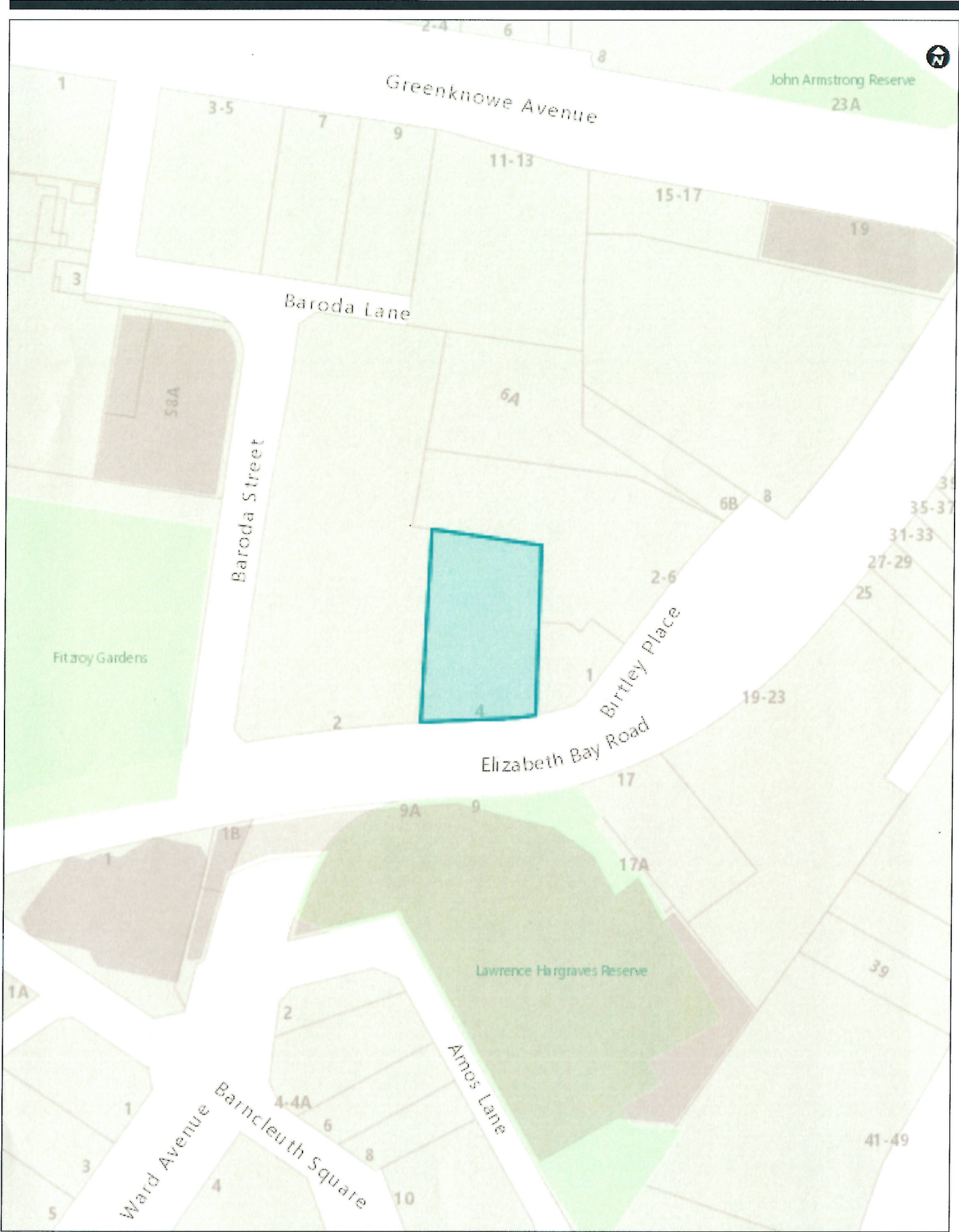


Attachment D

**Council Officer Inspection Report -
4 Elizabeth Bay Road, Elizabeth Bay**



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 2205667

Officer: Craig Hann

Date: 6 January 2020

Premises: 4 Elizabeth Bay Road, Elizabeth Bay – Alexander Apartments

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 an 8 storey building containing 46 residential units and ancillary car parking named Alexander Apartments. The effective height of the building is approximately 19.3 metres. Also, the building is located in a heritage conservation area under the Sydney LEP 2012.

The ground floor comprises an entry foyer and car parking, the second to eighth floors are used for residential units. The eighth floor also has a common laundry room shared by all units.

Council investigations have revealed that the premises are deficient in fire safety and egress provisions in the following areas:

- (i) Inadequate fire detection and alarm systems, noting an automatic smoke detection and alarm system is not installed in the common areas of the building;
- (ii) Suitable fire resisting construction to prevent the spread of fire, noting penetrations in masonry walls for services and internal fanlight windows;
- (iii) Safe and dignified emergency egress for occupants to safely evacuate the building in the event of a fire, noting construction and installations within the exit, length of travel distance and discharge point of fire isolated stair into the entry foyer;
- (iv) Poor fire safety management systems (signs/notices/not displayed etc.) in place, noting illuminated exit signs and operational warning signs are not installed.

Council investigations have revealed that the premises are deficient in the provisions for fire safety and consequently in the interest of public safety a notice of intention (NO) for a fire safety order has been issued under Schedule 5 of the Environmental Planning and Assessment Act, 1979. The issue of a fire safety order will 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 potential combustible composite cladding on the façade of the building.

Chronology:

Date	Event
7/11/2019	FRNSW telephoned council requesting a joint fire safety inspection of the building at 4 Elizabeth Bay Road Elizabeth Bay with a Council officer. FRNSW advised there had been a recent fire incident in one of the residential units on the seventh floor of the building.
8/11/2019 and 12/11/2019	Council officer contacts FRNSW and the building's managing real estate agent to arrange a joint fire safety inspection. The inspection is arranged for 14/11/2019.

14/11/2019	<p>Joint inspection of building by Council officer and FRNSW accompanied by the building manager.</p> <p>During the inspection FRNSW identified a number of deficiencies in relation to fire safety provisions, in particularly noting:</p> <ol style="list-style-type: none"> 1. deficient essential fire safety measures, it was noted that a fire hydrant system is not installed within the building, common areas do not have smoke alarms and occupant warning systems installed. The building is not subject to annual certification of fire measures; 2. deficient egress system, in relation to travel distances and discharge point, construction of and electrical / communication installations in exit / stairway; 3. deficient fire compartmentation / penetrations in bounding fire resisting construction and performance / operation of fire doors; 4. deficient height of private balcony balustrades, install interim battery powered smoke alarms in common areas. <p>Following the inspection, council requested the installation of interim battery powered smoke alarms in the common areas of the building. An electrician's certificate has been submitted confirming installation of battery powered smoke alarms on 15/11/2019.</p> <p>Await submission of an inspection report from FRNSW to council.</p> <p>Given the above information, a notice of intention (NOI) for a fire safety order is required to ensure and promote adequate facilities for fire safety / fire safety awareness.</p>
4/12/2019	<p>FRNSW correspondence received regarding premises Alexander Apartments 4 Elizabeth Bay Road Elizabeth Bay.</p>
18/12/2019	<p>An inspection of the subject premises was undertaken by a Council officer accompanied by the building's managing real estate agent.</p> <p>The inspection revealed:</p> <ol style="list-style-type: none"> 1. Interim smoke alarms have been installed in the common areas of the building as requested on 14/11/2019. 2. A street fire hydrant is located in footpath at front the property. This hydrant is available for FRNSW to connect fire-fighting equipment to. The existing street hydrant along with proposed automatic smoke detection and alarm system together with bounding construction (e.g. self- closing doors, sealing fanlights and milk boxes) building works to compartment units is considered to be part of a package of appropriate fire safety upgrade works. 3. Private balcony balustrade heights and spacing is not considered to be a fire safety matter to be addressed in an order as it involves private space, but rather a general matter to be dealt by the building owner. During the inspection the matter was drawn to the attention of the managing real estate agent for their follow up with the owner. <p>Other items are generally covered above in the Chronology under 14/11/2019.</p> <p>A notice of intention (NOI) for a fire safety order is required to ensure and promote adequate facilities for fire safety / fire safety awareness.</p>

6/1/2020	A notice of intention (NOI) for a fire safety order was issued to the building owner.
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FIRE AND RESCUE NSW REPORT:

References: [BFS19/3167, D19/87401; 2019/615978]

Fire and Rescue NSW conducted an inspection of the subject premises after a kitchen fire incident occurred within a residential unit in the building.

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

1. deficient Essential fire safety measures, in relation to hydrant system coverage, smoke alarms and occupant warning systems and annual certification of fire measures;
2. deficient egress system, in relation to travel distances and discharge point, construction of and installations in exit / stairway;
3. deficient fire compartmentation / penetrations in bounding fire resisting construction and performance / operation of fire doors;
4. deficient height of private balcony balustrades and install interim battery powered smoke alarms in common areas.

FRNSW Recommendations

FRNSW have recommended that Council inspect the subject premises and appropriately address noted deficiencies identified within their report.

FRNSW have also requested that notice of any determination in respect of the 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 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 inspections undertaken by a Council investigation officer it was determined that concern for public safety required the giving of a notice of intention (NOI) for a fire safety order to be issued under Part 2 of Schedule 5 of the Environmental Planning and Assessment Act, 1979 without any further delay.

It is recommended that Council note the exercise of powers by Council's investigation officer in issuing a NOI to give a fire safety order in accordance with the above Act prior to the resolution of Council.

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.

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	2019/615978, 2019/641718
A2.	Locality Plan	2019/629023-02
A3	Attachment cover sheet	2019/629023-01

Trim Reference: 2019/629023

CSM reference No#: 2205667



File Ref. No: BFS19/3167
TRIM Ref. No: D19/87401
Contact: [REDACTED]

3 December 2019

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
'ALEXANDER APARTMENTS'
4 ELIZABETH BAY ROAD ELIZABETH BAY ("the premises")**

Pursuant to the provisions of Section 9.32(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an inspection of 'the premises' on 14 November 2019 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 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.

On behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Section 9.32(4) and Schedule 5, Part 8, Section 17(1) of the EP&A Act. 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.

COMMENTS

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 2019 Building Code of Australia – Volume One (NCC). Please be advised that whilst the report is not an exhaustive list of non-compliances, the items as listed may relate to the building's age or contradict development consent approval. In this regard, it is at council's discretion as the appropriate regulatory authority to consider the most appropriate action and determine whether further investigation is required.

The following items were identified as concerns during the inspection:

1. Essential Fire Safety Measures

1A. Fire Hydrants - The building appears to have a total floor area greater than 500m² and is therefore required to be provided with a fire hydrant system in accordance with Clause E1.3 of the NCC. In this regard, there is no hydrant system serving the premises and it appears that there may be a shortfall of hydrant coverage available from the street hydrants.

1B. Smoke Alarm System and Building Occupant Warning System (BOWS) –

A. A Class 2 building not protected by a sprinkler system, requires smoke alarms within each Sole Occupancy Unit (SOU) and in public corridors and other internal public spaces located in accordance with the requirements for smoke detectors in AS1670.1 and connected to activate a building occupant warning system, in accordance with the requirements of Clause E2.2 and Specification E2.2a of the NCC. It appears that such a system has not been installed to the corridors in the common area and the laundry room. A review may be required.

B. It was noted that the smoke alarm installed within the small number of SOUs inspected, were located adjacent to the entry door of the SOUs. Further investigation may be required to ascertain whether or not the location of the smoke alarms in all SOUs comply with the requirements of Clause 3(b)(i) of Specification E2.2a of the NCC.

1C. Annual Fire Safety Statement (AFSS) – Clause 177(3)(b) of the Environmental Planning and Assessment Regulation 2000 the statement must be prominently displayed in the building, at the time of the inspection the AFSS could not be located.

2. Access & Egress

2A. Egress - It appears that travel distances from the entry door of the southernmost SOUs on a number of levels, exceeds 6m to an exit or point of choice to two exits, contrary to the requirements of Clause D1.4 of the NCC.

- 2B. Egress – Upon egress from the fire-isolated stair to the ground floor lobby, it is not readily apparent which door is the designated exit, contrary to the requirements of Clause E4.6 of the NCC. In that regard, a review of the exit strategy may be required.
- 2C. Stair Threads – The threads in the fire-isolated stair do not appear to have an appropriate slip-resistance surface, contrary to the requirements of Clause D2.13(v) of the NCC.
- 2D. Installations in exits and paths of travel –
 - A. The telecommunications distribution cupboards on multiple levels, are not enclosed by non-combustible construction or a fire protective covering with doorways suitably sealed against smoke spreading from the enclosure, contrary to the requirements of Clause D2.7 of the NCC;
 - B. NBN wiring, in corrugated conduit, was installed within what appears to be a fire-isolated exits, contrary to the requirements of Clause D2.7 of the NCC;
- 2E. Operation of Latch - Doors in required exits throughout the premises contain a round tulip style handle in lieu of a lever handle, contrary to the requirements of Clause D2.21 of the NCC.
- 2F. Stair Storage – The space below the stair within fire-isolated shaft, at the ground floor, has been enclosed to form a cupboard, contrary to the requirements of Clause D2.8 of the NCC.

3. Compartmentation

- 3A. Compartmentation – Having regard to performance requirement CP2, CP4 and CP8 of the NCC, the following items were observed as concerns in relation to maintaining the tenable conditions of the building to prevent the spread of fire to exits, SOUs, public corridors, openings and penetrations:
 - A. Fanlights - Fanlight windows (above the doorways providing access to the SOU's) are located in the bounding construction required to have an FRL, contrary to the requirements of Specification C1.1 and Clause C3.11 of the NCC.
 - B. Milk Boxes – 'Milk Boxes' have been built in to the bounding construction required to have an FRL, contrary to the requirements of Specification C1.1 and Clause C3.11(e) of the NCC.
 - C. Fire Doors – Having regard to the requirements of Clause C3.4 and C3.8 of the NCC, the following issues were noted with the fire doors to the fire-isolated stairs.
 - i. Multiple fire doors failed to return to the fully closed position after each opening;

- ii. The fire door on level 6 was removed from its hinges;
- iii. The fire door on level 1 was broken and held in the open position;
- iv. A number of fire doors had started to delaminate, exposing the core of the door.

D. Fire Doors – For buildings of Type A construction, a doorway providing access from an SOU to the public corridor must be protected by a self-closing -/60/30 fire door in accordance with Clause C3.11 of the NCC. As the AFSS could not be located it is difficult to determine whether the essential fire safety measures are maintained. In this regard, the doors to the SOU's lacked maintenance tags. It appears that the doors to the SOU's are solid core doors in lieu of a fire door, moreover, the doors lacked a self-closing device.

4. Generally

4A. Balustrades – The following items may need further investigation as measurements were not taken and access was not available at the time. Having regard to balustrades facing Elizabeth Bay Road;

- A. The floor level of the balconies on the second floor and above, are more than 4m to the surface beneath and appear to contain horizontal elements between 150mm and 760mm above the balcony floor level which would facilitate climbing, contrary to the requirements of Clause D2.16(c) of the NCC.
- B. The balustrades appear to have openings that would permit a 125mm sphere to pass through, contrary to the requirements of Clause D2.16(c) of the NCC.

4B. Considerations – Upon completion of the inspection, a debrief was conducted by officers of City of Sydney Council, in the presence of the Building Manager and Authorised Fire Officers of FRNSW. The following are key points during the discussion that were identified as matters for council consideration;

- A. The observed above items are noted.
- B. That the Building Manager install temporary smoke alarms to the common area corridors to address the lack of a smoke detection and alarm system in these areas.
- C. Upon receipt of the Section 9.32 report, council would consider what, if any, action is to be taken regarding the aforementioned issues, and any other building compliance issues, in accordance with council's policies and procedures as the appropriate regulatory authority,

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

RECOMMENDATIONS

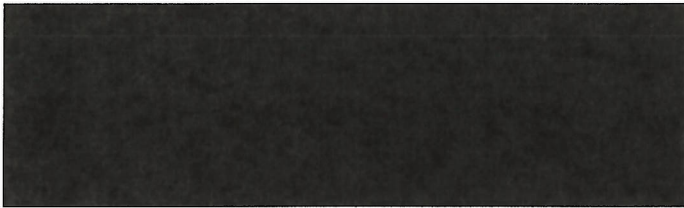
FRNSW recommends that Council:

Inspect and address any other deficiencies identified on 'the premises', and require item no. 1 through to item no. 4 of this report be addressed appropriately.

This matter is referred to Council as the appropriate regulatory authority. FRNSW therefore awaits Council's advice regarding its determination in accordance with Schedule 5, Part 8, Section 17(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 BFS19/3167 for any future correspondence in relation to this matter.

Yours faithfully

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Fire Safety Compliance Unit



File Ref. No: BFS19/3167(8964)
TRIM Ref. No: D19/91241
Contact: [REDACTED]

17 December 2019

General Manager
City of Sydney Council
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Attention: [REDACTED]

Dear General Manager

**RE: INSPECTION REPORT
ALEXANDER APARTMENTS
4 ELIZABETH BAY ROAD ELIZABETH BAY ("the premises")**

I refer to your correspondence dated the 12 December 2019 regarding Fire and Rescue NSW (FRNSW) Inspection Report dated 3 December 2019 in relation to a fire incident at 'the premises'.

In relation to the requested information regarding the fire incident at 'the premises', please see below:

Comments

Date / Time of Fire:	21 September 2019 at 18:33 hours
Description of Building	Eight storey residential building
Extent of Fire:	Fire contained to kitchen of unit 66
Damage:	Fire damage to kitchen walls/ceiling. Smoke damage to unit
Type of Alarm:	Triple Zero Call
Evacuation:	Unknown

Casualties: Nil

**FRNSW Resources
in attendance:** Pumper 4 Darlinghurst
Flyer 1 City of Sydney
Ladder Platform 4 Darlinghurst
Pumper 3 The Rocks

**Other Agencies in
Attendance** NSW Police Force
NSW Ambulance Services

Please refer to FRNSW abovementioned Inspection Report for FRNSW comments and recommendations in relation '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 BFS19/3167(8964) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

Fire Safety Compliance Unit