

Attachment B

**Inspection Report -
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: CSM2058271

Officer: Joe Kalgovas

Date: 28 March 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 building consists of eight storeys 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
22/03/2019	FRNSW correspondence received regarding premises 19-35 Bayswater Road, Potts Point.
26/03/2019	An initial desktop review of the subject building revealed that the building has a current compliant annual fire safety statement, next 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. Additionally a FRNSW Inspection report (CSM 2003525) received 18/12/2018 is currently before Council.
28/03/2019	An inspection of the subject premises was undertaken by a Council investigation officer in company of the building manager which revealed the following: <ol style="list-style-type: none">1. Zone Block Plan not located <i>Plan located in Fire Panel.</i>2. Portable Fire Extinguishers signage not provided <i>Signage installed.</i>3. Fire hydrant signage not installed <i>Signage installed.</i>4. Sprinkler head redundancy <i>Have been removed as determined to be redundant CSM 2003525.</i>5. Adequacy of exit/directional signage <i>The bar is considered to be an area with low levels of illumination as part of its normal use and therefore the exit sign is considered to be compliant as previously determined. Other exit signage has been rectified.</i>6. Certain fire safety measures were not being maintained <i>Service tags complying with AS 1851-2012 are not mandatory under Clause 182 of the EP&A Regulation however service tags have been provided.</i>

FIRE AND RESCUE NSW REPORT:

References: D19/17879; 2019/145494

Fire and Rescue NSW conducted an inspection of the subject premises on 19 January 2019.

Issues

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

1. Certain fire safety measures were not being maintained;
2. Zone Block Plan not located
3. Portable Fire Extinguishers signage not provided
4. Fire hydrant signage not installed
5. Sprinkler head redundancy
6. Adequacy of exit/directional signage

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)

Inspections undertaken by a Council Investigation Officer revealed that the above recommendations of FRNSW have been complied with.

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	2019/145494
A2.	Locality Plan	2019/162883-01
A3	Attachment cover sheet	2019/162883-02

Trim Reference: 2019/162883

CSM reference No#: 2058271



File Ref. No: BFS19/202

TRIM Ref. No: D19/17879

Contact: [REDACTED]

22 March 2019

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear Sir / Madam

**Re: INSPECTION REPORT
FLAMINGO LOUNGE
19-33 BAYSWATER 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 19 January 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.

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

This report is limited to observations and sections of the building accessed at the time of the inspection. As such, this report lists potential deviations from the National Construction Code 2016 Building Code of Australia – Volume One Amendment 1 (NCC). Please be advised that whilst the report is not an exhaustive list of non-compliances, the items as listed may relate to the building's age or contradict development consent approval. In this regard, it is at council's discretion as the appropriate regulatory authority to consider the most appropriate action and determine whether an investigation is required.

The following items were identified as concerns during the inspection:

1. Essential Fire Safety Measures

- 1A. Zone Block Plan – Section 3.10 of the Australian Standard AS1670.1 -2015 requires a Zone Block Plan to be securely mounted and located adjacent to the fire detection control and indicating equipment (FDCIE). At the time of the inspection, a Zone Block Plan could not be located.
- 1B. Portable Fire Extinguishers (PFE) – Signage identifying the location of the PFE was not installed on the enclosure door at the entry to the kitchen area from the nightclub of the building, contrary to the requirements of Clause 3.6 of AS 2444–2001.
- 1C. Fire Hydrant - Signage identifying the location of the fire hydrant was not installed on the enclosure door, at the entry to the kitchen area from the nightclub, contrary to the requirements of Clause 3.6.2 of AS 2419.1–2005
- 1D. Sprinkler System – There were a number of sprinkler heads on the eastern external stair leading to Bayswater Road that were capped. It is unclear why the sprinkler heads were made redundant.
- 1E. Exit signs –
 - i. The exit sign to the western side of the bar, at the VIP section, is permitted for areas of low illumination levels (i.e. theatres, cinemas, etc.). It is understood the premises is approved as a bar as part of its normal use, which is considered an area of normal illumination which would require standard internally illuminated exit signs in accordance with the requirements of Clause 6.4 of AS2293.1-2005.
 - ii. The sign noted at (i) above, directs patrons to doors that do not appear to be required exit doors, which is contrary to the requirements of Clause E4.5 of the NCC.
 - iii. Additional directional exit signs in appropriate positions may be required along the path of travel through the external fire stair, from the nightclub area leading down to Bayswater Road, such that the exit is readily apparent, in accordance with Clause E4.5 and E4.6 of the NCC.

1F. 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 essential services were identified as concerns:

- i. At the time of inspection, a number of the service label/tag provided to various Portable Fire Extinguishers and Fire Hose Reels were dated stamped December 2017 or May 2018, indicating the items had not receiving routine maintenance, contrary to the requirements of Clause 182 of the EP&A Regulation and AS 1851-2012.
- ii. The external fire hydrant and Fire Hose Reel, to the eastern side of the premises under the external fire stair, were not provided with a service label/tag, indicating they had not receiving routine maintenance, contrary to the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) and AS1851-2012.

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

RECOMMENDATIONS

FRNSW recommends that Council:

Inspect and address any other deficiencies identified on 'the premises', and require item no. 1A through to item no. 1F 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]
Please ensure that you refer to file reference BFS19/202 for any future correspondence in relation to this matter.

Yours faithfully



[REDACTED]

[REDACTED]

Fire Safety Compliance Unit