

Attachment D

**Inspection Report - 20-26
Bayswater Road, Potts Point**

20 - 26 Bayswater Road Potts Point



city of villages

0 Contour Street Distance Contour Street Meters Date 3 Jun 19 At 1:00

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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: CSM 2003427

Officer: Craig Hann

Date: 24 January 2019

Premises: 20 – 26 Bayswater Road Potts Point – The World Bar / Cali Club

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 correspondence relates to that part of the premises known as The World Bar.

Since the inspection by FRNSW, the name of The World Bar premises has changed to Cali Club.

The premises consist of a four interconnected terrace type buildings comprising of four storeys. The building is primarily used as nightclubs and bars, it also contains a gym and commercial office suites on the upper levels of the building.

The floor levels of the building are configured as follows:

- Basement level – Candy's Nightspot nightclub.
- Ground floor level – Gym, Cali Club (formerly The World Bar) and an entrance foyer to the upper level commercial office suites.
- First floor level – Cali Club (formerly The World Bar) and commercial office suites.
- Second floor level – Cali club (formerly The World Bar) and commercial office suites.

Inspections of the premises undertaken by a Council investigation officer in the presence of the building's managing real estate agent 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 some minor fire safety "maintenance and management" works to attend to, such as exit sign and sprinkler head clearance modifications, 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.

Observation of the external features of the building did not identify the existence of metal composite cladding.

Chronology:

Date	Event
17/12/2018	FRNSW correspondence received regarding premises The World Bar, 20 – 26 Bayswater Road Potts Point.
16/1/2019	<p>An inspection of the subject premises was undertaken by a Council officer together with the building's managing real estate agent.</p> <p>The inspection revealed the fire indicator panel to be operational with no faults or isolations. This is in compliance with the Proposed Fire Safety Order dated 15 December 2017 issued by FRNSW. Their previous follow up inspection on 21 December 2017 also revealed a compliant status.</p> <p>Access into the Cali Club premises was not available and a re-inspection was required.</p>
23/1/2019	<p>An inspection of the subject premises was undertaken by a Council officer together with the building's managing real estate agent.</p> <p>The inspection revealed;</p> <p>Exit signs were illuminated as required by the regulations. They are located in paths of travel to and at the exits. Some signs has directional arrow face plates incorrectly installed to point away from the exit, these require changing to give the correct direction information.</p> <p>Portable fire extinguishers have been serviced, are accessible and their performance certified in the annual fire safety certification.</p> <p>A suspended ceiling is installed above the dance floor on the first floor. It appears as though the suspended ceiling would obstruct the water spray pattern from some of the sprinkler heads. The sprinkler heads and suspended ceiling require assessment by a suitable sprinkler system contractor and any non-compliances rectified by appropriate maintenance works to the sprinkler heads and / or the suspended ceiling.</p> <p>The external exit stair is protected by fire doors installed to the doorway openings that access the stairway. Further, a sprinkler system is installed throughout the inside of the building to suppress fire development and external drencher sprinklers are installed to windows adjoining the stairway. The provision of fire doors, interior sprinkler system and window drenchers is considered to provide the occupants using the external stair with a suitable level of protection from exposure to fire.</p> <p>Exit paths were free from obstructions such as bench seats and lounges. Compliant exit widths of at least 1 metre wide are provided.</p>

FIRE AND RESCUE NSW REPORT:

References: [BFS17/3043, D17/87168; 2018/645935]

Fire and Rescue NSW conducted a joint inspection of the subject premises with officers of NSW Police Force on 9 December 2017.

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

1. Adequacy of maintenance and performance of essential fire safety measures including the fire indicator panel, exit signs, potable fire extinguishers, and sprinkler system heads.
2. Exposure of an external exit stair on the western side to openings in the external wall.
3. Adequacy of Exit sign installations to identify the location of the exits.

FRNSW served a Notice of Intention to Issue an Order No. 6 dated 15 December 2017 to address maintenance and performance of the building's fire alarm system and fire indicator panel (items No 1A(A) and 1A(B) in FRNSW's report. FRNSW does not require Council to take action on these items.

A follow up compliance inspection was conducted by FRNSW on 21 December 2017 in relation to the requirements of their Notice of Intention to Issue an Order No. 6 dated 15 December 2017. The inspection revealed the requirements had been complied with.

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 referred the matter to Council as the appropriate regulatory authority. They await Council's advice of the determination in respect of the recommendations 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 site inspections undertaken by Council investigation officers it was determined that the owners of the building be issued with written instructions to rectify the identified fire safety deficiencies noted by Council.

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

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

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	2018/645935
A2.	Locality Plan	2019/002815-01
A3	Attachment cover sheet	2019/002815-02

Trim Reference: 2019/002815**CSM reference No#:** 2003427



File Ref. No: BFS17/3043 (2284)
TRIM Ref. No: D17/87168
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
'THE WORLD BAR'
20-26 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.

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.

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.

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. 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. Fire Indicator Panel (FIP) – The FIP displayed the following faults and isolations:

i. DISABLEMENT: Smoke Detector ZONE 10. AD=060.00 LP=1 ND=1 20-26 Bayswater. Disabled Device. 24 Bayswater Rd Level 2 suite 201.

ii. FAULT: Input / Output ZONE 00. AD=053.00 LP=2 ND=1. 20-26 Bayswater. Disconnected fault. ZONE 2 A/C TRIP RELAY

B. Observations – Upon further investigation, the displayed isolation in Zone 10, meant that the Automatic Smoke Detection and Alarm System installed in Suite 201 at Level 2 was not operating and provided no warning to the occupants.

C. Exit signs – A number of exit signs were either not operating when the test button was pressed or were not illuminated.

1B. 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:

A. 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 PFE's included service labels/tags that appeared to lack routine maintenance.

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 there were items restricting access to a number of PFEs.

- 1C. Sprinkler Heads – The suspended ceiling in the upper level nightclub area is an obstruction that could impair effective distribution of water from the sprinklers above, or delay operation of those sprinklers. In accordance with AS2118.1-1999 Clause 5.7.1 and 5.7.4, sprinklers shall be installed below suspended ceilings, except where the ceiling construction does not impair the effective water distribution from the sprinklers above.
2. Compartmentation
 - 2A. External Stairway in lieu of Fire-Isolated Exits – For buildings with an effective height below 25 metres, Clause D1.8 of the NCC requires an external stairway to be non-combustible, if installed within 6 metres of an exposed external wall. The wall and any openings are also required to include a method of protection that allows occupants using the exit to be protected from exposure of fire. It appears the openings on the western elevation lack appropriate protection.
3. Access & Egress
 - 3A. The unobstructed width of paths of travel to exits within the building appeared to be less than 1m, which is a non-compliance to D1.6(b)(i) of the NCC. The paths of travel were encroached by obstructions included furnishings, bench seats and lounges.
 - 3B. 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 exit signage was placed directly above a door that was sealed shut on the level where the commercial office space adjoins the world bar.

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

FIRE SAFETY ORDER NO. 6

Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW issued a Notice of Intention to Issue an Order No. 6, dated 15 December 2017, in accordance with the provisions of Section 121B of the EP&A Act, to have item no. 1A(A) & 1A(B) of this report rectified.

In accordance with the provisions of Section 121ZE of the EP&A Act, a copy of the Notice is attached for your information. FRNSW has conducted further inspections of the building to assess compliance with the terms of this Notice

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

RE-INSPECTION

Pursuant to the provisions of Section 119T(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), an inspection of 'the premises' on 21 December 2017 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

At the time of the inspection, the terms of 'the notice' issued on 'the premises' were compliant. Please be advised that 'the notice 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(C) 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 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 BFS17/3043 (2284) for any future correspondence in relation to this matter.

Yours faithfully



[REDACTED]
Senior Building Surveyor
Fire Safety Compliance Unit

Attachment: [Appendix 1 – Notice of Intention to Serve an Order, dated 15 December 2017 – 2 pgs]

Appendix 1 – Notice of Intention to Serve an Order

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 and 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, [REDACTED] Building Surveyor 903766
(name) (rank) (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:

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

with respect to the premise

'THE WORLD BAR & CANDY'S NIGHTSPOT'
 LOT 1, DP931342; LOT 1, 931096; 20-26 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.

Fire & Rescue NSW	Unclassified ABN 12 593 473 110	www.fire.nsw.gov.au
Community Safety Directorate Fire Safety Compliance Unit	Locked Bag 12 Greensboro NSW 2190	T (02) 9742 7434 F (02) 9742 7483
firesafety@fire.nsw.gov.au	Page 1	© Copyright State Govt NSW



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 "General Fault", and "General Disablement".
 - ii. The display panel displayed the following wording:
"Zones in Alarm=000 FLTS=0001 DISAB=0004; Disablement: Smoke Detector Zone 10, Disabled device 24 Bayswater Road Level 2 Suite 201"
- b) 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.
- c) 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.
- d) 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.
- e) 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

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