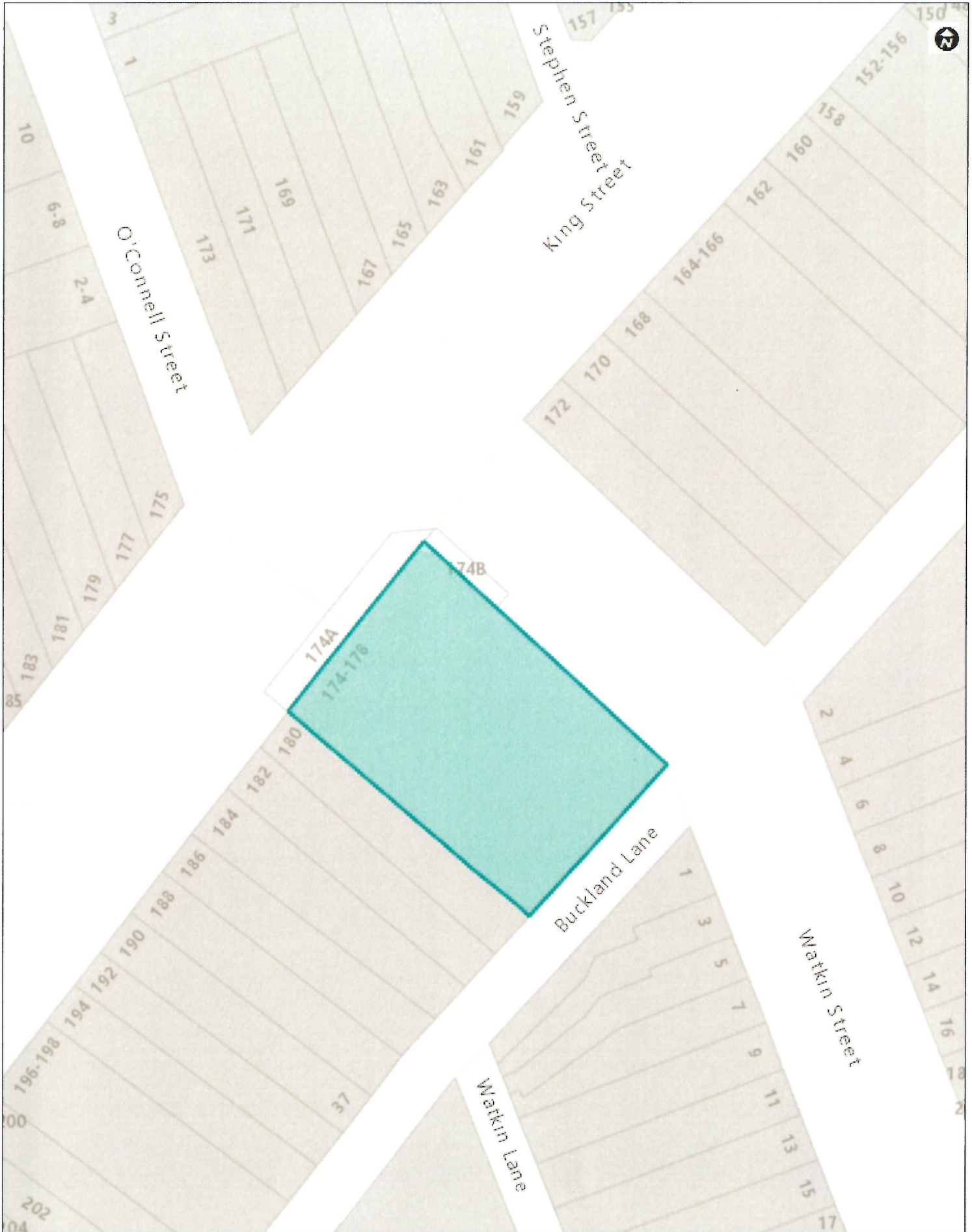


Attachment B

**Council Officer Inspection Report
174 – 178 King Street Newtown**

174 - 178 King Street Newtown NSW 2042

The Newtown Hotel



**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 2218379

Officer: Eyman Balta

Date: 22 January 2020

Premises: 174 - 178 King Street Newtown NSW 2042 - The Newtown Hotel

Executive Summary:

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises on with respect to matters of fire safety.

The premises consists of a three storey building used as an approved bar and restaurant over three levels and is located at 174 - 178 King Street Newtown. The building is known as The Newtown Hotel and is located on the corner of King Street, Watkin Street and Buckland Lane Newtown.

The ground floor level contains a number of uses such as internal and external bar and seating areas, dining areas and back of house areas.

The first floor level contains a restaurant with a commercial kitchen, a bar and associated seating areas.

The second floor predominantly contains back of house offices, staff rooms and storage rooms associated with the operation of the Newtown Hotel, however additional bar seating areas are also located on this level.

The building is also of heritage significance and is listed as a local heritage item under the Sydney LEP 2012.

Observation of the external features of the building did not identify the existence of any potential combustible composite cladding on the facade of the building.

An inspection of the premises undertaken by a Council investigation officer in the presence of the hotel licensee and the buildings fire services contractor 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 buildings annual fire safety certification is current (25 September 2019) 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 several minor fire safety maintenance and management works to attend to, 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 through written instruction from Council.

Chronology:

Date	Event
03/01/2020	FRNSW correspondence received regarding the Newtown Hotel located at 174 - 178 King Street Newtown NSW.
09/01/2020	<p>An inspection of the subject premises was undertaken by a Council investigation officer in the presence of the hotel licensee and the buildings fire services contractor for the Newtown Hotel.</p> <p>The inspection was undertaken for the purposes of addressing the issues raised in Items 1 - 3 of the FRNSW correspondence dated the 2 January 2020, as well as any other deficiencies that may be identified during the inspection.</p> <p>The inspection revealed only minor non-compliances which could be addressed through appropriate maintenance and management. The inspection also revealed that some of the issues raised by FRNSW had already been addressed by the hotel licensee and the buildings fire services contractor.</p> <p>The outcomes of the inspection were discussed throughout and at the conclusion of the inspection with the hotels licensee and the buildings fire services contractor who were also advised that written advice on the findings would be issued in due course.</p>

FIRE AND RESCUE NSW REPORT:

References: BFS19/3674 (9465) and D19/93339.

Fire and Rescue NSW conducted an inspection of the subject premises on the 29 November 2019 in conjunction with the NSW Police and Licenced Premises officers from the City of Sydney as a part of a proactive joint inspection program of licenced premises in the City of Sydney Local Government Area.

Issues

The report from FRNSW detailed a number of issues in relation to the Newtown Hotel, in particular noting concerns with:

1. That the required directional signage indicating the location of the combined fire hydrant and sprinkler booster in Buckland Lane was not installed on the external wall adjacent to the main entrance of the hotel on King Street.
2. That a fire hydrant landing valve located on the second floor level of the building had its hand wheel secured with a chain and padlock to prevent vandalism and non-required use.
3. That doors to the fire hydrant and sprinkler booster cabinets located in Buckland Lane did not open in a position of not less than 90° and that the cabinets were not secured with a lock compatible with FRNSW operational requirements.
4. That there are issues associated with the location and distribution of portable fire extinguishers on the second floor level of the building.
5. That there is inadequate exit and directional signage provided to the second floor level commercial kitchen area and external balcony areas.
6. That there were issues associated with the obstruction of paths of travel to exits by stored items.

7. That a doorway in the path of travel to an exit located on the ground floor level of the building which contains locking devices.
8. That the final exit door from the ground floor level external bar area of the building which discharges to Buckland Lane is fitted with a magnetic locking device. It is advised that it is unknown whether this locking device is provided with an automatic fail safe device which unlocks the door upon any sprinkler activation in the building.
9. That a room on the second floor level of the building is being used for the display of movies and is considered to be a cinema and hence an Entertainment Venue under the Environmental Planning and Assessment Regulation 2000, and that Council may need to consider this change of use.
10. That at the time of FRNSW's inspection the buildings Annual Fire Safety Statement was not displayed in a prominent position, and that FRNSW requested an additional copy of the statement to be provided adjacent to the buildings fire indicator panel located in the fire services pump room.

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 and any other deficiencies identified 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 Schedule 5, Part 8, Section 17 (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 preliminary site inspection undertaken by Council investigation officers it is recommended that a compliance letter of instruction be issued to the building owners and further action be undertaken, as appropriate, to address the fire safety deficiencies identified by FRNSW.

The above proposed correspondence will request that the building owner and the hotel licensee attend to the issues identified by FRNSW in their correspondence to Council.

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
E1.	Fire and Rescue NSW report	2020/028067-01
E2.	Locality Plan	2020/028067-02
E3.	Attachment cover sheet	2020/028067-03

Trim Reference: 2020/028067

CSM reference No#: 2218379



File Ref. No: BFS19/3674 (9465)

TRIM Ref. No: D19/93339

Contact: [REDACTED]

2 January 2020

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
'NEWTOWN HOTEL'
174 KING STREET, NEWTOWN ("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 29 November 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 and City of Sydney Council.

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 2019, 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. Hydrants and Sprinkler System – Having regard to Australian Standard AS2419.1, AS2118.1 and Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) Clause 188 Exemption, the following items were noted:

A. Condition 6 of FRNSW's Clause 188 Exemption dated 20 December 2014 (Ref NFB/12790) requires signage immediately adjacent to the building main pedestrian entrance on King Street, indicating the location of the combined sprinkler and hydrant booster to be installed on the external wall of the building. At the time of the inspection, signage could not be located.

B. Lock and Chain – At the time of the inspection, a lock and chain were attached to the internal hydrant sprinkler wheel (in the 3rd floor cabinet). Typically, where vandalism poses a problem, a handwheel cover may be used in accordance with Australian Standard AS2419.2 – 2009.

C. Booster Assembly Cabinets and Enclosures – Clause 11.2.2 of AS2419.1 requires doors to be fitted with doors that are capable of securing the door in not less than a 90° open position, including a lock compatible with fire brigade operation procedures/requirements. At the time of the inspection, the doors to the Booster Assembly Cabinet on Watkins lane did not meet the requirements of Clause 11.2.2.

1B. Portable Fire Extinguishers (PFEs) – Clause 3.2 of Australian Standard AS 2444-2001 requires PFEs to be in a readily accessible position and located away from hazards to the potential user. Where practicable, extinguishers shall be located along normal paths of travel and near exits. Observations revealed a number of PFEs obstructed within the kitchen and back of house areas.

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. At first sight,

there is insufficient cues to identify where the exits are located. A review of the exit strategy may be required. Hence the following observations were noted:

- A. Exits from the kitchen on the second floor could not be easily be identified.
 - B. Once on the balcony on the second floor, the exit doors could not be easily identified.
- 2B. Paths of Travel to Fire Exits – Paths of travel from ‘the premises’ to a fire exit, including the operation of the Fire Exit door were either obstructed or impeded in contravention of Clause 184 & Clause 186 of the EP&A Regulation, such items include but are not limited to:
- A. The width of the path on the third floor (beside the lift) was reduced as a result of the stage platform that was stored along the wall.
 - B. The final exit door on the ground floor leading to Buckland Lane (on the south western elevation):
 - i. The final path from the office area via the stairs to the final exit door was reduced as a result of various stored items.
 - ii. The final exit door was obstructed by boxes.
 - iii. A single leaf of the two doors for the final exit door was sticking and made opening the door difficult.
 - C. The door to the courtyard from the ground floor bar, includes a cylinder lock and slide lock (as an aside the door opens inward against the path of egress).
 - D. The two required exit doors on the ground floor bar, that exits onto Princes Highway and Watkin Street include magnetic locks that release via security notification i.e. the lock is not released unless it is initiated by security. There are no smoke detectors to release the door from the locked position. Given there is no Annual Fire Safety Statement available to reference, it is also unclear whether the door opens upon activation of the sprinkler system.

3. Generally

- 3A. Entertainment Venue – Whilst the use of the premises does not fit strictly within the definition for an entertainment venue in accordance with the EP&A Regulation, the Department of Planning guideline “Bringing Back the Music – Planning for Entertainment” highlights issues that may require consideration for development consent approval particularly as there were rooms that appeared to be used as a small cinema (“the animal cinema” on the 3rd floor, and various function rooms on the second floor), in this regard council may need to consider:

- A. Whether there is a change of use from a pub to a nightclub/assembly building changes the classification of the building from a Class 6 to a Class 9b building (assembly building).
 - B. Whether the principal purpose of the public using a nightclub/assembly building is to be entertained or be involved in the entertainment whether or not a cover charge or entrance fee is charged.
- 3B. Annual Fire Safety Statement (AFSS) – Clause 177(3)(b) of the EP&A Regulation indicates that the statement must be prominently displayed in the building, at the time of the inspection the AFSS could not be located. For ease FRNSW prefers the statement be located beside the Fire Indicator Panel. An inspection and a review of council's records may be required.

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. 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 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 BFS19/3674 (9465) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

Fire Safety Compliance Unit