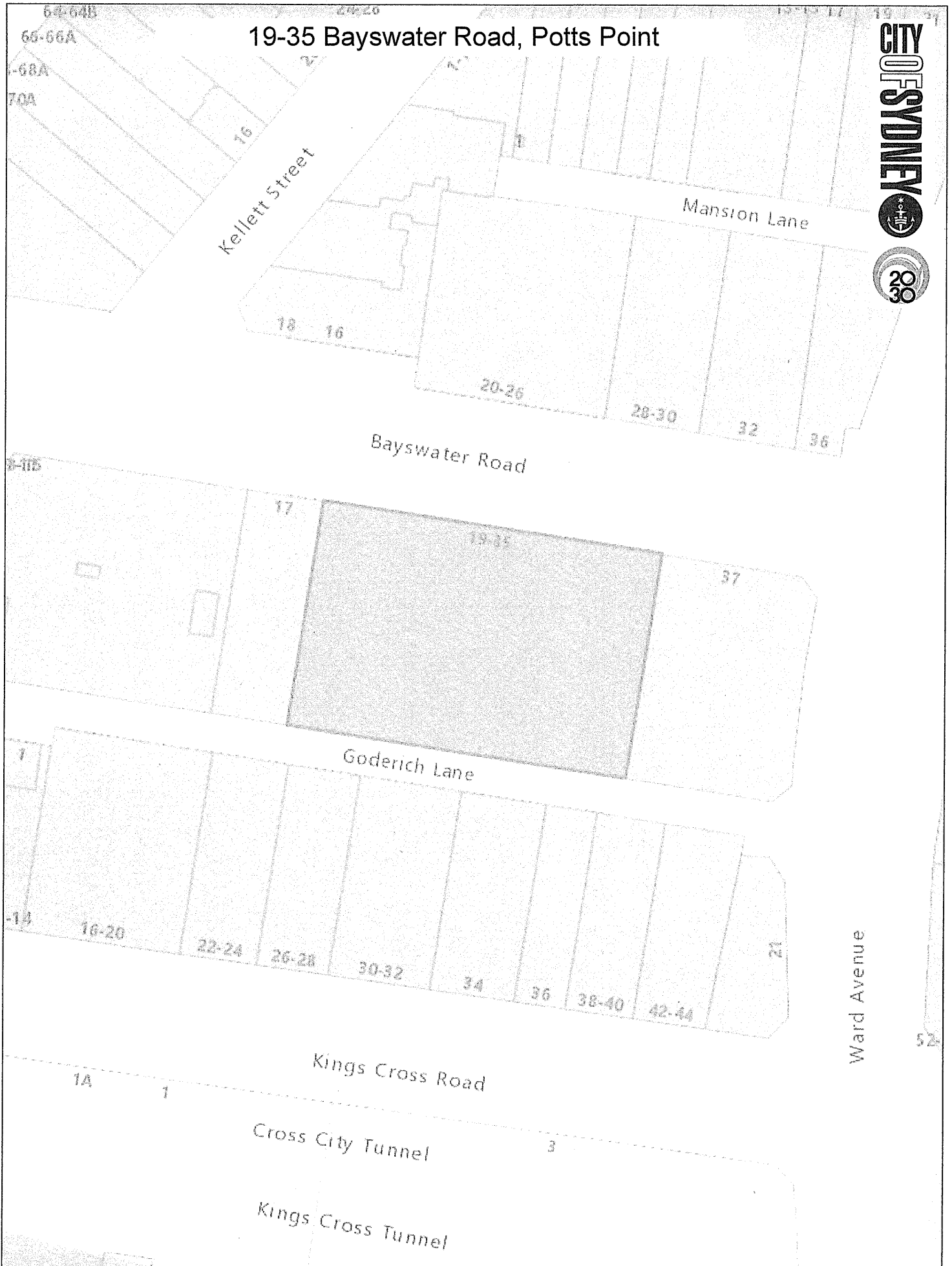


Attachment J

<p>Council Officer Inspection Report – 19-35 Bayswater Road, Potts Point</p>

19-35 Bayswater Road, Potts Point



**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 1970770

Officer: Michael Merlino

Date: 24 October 2018

Premises: 19-35 Bayswater Road, Potts Point – “The Crescent Serviced Apartments”

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 consist of an eight storey building primarily used as serviced apartments with associated basement car parking and retail (restaurants and bars) areas. The building is configured as follows:

- Basement 1 to 5 Levels - Car parking and ancillary plant areas.
- Lower Ground Level - Retail areas.
- Ground Level - Serviced apartment entry foyer and retail areas.
- Level 1 - Serviced apartments, commercial and retail areas.
- Levels 2 to 6 - Serviced apartments.
- Roof Level – Plant.

The building was subject to a Fire Safety Order issued by Council on 20 September 2007 which was subsequently finalised on the 25 September 2009.

Since completion of the fire safety order, the owners have been submitting compliant annual fire safety statements as part of their obligations under clause 177 of the Environmental Planning and Assessment Regulation 2000.

An inspection of the premises undertaken by a Council investigation officer in the presence of the building manager and building maintenance person have revealed that whilst there remains several minor fire safety “maintenance and management” works to attend to including alterations to existing exit signage in the level 1 bar area, the overall fire safety systems provided within the subject premises are considered adequate in the circumstances.

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.

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.

Observation of the external features of the building did not identify the existence of metallic sheet cladding on the façade of the building.

Chronology:

Date	Event
22/10/2018	FRNSW correspondence received regarding premises 19-35 Bayswater Road, Potts Point.
22/10/2018	An initial desktop review of the subject building revealed that the building has a 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 by 30 August 2019. The premises was issued with a fire safety order by Council on 20 September 2007. The works under the fire safety upgrade order were completed and subsequently finalised by Council on 25 September 2009.
23/10/2018	An inspection of the subject premises was undertaken by a Council officer which revealed the following: 1. Low illuminance exit and directional signage was provided to the level 1 bar area contrary to the requirements of AS2293.1-2005 for exit signage. 2. A directional exit sign was directing occupants away from a required exit and needs to be re-orientated. 3. An isolation on the buildings Fire Indicator Panel was in place due to current approved construction works being undertaken on level 1. The building manager was reminded to ensure that the isolation is removed upon completion of the works at the end of each day.
23/10/2018	Correspondence was issued to the building manager and the owners of the building by a Council officer to have the abovementioned matters satisfactorily addressed.

FIRE AND RESCUE NSW REPORT:

References: [NFB/14052, D18/73841; 2018/541703]

Fire and Rescue NSW conducted an inspection of the subject premises in conjunction with the NSW police force on 9 December 2017.

Issues

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

1. The fire indicator panel was observed as displaying faults to the loading dock area;
2. FRNSW issued a Notice of Intention (NOI) to serve a fire order, however the order was not issued by FRNSW who have advised that the terms (issues) under the NOI had been complied with.

FRNSW Recommendations

FRNSW have made a number of recommendations within their report. In general FRNSW have requested that Council:

1. Inspect the fire indicator panel and subject premises and take action to have the identified fire safety issues appropriately addressed;
2. FRNSW has referred the matter to Council as the regulatory authority 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 121ZD (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 site inspection undertaken by Council investigation officers it is recommended that the owners of the building address and comply with the issued compliance letter of instruction and rectify the identified fire safety deficiencies noted by Council and FRNSW.

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

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

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

Referenced documents:

No#	Document type	Trim reference
A1.	Fire and Rescue NSW report	2018/546881-01
A2.	Locality Plan	2018/546881-03
A3	Attachment cover sheet	2018/546881-02

Trim Reference: 2018/546881

CSM reference No#: 1970770



Fire & Rescue NSW

Unclassified

File Ref. No: NFB/14052

TRIM Ref. No: D18/73841

Contact: [REDACTED]

19 October 2018

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
'THE CRESCENT'
19-35 BAYSWATER ROAD POTTS POINT ("the premises")**

Fire & Rescue NSW (FRNSW) had been conducting inspections in conjunction with the NSW Police Force on 9 December 2017, in relation to the adequacy of the provision for fire safety in relation to licensed premises.

The inspections for "the Club" and "Flamingos" revealed that the main Fire Indicator Panel (FIP) includes "The Crescent". As a result, an inspection FIP revealed faults and isolations.

Please be advised that the inspection for 'the premises' was conducted prior to the amendments of the Environmental Planning and Assessment Act 1979 (EP&A Act) on 1 March 2018. As such, all references to the relevant sections in this report are provided prior to the amendments of the EP&A Act.

Pursuant to the provisions of Section 119T(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an inspection of 'the premises' on 9 December 2017 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

The inspection was limited to the following:

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

Fire & Rescue NSW

Community Safety Directorate
Fire Safety Compliance Unit

firesafety@fire.nsw.gov.au

Unclassified

ABN 12 593 473 110

Locked Bag 12
Greenacre NSW 2190

Page 1 of 5

www.fire.nsw.gov.au

T (02) 9742 7434
F (02) 9742 7483

© Copyright State Govt NSW



- 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.

Please be advised that the inspection, hearing and considering the representation, FRNSW has determined not to give an Order in accordance with Section 121K of the EP&A Act.

On behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Section 119T (4) and Section 121ZD (1) of the EP&A Act. Please be advised that Section 121ZD (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 however, the proceeding concerns also identifies deviations from the National Construction Code 2016, Volume 1 Building Code of Australia (NCC). Given the concerns are based on observations available at the time FRNSW acknowledges that the deviations may contradict development consent approval. In this regard, it would be at council's discretion as the appropriate regulatory authority to conduct its own investigation and consider the most appropriate action.

The following items were identified as concerns at the time of the inspection of 9 December 2017:

1. "The premises" appears to be a residential building that allows sleeping occupants.
2. The Fire Indicator Panel (FIP) was observed displaying the following:
 - a. The LED lights displayed "Fault" and "Isolated".
 - b. The wording on the panel displayed *"Zone 23 Isolated [NORMAL] ISO 1/1, Loc: Loading Dock; Logged at 08:29:369, Wednesday 8-Nov-2017."*
3. The fault had been registered since 8 November 2017.

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



RECOMMENDATIONS

FRNSW recommends that Council:

- a. Inspect the FIP and address and any other deficiencies identified on 'the premises', despite compliance with the Notice of Intention to Serve an Order on 21 December 2017, .

This matter is referred to Council as the appropriate regulatory authority. FRNSW therefore awaits Council's advice regarding its determination in accordance with Section 121ZD (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 NFB/14052 for any future correspondence in relation to this matter.

Yours faithfully



[REDACTED]
Building Surveyor
Fire Safety Compliance Unit

Attachments [Appendix 1 – Proposed Fire Safety Order dated 15 December 2017 – 2 pages]



Appendix 1



Fire &
Rescue NSW

Unclassified

Proposed Fire Safety Order

Under the *Environmental Planning and Assessment Act 1979*
Part 6 - Implementation and Enforcement: Division 2A - Orders
Tables to Section 121B: Order No. 6 - Fire Safety Order

Please note:

- Pursuant to Section 121ZK (2) of the *Environmental Planning & Assessment Act 1979* (EP&A Act), there is no right of appeal to the Court against this Order.
- Failure to comply with this Order may result in further Orders and/or fines being issued.
- Substantial penalties may be imposed under Section 125 of the EP&A Act for failure to comply with an Order.

I,

(name)

Building Surveyor

(rank)

903766

(number)

being an authorised Fire Officer within the meaning of Section 121ZC of the *Environmental Planning and Assessment Act 1979*, and duly authorised for the purpose, hereby order:

(name of person whom Order is served)

Owner

(position i.e. owner, building manager)

with respect to the premise

'THE CRESCENT'

SP67571, 19-35 BAYSWATER ROAD, POTTS POINT ("the premises")

(name/address of premises to which Order is served)

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

1. Ensure the Automatic Smoke Detection and Alarm System ("the system") continually monitors 'the premises' by:
 - a. Repairing all faults displayed on the fire indicator panel (FIP) at the time of the inspection.;
 - b. Rectifying the isolations displayed on the FIP at the time of the inspection.
2. Maintain 'the system' so that it is operational without faults or isolations by ceasing the practise of isolating 'the system'. Ensuring that "the system" operates to the standard of performance it was originally designed, installed and commissioned.

Unclassified

Fire & Rescue NSW

ABN 12 593 473 110

www.fire.nsw.gov.au

Community Safety Directorate

Locked Bag 12

T (02) 9742 7434

Fire Safety Compliance Unit

Greenacre NSW 2190

F (02) 9742 7483

firesafety@fire.nsw.gov.au

Page 1

© Copyright State Govt NSW



Unclassified

Fire & Rescue NSW

ABN 12 593 473 110

www.fire.nsw.gov.au

Community Safety Directorate

Locked Bag 12

T (02) 9742 7434

Fire Safety Compliance Unit

Greenacre NSW 2190

F (02) 9742 7483

firesafety@fire.nsw.gov.au

Page 4 of 5

© Copyright State Govt NSW



Unclassified

Unclassified

The terms of the Order are to be complied with:

By no later than 7 days from the date of the order.

The reasons for the issue of this Order are:

- a) At the time of the inspection on 9 December 2017, the following was observed on the Fire Indicator Panel (FIP):
 - i. The LED lights displayed "Fault" and "Isolated".
 - ii. The display panel displayed the following wording:
"Zone 23 Isolate [NORMAL] ISO 1/1, Loc: Loading Dock; Logged at 08:29:39, Wed 08-Nov-2017."
- b) At the time of the inspection, 'the premises' was occupied with sleeping occupants. The display indicated that the fault had been registered since 8 November 2017.
- c) The fault and isolations to Automatic Smoke Detection and Alarm System installed throughout the premises was not operating to the standard of performance it was designed and commissioned.
- d) Faults or isolations is likely to prevent early warning to the occupants and may delay early notification to the sleeping occupants, potentially limiting safe egress paths out of the premises, leaving the occupants trapped.
- e) To ensure the Automatic Smoke Detection and Alarm System is fully operational so that occupants are provided with early notification of a fire within the premises so that they may safely evacuate the premises in the event of a fire.
- f) To ensure that Fire Safety Measures installed throughout the building are maintained and operating to their standard of performance.

This Proposed Fire Safety Order No. 6 was sent by mail on 15 December 2017.

NOTE: Representations are to be made in writing and should be received by FRNSW by no later than close of business 22 December 2017.



Building Surveyor
Fire Safety Compliance Unit

Unclassified

Fire & Rescue NSW	ABN 12 593 473 110	www.fire.nsw.gov.au
Community Safety Directorate	Locked Bag 12	T (02) 9742 7434
Fire Safety Compliance Unit	Greenacre NSW 2190	F (02) 9742 7483
firesafety@fire.nsw.gov.au	Page 2	© Copyright State Govt NSW



Unclassified

Fire & Rescue NSW	ABN 12 593 473 110	www.fire.nsw.gov.au
Community Safety Directorate	Locked Bag 12	T (02) 9742 7434
Fire Safety Compliance Unit	Greenacre NSW 2190	F (02) 9742 7483
firesafety@fire.nsw.gov.au	Page 5 of 5	© Copyright State Govt NSW

