

Attachment C

**Inspection Report -
99-105 Darlinghurst 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: CSM2054139

Officer: Chad Grant

Date: 2 May 2019

Premises: 99-105 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 six storey building used for residential apartments and retail shops. The building is configured as follows:

- Ground level and lower ground level – Newsagency shop and travel shop.
- Levels 1 to 4 – Residential apartments.

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 coverage;
- (ii) Safe and dignified emergency egress for occupants to safely evacuate the building in the event of a fire.

Council investigations have revealed that the premises are deficient in the provisions for fire safety and that an Order 2, under Part 2 of 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 cladding on the façade of the building.

Chronology:

Date	Event
15/03/2019	FRNSW correspondence received regarding premises 99-105 Darlinghurst Road, Potts Point.
	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 5 March 2020.
04/04/2019	An inspection of the subject premises was undertaken by a Council officer in company with the Strata Manager and fire service contractors which identified a number of fire safety issues including: <ul style="list-style-type: none">➤ The Fire Indicator Panel displayed a fault. The fire service contractors are to service the fire panel to clear the fault and ensure the system is fully operational;➤ The final exit door from the residential apartments is not provided with a single handed downward action device;

	<ul style="list-style-type: none"> ➤ The fire exit stair within the residential part of the building does not provide acceptable provisions for access and egress to and from the building as it has non-compliant balustrades and stair treads; ➤ There is inadequate signage in the building which alerts occupants against impairing the operation of any fire exit doors and from obstructing the fire exits; ➤ Electrical systems are located within the path of travel to the required exit which could render the exit redundant. <p>The inspection also confirmed that the building is not provided with an internal fire hydrant system.</p>
18/04/2019	A further inspection of the building to assess fire hydrant availability and coverage determined that a street fire hydrant on Darlinghurst Road could be used for firefighting operations by FRNSW.

FIRE AND RESCUE NSW REPORT:

References: [BFS18/3158 (5308); D19/17118; 2019/131934]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving an enquiry about faults and isolated light displayed on the Fire Indicator Panel.

Issues

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

1. Only a single smoke detector could be located in the public areas on Level 4;
2. Certain balustrades and a doors latch were non-compliant;
3. Screen security doors have been installed on the outside of unit entry doors promoting the occupants to chock open the entry doors;
4. There is currently no fire hydrant system installed within the building.

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	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 an Order 2, under Part 2 of 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 outcomes.

Referenced documents:

No#	Document type	Trim reference
A1.	Fire and Rescue NSW report	2019/146149-01
A2.	Locality Plan	2019/146149-02
A3	Attachment cover sheet	2019/146149-03

Trim Reference: 2019/146149

CSM reference No#: 2054139



File Ref. No: BFS18/3158 (5308)
TRIM Ref. No: D19/17118
Contact: [REDACTED]

15 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 General Manager

**Re: INSPECTION REPORT
99-105 DARLINGHURST ROAD, POTTS POINT ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 1 November 2018, in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated in part that:

- *Attended repeat calls. Smoke detection system continuous fault. Maintenance documentation details the same fault over a long period of time. Zone 4 of the system covers all residential floors (4). Zone would not reset and was isolated. Residents were notified and advised to contact managers of the building. Some stated that they were having trouble getting the problem resolved.*

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 December 2018, 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

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 at the time of the inspection:

1. Essential Fire Safety Measures

- 1A. The Automatic Smoke Detection and Alarm System – The detection system throughout the premises appeared scattered and contrary to the requirements of Specification E2.2a of the NCC and AS1670.1-2015. In this regard, only a single smoke detector could be located in the public areas on Level 4.
- 1B. 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 Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).

2. Access and Egress

- 2A. Enclosure of space under stairs – The space beneath the non fire-isolated stair on Level 1 was enclosed to form a cupboard and it could not be determined whether the access door was fitted with a self-closing -/60/30 fire door, in accordance with the requirements of Clause D2.8(b) of the NCC.
- 2B. Operation of latch – The discharge door on the ground floor level contained a round tulip style handle in lieu of a lever handle, contrary to the requirements of Clause D2.21 of the NCC.
- 2C. Balustrades –
 - a) The balustrade to the stair landing on Level 4, appeared to achieve a height of less than 1m, contrary to the requirements of Clause D2.16 of the NCC.

- b) The height of the balustrade to the internal stairway appeared to achieve a height of less than 865mm above the nosings of the stair treads, contrary to the requirements of Clause D2.16 of the NCC.

3. Compartmentation and Separation

3A. Bounding Construction – Screen security doors have been installed on the outside of multiple Sole Occupancy Unit (SOU) entry doors throughout 'the premises'. FRNSW are of the opinion that screen doors promote the occupants to 'chock open' the SOU entry door, which is in contravention of Clause C3.11 of the NCC, which requires a doorway in a Class 2 SOU be protected by a door which is equipped with a device which returns the door to the fully closed position immediately after each opening.

4. Generally

4A. Fire Hydrant System – Clause E1.3 of the NCC requires a building having a total floor area greater than 500m² to be provided with a fire hydrant system installed in accordance with Australian Standard (AS) 2419.1. Currently no such system is installed within the building.

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]

[REDACTED] Please ensure that you refer to file reference BFS18/3158 (5308) for any future correspondence in relation to this matter.

Yours faithfully



[REDACTED]
Senior Building Surveyor
Fire Safety Compliance Unit