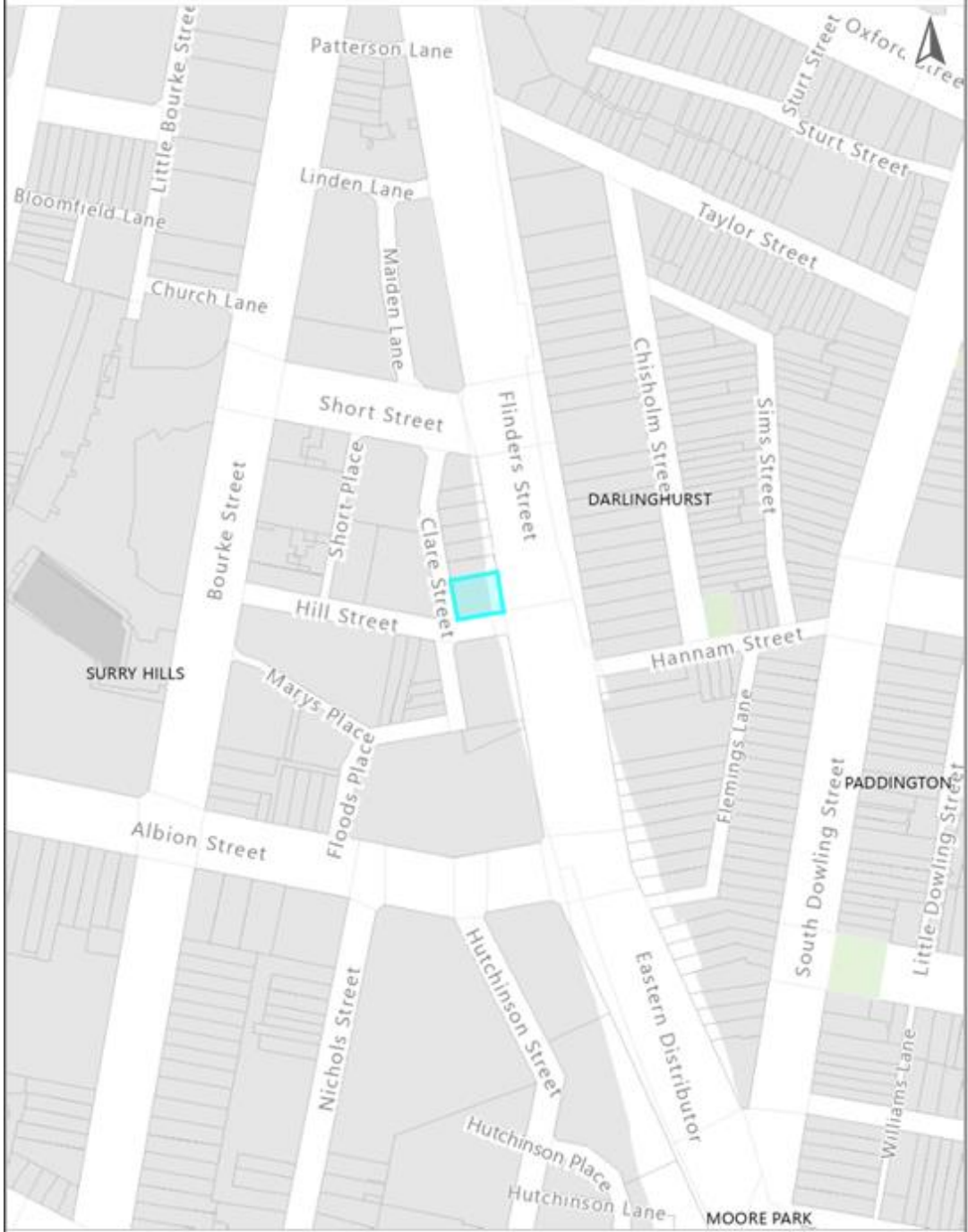


# **Attachment C**

**Inspection Report  
63-65 Flinders Street, Darlinghurst**

# Locality Plan 63-65 Flinders Street Darlinghurst



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Notes

28/11/2023

**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 3077121**

**Officer: Bill Badyari**

**Date: 18 December 2023**

**Premises: 63-65 Flinders Street, Darlinghurst**

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**Executive Summary:**

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) on 27 October 2023 in relation to the premises with respect to matters of fire safety, dealing with 63-65 Flinders Street, Darlinghurst.

The premises is located on the corner of Flinders Street and Hill Street, Darlinghurst, and contains a three-storey commercial building, with ground floor public entertainment area and two vacant levels above.

An inspection of the premises undertaken by a council investigation officer in the presence of the building manager and business owner, revealed no significant fire safety issues.

The premises are equipped with numerous fire safety systems, both active and passive, providing adequate provision for fire safety for occupants in the event of a fire. The annual fire safety certification is prominently displayed within the foyers of the building.

It is considered that the above fire safety works are of a degree which will be addressed through corrective action letter.

The building does not contain combustible cladding.

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**Chronology:**

<b>Date</b>	<b>Event</b>
31/10/2023	FRNSW correspondence received regarding premises Flinders Hotel 63-65 Flinders Street Darlinghurst relating to fire safety at the premises, relating to correspondence dated 27 October 2023.
02/11/2023	A review of City records shows: <ul style="list-style-type: none"><li>- The fire safety schedule for the premises contains seven fire safety measures, including an automatic smoke detection and alarm system, emergency lighting, and a building occupant warning system</li><li>- A fire safety statement dated 06/08/2023 has been provided for the premises.</li><li>- Council records show owner to remain level 1 and 2 vacant.</li></ul>
06/11/2023	A copy of issues raised by FRNSW provided to the owner in relation to required maintenance of fire safety measures.
21/11/2023	<ul style="list-style-type: none"><li>- Met with building manager and business owner and discussed fire safety issues</li><li>- Inspected premises, noting that whilst certain items raised in the FRNSW report are complete, there is evidence of incomplete maintenance of fire safety measures, including multiple fire hose reels not interlocked.</li></ul>
01/12/2023	Corrective action letter issued 2023/622779-02.

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## FIRE AND RESCUE NSW REPORT:

References: BFS23/6034;2023/622779

Fire and Rescue NSW conducted an inspection of the subject premises on 20 October 2023 along with NSW police force.

### Issues

The report from FRNSW detailed the following issues:

1. Annual fire safety statement not displayed in prominent area	Issue resolved
2. A sliding barrel bolt was installed on the double exit doors to Clare Street.	Issue resolved
3. A bin in the alcove adjacent to the fire exit doors to Clare Street, prevented the double exit doors from fully opening.	Issue resolved
4. The door in the path of travel to the double exit door to Clare Street was difficult to open with the bottom of the door catching on the floor.	Issue resolved
5. Multiple building materials/cleaning items in the rear compartment, adjacent to the double exit doors, preventing the door from opening fully.	Issue resolved
6. Curtain material was attached to and surrounding, the double exit doors to Flinders Street which may potentially cause an obstruction to the free passage of persons.	Issue resolved
3A. Services & Equipment: A. Smoke Detection System throughout the premises appeared to consist of thermal detectors. B. Zone Block Plan to be securely mounted and located adjacent to the control and indicating equipment. C. Portable fire extinguisher missing from its mounting hook and on first level portable fire extinguisher obstructed by ladders and bar stool. D. Fire Hose Reels obstructed and not interlocked.	Issue to be resolved via corrective action letter.  - Issue resolved  - Issue resolved  - Inspection revealed that several hose reel inlets were not interlocked, issue to be resolved via corrective action letter.
3B. Access & Egress: A. Operation of Latch in a class 9b building, that door must be readily openable without key from the side that faces a person seeking egress.	- Inspection revealed operation of latch is not in compliance, issue to be rectified via corrective action letter.

<p>B. The single exit door to Flinders Street opens against the direction of egress and is not fitted with a panic bar.</p> <p>C. The doors in the path of travel to the double exit doors to Clare Street is not fitted with a panic bar.</p>	<p>- Inspection revealed single door and double exit doors require mechanism to be fitted to achieve compliance. Council will achieve compliance by issuing corrective action letter.</p>
<p>3C Compartmentation:</p> <p>A. Enclosure of space under stairs- the space beneath the non-fire-isolated stair was enclosed to form part of a DJ booth and did not appear to consist of enclosing walls and ceiling achieving an FRL of not less than 60/60/60, contrary to the requirements of Clause D3D9 of NCC.</p> <p>B. Fire-isolated stairways-Clause D2D4(2) of the NCC states that for class 9 buildings every stairway or ramp serving as a required exit must be fire-isolated unless it connects, passes through, or passes by not more than 2 consecutive storeys and one extra storey of any classification may be included under specified conditions, timber panelling was noted throughout the stairway and ground floor fire door between the nightclub and the bottom of the stairway.</p>	<p>- Inspection revealed under the staircase area has been sealed off however owner to confirm FRL achievement and compliance with NCC via corrective action letter.</p> <p>- inspection revealed that the subject building is a 3-storey building over a basement cellar however Council requires owner to keep level 2 and 3 vacant until such time appropriate development approval is sort for the use of level 1 and 2. Since level 1 and 2 is vacant and not in use, no action required for upgrade at this stage.</p>

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

FRNSW Recommendations

1. Inspect and address item no. 1& 2 of the FRNSW report
2. Give consideration to the other deficiencies identified on the premises identified in item no. 3 of the FRNSW report.

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 site inspection undertaken by council's investigation officers it was determined to issue the owners of the building a compliance letter of instruction to rectify the identified fire safety deficiencies noted by Council and FRNSW.

The above correspondence has requested building management carry out remedial works to existing fire systems to achieve compliance with required standards of performance.

Follow-up compliance inspections are currently being undertaken and will continue to be undertaken by a council investigation officer to ensure already identified fire safety matters are suitably addressed and that compliance with the terms of Council's 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.

**Referenced/Attached Documents:**

2023/622779	Fire & Rescue NSW letter dated 27 October 2023
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**Trim Reference:** 2023/622779

**CSM reference No:** 3077121

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File Ref. No: BFS23/6034  
TRIM Ref. No: D2023/105749  
Contact: Conor Hackett

27 October 2023

General Manager  
City of Sydney  
GPO Box 1591  
SYDNEY NSW 2001

Email: [council@cityofsydney.nsw.gov.au](mailto:council@cityofsydney.nsw.gov.au)

Attention: Manager Compliance/Fire Safety

Dear Sir / Madam

**Re: INSPECTION REPORT  
FLINDERS HOTEL  
63-65 FLINDERS STREET DARLINGHURST ("the premises")**

Pursuant to Section 9.32(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW) inspected 'the premises' on 20 October 2023. Officers from NSW Police Force were also present during the inspection.

On behalf of the Commissioner of FRNSW, comments in this report are provided under Section 9.32(4) and Schedule 5, Part 8, Section 17(1) of the EP&A Act.

In this regard, 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.

## COMMENTS

Please be advised that this report is not an exhaustive list of non-compliances. The proceeding items outline concerns in general terms, deviations from the fire safety

Fire and Rescue NSW

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Fire Safety Compliance Unit

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provisions prescribed in Section 9.32(1)(b) of the EP&A Act and Clause 112 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (the DCFS Regulation).

The following comments are based on the assumption that the premises is operating as a Class 9b – Nightclub as defined in Clause A6G10 of the NCC. Council may wish to review its records to ensure that appropriate approvals have been obtained for the use of the premises as such.

It should also be noted that no access was available to the first and second floor rooms.

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

1. Essential Fire Safety Measures

1A. Annual Fire Safety Statement (AFSS) – Clause 89(4)(b) of the DCFS Regulation states that the AFSS must be prominently displayed in the building. The statement that was displayed was dated December 2011. An inspection and a review of council's records may be required.

2. Access and Egress

2A. Fire Exits and Fire Exit Doors – With regard to the requirements of Clause 109 of the DCFS Regulation, the following is noted:

- a. A sliding barrel bolt was installed on the double exit doors to Clare Street, interfering with the operation of a fire exit door, contrary to the Clause D3D26 of the NCC.
- b. A bin in the alcove adjacent to the fire exit doors to Clare Street, prevented the double exit doors from fully opening, causing an obstruction to the free passage of persons.
- c. The door in the path of travel to the double exit door to Clare Street was difficult to open with the bottom of the door catching on the floor, interfering with the operation of the fire exit door.
- d. Multiple building materials/cleaning items stored in the rear compartment, adjacent to the double exit doors, prevented the door from opening fully, thereby causing an obstruction to the free passage of persons.
- e. Curtain material was attached to, and surrounding, the double exit doors to Flinders Street, which may potentially cause an obstruction to the free passage of persons.

FRNSW is therefore of the opinion that the fire safety provisions prescribed for the purposes of 9.32(1)(b) of the EP&A Act, have not been complied with.



## ADDITIONAL COMMENTS

In addition to the items identified above, relating to the Fire Safety Provisions prescribed by Clause 112 of the DCFS Regulation, the following items were also identified as concerns at the time of the inspection and it would be at council's discretion as the appropriate regulatory authority to conduct its own investigation and consider the most appropriate action.

### 3A. Services & Equipment.

- A. Smoke Detection System – The smoke detection system throughout the premises appeared to consist of thermal detectors. It is unclear whether approval has been given to permit thermal detectors in areas where smoke detectors would generally be required. An inspection and a review of council's records may be required.
- B. Zone Block Plan – Clause 3.10 of AS1670.1-2018 requires a Zone Block Plan to be securely mounted and located adjacent to the Control and Indicating Equipment. At the time of the inspection, a Zone Block Plan could not be located.
- C. Portable Fire Extinguishers (PFE) –
  - i. A PFE was missing from its mounting hook, adjacent to the toilets, contrary to the requirements of Clause 3.5 of AS2444-2001.
  - ii. Access to the first floor PFE was obstructed by ladders and a bar stool and was not readily accessible at the time of the inspection, contrary to the requirements of Clause 3.2 of AS 2444-2001.
- D. Fire Hose Reels (FHR) –
  - i. Access to the first floor fire hose reel was obstructed by ladders and a bar stool, contrary to the requirements of Clause 10.1 of AS2441-2005.
  - ii. Multiple FHR's throughout the premises were detached from the hose guide and nozzle interlocking device, contrary to the requirements of AS2441-2005.

### 3B. Access & Egress

- A. Operation of Latch – Clause D3D26(5) of the NCC states that, in a Class 9b building, a door in a required exit, forming part of a required exit or in the path of travel to a required exit serving a storey or room accommodating more than 100 persons, that door must be readily openable - without a key from the side that faces a person seeking egress; and by a single hand pushing action on a

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single device such as a panic bar located between 900 mm and 1.2 m from the floor. In that regard the following is noted:

- i. The single exit door to Flinders Street opens against the direction of egress and is not fitted with a panic bar.
- ii. The door in the path of travel to the double exit doors to Clare Street is not fitted with a panic bar.

**3C. Compartmentation.**

- A. Enclosure of space under stairs – The space beneath the non fire-isolated stair was enclosed to form part of a DJ booth and did not appear to consist of enclosing walls and ceiling achieving an FRL of not less than 60/60/60, contrary to the requirements of Clause D3D9 of the NCC.
- B. Fire-isolated Stairways - Clause D2D4(2) of the NCC states that for, Class 9 buildings, every stairway or ramp serving as a required exit must be fire-isolated unless it connects, passes through or passes by not more than 2 consecutive storeys and one extra storey of any classification may be included under specified conditions. The subject building is a 3 storey building over a basement cellar.

Timber panelling was noted throughout the stairway and the ground floor fire door between the nightclub and the bottom of the stairway, adjacent to the FIP, was missing. It is at Council's discretion as the appropriate regulatory authority to review building approvals and determine whether the required exits comply with previous approvals and/or the specified conditions of Clause D2D4(2).

FRNSW believes that there are inadequate provisions for fire safety within the building.

**RECOMMENDATIONS**

FRNSW recommends that Council:

- a. Inspect and address item no. 1 & 2 of this report.
- b. Give consideration to the other deficiencies identified on 'the premises' identified in item no.3 of this report.

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. This matter is referred to Council as the appropriate regulatory authority. FRNSW awaits the Council's advice regarding its determination under Schedule 5, Part 8, Section 17 (4) of the EP&A Act.

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Please do not hesitate to contact Conor Hackett of FRNSW's Fire Safety Compliance Unit at [FireSafety@fire.nsw.gov.au](mailto:FireSafety@fire.nsw.gov.au) or call (02) 9742 7434 if there are any questions or concerns about the above matters. Please refer to file reference BFS23/6034 regarding any correspondence concerning this matter.

Yours faithfully

A handwritten signature in black ink, appearing to read 'C. Hackett', with a long horizontal stroke extending to the right.

Conor Hackett  
Senior Building Surveyor  
Fire Safety Compliance Unit