Trim Reference: 2020/024170

CSM reference No#: 2218384



File Ref. No: BFS19/3672 (9462)
TRIM Ref. No: D19/92587
Contact: [REDACTED]

2 January 2020

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear General Manager

**Re: INSPECTION REPORT
'LADY HAMPSHIRE'
91 PARRAMATTA ROAD, CAMPERDOWN ("the premises")**

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 29 November 2019 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW). The inspection was also conducted in the company of Officers from the NSW Police Force and City of Sydney Council.

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

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.

The following items were identified as concerns during the inspection:

1. Essential Fire Safety Measures

1A. Regular Maintenance – Australian Standard AS1851-2012 (amendment 1) - "Service of fire protection systems and equipment", requires essential service measures to be regularly tested. At the time of the inspection the following was observed:

A. Sprinkler Booster Connection – Clause 2.3 requires regular inspections of the booster connection. At the time of the inspection the maintenance tag to the sprinkler booster was tagged March 2019.

B. Portable Fire Extinguishers (PFE) – Table 10.4.1 requires PFE to remain conspicuous, readily accessible and in its assigned location. At the time of the inspection the bracket in the kitchen lacked a PFE.

1B. Portable Fire Extinguishers (PFE) – Clause E1.6 of the NCC outlines the type and location of the PFE including compliance with Australian Standard AS2444. At the time of the inspection the following was noted:

A. Table E1.6 of the NCC details the risk class (as defined in AS 2444) for the selection of PFEs in specific areas of a building. A Class F and Class A:B(E) PFE could not be located within the kitchen.

B. Clause 3.4 of AS2444 requires PFE signage to be visible from a distance of up to 20 m. The signage for the following PFEs were not visible within the kitchen:

i. A Class A:B(E) signage (and PFE) located in the beer garden beside the rear kitchen door.

ii. Class F & Class A signage (and PFEs) were located on the other side of the servery of the kitchen. Such PFEs would typically be located within the kitchen. The chef and kitchen staff could not locate the PFEs when asked. The chef was not aware the PFEs were on the other side of the servery.

1C. Specification E2.2a – The following comments consider Australian Standard AS1670.1:2015 – ‘Fire detection, warning, control and intercom systems—System design, installation and commissioning’:

A. Heat Detectors – Clause C3.27.1 of AS1670.1 outline circumstances which smoke detectors can be replaced with heat detectors. Council may need to review its records to confirm whether the circumstances surrounding the installation of heat detectors has been approved. The following was observed:

- i. The detector located beside the Fire Indicator Panel appeared to be a heat detector. However, there appeared to be smoke detectors spaced evenly within the hallway.
- ii. All the detectors located within the bar area appeared to be heat detectors.

2. Access and Egress

2A. Construction of Exits – Performance Requirement DP2 of the NCC outlines the requirements so that people can move safely to and within a building, hence the following observations may require a review of its records regarding egress generally:

A. Operation of Latch – Having regard to clause D2.21 of the NCC the following was observed:

- i. All required exit doors facing Parramatta Road within the bar area include slide locks.
- ii. The doors leading to the beer garden from the FIP appears to be in the path of egress to the required exit door includes slide locks and a cylinder lock.

B. Swinging Doors – Having regard to clause D2.20 of the NCC the following was observed:

- i. The front entrance door from Parramatta Road that leads to the FIP swings against the path of egress.
- ii. All the required exit doors that lead to Parramatta Road open against the path of egress.

2B. Clause E4.5 of the NCC requires exits signs to be installed in a specified location and visible when approaching an exit. At the time the following was observed:

- A. Vine leaves obscure the exit sign in beer garden at the rear of premises leading to the required exit door to Hampshire Street.
- B. There are no exit signage in the hallway in the stairway that separates the bar from the accommodation.

2C. Travel Distance – Clause D1.4 of the NCC outlines the minimum distances to an exit. Where a maximum of 6 metres to a required exit or point of choice to two exits from the entry door of a Sole Occupancy Unit (SOU) is required. It appears that the travel distance exceeds 6m to a single exit.

3. Compartmentation

3A. Spread of Fire – Performance Requirement CP2 of the NCC specifies buildings must have elements which will, to the degree necessary, avoid the spread of fire. Council may need to review its records to confirm that the following is approved:

- A. There is a timber framed, polycarbonate roof that extends and attached to adjoining building (leading to the beer garden).
- B. A visual inspection of the ceiling and stair enclosure (lightweight construction that encloses the stairs from the bar [Class 6] to the hotel [Class 3]) could not determine whether the Class 3 and Class 6 are appropriately compartmented. There were gaps between the wall and ceiling to the stair enclosure.
- C. The door that provides access from the Class 6 and Class 3 on the ground floor includes a glass opening. As such it is unclear whether the doors are fire rated, or if approved without fire rating.

4. Generally

4A. Annual Fire Safety Statement (AFSS) – Clause 177(3)(b) of the Environmental Planning and Assessment Regulation 2000 indicates that the statement must be prominently displayed in the building, at the time of the inspection the AFSS could not be located. For ease FRNSW prefers the statement be located beside the Fire Indicator Panel. An inspection and a review of council's records may be required.

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) 9742 7434. Please ensure that you refer to file reference BFS19/3672 (9462) for any future correspondence in relation to this matter.

Yours faithfully

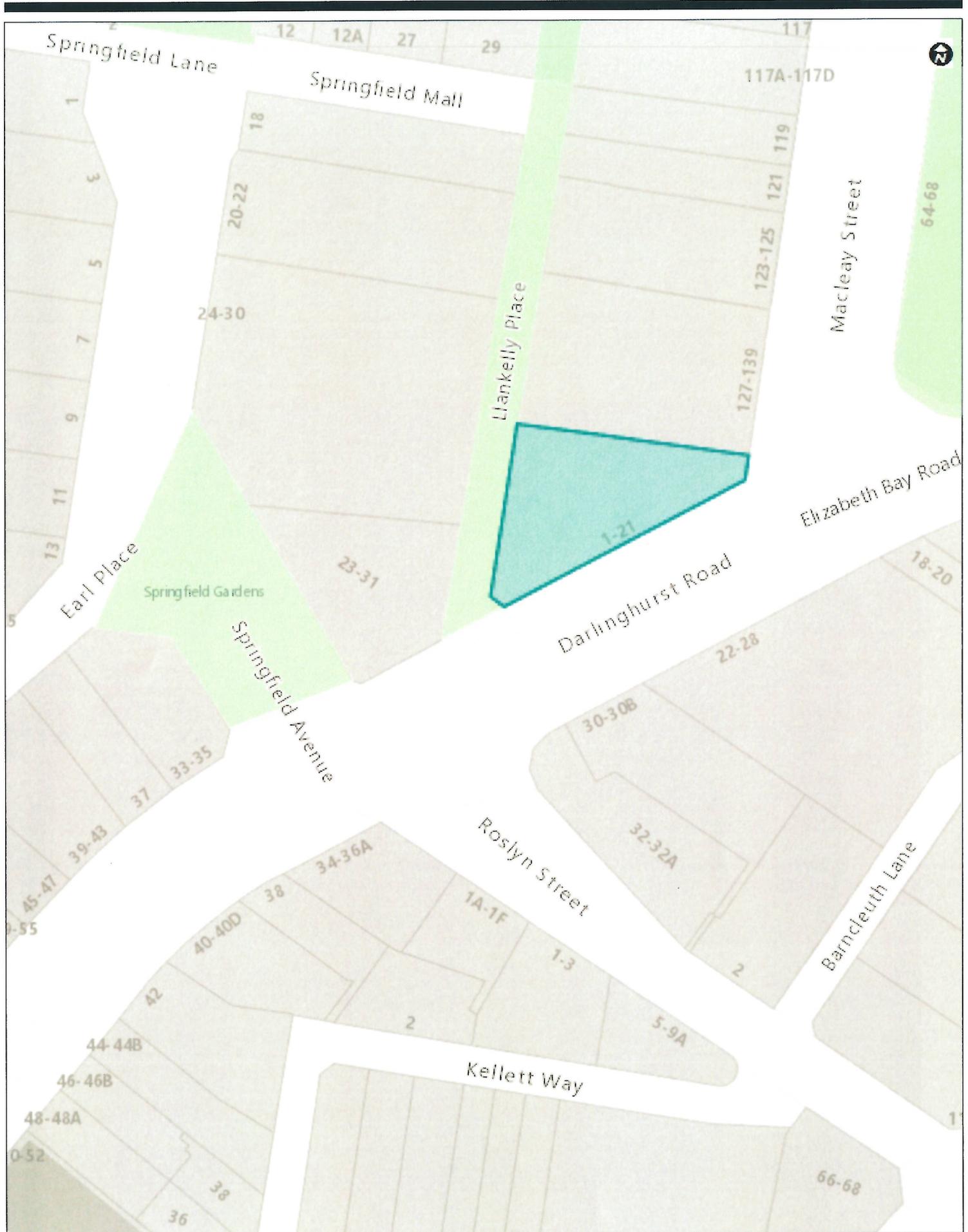


Fire Safety Compliance Unit

Attachment D

**Council Officer Inspection Report
1-21 Darlinghurst Road Potts Point**

1-21 Darlinghurst Road, Potts Point



**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 2225262

Officer: Joe Kalgovas

Date: 14/01/2020

Premises: 1-21 Darlinghurst Road, Potts Point

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 premises consists of a four storey building used as hotel with shops at ground level.

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

- (i) Inadequate fire detection and alarm systems;
- (ii) A lack of adequate facilities for firefighting;
- (iii) Suitable fire resisting construction to prevent the spread of fire;
- (iv) Safe and dignified emergency egress for occupants to safely evacuate the building in the event of a fire
- (v) Poor fire safety management systems (signs/notices/not displayed etc.) in place

Council investigations have revealed that the premises are deficient in the provisions for fire safety and that a fire safety order to be issued under Schedule 5 of the Environmental Planning and Assessment Act, 1979 is required to be issued 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 metallic sheet any combustible composite cladding on the façade of the building.

Chronology:

Date	Event
14/01/2020	FRNSW correspondence received regarding premises 1-21 Darlinghurst Road, Potts Point
15/01/2020	<p>An inspection of the subject premises was undertaken by a Council officer in the presence of the Manager with the finds set out below:</p> <p>1. Essential Fire Safety Measures</p> <p>1A(a) The Automatic Fire Detection and Alarm System Upon inspection the FIP was found to be in operation with no faults showing.</p> <p>1A(b) Thermal detectors provided in lieu of smoke detectors in the hotel It is reported that the smoke detection system has been modified so that the smoke detectors do not operate the building occupant warning system. It is not possible visually to ascertain whether this is the case. (Confirmation of operation will be necessary).</p> <p>1B Fire Hose Reels Maintenance tags were found to be crimped Feb 19 and the stop valve lever was missing from the actuator outside unit 107.</p> <p>1C Portable Fire Extinguishers Maintenance tags were found to be crimped Feb 19.</p> <p>1D Exit Signs All exit signs were found to be operational except for two signs in the rear stairway.</p> <p>1E Fire Door self-closing devices to stairways All doors to the stairways were provided with self-closing devices and a random test confirmed operation to the fully closed position.</p> <p>1F Door Unit 202 self-closing device The self-closing device to unit 202 was found to be missing.</p> <p>1G Annual Fire Safety Statement The Fire Safety Statement was not displayed.</p> <p>2. Access and Egress</p> <p>2A. Storage in central stairway Advised by the Manager that the storage cupboards within the central stairway had been removed. Only minor operational material was found in the stairway which would not materially impeded free passage.</p> <p>2B. Barrier to openable windows The distance between the floor and the bottom sill of the window adjacent unit 202 was measured at 840mm which is less than 865mm by 25mm.</p> <p>Additionally: Knobs in lieu of lever handles were fitted to the rear stairway at L2.</p> <p>The fire control space containing sprinkler valves, FIP and other equipment at the rear stairway discharge point contained litter and other debris.</p>

FIRE AND RESCUE NSW REPORT:

References: D19/93132; 2020/015589]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving an enquiry about the adequacy of fire safety on 16 October 2019.

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

1. Essential Fire Safety Measures

1A(a) The Automatic Fire Detection and Alarm System

FRNSW have advised that further to their Emergency Fire Safety Order, upon reinspection the Fire Indicator Panel was found to be compliant.

1A(b) Thermal detectors were provided in lieu of smoke detectors in the hotel.

1B Fire Hose Reels tags were not stamped.

1C Portable Fire Extinguishers tags were not stamped.

1D Exit Signs were not illuminated.

1E A number of fire door self-closing devices to stairways were missing.

1F The self-closing device to Unit 202 was missing.

1G Annual Fire Safety Statement not prominently displayed.

2. Access and Egress

2A. Storage in central stairway was removed at the time of inspection.

2B. Barriers to openable windows not compliant with current building code.

FRNSW Recommendations.

FRNSW have recommended that Council inspect the subject premises and appropriately address noted (and other) deficiencies identified within their report.

FRNSW have also requested that as soon as practical after the above recommendations have been tabled and considered that notice of any determination in respect of the recommendations is forwarded to them in accordance with clause 17(4) of 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	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 Council's building officer.

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.	Fire and Rescue NSW report	2020/015589
A2.	Locality Plan	2020/020007
A3	Attachment cover sheet	2020/020155

Trim Reference: 2020/019841

CSM reference No#: 2225262



File Ref. No: BFS19/3406 (9200)
TRIM Ref. No: D19/93132
Contact: [REDACTED]

20 December 2019

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Dear General Manager

Attention: Manager Compliance/Fire Safety

Dear Sir / Madam

**Re: INSPECTION REPORT
1-21 DARLINGHURST ROAD, POTTS POINT ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 16 October 2019, in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated in part that:

- *attended this premises for a fire call to a occupant (Unit 312) on L3 who had placed an electric kettle on a hotplate to have a cup of tea. Smoke filled her room and then the floor. They use G, L1 L2 L3 as their levels.*
- *The site is a budget accommodation with poor fire standards history. They have sprinklers throughout.*
- *L2 and L3 fire doors to the only stairwell have no operating closer and one of them does not have a handle on the inside of the door that would be used for egress from the rooms to the stairs. Neither door closed when the magnet holder released the door on FIP activation.*
- *The room 312 smoke detector did not operate at all, but she opened her door and the 3 common hallway ones activated quickly.*

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 7 November 2019, 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.
- 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

Please be advised that this report is not an exhaustive list of non-compliances and the items listed outline deviations from the National Construction Code Volume One 2019 Building Code of Australia (NCC) which may contradict development consent approval or correlate to the building's age. In this regard, it is Council's discretion as the appropriate regulatory authority to conduct its own investigation and consider the most appropriate course of action

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

1. Essential Fire Safety Measures

1A. The Automatic Fire Detection and Alarm System:

- a) Fire Indicator Panel (FIP): The automatic fire detection and alarm system and building occupant warning system did not appear to be capable of operating to the standard of performance from when it was first designed and installed, contrary to the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). The following issues were identified as concerns at the time of inspection:
 - i. The FIP was displaying the sixteen (16) faults and four (4) isolations.
 - ii. The evacuation control panel was displaying a line fault.

- b) It appeared that thermal detectors were provided in lieu of smoke detectors within each Sole Occupancy Units (SOU) of the Astoria Hotel, contrary to the requirements of Specification E2.2a of the NCC.

Correspondence received from the Fire Technician subsequent to the inspection indicated the following regarding the configuration of the smoke detection system in the Astoria Hotel:

- *The detectors that have been installed in the Single Occupancy Units (SOU), are a dual Sensor detector. They are a photo optical as well as a thermal detector, in one. The programming of the system is that, if there is smoke present within the SOU, the sounder within the unit is to alert the occupant, as well as to allow the occupant to clear the smoke out of the SOU.*
- *The thermal component of the detector, if activated, will report to the fire indicator panel as an alarm and will call the fire brigade.*
- *This detector was chosen for the SOU's because the units are small, and they have a cooking facility.*
- *All of the detectors within the Common areas, are Photo electric.*

It is unclear whether approval has been obtained to modify the system to allow only the thermal detection component within the SOU's to activate the building occupant warning system, contrary to the requirements of Clause 4 of Specification E2.2a of the NCC.

1B. Fire Hose Reels (FHR's):

- a) Maintenance – the FHR's throughout 'the premises', contained service labels/tags, indicating the FHR's had not received any routine servicing since February 2019, contrary to the requirements of Clause 9.3 of AS 1851-2012 and Clause 182 of the EP&A Regulation. Furthermore, the FHR outside Room 107 was missing the stop valve lever actuator and did not contain a service label/tag.

1C. Portable Fire Extinguishers (PFE's):

- a) Multiple PFE's throughout the Astoria Hotel, contained service labels/tags, indicating the PFE's had not received any routine servicing since June 2018 or February 2019, contrary to the requirements of Clause 10.3 of AS 1851-2012 and Clause 182 of the EP&A Regulation.

1D. Exit signs:

- a) All exit signs throughout the Astoria Hotel were not illuminated and had not maintained, contrary to the requirements of Clause 182 of the EP&A Regulation.

Correspondence received from the Fire Technician subsequent to the inspection indicated the following:

- *The Circuit Breaker was turned off on the communal switch board. The circuit breaker was restored, the lights were tested, with one exit sign which needs to be investigated, it doesn't seem to have power and will require a cable to be installed.*

1E. Fire Doors:

- a) Multiple self-closing devices to the fire doors providing access to the central fire stair and rear fire stair (in the Astoria Hotel) had been removed. Whilst these doors were held in the open position with magnetic hold open devices which release upon activation of the detection system, the doors failed to return to the fully closed position when tested, contrary to the requirements of Clause C3.4 and C3.8 of the NCC and AS 1905.1.

1F. Solid Core Doors:

- a) The self-closing device to the entry door of SOU No. 202 had been removed and the door failed to return to the fully closed position when opened, contrary to the requirements of Clause C3.11 of the NCC.

1G. Annual Fire Safety Statement (AFSS) – a copy of the current AFSS was not prominently displayed within the building in accordance with Clause 177 of the EP&A Regulation.

2. Access and Egress

2A. Items were being stored within the central fire-separated stairway in the Astoria Hotel, impeding the free passage of persons using the exit, contrary to the requirements of Clause 184 of the EP&A Regulation.

Discussions were held with the Manager at the time of the inspection and all items were removed prior to FRNSW departure from 'the premises'.

2B. Protection of openable windows – the barrier to the Level 2 and Level 3 openable windows, adjacent to SOUs 202 and 303 respectively, achieves a height of less than 865mm above the floor level and it appears that the floor below the window is more than 4m above the surface beneath the window, contrary to the requirements of Clause D2.24(c)(ii) of the NCC.

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

FIRE SAFETY ORDER NO. 1

The inspecting Authorised Fire Officers' of FRNSW issued an Order No. 1, dated 8 November 2019, in accordance with the provisions of Section 9.34 of the EP&A Act, to have item no. 1A(a) of this report rectified.

In accordance with the provisions of Schedule 5, Part 6, Section 12 of the EP&A Act, a copy of the Order is attached for your information. FRNSW has conducted further inspections of the building to assess compliance with the terms of this Order.

In this regard, FRNSW does not consider Council is required to take action in relation to item no. 1A(a) of this report.

RE-INSPECTION

Pursuant to the provisions of Section 9.32(1)(b) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Clause 189(a) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), inspections of 'the premises' on 29 November 2019 and 12 December 2019 were conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

At the time of the inspection on 12 December 2019, the terms of 'the order' issued on 'the premises' were compliant. Please be advised that 'the order' is not an exhaustive list of non-compliances, it is at Council's discretion to inspect and address any other deficiencies identified on 'the premises'.

RECOMMENDATIONS

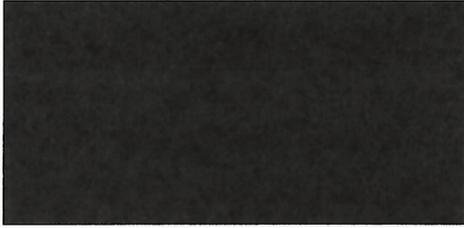
FRNSW recommends that Council:

- a. Inspect and address any other deficiencies identified on 'the premises', and require item no. 1A(b) through to item no. 2 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) 9742 7434. Please ensure that you refer to file reference BFS19/3406 (9200) for any future correspondence in relation to this matter.

Yours faithfully



Fire Safety Compliance Unit

Attachments: [Appendix 1 – Emergency Fire Safety Order No. 1 – 3 pages]

Appendix 1 – Emergency Fire Safety Order No. 1

Unclassified



File Ref. No:
TRIM Ref. No:
Contact:



8 November 2019

The Owners 
1-21 Darlinghurst Road
POTTS POINT NSW 2011

Dear Sir / Madam

RE: EMERGENCY FIRE SAFETY ORDER
1-21 DARLINGHURST ROAD, POTTS POINT ("the premises")

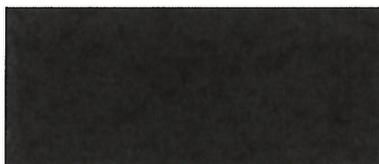
Pursuant to the provisions of Section 9.32(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an inspection of 'the premises' on 7 November 2019 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW).

At the time of the inspection there were fire safety matters that were identified as a significant concern to FRNSW, as the activity or deficiencies identified which the Authorised Fire Officer believes constitute an emergency or a serious risk to safety. As a result, an Emergency Fire Safety Order (Order No. 1) is issued in accordance with the provisions of Section 9.34 of the EP&A Act (copy attached).

A report of the inspection and a copy of the Order will also be forwarded to City of Sydney Council in accordance with the requirements of Sections 9.32, Section 9.35, Schedule 5, Part 6, Section 12 and Schedule 5, Part 8, Section 17 of the EP&A Act. Further inspections will be conducted by FRNSW to assess compliance with the terms of the Order.

Should you have any enquiries regarding any of the above matters, please do not hesitate to contact  of FRNSW's Fire Safety Compliance Unit on (02) 9742 7434. Please ensure that you refer to file reference BFS19/3406 (9200) for any future correspondence in relation to this matter.

Yours faithfully



Fire Safety Compliance Unit

CGI-



Fire and Rescue NSW

ABN 12 593 473 110

www.fire.nsw.gov.au

Community Safety Directorate
Fire Safety Compliance Unit

1 Amelina Ave
Greenacre NSW 2190

T (02) 9742 7434
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Page 1 of 3

Unclassified

Emergency Fire Safety Order

ORDER No. 1

Under the *Environmental Planning and Assessment Act 1979 (EP&A Act)*
Part 9 Implementation and Enforcement – Division 9.3 Development Control Orders
Fire Safety Orders in accordance with the table to Part 2 - Schedule 5.
Issue an Order in accordance with Section 9.34(1)(b)
Issue the Order as an Emergency Order Pursuant to Schedule 5, Part 8, Section 16

Property:

1-21 DARLINGHURST ROAD, POTTS POINT ("the premises")
(name/address of premises to which Order is served)

Emergency Situation / Serious Risk to Safety:

At approximately 11:15 am on Thursday 7 November 2019, the following was observed at the premises:

1. The fire indicator panel was displaying multiple faults and disablements, which were associated with the automatic fire detection and alarm system.
2. The evacuation control panel was displaying a line fault, which was associated with the building occupant warning system.

Authorised Fire Officer:

I, [REDACTED] [REDACTED] [REDACTED]
(name) (rank) (number)

being an Authorised Fire Officer in accordance with Schedule 5, Part 8, Section 16 of the *Environmental Planning and Assessment Act 1979*, and duly authorised for the purpose.

Hereby order:

The Owners of Strata Plan No. 2187 **Owner**
(name of person whom Order is served) (position i.e. owner, building manager)

To do, or refrain from doing, the following things:

1. Ensure the automatic fire detection and alarm system installed in 'the premises' is fully operational, by:
 - a. Repairing all 'faults' and 'disablements' displayed on the fire indicator panel.
2. Ensure the building occupant warning system installed in 'the premises' is fully operational, by:
 - a. Repairing the 'line fault' displayed on the evacuation control panel.

The reasons for the issue of this Order are:

- a) At the time of the inspection the fire indicator panel associated with the automatic fire detection and alarm system was displaying sixteen (16) faults and four (4) disablements.
- b) At the time of the inspection the evacuation control panel associated with the building occupant warning system was displaying a line fault.
- c) To ensure that the automatic fire detection and alarm system is capable to operating in accordance with the standard of performance it was designed and installed to.
- d) To ensure that the building occupant warning system is capable to operating in accordance with the standard of performance it was designed and installed to.
- e) To ensure compliance with the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000.

The terms of the Order are to be complied with:

By no later than 12:00pm on Thursday 14 November 2019.

Considerations for Emergency Order:

Pursuant to Schedule 5, Part 8, Section (16) of the EP&A Act, this Order has been given as an Emergency Order as there are circumstances which the authorised fire officer believes constitute an emergency or a serious risk to safety.

Appeals

Pursuant to Section 8.18(2) of the EP&A Act, a person may not appeal against a fire safety order given by an authorised fire officer (other than an order that prevents a person using or entering the premises).

Non-Compliance with the Order

A person that fails to comply with this Order may be guilty of an offence under Section 9.37 of the EP&A Act. A person that fails to comply with this Order by a particular specified time, or within a particular specified period, continues never-the-less to be obliged to comply with the Order and therefore must comply with the Order or they may be guilty of an offence under Section 9.5D of the EP&A Act.

Signed:



Fire Safety Compliance Unit

This Emergency Fire Safety Order No. 1 was served by mail and email on 8 November 2019.

Attachment E

<p>Council Officer Inspection Report 2 Roslyn Street Potts Point</p>

**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 2222437

Officer: Craig Hann

Date: 22 January 2020

Premises: 2 Roslyn Street Potts Point – Uno Hotel

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 premises consists of a 4 storey building used for hotel accommodation and bar / nightclub. The hotel is known as Uno Hotel. The building is located in a heritage conservation area under the Sydney LEP 2012.

The ground floor comprises a hotel foyer, dining room and bar / nightclub, the second, third and fourth floors are used as hotel accommodation rooms.

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

- (i) Inadequate fire detection and alarm systems, in that system fault/s are displayed on the fire indicator panel and an alarm system zone block plan is not displayed;
- (ii) A lack of adequate facilities for firefighting, in that the hydrant system pump requires repair / replacement of control equipment and a hydrant system block plan is not displayed;
- (iii) Safe and dignified emergency egress for occupants to safely evacuate the building in the event of a fire, an automatic fire door release / hold open device in the foyer requires repair;
- (iv) Poor fire safety management systems (signs/notices/not displayed etc.) in place, in that additional signs are required to assist FRNSW operate fire safety systems during a fire emergency and warn occupants of the operation of certain doors.

The council investigations have revealed that the premises are deficient in the provisions for fire safety and that a fire safety order to be issued under Schedule 5 of the Environmental Planning and Assessment Act, 1979 is required to be issued 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
13/12/2019	FRNSW contacted council requesting a joint fire safety inspection of the building at 2 Roslyn Street Potts Point with a council officer. FRNSW advised they had issued an order on the building on 6 September 2019 and had conducted a series of follow up compliance inspections. Council's officer contacted FRNSW to arrange the requested joint inspection for the following week. FRNSW liaised with the building owner to arrange access.

17/12/2019	<p>Joint inspection of building by Council officer and FRNSW as arranged with the building owner. The owner and a hotel management representative were advised of our entry into the building for an inspection.</p> <p>During the inspection FRNSW conducted a compliance inspection in relation to their order, in particular noting:</p> <ol style="list-style-type: none"> 1. The fire indicator panel had a software programming fault that didn't affect the operation of the system. However the fault still needs to be corrected. 2. The exits and paths of travel to exits were clear of obstructions. FRNSW were satisfied this item had been complied with. Completed. 3. Repair work on the hydrant pump was ongoing. Progress had been made to provide an all weather protective enclosure to the hydrant pump and its controlling electrical equipment. Hydrant repairs still to be completed. <p>FRNSW have revoked their order and referred these items to council for further follow up.</p> <p>Further, during the inspection FRNSW identified a number of maintenance deficiencies in relation to other existing fire safety measures, in particular noting:</p> <ol style="list-style-type: none"> 4. A fire alarm system zone block plan was not displayed at the fire indicator panel as required by standards. 5. The hydrant system required a block plan and pressure signage as required by standards. 6. Fire hose reels to be inspected to confirm hose nozzles are maintained so as to allow for on/off water flow. 7. A fire door automatic release / hold open device in the foyer requires repair. 8. The annual fire safety statement is not displayed in a prominent location. 9. The exit path of travel through the rear yard was part obstructed by miscellaneous items including garbage bins. <p>Council gave inspections to the owner to immediately clear the obstruction. The owner cleared the exit path of travel as required.</p> <p>Await submission of an inspection report from FRNSW to council.</p>
19/12/2019	FRNSW correspondence received regarding premises Uno Hotel (formerly known as Lido Suites) at 2 Roslyn Street Potts Point.
14/1/2020	Council officer contacted the owner of the building to arrange for an inspection. The inspection was arranged for the following week.
22/1/2020	<p>An inspection of the subject premises was undertaken by a Council officer accompanied by the building owner.</p> <p>The inspection revealed:</p> <ol style="list-style-type: none"> 1. The annual fire safety statement is displayed in a prominent location in the foyer. Item completed.

2. The exits and path of travel are clear of obstructions. Item completed.
3. Other items remain to be completed as covered above in the Chronology under 17/12/2019.

A notice of intention (NOI) for a fire safety order is required to ensure and promote adequate facilities for fire safety / fire safety awareness. An order will require an audit of the installed fire safety measures and completion of corrective maintenance work.

FIRE AND RESCUE NSW REPORT:

References: [BFS19/2542, D19/92713, D19/93265; 2019/645660, 2019/645660-02]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving an enquiry about an exit being blocked.

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

1. The maintenance and performance of several fire safety measures,
2. Annual fire safety statement not prominently displayed,
3. Obstruction of exit ways,
4. FRNSW issued an order and had been pursuing compliance / conducting follow up inspections.

FRNSW Recommendations

FRNSW have made two (2) recommendations within their report. In general FRNSW have requested that Council:

1. Inspect the subject premises and take action to have the identified and any other fire safety issues appropriately addressed;
2. Confirm in writing that Council will be taking action in relation to the outstanding terms of the FRNSW order.

FRNSW advise the matter is referred to Council as the appropriate regulatory authority

FRNSW have also requested they be advised of the determination in accordance with clause 17(4) of 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	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 Council's building officer.

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.	Fire and Rescue NSW report	2019/645660, 2019/645660-02
A2.	Locality Plan	2020/010287-01
A3	Attachment cover sheet	2020/010287-02

Trim Reference: 2020/010287

CSM reference No#: 2222437



File Ref. No: BFS19/2542 (8375)
TRIM Ref. No: D19/92713
Contact: [REDACTED]

19 December 2019

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au
CC Email: chann@cityofsydney.nsw.gov.au

Dear General Manager

**Re: INSPECTION REPORT
'UNO HOTEL' (FORMERLY KNOWN AS LIDO SUITES)
2 ROSLYN STREET, POTTS POINT ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 1 August 2019, in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence indicated that:

- *The caller was staying on level 3. He stated that when you came out of the lift and turned left, there were 7 rollaway beds stacked, blocking fire exit. He felt very unsafe staying there. When approach the manager, the manager got aggressive and pushed him and threatened to kick him out of hotel. The caller has since checked out and staying at different hotel. This hotel is known for prostitutes bringing their clients to that hotel as it is cheap, overall it's a very dodgy hotel.*

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 5 September 2019, 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.

- 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

Please be advised that this report is not an exhaustive list of non-compliances and the items listed outline deviations from the National Construction Code Volume One 2019 Building Code of Australia (NCC) which may contradict development consent approval or correlate to the building's age. In this regard, it is Council's discretion as the appropriate regulatory authority to conduct its own investigation and consider the most appropriate course of action.

The following items were identified as concerns at the time of inspection on 5 September:

1. Essential Fire Safety Measures

1A. The Automatic Fire Detection and Alarm System:

- a) The Fire Indicator Panel (FIP) was displaying a number of alarms, faults and isolations which were associated with the automatic fire detection and alarm system.
- b) Maintenance - The last maintenance record and report in the Fire Detection log book located at the FIP, indicated the system had not received any routine servicing since April 2018, contrary to the requirements of Clause 6.3 of AS 1851-2012 and Clause 182 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).
- c) Zone Block Plan - A zone block plan was not provided at the FIP, contrary to the requirements of Clause 3.10 of AS 1670.1-2015.

1B. The Fire Hydrant System:

- a) Hydrant pumpset - The fire hydrant system did not appear to be capable of operating to the standard of performance from when it was first designed and installed, contrary to the requirements of Clause 182 of the EP&A Regulation. The following issues were identified as concerns at the time of inspection.

- i. The diesel hydrant pump was switched off / isolated and the pump controls indicated there was no power supply to the pump.
- b) The hydrant booster assembly:
 - i. A block plan of the fire hydrant system had not been provided at the booster assembly, contrary to the requirements of Clause 7.11 of AS 2419.1-2005.
 - ii. 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.
 - iii. 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 AS 2419.1-2005.
- c) Maintenance - The hydrant booster assembly and the hydrant valves, contained service labels/tags, which indicated the hydrants have not received any routine servicing since April 2018, contrary to the requirements of Clause 4.3 of AS 1851-2012 and Clause 182 of the EP&A Regulation.

1C. Fire Hose Reels (FHR's):

- a) Maintenance – The FHR's throughout 'the premises', contained service labels/tags, indicating the FHR's had not received any routine servicing since April 2018, contrary to the requirements of Clause 9.3 of AS 1851-2012 and Clause 182 of the EP&A Regulation.

1D. Fire Doors:

- a) The fire doors on the ground floor level (between the internal fire stairway and the lift lobby) were fitted with magnetic hold open devices which were broken and had not been maintained, contrary to the requirements of Clause 182 of the EP&A Regulation. As a result, the doors were being held open with wooden door chocks, preventing the doors from returning the door to the fully closed position.

- 1E. Annual Fire Safety Statement (AFSS) – a copy of the current AFSS was not prominently displayed within the building in accordance with Clause 177 of the EP&A Regulation. In this regard, the AFSS on display in the office was dated 16 August 2012. Furthermore, the AFSS on display did not include the fire hydrant system installed at 'the premises'.

2. Access and Egress

- 2A. Materials were stored/located within the rear fire-isolated stairway, contrary to the requirements of Clause 184 of the EP&A Regulation. The materials included, but was not limited to, furniture, building materials, a laundry trolley/cart, luggage bags, a Portacot, and a ladder.
- 2B. Items were being stored in the paths of travel to the exits on Level 1 and Level 3 which were totally blocking access to the rear fire-isolated stairway, contrary to the requirements of Clause 184, Clause 185 and Clause 186 of the EP&A Regulation. The items included, but was not limited to, furniture, fold out beds, luggage bags, a bike and general household items.

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

FIRE SAFETY ORDER NO. 1

The inspecting Authorised Fire Officers' of FRNSW issued an Order No. 1, dated 6 September 2019 ('the Order'), in accordance with the provisions of Section 9.34 of the EP&A Act, to have item no. 1A(a), item no.1B(a), item no. 2A & item no. 2B of this report rectified.

In accordance with the provisions of Schedule 5, Part 6, Section 12 of the EP&A Act, a copy of 'the Order' is attached for your information.

RE-INSPECTION

Pursuant to the provisions of Section 9.32(1)(b) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Clause 189(a) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), inspections of 'the premises' were conducted on 11 September 2019, 20 September 2019, 29 November 2019 and 17 December 2019, by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW. It is noted that the inspection on 17 December 2019 was in the company of City of Sydney Council Officer Mr Craig Hann.

- 3. Re-inspection 11 September 2019 - The following items were identified at the time of inspection:
 - 3A. The Automatic Fire Detection and Alarm System:
 - a) Fire Indicator Panel (FIP): The FIP was clear of all alarms, faults and isolations.
 - 3B. The stored items identified in Item 2A above, remained stored throughout the rear fire-isolated stairway.

- 3C. The stored items identified in Item 2B above had been removed from the path of travel to the rear fire-isolated stairway and access was available to the fire stair.
- 3D. The hydrant pump remained without power and was not operational.
4. Re-inspection 20 September 2019 - The following items were identified at the time of inspection:
- 4A. The Automatic Fire Detection and Alarm System:
- a) Fire Indicator Panel (FIP): The FIP was displaying a 'sensor fault' on Level 3. Upon investigation, the smoke detector outside the rear fire-isolated stairway on Level 3 had been removed. It is understood the recent rain activity had caused the detector to fail due to water penetration from the roof.
- 4B. The stored items had mostly been removed from the rear fire-isolated stairway, however some items remained.
- 4C. The hydrant pump remained without power and was not operational.

Correspondence received from the fire services contractor responsible for the maintenance/rectifications of the system, following the inspection, revealed that the main controller board for the pump was defective and required replacing and there was a lead time in sourcing the component.

5. Re-inspection 29 November 2019 - The following items were identified at the time of inspection:
- 5A. The Automatic Fire Detection and Alarm System:
- a) Fire Indicator Panel (FIP): The FIP was displaying an 'Earth Fault'. Discussions with the fire technician at the time of the inspection (via telephone) indicated a software/programming issue which wouldn't affect the operation of the system.
- b) The smoke detector in the main foyer on the ground floor was covered with a plastic bag. The plastic bag was removed by the Manager prior to FRNSW departure from 'the premises'.
- 5B. There were items again being stored within the rear fire-isolated stairway. In this regard, at the roof level building materials were stored in the fire stairway which was obstructing access and operation of the fire hydrant valve. Also, furniture items were located on other levels.
- 5C. The hydrant pump remained without power and was not operational.

Discussions with the fire services contractor at the time of the inspection (via telephone) indicated that in order to complete the rectification to the

pump (i.e. the new pump control panel), a new pump enclosure had to be built.

It is noted that a new roof structure had partially been constructed. It is understood that a new roof structure was required to prevent water penetration which was the repeated cause of the fault to the Level 3 smoke detector.

- 5D. Fire Alarm Communication Link - The Alarm Signalling Equipment (ASE) was isolated. Therefore, the ASE was not operating to the standard to which it was installed, contrary to the requirements of Clause 182 of the EP&A Regulation.

It should be noted that, pursuant to Section 34 of the Fire and Rescue NSW Act 1989 (the Act), it is an offence to tamper "with any fire alarm or signalling apparatus for giving notice of fire".

The manager was advised of the regulatory requirements regarding isolations and confirmed that the practise of isolating the ASE will no longer form part of any procedure or practise of staff. The ASE was removed from isolation prior to FRNSW departure from 'the premises'.

Following the inspection, this information was then relayed to the Building Owner for 'the premises'. The Building Owner has contacted the manager of the premises to confirm that the practice of isolating the ASE must cease immediately.

6. Re-inspection 17 December 2019 - The following items were identified at the time of inspection:

- 6A. The Automatic Fire Detection and Alarm System:

- a) Fire Indicator Panel (FIP): The FIP was displaying a 'Sensor Fault' in Zone 1 (ground floor level).

- 6B. All stored items had been removed from the rear fire-isolated stairway and the stairway was clear of all obstructions.

- 6C. The hydrant pump remained without power and was not operational.

It is noted that a new roof structure had been fully constructed and a new pump enclosure had partially been erected. It is unclear whether building approvals have been obtained (if required) for these works given 'the premise' may be located in a heritage conservation area and may have heritage significance which may require development approval.

It is also noted that the new metal roof, is not practical for fire-fighters accessing the hydrant pump due to the profile of the metal roof.

- 6D. Items including, but not limited to, commercial garbage bins and miscellaneous building materials were being stored in the path of travel to the road after discharging from the rear fire-isolated stairway, which was obstructing egress to Barncleuth Lane.

At the time of the inspection on 17 December 2019, the terms of 'the order' issued on 'the premises' had partially been complied with. In this regard, Term no. 1 had partially been complied with (one fault remaining on the FIP), Term no. 2 had been fully complied with and Term no. 3 remained outstanding.

During discussions with Council Officer Mr Craig Hann at the time of the inspection on 17 December 2019, it was agreed that FRNSW would revoke 'the Order' issued on 'the premises' on the basis that Council would be taking action on the outstanding terms of 'the Order' (relating to the fault on the FIP and the hydrant pump), along with other items identified at 'the premises' which have been outlined within this report.

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. 6 of this report be addressed appropriately.
- b. Provide confirmation in writing to FRNSW that Council is taking action with the Building Owner to have all outstanding terms of 'the Order' rectified, such that FRNSW can revoke 'the Order' issued on 'the premises'.

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) 9742 7434. Please ensure that you refer to file reference BFS19/2542 (8375) for any future correspondence in relation to this matter.

Yours faithfully



Fire Safety Compliance Unit

Attachments: [Appendix 1 – Emergency Fire Safety Order No. 1 – 4 pages]

Appendix 1 – Emergency Fire Safety Order No. 1

Unclassified



File Ref. No:
TRIM Ref. No:
Contact:



6 September 2019

Valar Pty Ltd
Level 8, 61 Market Street
SYDNEY NSW 2000

Dear Sir / Madam

**RE: EMERGENCY FIRE SAFETY ORDER
'LIDO SUITES'
2 ROSLYN STREET, POTTS POINT("the premises")**

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 5 September 2019 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW).

At the time of the inspection there were fire safety matters that were identified as a significant concern to FRNSW, as the activity or deficiencies identified which the Authorised Fire Officer believes constitute an emergency or a serious risk to safety. As a result, an Emergency Fire Safety Order (Order No. 1) is issued in accordance with the provisions of Section 9.34 of the EP&A Act (copy attached).

A report of the inspection and a copy of the Order will also be forwarded to City of Sydney Council in accordance with the requirements of Sections 9.32, Section 9.35, Schedule 5, Part 6, Section 12 and Schedule 5, Part 8, Section 17 of the EP&A Act. Further inspections will be conducted by FRNSW to assess compliance with the terms of the Order.

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) 9742 7434. Please ensure that you refer to file reference BFS19/2542 (8375) for any future correspondence in relation to this matter.

Yours faithfully



Fire Safety Compliance Unit

CCI-



Fire and Rescue NSW

ABN 12 593 473 110

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Community Safety Directorate
Fire Safety Compliance Unit

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Unclassified

Emergency Fire Safety Order ORDER No. 1

Under the *Environmental Planning and Assessment Act 1979 (EP&A Act)*
Part 9 Implementation and Enforcement – Division 9.3 Development Control Orders
Fire Safety Orders in accordance with the table to Part 2 - Schedule 5.
Issue an Order in accordance with Section 9.34(1)(b)
Issue the Order as an Emergency Order Pursuant to Schedule 5, Part 8, Section 16

Property:

'LIDO SUITES'
2 ROSLYN STREET, POTTS POINT ("the premises")
(name/address of premises to which Order is served)

Emergency Situation / Serious Risk to Safety:

At approximately 12:00 pm on Thursday 5 September 2019, the following was observed at 'the premises':

1. The fire indicator panel was displaying a number of alarms, faults and isolations, which were associated with the automatic fire detection and alarm system.
2. Items were being stored throughout the fire-isolated stairway at the northern end of the building.
3. Items were being stored in the path of travel to the northern exit on multiple levels, throughout the building.
4. The diesel hydrant pump did not appear to be fully operational.

Authorised Fire Officer:

I, [REDACTED] [REDACTED] [REDACTED]
(name) (rank) (number)

being an Authorised Fire Officer in accordance with Schedule 5, Part 8, Section 16 of the *Environmental Planning and Assessment Act 1979*, and duly authorised for the purpose.

Hereby order:

[REDACTED] [REDACTED]
(name of person whom Order is served) Owner (position i.e. owner, building manager)

To do, or refrain from doing, the following things:

1. Ensure the automatic fire detection and alarm system installed in 'the premises' is fully operational, by:
 - a. Repairing all 'alarms', 'faults' and 'isolations' displayed on the fire indicator panel.
2. Ensure all exits and egress paths are clear of all items and obstructions, by:
 - a. Clearing all materials and rubbish stored within the fire-isolated stairway.
 - b. Clearing all furniture and items stored in all egress paths to the exits, serving 'the premises'.
3. Ensure the fire hydrant system installed in 'the premises' is fully operational, by:
 - a. Re-instating the diesel hydrant pump which was inoperative and had not been maintained.

The reasons for the issue of this Order are:

- a) At the time of the inspection the fire indicator panel associated with the automatic fire detection and alarm system was displaying an alarm, faults and isolations.
- b) At the time of the inspection, items were being stored throughout the fire isolated stairway at the northern end of the building.
- c) At the time of the inspection, items were being stored in the paths of travel to the exits throughout the building.
- d) At the time of the inspection, the diesel hydrant pump appeared to be inoperative and the service logbook for the pumpset indicated that the pump had ongoing maintenance issues.
- e) To ensure that the automatic fire detection and alarm system and building occupant warning system is capable of operating in accordance with the standard of performance it was designed and installed to.
- f) To ensure that all fire exits and paths of travel to the exits are free from impediments, so that occupants may safely evacuate the premises in the event of a fire in a timely manner.
- g) To ensure that the hydrant system is capable of operating in accordance with the standard of performance it was designed and installed to.
- h) To ensure compliance with the requirements of Clause 182, Clause 184 and Clause 186 of the Environmental Planning and Assessment Regulation 2000.

The terms of items 1 & 2 of the Order are to be complied with:

By no later than 12:00pm on Tuesday 10 September 2019.

Unclassified

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The terms of item 3 of the Order are to be complied with:

By no later than **12:00pm on Friday 20 September 2019.**

Considerations for Emergency Order:

Pursuant to Schedule 5, Part 8, Section (16) of the EP&A Act, this Order has been given as an Emergency Order as there are circumstances which the authorised fire officer believes constitute an emergency or a serious risk to safety.

Appeals

Pursuant to Section 8.18(2) of the EP&A Act, a person may not appeal against a fire safety order given by an authorised fire officer (other than an order that prevents a person using or entering the premises).

Non-Compliance with the Order

A person that fails to comply with this Order may be guilty of an offence under Section 9.37 of the EP&A Act. A person that fails to comply with this Order by a particular specified time, or within a particular specified period, continues never-the-less to be obliged to comply with the Order and therefore must comply with the Order or they may be guilty of an offence under Section 9.50 of the EP&A Act.

Signed:



Fire Safety Compliance Unit

This Emergency Fire Safety Order No. 1 was sent by mail and email on **6 September 2019.**

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