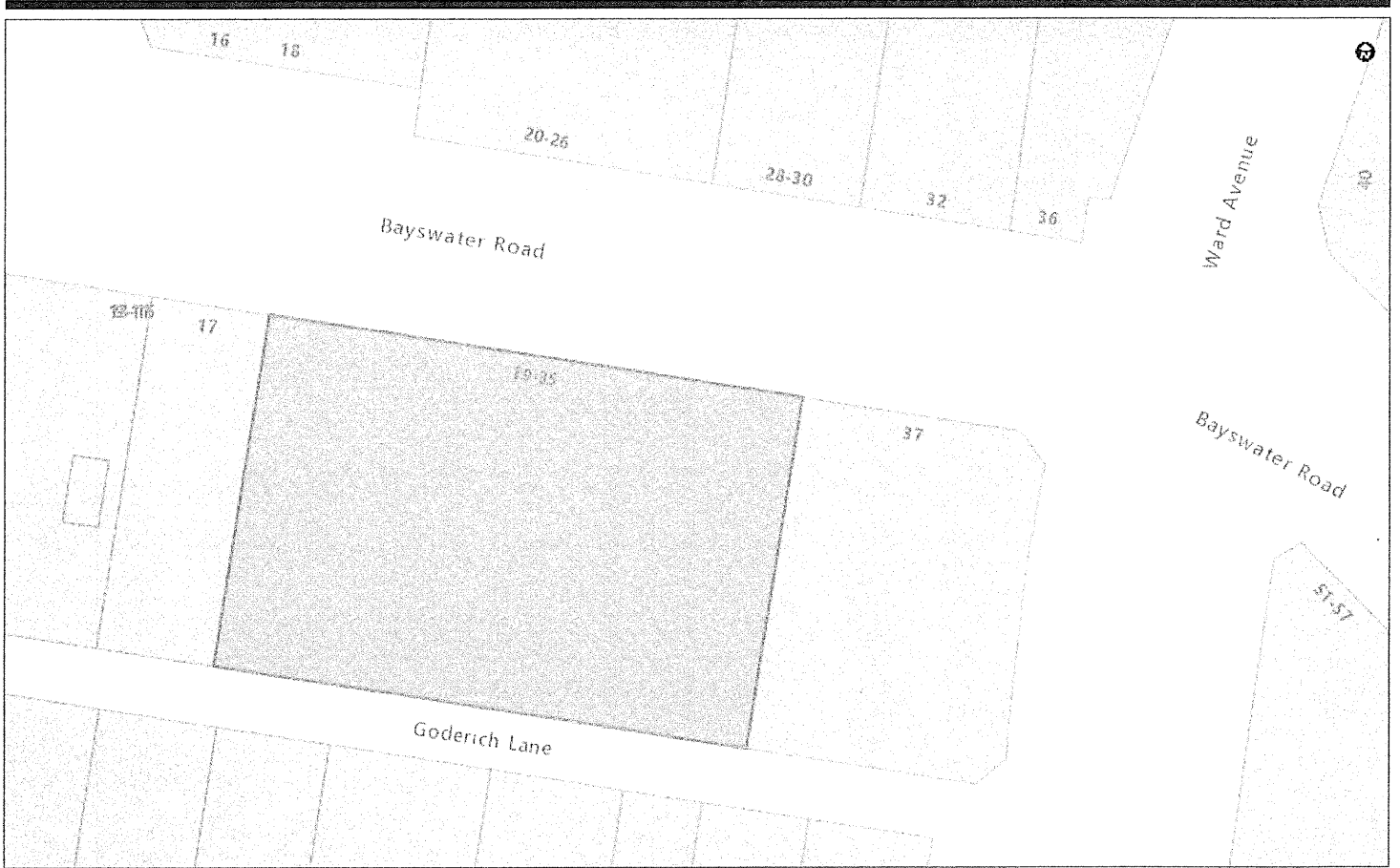


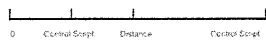
Attachment E

**Inspection Report - 19-35
Bayswater Road, Potts Point**

19-35 Bayswater Road, Potts Point



city of sydney



Metres

Drawn Jan 19
At 1:500

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**Council investigation officer Inspection and Recommendation Report
Clause 17(2) of Schedule 5, of the Environmental Planning and Assessment Act
1979 (the Act)**

File: CSM2003525

Officer: Chad Grant

Date: 24 January 2019

Premises: 19-35 Bayswater Road, Potts Point – “Flamingo Lounge”

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.
- Lower Ground Level - Retail areas.
- Ground Level - Serviced apartment entry foyer and retail areas.
- Levels 1 to 6 - Serviced apartments, commercial and retail areas.
- Roof Level – Plant Room.

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 have revealed that whilst there remains several minor fire safety “maintenance and management” works to attend to such as ensuring the exits are readily apparent and minor modifications to installed fire systems, 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 |
|------------|---|
| 18/12/2018 | FRNSW correspondence received regarding premises 19-35 Bayswater Road, Potts Point. |
| 20/12/2018 | 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 on 31 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. |
| 16/01/2019 | An inspection of the subject premises was undertaken by a Council investigation officer in company with the building manager which revealed the following: ➤ Certain exits were not readily apparent from the main dance floor area (lack of exit signage); an isolation on the buildings fire indicator panel was in place; certain sprinkler heads were capped; an exit sign was not illuminated. The above items were discussed and reviewed. Additional exit signage is to be installed, the sprinkler heads (capped) are superfluous and are to be removed and the fire service contractors are to service the fire panel to clear and ensure the system is fully operational. |
| 18/01/2019 | Correspondence was issued to the Owners of the building to have the abovementioned matters satisfactorily addressed. |
| 24/01/2019 | A follow up inspection of the subject premises was undertaken by a Council investigation officer in the presence of the building manager which revealed the following: ➤ The buildings fire indicator panel was operational and no longer showing an isolated light; the exit sign was illuminated; the outstanding matters being new direction/exit signage and removal of the redundant sprinkler heads were being worked upon at the time. |

FIRE AND RESCUE NSW REPORT:

References: [BFS17/3048 (2288); D18/87699; 2018/645938]

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. Certain fire safety measures were not being maintained;
2. There were insufficient exit/direction signs;
3. There were items stored under and beside an external stair which forms part of a path of travel.

FRNSW Recommendations

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

1. Inspect and address any other deficiencies identified on the premises and require abovementioned items to be addressed appropriately.

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 a site inspection undertaken by a Council investigation officer 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 outcomes.

Referenced documents:

| No# | Document type | Trim reference |
|-----|----------------------------|----------------|
| A1. | Fire and Rescue NSW report | 2019/020350-01 |
| A2. | Locality Plan | 2019/020350-02 |
| A3 | Attachment cover sheet | 2019/020350-03 |

Trim Reference: 2019/020350

CSM reference No#: 2003525



File Ref. No: BFS17/3048 (2288)
TRIM Ref. No: D18/87699
Contact: [REDACTED]

14 December 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
'FLAMINGO LOUNGE'
19-35 BAYSWATER ROAD POTTS POINT ('the premises')**

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 Fire and Rescue NSW (FRNSW). The inspection was also conducted in the company of Officers from the NSW Police Force.

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.

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 2016, 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. Maintenance – Clause 182 of the Environmental Planning and Assessment Regulation 2000 requires that an Essential Fire Safety Measure must be maintained to a standard no less than when it was first installed. The following was noted at the time of the inspection:

A. Regular Maintenance – Australian Standard AS1851-2012 (amendment 1) - "Service of fire protection systems and equipment", requires essential service measures to be regularly tested. The following is noted:

- i. Log Books – Clause 1.16.2 of requires service logbooks to be left on site. At the time of the inspection, copies of previous services records were unavailable. As a result, it was difficult to establish which essential service measures are regularly maintained.
 - ii. Portable Fire Extinguishers (PFE) – Clause 10.2.16 requires routine service and results detailed in Clause 10.4 to be kept in accordance with Clause 1.16. A number of PFEs lack service labels/tags
- B. Exit signs –A number of exit signs that were either not operating when the test button was pressed or were not illuminated.
- C. Emergency Lighting –A number of spit fires that were not operating when the test button was pressed.
- D. Smoke Detector – The smoke detector located within the liquor store room at the back of house included a dust cap. At the time, the dust cap was removed.

- 1B. Sprinkler – There were a number of sprinkler heads on the external stair leading to Bayswater Road that were capped. It is unclear why the sprinkler heads were made redundant.
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, hence the following observations were noted:
 - A. At first sight, there is insufficient cues to identify where the exits are located. A review of the exit strategy may be required.
 - B. 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 main dance floor area includes directional signage that directs patrons to doors that do not appear to be required exit doors.
 - 2B. Panic Bar – The required exit door leading to Bayswater Road included a panic bar. The door was decorated with features on the face of the door that recessed the push bar mechanism. The mechanism no longer projects forward of the face of the door. It is council's discretion to determine whether the decorative features have been approved or is considered an impediment to the operation of the exit door.
3. Generally
 - 3A. Dimensions (Exits and Paths of Travel to Exits) – Clause D1.6 of the NCC requires specific dimensions for height and width for a required exit or path of travel to an exit. An unobstructed height of 2 metres along the path of travel to an exit is required. The back of house hallway appears to be less than the required 2m, the inclusion of an exit sign meant the height was reduced further.
 - 3B. Storage – There were items stored under and beside the external stair leading to Bayswater Road. The stair forms part of a path of travel to open space. It is at council's discretion to determine whether the items should be removed.

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.

Unclassified

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 BFS17/3048 (2288) for any future correspondence in relation to this matter.

Yours faithfully

A handwritten signature in black ink, consisting of several overlapping loops and strokes, positioned above the typed name.

[REDACTED]
Senior Building Surveyor
Fire Safety Compliance Unit