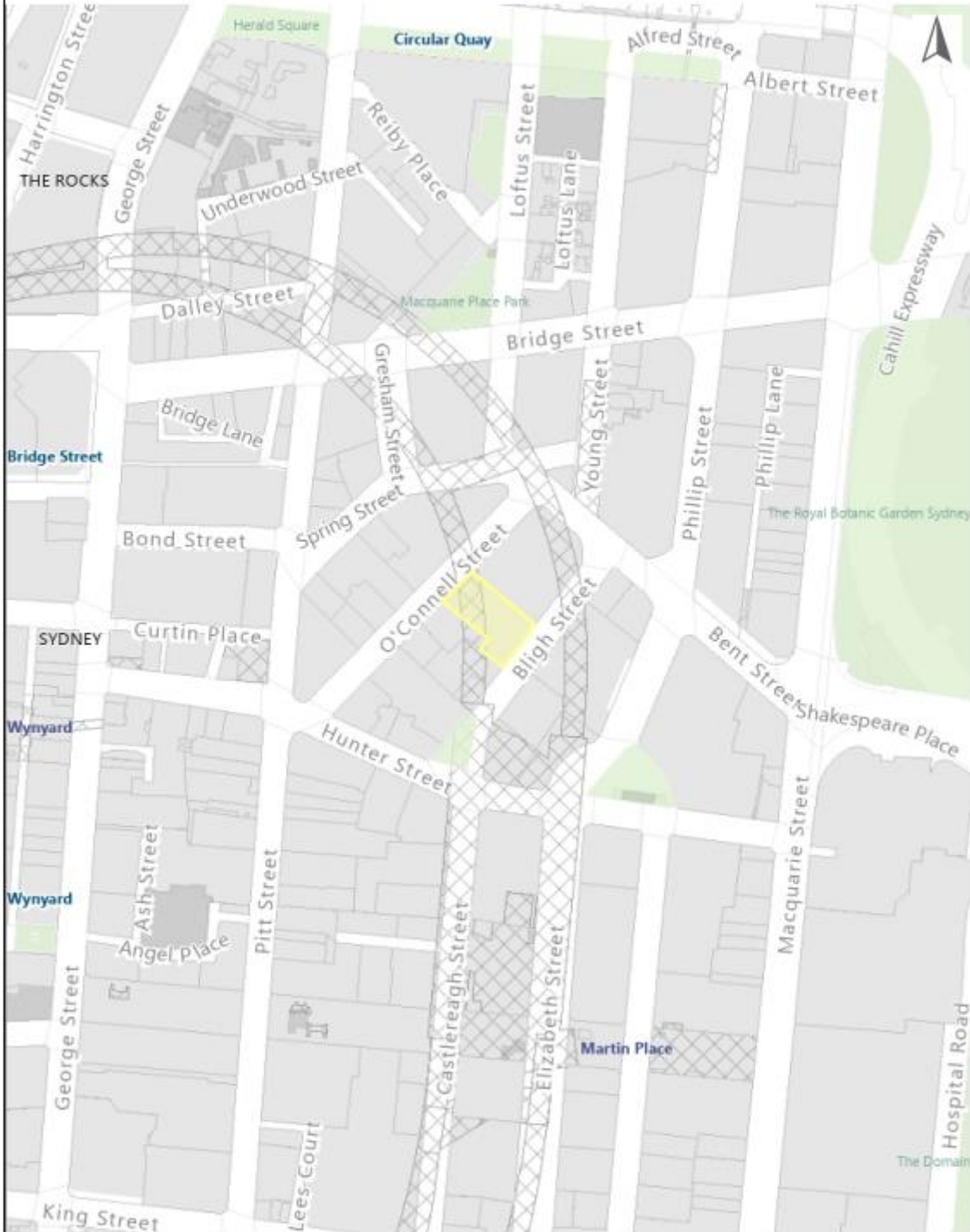


Attachment B

**Inspection Report
15 Bligh Street (6-10 O'Connell Street)
Sydney**

15 Bligh Street [6-10 O'Connell Street], Sydney



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Notes

16/02/2024

**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)**

File: CSM 3120371

Officer: Tracey McCann

Date: 19 February 2024

Premises: Hubert Restaurant 15 Bligh Street [6-10 O'Connell Street], Sydney

Executive Summary:

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises on 12 January 2024 with respect to matters of fire safety.

The premises subject of the report prepared by FRNSW relates to a Class 6 restaurant tenancy known as Hubert. The tenancy is located on the ground floor of a 27-storey commercial building located close to the intersection with Bent Street, Sydney.

An inspection of the premises undertaken by a Council investigation officer in the presence of the operations manager revealed no significant fire safety issues within the building.

The premises are equipped with numerous fire safety systems (both active and passive) that 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 2021.

Council investigations reveal several minor fire safety "maintenance and management" works to attend to, such as defining clear egress paths throughout the service floor, and the fire isolated exit to be kept clear of restaurant storage however the overall fire safety systems provided are adequate in the circumstances.

It is considered 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.

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

Council investigations have revealed that the overall fire safety systems provided within the building are considered adequate.

Chronology:

Date	Event
12/01/2024	FRNSW correspondence received regarding premises [Hubert Restaurant - 15 Bligh Street Sydney, 6-10 O'Connell Street, Sydney].
06/02/2024	Review of Council records conducted reveal: - a Fire Safety Order [Ref FIRE/2022/16] is currently issued which requires a full fire safety audit of the building as well as an assessment of the width of the existing fire isolated stairway and an upgrade of the fire hydrant system to ensure that it meets the operational requirements of Fire and Rescue NSW. The works associated with the terms of the Order are required to be complete on or before 15 June 2024. - an Annual Fire Safety Statement has been received and all essential fire safety measures have been assessed as compliant until 31 May 2024.
15/02/2024	An inspection revealed the following. <ul style="list-style-type: none">• The entrance to Hubert restaurant is off Bligh Street hence the reference to this address on the correspondence received by FRNSW.• Chairs were noted to be stored under the space of the fire isolated stairway; however, they have since been relocated and no longer pose a concern.• The door hardware serving the doors in the path of travel to an exit via the arcade and the final exit door from the fire isolated stair / passageway egressing on to O'Connell Street, shall be assessed for compliance as part of Term 1.02 of the existing Fire Safety Order dated 23 March 2023 [Ref FIRE/2022/16 as referenced above].• The operations manager was reminded to keep paths of travel clear, free from obstruction and to ensure that restaurant furniture is not being stored in the fire isolated stairway.

FIRE AND RESCUE NSW REPORT:

References: [BFS23/6949 (32290) D23/141633; Council Trim reference 2024/021098]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving correspondence indicating concerns with fire safety from the subject tenancy.

Issues

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

Ref.	Issue	City response
1. Fire Safety Inspection		
2A		
A.	Tables and chairs were observed within the fire-isolated stairs.	During Councils inspection chairs were seen within the fire isolated stairs, this was remedied by the operations manager the same day. No further action required.
2B Provisions for Fire Safety		
A.	Exit signs above the exit doors were between bottles on a shelf. Whilst the exit signage is not obstructed from view, its location on the shelf appears similar to the bottles as a decorative feature.	Officer observed exit signage that was satisfactory.
2C Regulation 112 of EPAR2021		
A.	During the inspection, the exit door did not appear to be hindered by tables or chairs, as identified in the written concern.	During Councils inspection the door leading to the fire isolated stairway was not obstructed by tables or chairs.
B.	The paths of travel to fire exits within the restaurant did not appear to be hindered in a way that would be considered obstructed. However, it seemed to be less than 1 metre due to the restaurant's layout of the tables and chairs.	This is consistent with Council findings on the day of the inspection. In the process of being addressed under Term 1.02 of the existing Fire Safety Order dated 23 March 2023 [Ref FIRE/2022/16].
C.	The 'fire safety notice' was displayed within the fire-isolated stairs under Regulation 108 of EPAR2021.	This is consistent with Council findings on the day of the inspection. No further action required.
D.	Chairs, cardboard boxes, milk crates and cleaning liquids were located under the flight of stairs in sight of entering the stairwell. EPAR2021. They were removed immediately upon the Operations Manager becoming aware of the items in the stairwell.	During Councils inspection chairs were also noted within the fire isolated stairs, this was remedied by the operations manager the same day. No further action required.
E.	The lever handle exit door to the fire-isolated stair opened without obstruction. However, the exit door leading to O'Connell Street via the arcade requires a button to release the magnetic lock, which is located on the left-hand side when facing the door.	In the process of being addressed under Term 1.02 of the existing Fire Safety Order dated 23 March 2023 [Ref FIRE/2022/16].

Ref.	Issue	City response
3	Possible non-conformities	
3A	The Council may need to ensure the following:	
A.	The owners maintain the essential fire safety systems and meet the local Council's obligations to regulate the development consent approval, particularly the layout of the dining tables and chairs.	The annual fire safety statement is currently compliant until 31 May 2024. No further action required.
B.	An accredited practitioner (fire safety) has assessed, inspected, and verified the performance of each fire safety measure (including exits) that applies to the building. Furthermore, the owner submits an Annual Fire Safety Statement (AFSS) as part of their obligations under the EP&A Act.	The annual fire safety statement is currently compliant until 31 May 2024. No further action required.
3B	Should the Council conduct a review of the building code, the review may include consideration to ensure the paths of travel to exits allow occupants to evacuate safely and include the number, location and dimensions for exits being appropriate to the occupants, in accordance with the NCC under:	
A.	D1P4 Exits.	In the process of being addressed under Term 1.02 of the existing Fire Safety Order dated 23 March 2023 [Ref FIRE/2022/16].
B.	D1P6 Paths of travel to exits.	In the process of being addressed under Term 1.02 of the existing Fire Safety Order dated 23 March 2023 [Ref FIRE/2022/16].

FRNSW Recommendations

FRNSW have made no direct recommendation within their report other than legislative notification and advised that it is at Council's discretion to inspect and address any other deficiencies identified on the premises.

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 the building owners continue to comply with the terms of the existing Fire Safety Order issued 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.

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 Councils existing Fire Safety Order and the recommendations of FRNSW occur.

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

Referenced/Attached Documents:

2024/119708-01	Copy of current Fire Safety Order
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Trim Reference: 2024/119708

CSM reference No#: 3120371

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File Ref. No: BFS23/6949 (32290)
TRIM Ref. No: D23/141633
Contact: Matthew Warbrick

12 January 2024

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: SECTION 9.32(4) – INSPECTION REPORT

Pursuant to Section 9.32(4) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Fire and Rescue NSW (FRNSW) provides this report to the Council of the inspection conducted by Authorised Fire Officers under Section 9.32 of the EP&A Act.

The attached report is an investigation into the fire safety concern only. It may include, amongst other observations, a brief list of building non-conformities relating to the fire safety concern that the Council may need to determine are of a nature or scale regarded as a significant fire safety issue warranting further investigation as part of the Council's Development Control Enforcement Policy.

Please do not hesitate to contact Matthew Warbrick of FRNSW's Fire Safety Compliance Unit at FireSafety@fire.nsw.gov.au or call (02) 9742 7434 if you have any questions or concerns regarding the above matters. Please refer to file reference BFS23/6949 (32290) concerning this correspondence.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Edren Ravino".

Edren Ravino
Senior Building Surveyor
Fire Safety Compliance Unit

Fire and Rescue NSW

ABN 12 593 473 110

www.fire.nsw.gov.au

Community Safety Directorate
Fire Safety Compliance Unit

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INSPECTION REPORT

Our Reference BFS23/6949 (32290)

Concern in Writing On Nov 27th, the restaurant seated a party of 12 that spread into the emergency exit area. Had there been a fire emergency, tables and chairs would have slowed any exit.

Date Received 27 November 2023

Premises Address 15 Bligh Street Sydney (hereafter "the premises")

Name of Premises Hubert Restaurant

1. Investigation Details

The following items are provided to the Council as part of the investigation on Thursday, 14 December 2023:

- 1A. The powers of an investigation officer were used to inspect the concern to determine whether there was a breach in any codes, policies, or legislation that may be considered an offence concerning:
 - A. The safety of persons in the event of fire.
 - B. Part 15 of the Environmental Planning And Assessment (Development Certification And Fire Safety) Regulation 2021 (EPAR2021) regarding fire notices, fire exit areas, and doors.
- 1B. The inspection assessed whether or not the Provisions for Fire Safety were present at the premises and whether or not Regulation 112 EPAR2021 was compliant.
- 1C. A visual inspection was conducted of the areas in the building accessed at the time. Photos were taken of the areas, including photos of the essential fire safety measures in the areas accessed. Discussions with the Operations Manager were also noted.

2. Fire Safety Inspection

The following is provided as part of the investigation:

- 2A. Evidence to Conduct an Investigation
 - A. Tables and chairs were observed within the fire-isolated stairs.
- 2B. Provisions for Fire Safety
 - A. The Operations Manager advised the following:
 - i. The time leading up to Christmas results in additional bookings within the restaurant.

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- ii. At the time of the complaint, they may have connected the tables in front of the exit. The Operations Manager also indicated that this does not typically happen.
 - iii. When questioned about the position of the tables/chairs encroaching on the path of travel to the exits, he confirmed that this is the typical configuration of the table and chairs.
 - iv. When questioned about the fire-isolated stair being used for storage, he indicated that he was unaware of the stored items being there.
 - v. When questioned about the exit door without door hardware and a magnetic lock, he indicated that the door releases upon activating the smoke detection system.
- B. Exit signs above the exit doors were between bottles on a shelf. Whilst the exit signage is not obstructed from view, its location on the shelf appears similar to the bottles as a decorative feature.
- 2C. Regulation 112 of EPAR2021
- A. During the inspection, the exit door did not appear to be hindered by tables or chairs, as identified in the written concern.
 - B. The paths of travel to fire exits within the restaurant did not appear to be hindered in a way that would be considered obstructed. However, it seemed to be less than 1 metre due to the restaurant's layout of the tables and chairs.
 - C. The 'fire safety notice' was displayed within the fire-isolated stairs under Regulation 108 of EPAR2021.
 - D. Chairs, cardboard boxes, milk crates and cleaning liquids were located under the flight of stairs in sight of entering the stairwell. Despite this, the stored items did not appear to block or hinder the movement in the 'fire exit area' or the 'fire exit door' for the occupants moving within the stairwell under Regulation 109 of EPAR2021. They were removed immediately upon the Operations Manager becoming aware of the items in the stairwell.
 - E. The lever handle exit door to the fire-isolated stair opened without obstruction. However, the exit door leading to O'Connell Street via the arcade requires a button to release the magnetic lock, which is located on the left-hand side when facing the door.
- 2D. Outcomes
- A. The operations manager was directed to ensure at all times:
 - i. The fire-isolated stairs are not used for storage and remain clear of all items.

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- ii. The exit paths within the service floor of the restaurant are kept clear of anything that may obstruct the free passage of patrons to the exits.
- B. During the inspection, no obstructions were observed in the fire exit area or door outlined in the written concern to provide sufficient evidence of violating the required standard of proof. As such, the inspection does not provide reasonable grounds for further investigation.

3. Possible Non-Conformities

The following comments are provided to the Council:

- 3A. The Council may need to ensure the following:
 - A. The owners maintain the essential fire safety systems and meet the local Council's obligations to regulate the development consent approval, particularly the layout of the dining tables and chairs.
 - B. An accredited practitioner (fire safety) has assessed, inspected and verified the performance of each fire safety measure (including exits) that applies to the building. Furthermore, the owner submits an Annual Fire Safety Statement (AFSS) as part of their obligations under the EP&A Act.
- 3B. Should the Council conduct a review of the building code, the review may include consideration to ensure the paths of travel to exits allow occupants to evacuate safely and include the number, location and dimensions for exits being appropriate to the occupants, in accordance with the NCC under:
 - A. D1P4 Exits.
 - B. D1P6 Paths of travel to exits.



Edren Ravino
Authorised Fire Officer
Fire Safety Compliance Unit