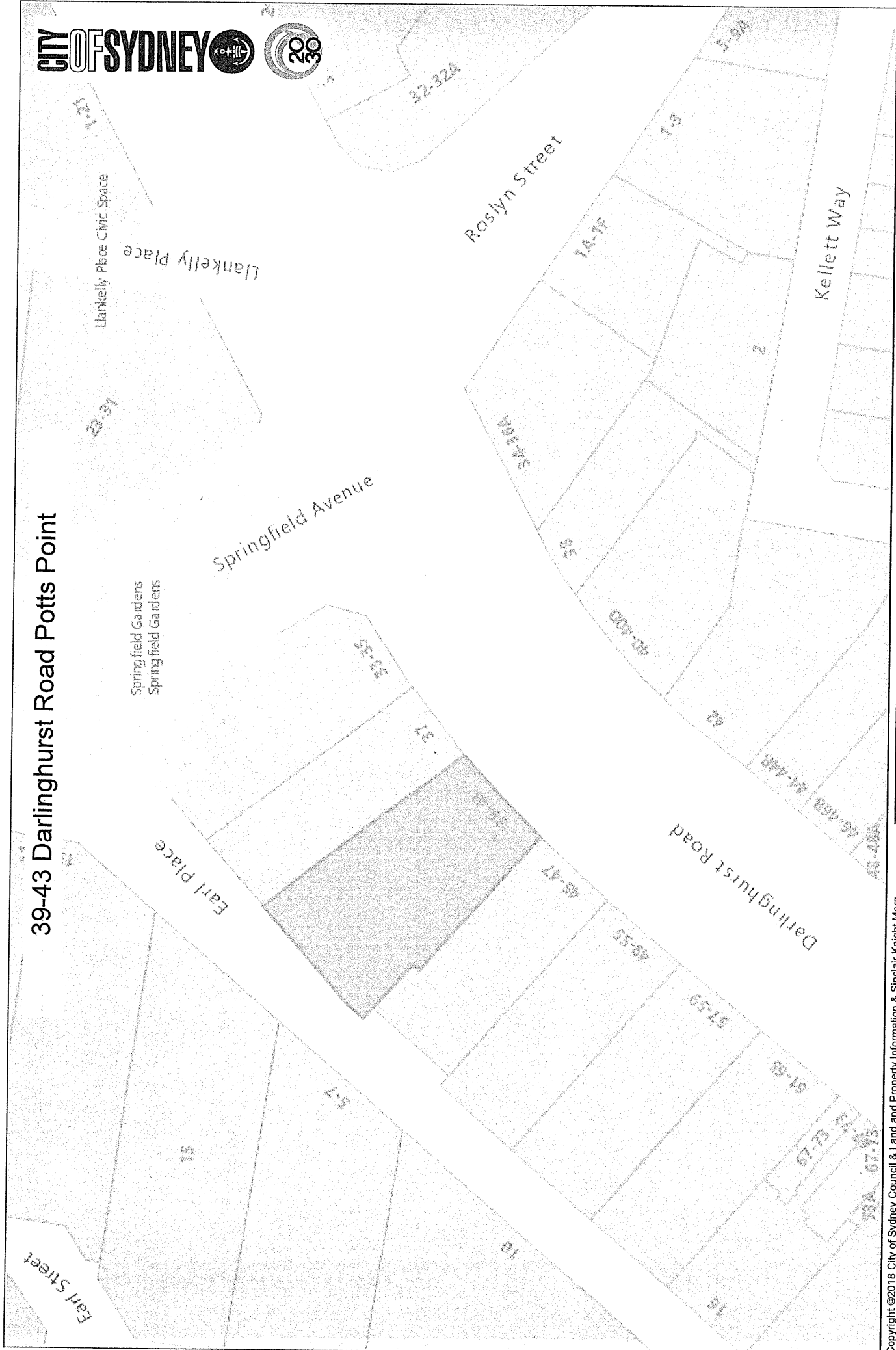


Attachment I

**Council Officer Inspection Report -
39 - 43 Darlinghurst Road, Potts Point**

39-43 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: 2018/560881

Officer: Andrew Porter

Date: 31 October 2018

Premises: 39 - 43 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 mixed use building.

The effective height of the building is approximately 12 metres.

The lower ground floor level of the building contains a disused and vacant nightclub formerly known as the 'O Nightclub', the ground floor level contains a disused and vacant retail premises formerly known as 'Wicked Travel' and the 'Showgirls' adult theatre (operational), and the first and second floor levels of the building contain the 'Kings Hotel Sydney' private hotel.

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 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.

The building was subject of a prior fire safety order, which required significant upgrading of fire safety systems within the building. The order was issued by Council in April 2015 and subsequently completed with a final fire safety certificate being given to Council in December 2016.

Council's recent investigation revealed that the building is in a state at which it was at the time the April 2015 Fire Safety Order was complied with and requires no further action to be taken.

Chronology:

Date	Event
17/10/2018	FRNSW correspondence received regarding premises located at 39 – 43 Darlinghurst Road, Potts Point.
30/10/2018	An inspection of the subject premises was undertaken by a Council officer which identified that the building is compliant with respect to fire safety with the two issues raised by FRNSW having already been rectified.

FIRE AND RESCUE NSW REPORT:

References: D18/71131: 2018/536161

Fire and Rescue NSW conducted a joint inspection of the subject premises in company of Officers from the NSW Police Force and City of Sydney Council which identified issues within the building.

Issues: The report from FRNSW detailed the following issues within the building:

- The Automatic Fire Detection and Alarm System had 19 isolations and 1 fault displayed on the Fire Indicator Panel (FIP);
- A copy of the current annual fire safety statement (AFSS) and a copy of the fire safety schedule were not prominently displayed in the building (the displayed AFSS was dated 9 November 2012);

FRNSW Recommendations: FRNSW have not made recommendations within their report. However in general FRNSW indicated that;

1. On 14 December 2017 FRNSW issued an emergency order with a 7 day compliance period. The order required the building owner to ensure that the automatic smoke detection and alarm system continually monitors the premises by repairing all faults and isolations.
2. FRNSW reinspected the premises on 21 December 2018 and concluded that the terms of the emergency order were compliant at the time of inspection.
3. FRNSW has indicated in their report that the inspection was limited to observations and sections of the building accessed at the time of inspection and it is Council's discretion as the appropriate regulatory authority to conduct its own investigation and consider the most appropriate action.

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)

Inspections undertaken by a Council investigation officer in company with the manager of the premises revealed that the above issues within the building raised by FRNSW have been rectified.

It is recommended that Council not exercise its powers to give a fire safety order under Schedule 5 of the Environmental Planning and Assessment Act, 1979 at this time.

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	2018/560881-01
A2.	Locality Plan	2018/560881-02
A3	Attachment cover sheet	2018/560881-03

Trim Reference: 2018/560881

CSM reference No#: 1969368



Fire & Rescue NSW

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File Ref. No: BFS17/3006 (8000002252)
TRIM Ref. No: D18/71131
Contact: [REDACTED]

17 October 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
SHOWGIRLS
39-43 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 'Showgirls' and the essential Fire Safety Measures as identified in this report only.
- A conceptual overview, 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 of 'the premises' was conducted prior to the amendments of the 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.

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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 2190

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

firesafety@fire.nsw.gov.au

Page 1 of 5

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Please be advised that details of this inspection have been provided in accordance with Section 119T(4) of the EP&A Act. Therefore, on behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Section 121ZD(1)(a) of the EP&A Act.

COMMENTS

Please note, that 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 1 (NCC). Please be advised that whilst the report is not an exhaustive list of non-compliances, the items as listed outline concerns that 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 action.

The following items were identified as concerns during the inspection:

1. Essential Fire Safety Measures

- 1A. Automatic Smoke Detection and Alarm System – There were 19 faults and one (1) isolation displayed at the Fire Indicator Panel (FIP), contrary to the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).

2. Generally

- 2A. A copy of current annual fire safety statement (AFSS) and a copy of the fire safety schedule were not prominently displayed in the building (the displayed AFSS was dated 9 November 2012), contrary to the requirements of Clause 177 of the EP&A Regulation.

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 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 conducted further inspections of the building to assess compliance with the terms of this Order

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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 2190

T (02) 9742 7434
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Page 2 of 5

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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'.

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 BFS17/3006 (8000002252) for any future correspondence in relation to this matter.

Yours faithfully



[REDACTED]
Building Surveyor
Fire Safety Compliance Unit

Attachment: [Appendix 1 – Order 6]

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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 2190

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

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Appendix 1 – Order 6

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**Fire &
Rescue NSW**

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 121ZC (2) of the Act, this Order has been given as an Emergency Order as the issuing officer believes activity or deficiencies identified constitute an emergency or a serious risk to safety.
- Pursuant to Section 121ZK (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]

(name)

Building Surveyor
(rank)

904279
(number)

being an authorised Fire Officer within the meaning of Section 121ZC of the *Environmental Planning and Assessment Act 1979*, and duly authorised for the purpose, hereby order:

[redacted]
(name of person whom Order is served)

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

with respect to the premise

**LOT 1, DP 499508
39-43 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 all faults and isolations displayed on the Fire Indicator Panel (FIP).

The terms of the Order are to be complied with:

By no later than 1200 hours on Thursday 21 December 2017.

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

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ABN 12 593 473 110
Locked Bag 12
Greenacre NSW 2190
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Community Safety Directorate
Fire Safety Compliance Unit
firesafety@fire.nsw.gov.au

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The reasons for the issue of this Order are:

- a. At the time of the inspection, the Fire Indicator Panel was displaying nineteen (19) faults and one (1) isolation.
- b. 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.
- c. 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.
- d. To ensure compliance with the requirements with Clause 182 of the Environmental Planning and Assessment Regulation 2000.
- e. 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

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www.fire.nsw.gov.au

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Fire Safety Compliance Unit

Locked Bag 12
Greenacre NSW 2190

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F (02) 9742 7483

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Page 5 of 5

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