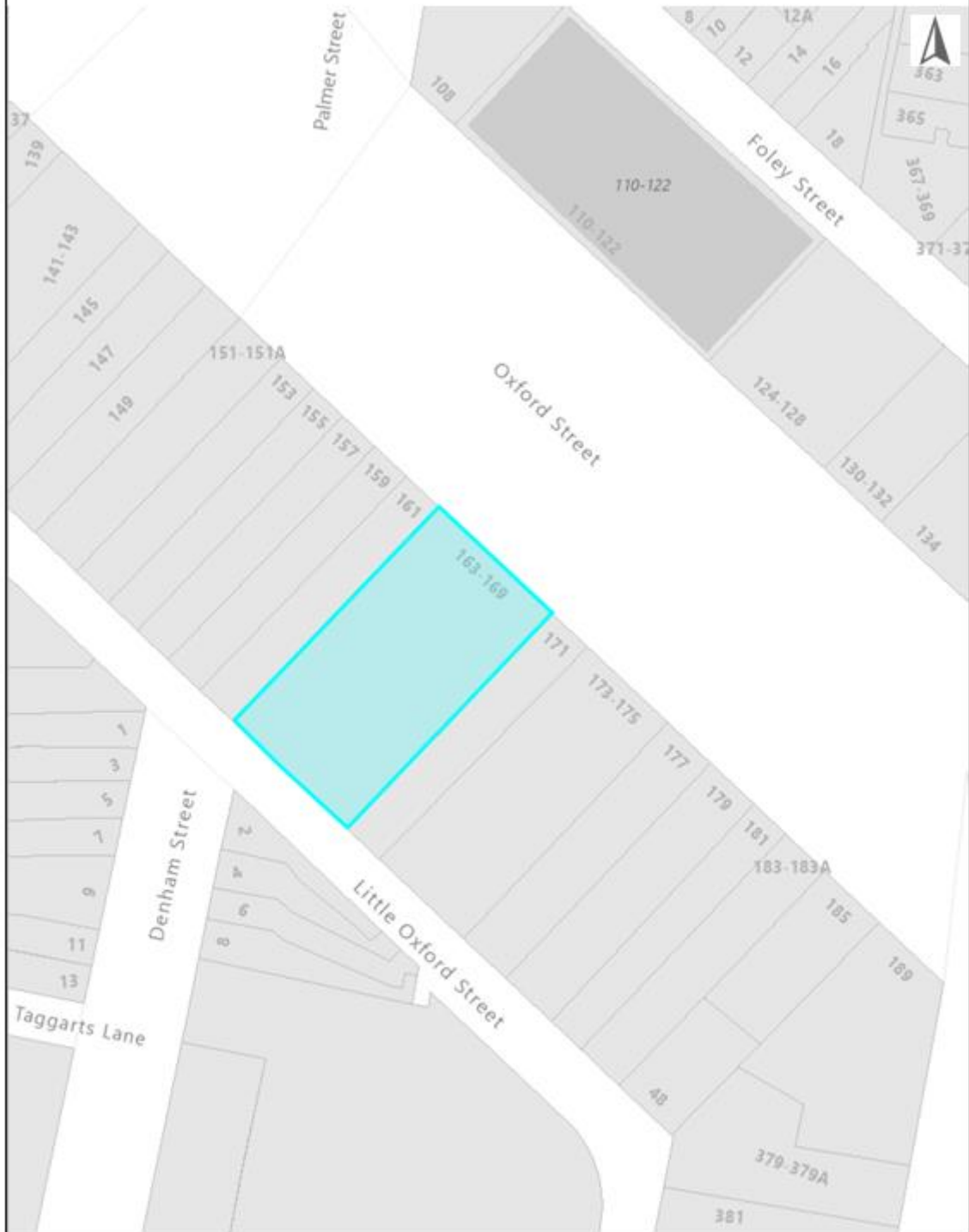


# **Attachment F**

**Inspection Report  
163-169 Oxford Street, Darlinghurst**

# 163-169 Oxford Street, Darlinghurst



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Notes

4/01/2024

**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)**

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**File:** CSM 3086217      **Officer:** Doug McLennan      **Date:** 4 January 2024

**Premises:** 163-169 Oxford Street, Darlinghurst

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**Executive Summary:**

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises on 14 November 2023 with respect to matters of fire safety.

The premises consists of a three-storey building used for retail, offices and nightclubs.

The ground floor comprises a retail shop and a medical clinic, the second floor (Noir) and the third floor (Carousel) are both used as nightclubs.

An inspection of the premises undertaken by a Council investigation officer in the presence of the Noir nightclub manager revealed the premises are deficient in fire safety and egress provisions in the following areas:

- (i) A lack of adequate facilities for firefighting;
- (ii) Suitable fire resisting construction to prevent the spread of fire;
- (iii) Safe and dignified emergency egress for occupants to safely evacuate the building in the event of a fire
- (iv) 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 is to be issued under Schedule 5 of the Environmental Planning and Assessment Act, 1979 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 any combustible composite cladding on the façade of the building.

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**Chronology:**

<b>Date</b>	<b>Event</b>
18/11/2023	FRNSW correspondence received regarding premises 'Noir Nightclub' 163-169 Oxford Street Darlinghurst.
13/12/2023	An inspection of part of the subject premises known as 'Noir Nightclub' was undertaken by a Council officer, in the presence of the nightclub manager, revealed: <ul style="list-style-type: none"><li>• The exit sign above the door providing direct access into the fire isolated exit on level 1, adjacent to the male toilet, was missing the pictorial element from the sign.</li><li>• The provision of a fire blanket to the 'vodka bar'.</li><li>• No emergency lights were covered.</li><li>• Suitable identification signage to the fire hose reel enclosure</li><li>• No non-fire fighting equipment was stored within the fire hose reel enclosure.</li><li>• Lack of fire separation and unprotected penetrations through fire resistive construction to the Fire Isolated Stairs.</li></ul>

Date	Event
19/12/2023	An inspection of the sprinkler booster valve enclosure revealed: <ul style="list-style-type: none"> <li>• An approximate 1m change in level between street and the entrance to the enclosure.</li> <li>• No stairs between the street and floor levels of the enclosure.</li> <li>• No identification signage to the enclosure</li> <li>• No current Annual Fire Safety Statement was prominently displayed.</li> <li>• The Fire Detection and Controlling Indicating Equipment (FDCIE) was operational and did not display faults or isolations.</li> <li>• A full stock of spare sprinklers was not provided.</li> <li>• A suitable block plan was not provided.</li> <li>• Lack of suitable fire separation between the enclosure and the remainder of the premises.</li> </ul>
4/1/2024	Corrective action correspondence sent requiring: <ul style="list-style-type: none"> <li>• The display the current Annual Fire Safety Statement (AFSS) in prominent position in the building.</li> <li>• The exit sign above the door providing direct access into the fire isolated exit on level 1, adjacent to the male toilet, is provided with the pictorial element in accordance with Clause E4.5 and E4.6 of the BCA and AS/NZs 2293.1</li> </ul>

### **FIRE AND RESCUE NSW REPORT:**

References: BFS23/6032 (31548); 2023/653158

Fire and Rescue NSW conducted an inspection of the subject premises in the presence of Officers from the NSW Police Force on 20 October 2023.

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

Ref.	Issue	City response
<b>Essential Fire Safety Measures</b>		
1A	A current Annual Fire Safety Statement (AFSS) is required to be prominently displayed in the building in accordance with Clause 89(4)(b) of the Environmental Planning and Assessment Regulation (Development Control and Fire Safety) 2023.	The City has received a suitable AFSS submission on 24/7/2023.  Correspondence issued requiring the current AFSS is to be displayed.
1B	Maintenance of Fire Safety Measures is required in accordance with clause 81 of the Environmental Planning and Assessment Regulation 2021. Australian Standard AS1851-2012 <i>Service of fire protection systems and equipment</i> requires essential service measures to be regularly tests	
i	Automatic Smoke Detection and Alarm System – At the time of inspection, the Fire Indicator Panel displayed a fault. Management of the premises were advised of the issue and agreed to have the issue investigated by the service technicians. On 1 November 2023 an email, including photographic evidence, was received from the operations manager confirming that a faulty detector had been replaced and the fault cleared.	Inspection showed no faults or isolations on the premises Fire Indicator Panel.  No action is required.
ii	Exit signs – The exit sign above the door providing direct access into the fire isolated exit on level 1, adjacent to the male toilet, was missing the pictorial element from the sign	Inspection showed exit sign was missing the pictorial element.

Ref.	Issue	City response
		Correspondence issued requiring the provision of suitable signage to the exit.
iii	Sprinkler System – The latest entry in the maintenance logbook associated with the sprinkler system indicates that the sprinkler alarm gong is not working. It is unclear if the issue has since been resolved.	To be addressed within the Notice of intended fire safety Order
iv	Fire Blanket – A fire blanket was missing from its mounting sleeve within the 'vodka bar', contrary to the requirements of section 6 of AS2444.1-2001.	Inspection showed a suitable Fire Blanket was located within the 'Vodka Bar'. No action is required.
1C	Emergency lighting - An emergency lighting 'spitfire', to the front of the 'vodka bar', had its lighting element covered which would prevent it from operating properly, contrary to the requirements of Clause E4D2 of the NCC.	Inspection showed no emergency lights were covered. No action is required.
<b>2</b>	<b>Services and Equipment</b>	
2A.	Sprinkler Booster	
i	The booster enclosure is situated within the building and has a floor level approximately 1m above street level, in a position which is not readily accessible to fire brigade personnel, contrary to the requirements of Clause 4.4.3 of AS 2118.1–1999.	Site constraints limit access to sprinkler booster enclosure in accordance with AS 2118.1- 1999. To be addressed within the Notice of intended fire safety Order by providing fire resistive construction to sprinkler booster enclosure.
ii	Identification signage has not been provided to the booster enclosure indicating the location of the booster connection, contrary to the requirements of Clause 4.4.3 of AS 2118.1–1999.	To be addressed within the Notice of intended fire safety Order
iii	A full stock of spare sprinklers has not been provided at the sprinkler control valves contrary to the requirements of Clause 6.7 of AS 2118.1-1999.	To be addressed within the Notice of intended fire safety Order
iv	A plan of risk (block plan), including all the relevant information as required by Clause 8.3 of AS 2118.1–1999, has not been provided adjacent to the stop valve	To be addressed within the Notice of intended fire safety Order
<b>2B</b>	<b>Fire Hose Reel (adjacent to female toilet)</b>	
i	Signage identifying the location of the hose reel was not installed on the enclosure door, contrary to the requirements of Clause 10.4 of AS 2441–2005.	Inspection showed suitable signage was installed on the enclosure door. No action is required.
ii	Non-firefighting equipment was stored within the fire hose reel cabinet, contrary to Clause 10.4.4 of AS2441–2005.	Inspection showed no non-firefighting equipment was stored within the fire hose reel enclosure. No action is required.
<b>3</b>	<b>Compartmentation</b>	
3A	Travel via Fire-Isolated Exit - A doorway from a changing room/locker room opens directly into the rear fire-isolated fire stairway, at first floor level, contrary to the requirements of Clause D2D12 of the NCC.	Previous Fire Safety Orders required these changing/locker rooms were to be fire isolated. To be addressed within the Notice of intended fire safety Order.

Ref.	Issue	City response
3B	Enclosure of space under stairs and ramps – The southwestern fire isolated stair, at the ground floor level, contained a storage cupboard, contrary to the requirements of Clause D3D9 of the NCC.	Previous Fire Safety Orders required this space to be enclosed by fire resistive construction. To be addressed within the Notice of intended fire safety Order.
3C	Service penetrations in fire-isolated exits – Ducting within the southwestern fire-isolated stair has not been fully enclosed with fire rated construction, contrary to the requirements of Clause C4D10 of the NCC.	To be addressed within the Notice of intended fire safety Order.

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

**FRNSW Recommendations**

1. Inspect the subject premises and take action to have the fire safety issues identified in Item 1 of their report appropriately addressed;
2. Give consideration to the other deficiencies identified on the 'the premises' identified in items no.2 & 3 of this report. Advise them in writing of its determination in relation to this matter in accordance with the provisions of 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)

As a result of a site inspection undertaken by Council's investigation officers it is recommended that Council exercise its powers to issue a fire safety order. The owners have been issued with a notice of intention (NOI) to issue a fire safety order 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.

It is also recommended that the owners of the building continue to comply with the written fire safety compliance instructions as issued by Council officers to rectify the identified fire safety deficiencies noted by FRNSW.

That the Commissioner of FRNSW be advised of Council's actions and determination. actions and determination.

**Referenced/Attached Documents:**

2023/653158	FRNSW s9.32 report dated 14 November 2023
2023/653158-03	Correspondence requiring fire safety corrective actions dated 4 January 2024.

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File Ref. No: BFS23/6032 (31548)  
TRIM Ref. No: D23/110684  
Contact: Conor Hackett

14 November 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  
NOIR NIGHTCLUB  
163-169 OXFORD 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.
- Noir Nightclub only. Access was not available to Carousel Nightclub.

Fire and Rescue NSW

ABN 12 593 473 110

[www.fire.nsw.gov.au](http://www.fire.nsw.gov.au)

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Fire Safety Compliance Unit

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Greenacre NSW 2190

T (02) 9742 7434  
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## 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 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 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 January 2014. An inspection and a review of council's records may be required.
  - 1B. Maintenance – Clause 81 of the EPAR 2021 requires that an Essential Fire Safety Measure must be maintained to a standard no less than when it was first installed. Australian Standard AS1851-2012 - "Service of fire protection systems and equipment", requires essential service measures to be regularly tested. The following is noted:
    - i. Automatic Smoke Detection and Alarm System – At the time of the inspection, the Fire Brigade Panel displayed a fault.  
  
Management of the premises were advised of the issue and agreed to have the issue investigated by the service technicians.  
  
On 1 November 2023 an email, including photographic evidence, was received from the operations manager confirming that a faulty detector had been replaced and the fault cleared.
    - ii. Exit signs – The exit sign above the door providing direct access into the fire isolated exit on level 1, adjacent to the male toilet, was missing the pictorial element from the sign.
    - iii. Sprinkler System – The latest entry in the maintenance logbook associated with the sprinkler system indicates that the sprinkler alarm gong is not working. It is unclear if the issue has since been resolved.
    - iv. Fire Blanket – A fire blanket was missing from its mounting sleeve within the 'vodka bar', contrary to the requirements of section 6 of AS2444.1-2001.
  - 1C. Emergency lighting – An emergency lighting 'spitfire', to the front of the 'vodka bar', had its lighting element covered which would prevent it from operating properly, contrary to the requirements of Clause E4D2 of the NCC.



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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.

2. Services & Equipment

2A. Sprinkler Booster:

- i. The booster enclosure is situated within the building and has a floor level approximately 1m above street level, in a position which is not readily accessible to fire brigade personnel, contrary to the requirements of Clause 4.4.3 of AS 2118.1-1999.
- ii. Identification signage has not been provided to the booster enclosure indicating the location of the booster connection, contrary to the requirements of Clause 4.4.3 of AS 2118.1-1999.
- iii. A full stock of spare sprinklers has not been provided at the sprinkler control valves contrary to the requirements of Clause 6.7 of AS 2118.1-1999.
- iv. A plan of risk (block plan), including all the relevant information as required by Clause 8.3 of AS 2118.1-1999, has not been provided adjacent to the stop valve.

2B. Fire Hose Reel (adjacent to female toilet):

- i. Signage identifying the location of the fire hose reel was not installed on the enclosure door, contrary to the requirements of Clause 10.4 of AS 2441-2005.
- ii. Non-firefighting equipment was stored within the fire hose reel cabinet, contrary to Clause 10.4.4 of AS2441-2005.

3. Compartmentation

- 3A. Travel via Fire-Isolated Exit - A doorway from a changing room/locker room opens directly into the rear fire-isolated fire stairway, at first floor level, contrary to the requirements of Clause D2D12 of the NCC.

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- 3B. Enclosure of space under stairs and ramps – The southwestern fire isolated stair, at the ground floor level, contained a storage cupboard, contrary to the requirements of Clause D3D9 of the NCC.
- 3C. Service penetrations in fire-isolated exits – Ducting within the southwestern fire-isolated stair has not been fully enclosed with fire rated construction, contrary to the requirements of Clause C4D10 of the NCC.

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 of this report.
- b. Give consideration to the other deficiencies identified on 'the premises' identified in items no. 2 & 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.

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 BFS23/6032 (31548) regarding any correspondence concerning this matter.

Yours faithfully



Conor Hackett  
Senior Building Surveyor  
Fire Safety Compliance Unit