

Attachment B

**Inspection Report
118 Flinders Street, Darlinghurst**

118 Flinders Street Darlinghurst

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Notes JAN2021

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 2578008

Officer: Craig Hann

Date: 3 September 2021

Premises: 118 Flinders Street, Darlinghurst

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 premise consists of a three (3) storey terrace building approved as a single dwelling. A fire incident occurred at the premises on 19 March 2021, which was investigated by FRNSW. FRNSW are concerned that the building may have been operating as a boarding house. The building is a heritage item and located in a heritage conservation area under the Sydney Local Environmental Plan 2012.

Inspections of the premises undertaken by a Council investigation officer in the presence of the building owner's representative revealed that the building is currently vacant.

Single dwellings are required to be equipped with operational smoke alarms on each storey. Council investigations revealed that repairs to the smoke alarm system are necessary following the fire incident. Once the building's smoke alarm system is operational, provisions for fire safety will be 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. An advisory letter has been sent to the owner requiring operational smoke alarms on each storey. Additionally, Council will monitor building works occurring to repair the fire damage to the building, and has commenced an investigation into the prior use as a boarding house, as alleged by FRNSW. These investigations will continue to ensure the building is used as a single dwelling after re-occupation.

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

It is recommended that Council not exercise its powers to give a fire safety order at this time.

Chronology:

Date	Event
24/6/2021	FRNSW correspondence received regarding premises 118 Flinders Street Darlinghurst.
29/6/2021	<p>Council investigation officer contacted the owner of the building to advise of the report from FRNSW and have a preliminary discussion concerning the matter. The owner advised the building is a single dwelling. It is currently undergoing repairs to the fire damage and is vacant.</p> <p>The matter of a possible boarding house use raised by FRNSW is referred to council's investigation team for follow up. At the time of writing the investigation is ongoing.</p>
7/7/2021	<p>A preliminary inspection by a Council officer with the owner's representative confirmed the building is vacant. Repairs to the damaged smoke alarm system have commenced.</p> <p>As the building was vacant at the time of the inspection and the owner asserts the building is being used as a single dwelling, fire safety measures such as smoke alarms inside bedrooms, and evacuation lighting, are not required by the building regulations.</p>
19/8/2021	A further inspection by a Council investigation officer with the owner's representative confirmed the building is still vacant while repairs are continuing. Once a compliant operational smoke alarm system is installed, fire safety provisions will be satisfactory.
2/9/2021	<p>Inspection to check progress on repair works after the fire are built safely and within the standards, a referral was made for a council building compliance investigation to commence. The repairs are ongoing, and the building remains vacant.</p> <p>To ensure an adequate smoke alarm installation, an advisory letter to confirm the requirement and standard for operational smoke alarms in single dwellings was sent.</p>

FIRE AND RESCUE NSW REPORT:

References: [BFS21/1441, D21/45650; 2021/283993]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving an enquiry about the operation of the building's smoke detection system during and following a fire incident.

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

1. concern that the building is being used as a boarding house without appropriate fire safety measures installed.

FRNSW Recommendations

FRNSW have made a recommendation 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.

FRNSW advise the matter is referred to Council as the appropriate regulatory authority. Also, they await advice of any 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 an advisory 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 site inspection undertaken by Council investigation officers it was determined to issue the owners of the building a compliance advisory letter to rectify the identified fire safety deficiencies noted by Council.

The above correspondence has requested that the building owner ensure that a compliant smoke alarm system is installed prior to reoccupation of the building.

Follow-up compliance action will be undertaken by a Council investigation officer to confirm ongoing use of the building as a single residence, ensure identified fire safety matters are suitably addressed and that compliance with the terms of Council's correspondence occurs.

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.

Trim Reference: 2021/306664

CSM reference No#: 2578008

Unclassified



File Ref. No: BFS21/1441 (8000015467)

TRIM Ref. No: D21/45650

Contact: [REDACTED]

23 June 2021

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
BOARDING HOUSE
118 FLINDERS STREET, DARLINGHURST ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 19 March 2021, in relation to a fire incident at 'the premises', as a result a fire safety concern was lodged.

The correspondence stated that:

- *I have concerns regarding the operation of the of the smoke detection system in the building during the incident and its ongoing operation following the fire.*

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 March 2021 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.

Fire and Rescue NSW

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www.fire.nsw.gov.au

Community Safety Directorate
Fire Safety Compliance Unit

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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

Date / Time of Fire:	19 March 2021 / 06:00 hours
Extent of Fire:	Ground floor common areas beneath stairway.
Damage:	Smoke, heat, fire and water damage throughout.
Type of Alarm:	000 Call
Evacuation:	3 occupants evacuated by FRNSW / 4 occupants self-evacuated.
Casualties:	4 occupants treated on site / 2 transported to hospital.

FRNSW noted the following during the investigation of this incident:

1. Generally

- a. Use – Observations at the time of the inspection, along with conversations with the building manager indicate that the use of the building may be a boarding house.

Discussions with Council Officer Luke Farrell via telephone on 22 March 2021 revealed that the premises is not licensed as a boarding house and Council's record indicate the premises approved use is as a private dwelling.

The subsequent comments are based on observations at the time of the inspection, on the assumption that the premises is being used as a boarding house, including considerations to apply current building standards.

- b. Structure – The structure, appears to be a three-storey terrace, with a total floor area less than 300m². The dwelling appears to consist of seven (7) bedrooms, with a common kitchen on the ground floor and common bathroom on the first-floor level.

- c. Classification – Based on observations at the time of the inspection, the dwelling appears to be a Class 1b boarding house in accordance with Section 1, Part A6.1 of the National Construction Code, Volume Two, Building Code of Australia (NCC), based on the number of occupants not exceeding 12 persons.
- d. Audit / Investigation – It is recommended that an audit/investigation be conducted of 'the premises' given the anomalies surrounding the use of the building.

Particular consideration should be given to compel the owners of the premises to upgrade and maintain the minimum fire safety measures should the use of the premises continue as a boarding house.

2. Fire Safety

- a. Smoke alarms – Part 3.7.5.2 of the NCC requires smoke alarms complying with AS3786, which are powered from the consumer mains source and interconnected where there is more than one alarm, be installed within a Class 1b building.

In this regard, hard wired smoke alarms appeared to have been installed within the common area hallways and within each bedroom, however the following was identified:

- i. The smoke alarm in Room 1 on the ground floor was missing from its mounting bracket. The smoke alarm could not be located anywhere within the room.
- ii. There was evidence to suggest a smoke alarm was installed on the ceiling in the hallway outside Room 1 on the ground floor, however, the smoke alarm had been destroyed and the remains were found on the hallway floor.
- iii. The smoke alarm in Room 2 was missing and could not be located. Exposed electrical wires were observed in the ceiling where the likely location of a smoke alarm had once been installed.
- iv. The smoke alarm in Room 3 on the first floor was missing from its mounting bracket. The smoke alarm was located on the floor of the room and appeared heat damaged, suggesting it may have dislodged during the fire incident.
- v. There was evidence to suggest a smoke alarm was once installed on the ceiling in the hallway outside Room 3 on the first floor, however the smoke alarm and the bracket was missing and could not be located.
- vi. The smoke alarm in Room 5 on the first floor was present, however it had been significantly deformed by heat/fire.

Unclassified

- vii. The smoke alarm in Room 6 on the first floor was present and was making a chirping sound, indicating the backup battery had been exhausted.
 - viii. There was evidence to suggest a smoke alarm was installed on the ceiling in the hallway outside Room 5 and 6 on the first floor, however the smoke alarm had been destroyed and the remains were found on the hallway floor.
 - ix. The smoke alarm in Room 7 on the second floor was missing and could not be located. Exposed electrical wires were observed in the ceiling where the likely location of a smoke alarm had once been installed.
 - x. The smoke alarm in Room 8 on the second floor was missing from its mounting bracket. The smoke alarm could not be located anywhere within the room.
 - xi. There was evidence to suggest a smoke alarm was installed on the ceiling in the hallway outside Room 7 and 8 on the second floor, however the smoke alarm had been destroyed and the remains were found on the hallway floor.
 - xii. There were conflicting reports on whether the smoke alarms operated during the fire incident. Furthermore, it could not be determined at the time of the inspection whether the smoke alarms could have operated at the time of the fire incident, due to the damage sustained to the smoke alarms and the lack of power available to the premises, as testing could not be undertaken.
- b. Evacuation lighting – Part 3.7.2.6 of the NCC requires a system of lighting be installed to assist evacuation of occupants in the event of a fire. In this regard it was not apparent whether any evacuation lighting was installed due to the damage sustained within the common areas resulting from the fire.
- c. Exit Signs – Volume Two of the NCC does not require the installation of exit signs in a Class 1b building, however illuminated exit signs were evident throughout 'the premises'. It is noted that the remains of two exits signs having been destroyed by fire were evident on the ground and first floor levels. It is unclear why exit signs were provided given the building classification is either Class 1a or 1b.

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. 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) [REDACTED]. Please ensure that you refer to file reference BFS21/1441 (8000015467) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

[REDACTED]
Senior Building Surveyor
Fire Safety Compliance Unit