

Attachment G

**Council Officer Inspection Report,
33-35 and 37 Darlinghurst Road, Potts Point**

33 - 35 and 37 Darlinghurst Road Potts Point (Potts Point Hotel)

CITY OF SYDNEY



Springfield Gardens

23-31

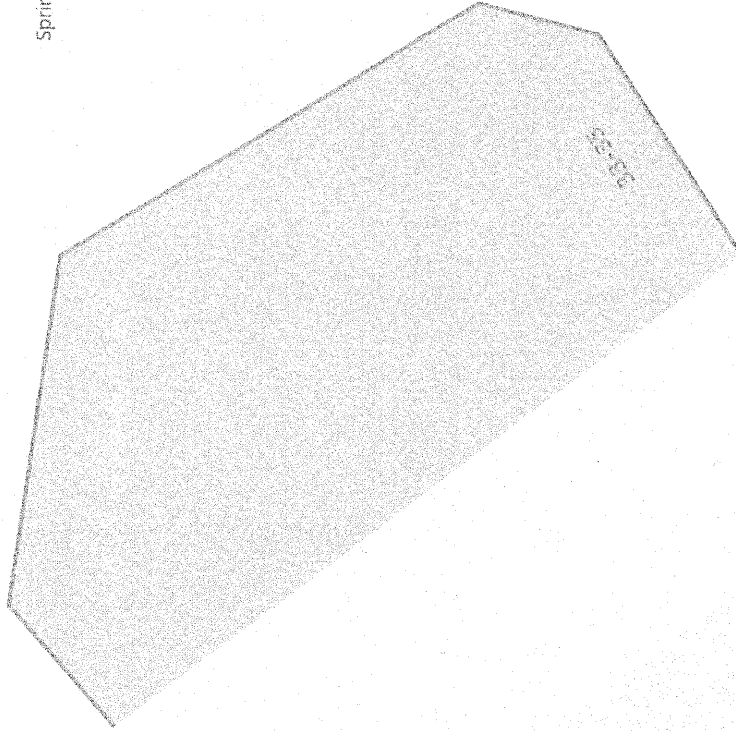
Springfield Gardens

Springfield Avenue

Darlinghurst Road

34-36A

34-36B



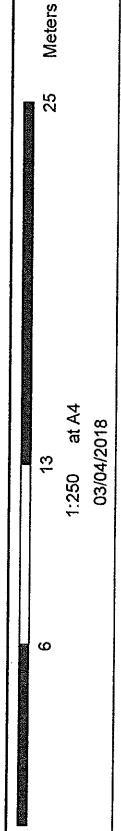
33-35

37

39-43

15

5-7



Copyright ©2018 City of Sydney Council & Land and Property Information & Sinclair Knight Merz. All Rights Reserved. This map has been compiled from various sources and the publisher and/or contributors accept no responsibility for any injury, loss or damage arising from the use, error or omissions therein. While all care is taken to ensure a high degree of accuracy, users are invited to notify Council of any map discrepancies. No part of this map may be reproduced without permission.

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

File: CSM1872713

Officer: Eyman Balta

Date: 5 April 2018

Premises: 33 - 35 and 37 Darlinghurst Road Potts Point (Potts Point Hotel)

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 five storey building used as a bar and restaurant known as the Potts Point Hotel. The building is bounded by Darlinghurst Road, Springfield Avenue and Earl Place Darlinghurst.

The building is located at 33 - 35 Darlinghurst Road Potts Point and is connected to 37 Darlinghurst Road through openings between the common walls of the two buildings at ground floor level.

The buildings 33 - 35 and 37 Darlinghurst Road are determined to be a united building under the provisions of the National Construction Code 2016, Volume 1, Building Code of Australia, Amendment 1 (NCC).

The building comprises of the following configuration:

- The basement level of the building contains storage areas, male and female amenities and back of house areas.
- The ground floor level contains the main bar, a commercial kitchen, dining areas and gaming areas.
- The first and second floor levels contain bars, lounge areas and amenities.
- The third floor contains a rooftop bar known as 'Sweethearts Rooftop'.

An inspection of the premises undertaken by a Council investigation officer in the presence of the Potts Point Hotel manager and licensee confirmed 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 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, such as maintenance of fire doors and their associated hardware, 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
28/03/2018	FRNSW correspondence received regarding the Potts Point Hotel located at 33 - 35 and 37 Darlinghurst Road Potts Point.
05/04/2018	<p>An inspection of the subject premises was undertaken by a Council building officer in the presence of the manager and licensee of the Potts Point Hotel.</p> <p>The inspection revealed only minor non-compliances which could be addressed through appropriate maintenance. The inspection also revealed that the majority of the issues raised by FRNSW had been addressed by the building owner. The outcomes of the inspection were discussed at the conclusion of the inspection with the building owner who was also advised that written advice on the findings would be issued in due course.</p>
06/04/2018	A compliance letter of instruction is issued to the building owners and the hotel manager and licensee to rectify the non-compliances identified by Councils investigation officer during the inspection of the premises on the 5 April 2018.

FIRE AND RESCUE NSW REPORT:

References: BFS17/3005 (2247) and D18/15645.

Fire and Rescue NSW in the presence of the NSW Police and Licenced Premises officers from the City of Sydney conducted an inspection of the subject premises on the 9 December 2017 as a part of a proactive joint inspection program of licenced premises.

Issues

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

1. The buildings fire indicator panel (FIP) was displaying an isolation and seven technical fault messages.
2. The buildings emergency warning and intercommunication system (EWIS) panel was displaying faults.
3. A fire door located on the second level of the building had a broken self-closing device.
4. Magnetic hold open devices provided to fire doors on the third floor level were broken.
5. An exit passageway at basement level was obstructed by stored items.

With reference to items 1 and 2 above, FRNSW issued an Emergency Fire Safety Order on the premises on the 10 December 2017 requiring non-compliances associated with these items to be rectified no later than the 21 December 2017.

In its correspondence to Council, FRNSW advised that a reinspection of the premises was undertaken on the 21 December 2017 and that requirements of the Emergency Fire Safety Order were complied with.

The buildings FIP and EWIS panel were inspected by Councils investigation officer during the inspection of the premises on the 5 April 2018 and no non-compliances were identified with both panels operating correctly.

With reference to item 3 above, non-compliances were identified in relation to the operation of fire exit stair doors on the second floor level of the building at the time of Councils inspection.

With reference to item 4 above, non-compliances were identified in relation to the operation of fire exit stair doors and their magnetic hold open devices on the ground, first and second floor levels, but not the third floor level of the building at the time of Councils inspection.

With reference to item 5 above, no issues in relation to the obstruction of exits or paths of travel were identified in the building at the time of Councils inspection.

FRNSW Recommendations

FRNSW have made a number of 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. FRNSW has listed the issues that were identified by their inspection pursuant to s.9.32 and clause 17 of Schedule 5 of the (previously 119T (4) and s.121ZD (1) Act.
2. FRNSW has recommended that as Council are the regulatory authority the matter is referred for Council to take action to have the abovementioned items appropriately addressed.
3. FRNSW have also requested that as soon as practical after the above report has been tabled and considered, that notice of any determination in relation to the report and 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 with compliance actions under the current Council Order	Other (to specify)

As a result of site inspection undertaken by Council investigation officers the owners of the building were issued with written instructions to rectify the identified fire safety deficiencies noted by FRNSW and Council officers.

The above correspondence has instructed the building owners and hotel management to:

1. Carry out maintenance to the existing fire doors, fire door hardware and magnetic hold open devices identified during the inspection as being defective to ensure the correct operation of these doors in an emergency.

Follow-up compliance inspections are currently being undertaken and will continue to be undertaken by a Council investigation officer to ensure identified fire safety matters are suitably addressed and that compliance with the terms of Councils correspondence and the recommendations of FRNSW occur.

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	2018/145661-01
A2.	Locality Plan	2018/145661-02
A3	Attachment cover sheet	2018/145661-03

Trim Reference: 2018/145661

CSM reference No#: 1872713



File Ref. No: BFS17/3005 (2247)
TRIM Ref. No: D18/15645
Contact: [REDACTED]

27 March 2018

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
'POTTS POINT HOTEL'
LOT 1, DP 210973 & LOT B, DP 162489
33-35 & 37 DARLINGHURST ROAD, POTTS POINT ("the premises")**

Pursuant to the provisions of Section 119T(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an inspection of 'the premises' on 9 December 2017 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.

Please be advised that the inspection for 'the premises' was conducted prior to the amendments of the *Environmental Planning and Assessment Act 1979* (EP&A Act) on 1 March 2018. As such, all references to the relevant sections in this report are provided prior to the amendments of the EP&A Act.



On behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Section 119T(4) and Section 121ZD(1) of the EP&A Act. Please be advised that Section 121ZD(2) requires any report or recommendation from the Commissioner of FRNSW to be tabled at a Council meeting.

COMMENTS

The following items were identified as concerns during the inspection:

1. The Automatic Smoke Detection and Alarm System –
 - a. The Fire Indicator Panel was displaying one (1) isolation and seven (7) technical messages.
 - b. The evacuation control panel was displaying a “System Fault” and “Charger Fault”.
2. Fire doors –
 - a. The fire door to the central fire isolated stairway on Level 2 had a broken self-closing device, therefore preventing the door from returning to the fully closed position after each manual opening, contrary to the requirements of Clause C3.8 of the National Construction Code, Volume One, Building Code of Australia (NCC).
 - b. Multiple magnetic hold open devices to the fire doors on Level 3 were broken and had not been maintained, contrary to the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).
3. Egress – The rear exit passageway on the basement level (which also provides access to the pump room from Earl Place) was partially obstructed by furniture and other stored items, contrary to the requirements of Clause 184 and Clause 186 of the EP&A Regulation. Staff advised FRNSW that these items would be removed and the passageway would be cleared that evening following the inspection.

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

FIRE SAFETY ORDER NO. 6

The inspecting Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW issued an Order No. 6, dated 14 December 2017, in accordance with the provisions of Section 121B of the EP&A Act, to have item no. 1(a) and item no.1(b) of this report rectified.



In accordance with the provisions of Section 121ZE 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. 1(a) and item no. 1(b) of this report.

RE-INSPECTION

Pursuant to the provisions of Section 119T(1)(b) of the EP&A Act and Clause 189(a) of the EP&A Regulation, an inspection of 'the premises' on 21 December 2017 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

At the time of the inspection, 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

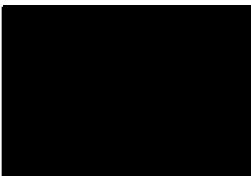
FRNSW recommends that Council:

- a. Inspect and address item no. 2 through to item no. 3 of this report and any other deficiencies identified on 'the premises'.

This matter is referred to Council as the appropriate regulatory authority. FRNSW therefore awaits Council's advice regarding its determination in accordance with Section 121ZD(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 BFS17/3005 (2247) for any future correspondence in relation to this matter.

Yours faithfully



Building Surveyor
Fire Safety Compliance Unit

Attachment: [Appendix 1 – Emergency Fire Safety Order 6 dated 14 December 2017 – 2 pages]



Unclassified



Emergency Fire Safety Order

Under the *Environmental Planning and Assessment Act 1979*
Part 6 - Implementation and Enforcement: Division 2A - Orders
Tables to Section 121B: Emergency Order No. 6 – Fire Safety Order

Please note

- Pursuant to Section 1212C (2) of the Act, this Order has been given as an Emergency Order as the issuing officer believes actions or deficiencies identified constitute an emergency or a serious risk to safety.
- Pursuant to Section 1212K (2) of the Act, there is no right of appeal against this Order.
- Failure to comply with this Order may result in further Orders and/or fines being issued.
- Substantial penalties may be imposed under Section 125 of the Act for failure to comply with an Order.

I, [REDACTED] Building Surveyor [REDACTED]
(name) (date) (number)

being an authorised Fire Officer within the meaning of Section 1212C of the *Environmental Planning and Assessment Act 1979*, and duly authorised for the purpose, hereby order

Darlinghurst Road Holdings Pty Limited **Owner**
(name of person whom Order is served) (position i.e. owner, building manager)

with respect to the premise

'POTTS POINT MOTEL'
(LOT 1, DP 210973 & LOT B, DP 162489)
33-35 & 37 DARLINGHURST ROAD, POTTS POINT ("the premises")
(name/address of premises to which Order is served)

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

1. Ensure the Automatic Smoke Detection and Alarm System ("the system") continually monitors 'the premises' by
 - a. Repairing the isolation and technical messages displayed on the Fire Indicator Panel.
 - b. Maintaining 'the system' so that it is operational without faults or isolations by ceasing the practise of isolating 'the system'. Ensuring that 'the system' operates to the standard of performance it was originally designed, installed and commissioned.



Unclassified

2. Ensure the Emergency Warning and Intercommunication System (EWS) installed in 'the premises' is fully operational, by rectifying all faults, displayed on the Emergency Control Panel

The terms of the Order are to be complied with:

By no later than 1200 hours on Thursday 21 December 2017

The reasons for the issue of this Order are:

- a. At the time of the inspection on 10 December 2017, the Fire Indicator Panel was displaying one (1) isolation and seven (7) technical messages.
- b. At the time of the inspection, the evacuation control panel was displaying a 'System Fault' and 'Charger Fault'.
- c. To ensure that the Automatic Smoke Detection and Alarm System is capable of operating in accordance with the standard of performance it was designed and installed to
- d. To ensure the Automatic Smoke Detection and Alarm System is fully operational so the occupants are provided with early notification of a fire within 'the premises' so that they may safely evacuate 'the premises' in the event of a fire
- e. To ensure that the Emergency Warning and Intercommunication System is capable to operating in accordance with the standard of performance it was designed and installed to
- f. To ensure compliance with the requirements with Clause 182 of the Environmental Planning and Assessment Regulation 2000.
- g. To ensure that Fire Safety Measures installed throughout the building are maintained and operating to their standard of performance.

This Order No. 6 was hand delivered and sent by mail on 14 December 2017



Building Surveyor
Fire Safety Compliance Unit

Fire & Rescue NSW
Community Safety Directorate
Fire Safety Compliance Unit
firesafety@fire.nsw.gov.au

Unclassified
ABN 12 593 473 110
Locked Bag 12
Greenacre NSW 2130

Page 1

www.fire.nsw.gov.au

T (02) 9742 7434
F (02) 9742 7483

© Copyright State Govt NSW



Unclassified

Fire & Rescue NSW

ABN 12 593 473 110

www.fire.nsw.gov.au

Community Safety Directorate
Fire Safety Compliance Unit

Locked Bag 12
Greenacre NSW 2130

T (02) 9742 7434
F (02) 9742 7483

firesafety@fire.nsw.gov.au

Page 5 of 5

© Copyright State Govt NSW

