

Attachment H

**Inspection Report
33-35A York Street, Sydney**

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Notes

4/04/2024

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 3166307

Officer: Luke Jeffree

Date: 13 May 2024

Premises: 33-35A York Street, Sydney

Executive Summary:

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises on 28 March 2024 with respect to matters of fire safety.

The premises consists of a 12-storey commercial office building formerly known as the 'Imperial Hotel' with ground floor retail use and basement carpark located opposite Wynyard Park in Sydney.

The building was constructed circa 1972 and has been subject to several conversions and fire safety upgrades over the years including in 1985 (Ref: D/1985/620, BA/1149/85 – conversion of club to office space) and a services upgrade in 2002 (Ref: D/01/00884,P/2002/266).

An inspection of the premises undertaken by a Council officer in the presence of the building manager, strata manager, accredited practitioner (fire safety) and chairperson of the strata which revealed that the premises are deficient in fire safety and egress provisions in the following areas:

- (i) inadequate emergency warning and intercommunication systems (performance issues with current system);
- (ii) a lack of adequate facilities for firefighting (FRNSW operational concerns regarding fire hydrant system);
- (iii) a lack of fire stopping/sealant at service penetrations to prevent the spread of fire;
- (iv) poor fire safety management systems (lack of block plans and identification signage);
and
- (v) facilities to allow re-entry into the building from fire stairs not provided.

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.

Chronology:

Date	Event
28/03/2024	<p>FRNSW correspondence received regarding premises 33 York Street Sydney.</p> <p>The correspondence includes amongst other things reference to a letter (TRIM Ref: 2023/540836-04 dated 18 September 2023) sent to City concerning a number of maintenance and fire safety issues raised by the complainant. The complainant's letter included amongst other things allegations of non-maintenance of essential fire safety measures, mention of faults/defects displayed on the buildings fire indicator panel (FIP) and emergency warning and intercommunication system (EWIS) panel within the premises.</p> <p>After receiving the letter the City's Health and Building Unit took immediate compliance actions; reviewing Annual Fire Safety Statement (AFSS) submissions, auditing the building and requiring the property owner carry out interim remedial works - requiring repairs to the buildings automatic fire detection and alarm system and EWIS. These works were required and completed in October 2023. (Ref: Corrective Action letter Reference: 2023/567941).</p>
16/04/2024	<p>An inspection of the subject premises was undertaken by a Council officer in the presence of the building manager, strata manager, accredited practitioner (fire safety) and chairperson of the strata which revealed:</p> <ul style="list-style-type: none">• Annual Fire Safety Statement (AFSS) was current and on display;• Fire hydrant block plan was not displayed on the premises;• Some cabinets containing fire hydrant valves not in a readily accessible locations;• The height and angle of a number of fire hydrant valves not complying with applicable building regulation;• Fire brigade hydrant booster missing - not complying with applicable building regulation;• Fire seals/fire stopping missing to services at electrical/communications cupboards. <p>The chairperson of strata showed Council officer documentary evidence of monthly testing and expenditure for essential fire safety measures carried out by various professionals.</p> <p>The Council officer noted that based on the applicable building regulations at the time of construction the premises was approved on the basis that its effective height was not more than 42 metres and so it was not required to be sprinkler protected to all levels. Furthermore, the officer noted that under the previous fire upgrades suitable alternative systems for fire protection were implemented throughout the building (in lieu of sprinklers) and endorsed by FRNSW.</p>

FIRE AND RESCUE NSW REPORT:

References: [BFS24/326 (33229), D24/36228; 2024/208378]

Fire and Rescue NSW conducted an inspection of the subject premises on 24 January 2024 after receiving an enquiry concerning the adequacy of the provision of fire safety in connection with the premises.

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

Ref.	Issue	City response
1. Essential Fire Safety Measures		
1A.	Automatic Fire Detection and Alarm System:	
A.	At the time of the inspection the Fire Indicator Panel (FIP) was clear of any alarms, faults and isolations and the system appeared to be in normal operation.	Council's inspection revealed that the FIP displayed an audio/speaker fault on level 7. This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
B.	The smoke detector within the fire hose reel cupboard on Level 4 was missing from its installed location/mounting base and it appears the wiring had been disconnected.	No action required by the City Council inspection found that the smoke detector was redundant. Also an office fit out was occurring on level 4 under a Complying Development Certificate (CDC - TRIM Ref: P/2023/1945). The smoke detector locations have been modified under the CDC not requiring a smoke detector in fire hose reel cupboard.
C.	<p>Coverage - It is noted that Level 7 was subject to a complete refurbishment/fit out and smoke detectors were not observed. It is assumed the works are covered under a building approval (Development Consent and Construction Certificate or Complying Development Certificate), to allow modification of the existing system.</p> <p>Coverage - It is noted that Level 7 was subject to a complete refurbishment/fit out and smoke detectors were not observed. It is assumed the works are covered under a building approval (Development Consent and Construction Certificate or Complying Development Certificate), to allow modification of the existing system.</p>	No action required by the City. Council inspection found an office fit out had recently occurred on level 7 under a Complying Development Certificate (CDC - TRIM Ref: P/2023/1082). Furthermore, newly installed smoke detectors approved under the CDC were observed on level 7 by Council officer.
D.	Maintenance Records/Logbooks could not be located for the Automatic Fire Detection & Alarm System, contrary to the requirements of Clause 1.16.2 of AS	The Chairperson advised Council Officer that the logbooks had been recently stolen. Also, during the inspection the accredited practitioner provided new replacement

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	<p>1851-2012. In this regard, it appears that maintenance recording for 'the premise's is utilising electronic logs ['Uptick ID Digital Compliance Records' (with QR Code)], however a hardcopy of the service record has not been left on site at the completion of the test.</p> <p>A review of the digital logbooks following the inspection, revealed the last digital entry was completed on 1 September 2023, indicating the system may not be receiving the required monthly service check, contrary to the requirements of Section 6 of AS 1851-2012 and Section 81 of the EPAR 2021.</p>	<p>logbooks to cabinets under locked key within the premises and disagreed with FRNSW's advice about the system not receiving monthly service checks.</p> <p>However, hard copies of digital maintenance testing were not provided on site in accordance with AS 1851-2012. This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.</p>
1B.	Emergency Warning & Intercom System (EWIS):	
A.	The Evacuation System Control Panel was displaying:	
i.	One (x1) 'Audio line' fault identified as 'Zone 12 - 7th Floor'.	Council inspection verified that the 'Audio line' fault was still present on the Evacuation System Control Panel. This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
B.	Maintenance:	
i.	<p>Maintenance Records/Logbooks could not be located for the EWIS, contrary to the requirements of Clause 1.16.2 of AS 1851-2012. Whilst electronic logs are available ['Uptick ID Digital Compliance Records' (with QR Code)], a hardcopy of the service record has not been left on site at the completion of the test.</p> <p>A review of the digital logbooks following the inspection, revealed the last digital entry was completed on 1 September 2023, indicating the system may not be receiving the required monthly service check, contrary to the requirements of Section 6 of AS 1851-2012 and Section 81 of the EPAR 2021.</p> <p>It is noted that the last entry identified the following issues:</p> <p>i. 'Level 2 goes into audio fault on alarm'.</p>	<p>The Chairperson advised Council Officer that the logbooks had been recently stolen. Also, during the inspection the accredited practitioner provided new replacement logbooks to cabinets under locked key within the premises & disagreed with FRNSW's advice about the system not receiving monthly service checks. However, hard copies of digital maintenance testing were not provided on site in accordance with AS 1851-2012 .</p> <p>This issue and the recurring level 7 fault on EWIS panel has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.</p>

Ref.	Issue	City response
	ii. 'Level 7 has audio line fault'. The same issues were identified in the digital logbooks dating back to 8 May 2023 without resolution.	
1C.	Alarm Signalling Equipment (ASE):	
A.	The 'Primary Link Failed' LED was flashing, which typically indicates the secondary telephone line has failed. In this regard, the ASE was 'online' however the secondary PSTN telephone line had likely been disconnected, therefore leaving only the primary communications link.	Council inspection revealed no visible fault light on the ASE, it has recently been replaced but there is no fire safety certification on City's records for installation or maintenance of this fire safety measure. This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
1D.	Fire Hydrant System – The fire hydrant system appears to be installed in accordance with Ordinance 70 and Ministerial Specification No.10. Notwithstanding this, the following deviations from AS 2419.1-2021 have been identified, along with other items of concern:	
A.	The hydrant booster assembly:	
i.	Feed fire hydrants have not been installed onsite adjacent to the booster inlet connections, contrary to the requirements of Clauses 2.2.10 and 2.2.14 and Section 7 of AS 2419.1-2021.	This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
ii.	A block plan has not been provided at the booster assembly, contrary to the requirements of Clause 11.5 of AS 2419.1-2021.	This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
iii.	Test and boost pressure signage has not been provided at the booster assembly, contrary to the requirements of Clause 11.3.4 of AS 2419.1-2021.	This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
B.	Hydrant pump and pumphouse:	
i.	FRNSW were unable to locate the hydrant pump and the pumphouse. It is assumed that the pump is located on the roof plantroom level, however appropriate signage and 003 access keylock was not provided to the plantroom door, therefore access was not available at the time of the inspection.	Council's inspection verified that the existing hydrant pump is located on the roof plantroom level. This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
C.	Multiple fire hydrant valves throughout the premises appear to be located at a height less than 750mm from the floor and sloping	Council's inspection verified that multiple fire hydrant valves throughout the premises were located at a height

Ref.	Issue	City response
	more than 35° below the horizontal, contrary to the requirements of Clause 3.2.2.1 of AS 2419.1-2021.	less than 750mm from the floor and sloping more than 35°, contrary to the applicable building regulation. These issues have been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
D.	The internal hydrants throughout the premises are located in the public corridors and not within the required fire-isolated stairways, contrary to the requirements of Clause 3.6.2 of AS 2419.1-2021. In some instances, the hydrant valves were located within a locked commercial tenancy and access was unavailable (Level 1 and Level 5).	These issues have been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
E.	The building has an effective height in excess of 25m and it is unclear whether a ring main has been installed, in accordance with the requirements of Clause 8.6 of AS 2419.1-2021.	This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
F.	Storz couplings, compatible with FRNSW firefighting hose connections were not provided to the feed connections at the booster assembly and all internal hydrant valves throughout 'the premises', contrary to the requirements of Clauses 3.2, 7.1, 9.3 and 9.4 of AS2419.1-2021, Clauses 1.2 and 3.4 of AS 2419.2–2009, Clause 3.5 of AS 2419.3-2012, 'and 'FRNSW Fire safety guideline, Technical information – FRNSW compatible Storz hose connections – Document no. D15/45534 – Version 09 – Issued 10 January 2019'.	This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.
G.	Maintenance:	
i.	The boost/inlet connections associated with the booster assembly, along with the internal hydrant valves throughout 'the premises', contained service labels/tags, indicating the hydrants had not received the required routine servicing, contrary to the requirements of Section 4 of AS 1851-2012 and Section 81 of the EPAR 2021. In this regard, multiple service labels/tags indicated the servicing of the hydrant valves was irregular and not occurring every 6 months, ranging in dates from October 2020 (at the boost connections) to June 2023 (internal hydrants).	Council inspection revealed that the booster assembly appears to service the automatic sprinkler system (not fire hydrant system) in the building. This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.

Ref.	Issue	City response
ii.	<p>Maintenance Records/Logbooks could not be located for the hydrant pump, contrary to the requirements of Clause 1.16.2 of AS 1851-2012. Whilst electronic logs are available ['Uptick ID Digital Compliance Records' (with QR Code)], a hardcopy of the service record has not been left on site at the completion of the test.</p> <p>A review of the digital logbooks following the inspection, revealed the last digital entry was completed on 25 August 2023, indicating the system may not be receiving the required monthly service check, contrary to the requirements of Section 3 of AS 1851-2012 and Section 81 of the EPAR 2021.</p> <p>It is noted that the last entry identified the following issues:</p> <ul style="list-style-type: none"> A. 'Item 1.6) CHECK General inspection – FAIL – 'Both pumps have multiple defects'. A. Item 1.7c) TEST Compression ignition (diesel) float charge – FAIL – 'Low charge on diesel'. A. Item 1.7f) CHECK Compression ignition (diesel) battery – FAIL. <p>iv. Item 1.10b) CHECK Pump controller operation – FAIL.</p> <p>v. Item 1.14a) Run test checks – record pressures – FAIL.</p> <p>vi. Item 1.14b) Run test checks – gland and drain – FAIL</p> <p>vii. Item 1.14c) Run test checks – condition and abnormal noises – FAIL.</p> <p>viii. Item 1.14e) Run test checks – running speed – FAIL.</p> <p>ix. Item 1.14f) Run test checks – leaks – FAIL.</p> <p>x. Item 1.14g) Run test checks – charger or alternator/generator – FAIL.</p>	<p>The Chairperson advised Council Officer that the logbooks had been recently stolen. Also, during the inspection the accredited practitioner provided new replacement logbooks to cabinets under locked key within the premises.</p> <p>However, hard copies of digital maintenance testing were not provided on site in accordance with AS 1851-2012 .</p> <p>The fire hydrant system is required to be upgraded under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.</p>

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	<p>xi. Item 1.14j) Run test checks – battery charger power failure – FAIL.</p> <p>xii. Item 1.14k) Run test checks – engine instrumentation – FAIL.</p> <p>xiii. Item 1.14l) Run test checks – flow at circulation relief valve – FAIL.</p> <p>xiv. Item 1.18b) Glands and mechanical seals – FAIL.</p> <p>xv. Item 1.19a) Check batteries comply – FAIL – ‘Batteries out of date, but not to charge until other faults are rectified’.</p> <p>It is unclear whether the issues were resolved at the last monthly service.</p> <p>In light of the above, FRNSW brings to your attention a position statement published by FRNSW on 8 January 2019. The statement is shown below:</p> <p><i>Fire hydrant system in existing premises</i></p> <p><i>When the consent authority (e.g. Council) is assessing the adequacy of an existing fire hydrant system installed in accordance with the provisions of Ordinance 70 and Ministerial Specification 10 (or earlier), FRNSW recommend that the system be upgraded to meet the requirements of the current Australian Standard AS 2419.1 to facilitate the operational needs of FRNSW.</i></p> <p><i>It may be appropriate for a partial upgrade of the existing fire hydrant system be undertaken. A partial upgrade may be proposed to address deficiencies in the design and/or performance of the existing fire hydrant system, when assessed against the requirements of Australian Standard AS 2419.1, so that the upgraded fire hydrant system will meet the operational needs of FRNSW.</i></p> <p><i>Where a hybrid fire hydrant system is proposed, which incorporates the design and performance requirements from two different standards, the proponent should consult with FRNSW on the requirements for the fire hydrant system.</i></p> <p>It is recommended that the existing fire hydrant system be upgraded to meet the requirements of the current Australian Standard AS2419.1 for an equivalent new building, as the current system no longer suits the operational needs of FRNSW.</p>	

Ref.	Issue	City response
1E.	<p>Automatic Fire Suppression System – The annual fire safety statement on display listed the standard of performance for the sprinkler system as being CA 16-1971 & AS 2118.1. Notwithstanding this, the following deviations from the NCC and AS 2118.1-2017 were observed which are of concern to FRNSW:</p>	
A.	<p>Sprinkler booster – A fire brigade booster connection has not been provided for the sprinkler system, contrary to the requirements of Clause 4.14 of AS 2118.1-2017.</p>	<p>Council’s inspection revealed that there is a fire brigade booster connection for the sprinkler system but not one for the fire hydrant system.</p> <p>An updated block plan is for the sprinkler system showing location of sprinkler booster assembly is required under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.</p>
B.	<p>The sprinkler valves:</p> <p>i. The sprinkler alarm valves are not located in a room with direct egress to a road or open space, contrary to the requirements of Clause E1D5 and Specification 17 of the NCC. In this regard, the sprinkler valves are located within the carpark level on P1 level.</p> <p>ii. A complete stock of replacement sprinklers and a spanner had not been provided at the sprinkler control valves, contrary to the requirements of Clause 6.7 of AS 2118.1-2017.</p>	<p>These issues have been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.</p>
C.	<p>Maintenance:</p> <p>i. Maintenance Records/Logbooks could not be located for the Sprinkler System, contrary to the requirements of Clause 1.16.2 of AS 1851-2012. Whilst electronic logs are available [‘Uptick ID Digital Compliance Records’ (with QR Code)], a hardcopy of the service record has not been left on site at the completion of the test.</p> <p>A review of the digital logbooks following the inspection, revealed the last digital entry was completed on 17 October 2023, indicating the system may not be receiving the required monthly service check, contrary to the requirements of Section 2 of AS 1851-2012 and Section 81 of the EPAR 2021.</p> <p>It is noted that the last entry identified the following issues:</p>	<p>The Chairperson advised Council Officer that the logbooks had been recently stolen. Also, during the inspection the accredited practitioner provided new replacement logbooks to cabinets under locked key within the premises.</p> <p>However, hard copies of digital maintenance testing were not provided on site in accordance with AS 1851-2012 .</p> <p>These issues have been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.</p>

Ref.	Issue	City response
	<p>'Item 1.12b) RECORD time(s) to operation of alarm gong(s) and verify that the time does not exceed 180s (Alarm function test) – FAIL.</p> <p>The same issue was identified in the digital logbooks dating back to 24 December 2021 without resolution.</p>	
D.	<p>Sprinkler Coverage - The building has an effective height of more than 25m, as defined by the NCC and all parts of the building are not sprinkler protected, contrary to the requirements of Clause E1D5 and Specification 17 of the NCC. In this regard, the installed sprinkler system provides coverage to the carpark levels (P1 – P3), the ground level and the commercial levels (Levels 1-3) only and not to the commercial levels from Level 4 and above.</p> <p>It is recommended sprinkler system be upgraded to comply with Clause E1D5 and Specification 17 of the NCC and extend through all areas of the building.</p>	<p>Noted</p> <p>Council officer review and inspection confirms existing alternative systems of fire protection are implemented throughout the building in lieu of sprinklers</p>
1F.	Fire Hose Reels (FHR's):	
A.	<p>Maintenance – Multiple FHR's throughout 'the premises', contained service labels/tags, indicating the FHR's had not received any routine servicing since June 2023, contrary to the requirements of Section 9 of AS 1851-2012 and Section 81 of the EPAR 2021.</p>	<p>No action required by the City</p> <p>Council inspection revealed that service labels/tags indicate FHR's had in fact received routine servicing since June 2023</p>
1G.	Portable Fire Extinguishers (PFE's):	
A.	<p>Maintenance – Multiple PFE's throughout 'the premises', contained service labels/tags, indicating the PFE's had not received any routine servicing since May 2023, contrary to the requirements of Section 10 of AS 1851-2012 and Section 81 of the EPAR 2021.</p>	<p>No action required by the City</p> <p>Council inspection revealed that service labels/tags had in-fact received routine servicing since June 2023,</p>
2.	Access and Egress	
2A.	<p>Re-entry from fire-isolated exits – The doors to the fire-isolated stairways serving the commercial levels (effective height greater than 25m), were locked from the inside, re-entry was not available on every fourth floor and the doors on the other levels were not provided with a fail-safe device that automatically unlocks the door upon activation of a fire alarm, contrary to the requirements of Clause D3D27 of the NCC.</p>	<p>This issue has been addressed under the Notice of Intention to issue a Fire Safety Order issued on 13 May 2024.</p>

Ref.	Issue	City response
3.	Generally	
3A.	<p>Issues requiring further investigation – the written correspondence received by FRNSW on 22 January 2024 alleged there were a number of fire safety issues in the building, which FRNSW were unable to verify at the time of the inspection. In this regard, the issues relating to the certification, maintenance and annual testing of the essential fire safety measures in the building falls outside of FRNSW inspection powers and</p> <p>it would be at Council's discretion, as the appropriate regulatory authority, to review its own records, conduct its own inspection/investigation and make its own determination.</p>	<p>Noted.</p> <p>The Notice of Intention to issue a Fire Safety Order issued on 13 May 2024 includes amongst other things a number of requirements regarding certification of essential fire safety measures in the building</p>

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

FRNSW Recommendations

FRNSW have made five recommendations within their report. In general FRNSW have requested that Council:

1. inspect and appropriately address any other deficiencies identified on ‘the premises’ and require items 1 through to 3 of their report to be reviewed;
2. ensure that the existing fire hydrant system is upgraded to meet the requirements of AS 2419.1-2021 for an equivalent new building or a hybrid system that suits the operational requirements of FRNSW;
3. ensure that the fire safety measures serving the premises are being regularly maintained; and
4. 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 Notice of Intention to Give a Fire Safety Order	Other (to specify)
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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 on 13 May 2024 in accordance with the above Act prior to the resolution of Council.

The issue of a Notice of Intention to Give an Order (NOI) prior to the resolution of Council will help to accelerate compliance response from building owners in rectifying fire safety deficiencies and will assist to ensure that occupants are not exposed to unnecessary fire safety risks.

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

Referenced/Attached Documents:

2024/255151-01	Copy of Notice of Intention to issue a Fire Safety Order
2024/255151-02	Copy of corrective action letter

Trim Reference: 2024/255151

CSM reference No#: 3166307