

Attachment D

**Council Officer Inspection Report
1-21 Darlinghurst Road Potts Point**

1-21 Darlinghurst Road, Potts Point



**Council investigation officer Inspection and Recommendation Report
Clause 17(2), Part 8 of Schedule 5, of the Environmental Planning and Assessment
Act 1979 (the Act)**

File: CSM 2225262

Officer: Joe Kalgovas

Date: 14/01/2020

Premises: 1-21 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 four storey building used as hotel with shops at ground level.

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 systems;
- (ii) A lack of adequate facilities for firefighting;
- (iii) Suitable fire resisting construction to prevent the spread of fire;
- (iv) Safe and dignified emergency egress for occupants to safely evacuate the building in the event of a fire
- (v) Poor fire safety management systems (signs/notices/not displayed etc.) in place

Council investigations have revealed that the premises are deficient in the provisions for fire safety and that a fire safety order to be issued under 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 any combustible composite cladding on the façade of the building.

Chronology:

Date	Event
14/01/2020	FRNSW correspondence received regarding premises 1-21 Darlinghurst Road, Potts Point
15/01/2020	<p>An inspection of the subject premises was undertaken by a Council officer in the presence of the Manager with the finds set out below:</p> <p>1. Essential Fire Safety Measures</p> <p>1A(a) The Automatic Fire Detection and Alarm System Upon inspection the FIP was found to be in operation with no faults showing.</p> <p>1A(b) Thermal detectors provided in lieu of smoke detectors in the hotel It is reported that the smoke detection system has been modified so that the smoke detectors do not operate the building occupant warning system. It is not possible visually to ascertain whether this is the case. (Confirmation of operation will be necessary).</p> <p>1B Fire Hose Reels Maintenance tags were found to be crimped Feb 19 and the stop valve lever was missing from the actuator outside unit 107.</p> <p>1C Portable Fire Extinguishers Maintenance tags were found to be crimped Feb 19.</p> <p>1D Exit Signs All exit signs were found to be operational except for two signs in the rear stairway.</p> <p>1E Fire Door self-closing devices to stairways All doors to the stairways were provided with self-closing devices and a random test confirmed operation to the fully closed position.</p> <p>1F Door Unit 202 self-closing device The self-closing device to unit 202 was found to be missing.</p> <p>1G Annual Fire Safety Statement The Fire Safety Statement was not displayed.</p> <p>2. Access and Egress</p> <p>2A. Storage in central stairway Advised by the Manager that the storage cupboards within the central stairway had been removed. Only minor operational material was found in the stairway which would not materially impeded free passage.</p> <p>2B. Barrier to openable windows The distance between the floor and the bottom sill of the window adjacent unit 202 was measured at 840mm which is less than 865mm by 25mm.</p> <p>Additionally: Knobs in lieu of lever handles were fitted to the rear stairway at L2.</p> <p>The fire control space containing sprinkler valves, FIP and other equipment at the rear stairway discharge point contained litter and other debris.</p>

FIRE AND RESCUE NSW REPORT:

References: D19/93132; 2020/015589]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving an enquiry about the adequacy of fire safety on 16 October 2019.

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

1. Essential Fire Safety Measures

1A(a) The Automatic Fire Detection and Alarm System

FRNSW have advised that further to their Emergency Fire Safety Order, upon reinspection the Fire Indicator Panel was found to be compliant.

1A(b) Thermal detectors were provided in lieu of smoke detectors in the hotel.

1B Fire Hose Reels tags were not stamped.

1C Portable Fire Extinguishers tags were not stamped.

1D Exit Signs were not illuminated.

1E A number of fire door self-closing devices to stairways were missing.

1F The self-closing device to Unit 202 was missing.

1G Annual Fire Safety Statement not prominently displayed.

2. Access and Egress

2A. Storage in central stairway was removed at the time of inspection.

2B. Barriers to openable windows not compliant with current building code.

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 requested that as soon as practical after the above recommendations have been tabled and considered that notice of any determination in respect of the recommendations is forwarded to them 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)
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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 a fire safety order to be issued under 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 determination.

Referenced documents:

No#	Document type	Trim reference
A1.	Fire and Rescue NSW report	2020/015589
A2.	Locality Plan	2020/020007
A3	Attachment cover sheet	2020/020155

Trim Reference: 2020/019841

CSM reference No#: 2225262



File Ref. No: BFS19/3406 (9200)
TRIM Ref. No: D19/93132
Contact: [REDACTED]

20 December 2019

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Dear General Manager

Attention: Manager Compliance/Fire Safety

Dear Sir / Madam

**Re: INSPECTION REPORT
1-21 DARLINGHURST ROAD, POTTS POINT ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 16 October 2019, in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated in part that:

- *attended this premises for a fire call to a occupant (Unit 312) on L3 who had placed an electric kettle on a hotplate to have a cup of tea. Smoke filled her room and then the floor. They use G, L1 L2 L3 as their levels.*
- *The site is a budget accommodation with poor fire standards history. They have sprinklers throughout.*
- *L2 and L3 fire doors to the only stairwell have no operating closer and one of them does not have a handle on the inside of the door that would be used for egress from the rooms to the stairs. Neither door closed when the magnet holder released the door on FIP activation.*
- *The room 312 smoke detector did not operate at all, but she opened her door and the 3 common hallway ones activated quickly.*

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 7 November 2019, 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

Please be advised that this report is not an exhaustive list of non-compliances and the items listed outline deviations from the National Construction Code Volume One 2019 Building Code of Australia (NCC) which may contradict development consent approval or correlate to the building's age. In this regard, it is Council's discretion as the appropriate regulatory authority to conduct its own investigation and consider the most appropriate course of action

The following items were identified as concerns at the time of inspection:

1. Essential Fire Safety Measures

1A. The Automatic Fire Detection and Alarm System:

- a) Fire Indicator Panel (FIP): The automatic fire detection and alarm system and building occupant warning system did not appear to be capable of operating to the standard of performance from when it was first designed and installed, contrary to the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). The following issues were identified as concerns at the time of inspection:
 - i. The FIP was displaying the sixteen (16) faults and four (4) isolations.
 - ii. The evacuation control panel was displaying a line fault.

- b) It appeared that thermal detectors were provided in lieu of smoke detectors within each Sole Occupancy Units (SOU) of the Astoria Hotel, contrary to the requirements of Specification E2.2a of the NCC.

Correspondence received from the Fire Technician subsequent to the inspection indicated the following regarding the configuration of the smoke detection system in the Astoria Hotel:

- *The detectors that have been installed in the Single Occupancy Units (SOU), are a dual Sensor detector. They are a photo optical as well as a thermal detector, in one. The programming of the system is that, if there is smoke present within the SOU, the sounder within the unit is to alert the occupant, as well as to allow the occupant to clear the smoke out of the SOU.*
- *The thermal component of the detector, if activated, will report to the fire indicator panel as an alarm and will call the fire brigade.*
- *This detector was chosen for the SOU's because the units are small, and they have a cooking facility.*
- *All of the detectors within the Common areas, are Photo electric.*

It is unclear whether approval has been obtained to modify the system to allow only the thermal detection component within the SOU's to activate the building occupant warning system, contrary to the requirements of Clause 4 of Specification E2.2a of the NCC.

1B. Fire Hose Reels (FHR's):

- a) Maintenance – the FHR's throughout 'the premises', contained service labels/tags, indicating the FHR's had not received any routine servicing since February 2019, contrary to the requirements of Clause 9.3 of AS 1851-2012 and Clause 182 of the EP&A Regulation. Furthermore, the FHR outside Room 107 was missing the stop valve lever actuator and did not contain a service label/tag.

1C. Portable Fire Extinguishers (PFE's):

- a) Multiple PFE's throughout the Astoria Hotel, contained service labels/tags, indicating the PFE's had not received any routine servicing since June 2018 or February 2019, contrary to the requirements of Clause 10.3 of AS 1851-2012 and Clause 182 of the EP&A Regulation.

1D. Exit signs:

- a) All exit signs throughout the Astoria Hotel were not illuminated and had not maintained, contrary to the requirements of Clause 182 of the EP&A Regulation.

Correspondence received from the Fire Technician subsequent to the inspection indicated the following:

- *The Circuit Breaker was turned off on the communal switch board. The circuit breaker was restored, the lights were tested, with one exit sign which needs to be investigated, it doesn't seem to have power and will require a cable to be installed.*

1E. Fire Doors:

- a) Multiple self-closing devices to the fire doors providing access to the central fire stair and rear fire stair (in the Astoria Hotel) had been removed. Whilst these doors were held in the open position with magnetic hold open devices which release upon activation of the detection system, the doors failed to return to the fully closed position when tested, contrary to the requirements of Clause C3.4 and C3.8 of the NCC and AS 1905.1.

1F. Solid Core Doors:

- a) The self-closing device to the entry door of SOU No. 202 had been removed and the door failed to return to the fully closed position when opened, contrary to the requirements of Clause C3.11 of the NCC.

1G. 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 EP&A Regulation.

2. Access and Egress

2A. Items were being stored within the central fire-separated stairway in the Astoria Hotel, impeding the free passage of persons using the exit, contrary to the requirements of Clause 184 of the EP&A Regulation.

Discussions were held with the Manager at the time of the inspection and all items were removed prior to FRNSW departure from 'the premises'.

2B. Protection of openable windows – the barrier to the Level 2 and Level 3 openable windows, adjacent to SOUs 202 and 303 respectively, achieves a height of less than 865mm above the floor level and it appears that the floor below the window is more than 4m above the surface beneath the window, contrary to the requirements of Clause D2.24(c)(ii) of the NCC.

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

FIRE SAFETY ORDER NO. 1

The inspecting Authorised Fire Officers' of FRNSW issued an Order No. 1, dated 8 November 2019, in accordance with the provisions of Section 9.34 of the EP&A Act, to have item no. 1A(a) of this report rectified.

In accordance with the provisions of Schedule 5, Part 6, Section 12 of the EP&A Act, a copy of the Order is attached for your information. FRNSW has conducted further inspections of the building to assess compliance with the terms of this Order.

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

RE-INSPECTION

Pursuant to the provisions of Section 9.32(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), inspections of 'the premises' on 29 November 2019 and 12 December 2019 were conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

At the time of the inspection on 12 December 2019, the terms of 'the order' issued on 'the premises' were compliant. Please be advised that 'the order' 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

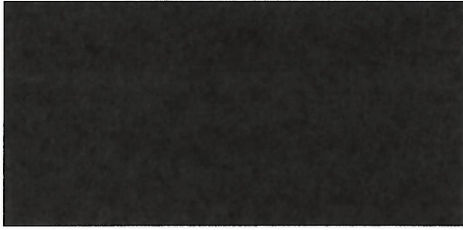
FRNSW recommends that Council:

- a. Inspect and address any other deficiencies identified on 'the premises', and require item no. 1A(b) through to item no. 2 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 BFS19/3406 (9200) for any future correspondence in relation to this matter.

Yours faithfully



Fire Safety Compliance Unit

Attachments: [Appendix 1 – Emergency Fire Safety Order No. 1 – 3 pages]

Appendix 1 – Emergency Fire Safety Order No. 1


Unclassified



File Ref. No:
TRIM Ref. No:
Contact:



8 November 2019

The Owners 
1-21 Darlinghurst Road
POTTS POINT NSW 2011


Dear Sir / Madam

RE: EMERGENCY FIRE SAFETY ORDER
1-21 DARLINGHURST ROAD, POTTS POINT ("the premises")

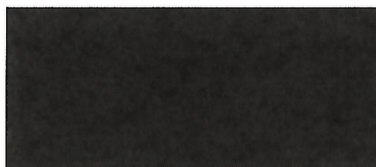
Pursuant to the provisions of Section 9.32(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an inspection of 'the premises' on 7 November 2019 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW).

At the time of the inspection there were fire safety matters that were identified as a significant concern to FRNSW, as the activity or deficiencies identified which the Authorised Fire Officer believes constitute an emergency or a serious risk to safety. As a result, an Emergency Fire Safety Order (Order No. 1) is issued in accordance with the provisions of Section 9.34 of the EP&A Act (copy attached).

A report of the inspection and a copy of the Order will also be forwarded to City of Sydney Council in accordance with the requirements of Sections 9.32, Section 9.35, Schedule 5, Part 6, Section 12 and Schedule 5, Part 8, Section 17 of the EP&A Act. Further inspections will be conducted by FRNSW to assess compliance with the terms of the Order.

Should you have any enquiries regarding any of the above matters, please do not hesitate to contact  of FRNSW's Fire Safety Compliance Unit on (02) 9742 7434. Please ensure that you refer to file reference BFS19/3406 (9200) for any future correspondence in relation to this matter.

Yours faithfully



Fire Safety Compliance Unit

CGI-



Fire and Rescue NSW

ABN 12 593 473 110

www.fire.nsw.gov.au

Community Safety Directorate
Fire Safety Compliance Unit

1 Amelina Ave
Greenacre NSW 2190

T (02) 9742 7434
F (02) 9742 7843

www.fire.nsw.gov.au

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Unclassified

Emergency Fire Safety Order

ORDER No. 1

Under the *Environmental Planning and Assessment Act 1979 (EP&A Act)*
Part 9 Implementation and Enforcement – Division 9.3 Development Control Orders
Fire Safety Orders in accordance with the table to Part 2 - Schedule 5.
Issue an Order in accordance with Section 9.34(1)(b)
Issue the Order as an Emergency Order Pursuant to Schedule 5, Part 8, Section 16

Property:

1-21 DARLINGHURST ROAD, POTTS POINT ("the premises")
(name/address of premises to which Order is served)

Emergency Situation / Serious Risk to Safety:

At approximately 11:15 am on Thursday 7 November 2019, the following was observed at the premises:

1. The fire indicator panel was displaying multiple faults and disablements, which were associated with the automatic fire detection and alarm system.
2. The evacuation control panel was displaying a line fault, which was associated with the building occupant warning system.

Authorised Fire Officer:

I,

[REDACTED]
(name)

[REDACTED]
(rank)

[REDACTED]
(jurisdiction)

being an Authorised Fire Officer in accordance with Schedule 5, Part 8, Section 16 of the *Environmental Planning and Assessment Act 1979*, and duly authorised for the purpose.

Hereby order:

The Owners of Strata Plan No. 2187
(name of person whom Order is served)

Owner
(position i.e. owner, building manager)

To do, or refrain from doing, the following things:

1. Ensure the automatic fire detection and alarm system installed in 'the premises' is fully operational, by:
 - a. Repairing all 'faults' and 'disablements' displayed on the fire indicator panel.
2. Ensure the building occupant warning system installed in 'the premises' is fully operational, by:
 - a. Repairing the 'line fault' displayed on the evacuation control panel.

The reasons for the issue of this Order are:

- a) At the time of the inspection the fire indicator panel associated with the automatic fire detection and alarm system was displaying sixteen (16) faults and four (4) disablements.
- b) At the time of the inspection the evacuation control panel associated with the building occupant warning system was displaying a line fault.
- c) To ensure that the automatic fire detection and alarm system is capable to operating in accordance with the standard of performance it was designed and installed to.
- d) To ensure that the building occupant warning system is capable to operating in accordance with the standard of performance it was designed and installed to.
- e) To ensure compliance with the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000.

The terms of the Order are to be complied with:

By no later than 12:00pm on Thursday 14 November 2019.

Considerations for Emergency Order:

Pursuant to Schedule 5, Part 8, Section (16) of the EP&A Act, this Order has been given as an Emergency Order as there are circumstances which the authorised fire officer believes constitute an emergency or a serious risk to safety.

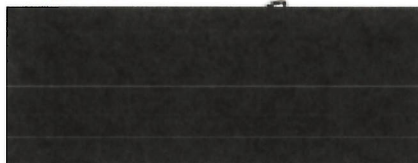
Appeals

Pursuant to Section 8.18(2) of the EP&A Act, a person may not appeal against a fire safety order given by an authorised fire officer (other than an order that prevents a person using or entering the premises).

Non-Compliance with the Order

A person that fails to comply with this Order may be guilty of an offence under Section 9.37 of the EP&A Act. A person that fails to comply with this Order by a particular specified time, or within a particular specified period, continues never-the-less to be obliged to comply with the Order and therefore must comply with the Order or they may be guilty of an offence under Section 9.5D of the EP&A Act.

Signed:



Fire Safety Compliance Unit

This Emergency Fire Safety Order No. 1 was served by mail and email on 8 November 2019.