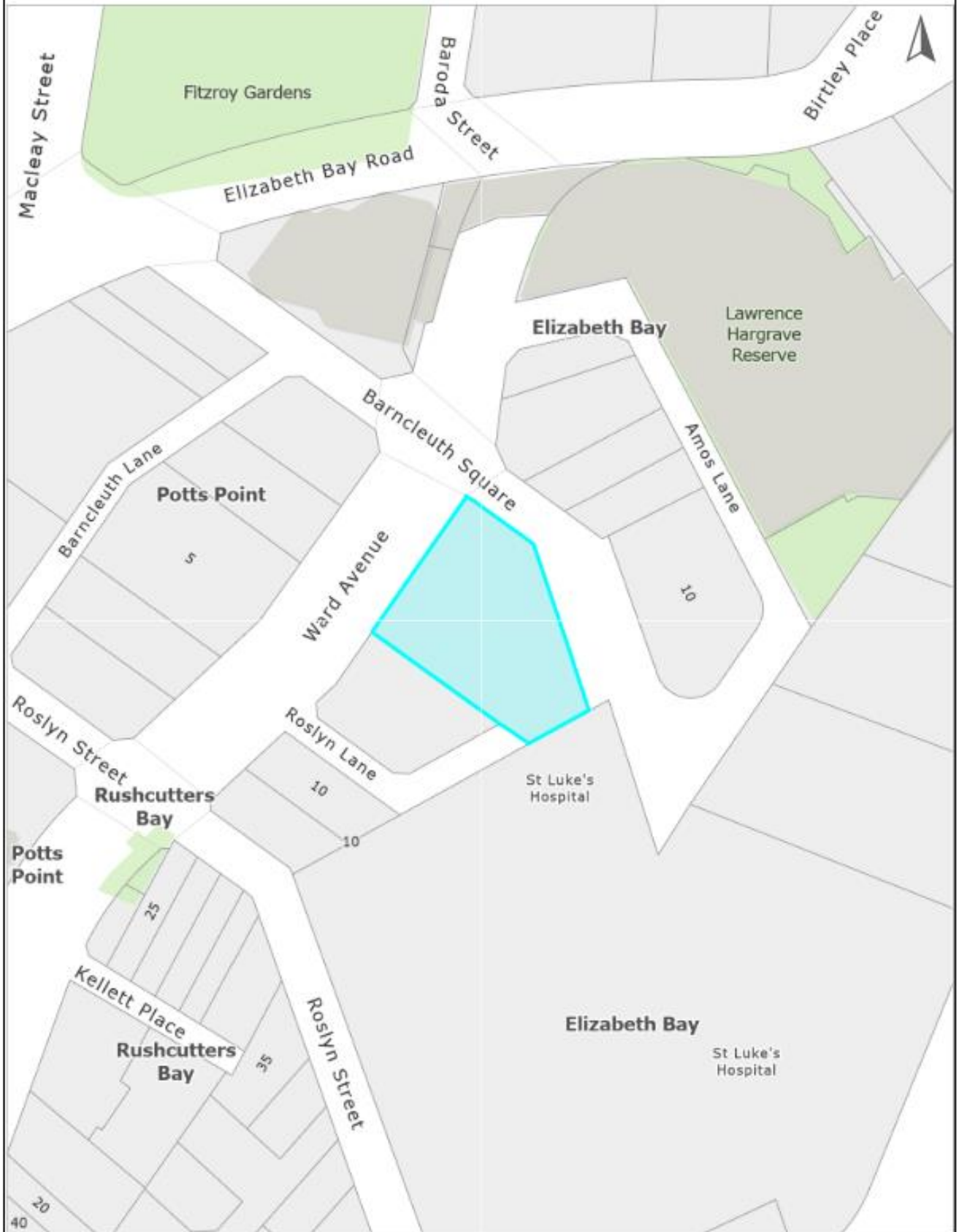


# **Attachment F**

**Inspection Report  
4 Ward Avenue, Elizabeth Bay**



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Notes

23/05/2024

1: 11259

**Council Investigation Officer Inspection and Recommendation Report  
Clause 17(2) of Schedule 5 of the Environmental Planning and Assessment Act 1979  
(the Act)**

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**File:** CSM 3185887

**Officer:** Ashley Host

**Date:** 17 June 2024

**Premises:** 4 Ward Avenue, Elizabeth Bay 'Marlborough Hall'

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**Executive Summary:**

Council received correspondence dated 16 May 2024 from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises with respect to matters of fire safety.

The site contains a 7-storey residential apartment building located on the corner of Ward Avenue and Barncleuth Square known as 'Marlborough Hall'.

An inspection of the premises was undertaken with the strata manager, building manager and a strata committee member, which 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; and
- (iii) poor fire safety management systems (signs/notices/not displayed etc.) in place.

Council investigations have revealed 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 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 metallic sheet combustible composite cladding on the façade of the building.

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**Chronology:**

<b>Date</b>	<b>Event</b>
16.05.2024	FRNSW correspondence received regarding premises 4 Ward Avenue, Elizabeth Bay.
31.05.2024	10. An inspection of the subject premises was undertaken by a Council officer in the presence of the strata manager, building manager and a strata committee member which revealed fire safety issues at the time of inspection.

**FIRE AND RESCUE NSW REPORT:**

References: [BFS23/7388 (32680); Trim Ref: 2024/301766]

Fire and Rescue NSW (FRNSW) received correspondence on 13 December 2023 concerning the adequacy of the provision for fire safety in connection with the premises.

## Issues

The report from FRNSW detailed numerous issues, in particular noting:

Ref	Issue	City response
<b>1A. Automatic fire detection and alarm system</b>		
A.	The Brigade Panel was displaying one (1) maintenance fault.	<p>Minor internal building works are being undertaken to existing unit - The building has an on-site building manager who manages the isolation of the system and ensures it is returned to normal operation outside working hours.</p> <p>The system has been returned to normal operation.</p> <p>No further action is proposed.</p>
<b>1B. Fire hydrant system</b>		
Ai.	Internal hydrants have been installed to the building to achieve required coverage. FRNSW recommend signage be installed to assist them to locate the valves, in accordance with clause 3.2.3.3 of AS21419.1-2005, as they are located outside of the fire-isolated stair.	To be addressed by corrective action letter to require new block plans to be installed to the hydrant booster and pumphouse which indicates the location of internal hydrant valves accordance with clause 3.2.3.3 of AS21419.1-2005.
Bi.	The hydrant booster assembly located at the front of the building is not separated from the building by fire rated construction contrary to clause 7.3(c) of AS2419.1-2005.	<p>The building was subject to a Council Fire Order in 2003 which required an upgrade of the existing system.</p> <p>The booster was not required to be relocated as part of the upgrade.</p> <p>Due to the age of the building and site constraints, the booster cannot be relocated without significant alterations to the building, and the windows bounding the system are required to the residential unit associated behind.</p> <p>There are multiple street hydrants directly fronting the premises which would be utilised in the event the hydrant booster cannot be accessed.</p> <p>In this regard no further action is proposed to require the relocation of the booster.</p>
Bii.	The booster assembly is difficult to locate and access as it is setback in a garden area and obscured behind plants contrary to clause 7.3 of AS2419.1-2005.	To be addressed by corrective action letter to require the area around the booster assembly to be cleared so that's its viewable from the street and readily accessible in accordance with Clause 7.3 of AS2419.1-2005.
Biii.	The booster inlet connections are orientated towards the booster assembly which is likely to cause interference and compromise hose/coupling connections when hoses are charged contrary to clause 7.4 of AS2419.1-2005.	To be addressed by corrective action letter to require the booster inlet connections to be orientated in accordance with the requirements of the applicable standard Clause 7.4 of AS2419.1-2005.

<b>Ref</b>	<b>Issue</b>	<b>City response</b>
Biv.	A permanent fade resistant or engraved sign indicating the boost and test pressure was not provide at the booster assembly contrary to clause 7.10 of AS2419.1-2005.	To be addressed by corrective action letter to require a sign indicating boost and test pressure at the booster assembly in accordance with clause 7.10 of AS2419.1-2005.
Bv.	Above ground isolating valves are not secured or locked in the open position contrary to clause 8.5.8 of AS2419.1-2005.	To be addressed by corrective action letter to require the above ground isolating valves to be secured or locked in the open position in accordance with clause 8.5.8 of AS2419.1-2005.
<b>C. Hydrant pumphoom and pumpset</b>		
Ci.	The hydrant pumphoom and pumpset could not be located by FRNSW. The block plan displayed at the booster assembly indicates the rooms' location however, the door to the room was not provided with "Hydrant Pumphoom" signage and the door was not fitted with a 003-lock compatible with a FRNSW access key and access was not available.	To be addressed by corrective action letter to a sign be provided to the hydrant pumphoom indicating its location and for the door to be fitted with a 003 key in accordance with Clause 6.4.1 of AS2419.1-2005.
<b>1C. Automatic fire suppression/sprinkler booster</b>		
Ai	Sprinkler booster not provided with sign marked with the maximum allowable inlet pressure contrary to Clause 4.4.3 of AS2118.1-1999.	To be addressed by corrective action letter to require a sign be provided to the sprinkler indicating the maximum allowable inlet pressure in accordance with Clause 4.4.3 of AS2118.1-1999.
Aii	The isolation valve at the sprinkler booster was not secured open by a padlocked chain contrary to Clause 8.2 of AS2118.1-1999.	To be addressed by corrective action letter to require the isolation valve at the sprinkler booster to be secured open by a padlocked chain in accordance with Clause 8.2 of AS2118.1-1999.
Aiii	Storz couplings were not provided to the feed connections at the booster assembly contrary to Clause 3.1 and 8.5.11.1 of AS2419.1-2005.	To be addressed by corrective action letter to require Storz couplings be provided to the feed connections at the booster assembly in accordance with Clauses 3.1 and 8.5.11.1 of AS2419.1-2005.
<b>B sprinkler valves</b>		
i.	Sprinkler valves appear to be located within a secured room at the rear of the building and are not readily visible and accessible to FRNSW contrary to Clause 8.1 of AS2118.1-1999. The door was not fitted with a compatible 003 key.	To be addressed by corrective action letter to require the door to the sprinkler valve room to be readily openable by a 003 key in accordance with Clause 8.1 of AS2118.1-1999.
<b>Smoke seals</b>		
1D.	Several smoke sealed doors to cupboards containing gas metres (along public corridors) were found open and unable to latch closed when attempted.	Inspection revealed that all doors bounding exit routes were in the fully closed position at the time. No further action proposed.
<b>2A Fire separated stairway</b>		
Ai.	The balustrades to the stairway appeared to achieve a height of less than 1m above the floor level and 865mm above the nosing of the stair treads contrary to Clause NSW D3D18(1) of the NCC.	The building was subject to a Council Fire Order in 2003 which upgraded the exit provisions from the building. The existing internal handrail was not required to be relocated as part of the upgrade.

Ref	Issue	City response
		<p>In consideration of the age of the building, the use, the heritage classification, and the dispensation afforded to fire stairs under the NCC no further action is proposed as the handrail complies with the requirements for fire exits.</p>
Aii.	<p>The balustrade to the stairway contains openings which would permit a 125mm sphere to pass through it contrary to Clause D3D20 of the NCC.</p>	<p>The building was subject to a Council Fire Order in 2003 which upgraded the exit provisions from the building. The existing internal handrail was not required to be relocated as part of the upgrade.</p> <p>In consideration of the age of the building, the use, the heritage classification, and the dispensation afforded to fire stairs under the NCC no further action is proposed as the handrail complies with the requirements for fire exits.</p>
Aiii.	<p>The balustrade, where the floor is more than 4m above the surface beneath, incorporates horizontal elements between 150mm and 760mm above the stair treads and landings, which may facilitate climbing, contrary to the requirements of Clause D3D20 of the NCC.</p>	<p>The building was subject to a Council Fire Order in 2003 which upgraded the exit provisions from the building. The existing internal handrail was not required to be relocated as part of the upgrade.</p> <p>In consideration of the age of the building, the use, the heritage classification, and the dispensation afforded to fire stairs under the NCC no further action is proposed as the handrail complies with the requirements for fire exits.</p>
Aiv.	<p>The handrail to the stairway appeared to achieve a height of less than 865mm above the nosing of the stair tread, contrary to the requirements of Clause D3D22 of the NCC.</p>	<p>The building was subject to a Council Fire Order in 2003 which upgraded the exit provisions from the building. The existing internal handrail was not required to be relocated as part of the upgrade.</p> <p>In consideration of the age of the building, the use, the heritage classification, and the dispensation afforded to fire stairs under the NCC no further action is proposed as the handrail complies with the requirements for fire exits.</p>
2B.	<p>Entrance doorway of multiple units throughout the premises are located more than 6m from an exit or from a point from which travel in different directions to 2 units is available contrary to Clause D2D5(1) of the NCC.</p>	<p>An assessment of the exits provisions was considered when the City issued a Fire Safety Order on the premises in 2003.</p> <p>In consideration of the age of the building, the use, the heritage classification, and site constraints it is not feasible to relocate the exits therefore no further action is proposed.</p>

Ref	Issue	City response
3A.	The fire door adjacent unit 5 was held in the open position by a hook and eye latch contrary to Part C3 of the NCC. It is also unclear if the door is a fire door for the purposes of Part C3 of the NCC.	To be addressed by corrective action letter to require the eye hook latch to be removed and for the door to be replaced with a -/60/30 fire rated door set as it bounds the fire stair.

### FRNSW Recommendations

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

1. Inspect the subject premises and take action to have the identified fire safety issues appropriately addressed.
2. 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 (NO)	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 investigation officers the owners of the building were issued with written instructions on 19 June 2024 to ensure that suitable fire safety systems are in position throughout the building to provide improved and adequate provisions for fire safety.

It is recommended that Council not exercise its powers to give a fire safety order at this time.

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

### **Referenced/Attached Documents:**

2024/301766	FRNSW S9.32 report dated 1 December 2023
2024/360033	Council officer clause 15 sch 5 inspection report
2024/360050	Corrective action letter dated 19 June 2024

**Trim Reference:**                      **CSM reference No#: 3185887**

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File Ref. No: BFS23/7388 (32680)  
TRIM Ref. No: D24/49000  
Contact: Matthew Warbrick

16 May 2024

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  
'MARLBOROUGH HALL'  
4 WARD AVENUE, ELIZABETH BAY ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 13 December 2023 concerning the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated in part that:

*The tenant (1) often leaves her entry door open for long periods of time, rendering the fire door useless. Also (2) she has attached a child safety barrier to the entryway, which will be an obstacle if there's a fire. Also (3) she has belongings scattered in front of her door which is a tripping hazard.*

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 FRNSW inspected 'the premises' on 10 April 2024.

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

The items listed in the comments of this report are based on the following limitations:

- A general overview of the building was obtained without using the development consent conditions or approved floor plans as a reference.

Fire and Rescue NSW	ABN 12 593 473 110	<a href="http://www.fire.nsw.gov.au">www.fire.nsw.gov.au</a>
Community Safety Directorate	1 Amarina Ave	T (02) 9742 7434
Fire Safety Compliance Unit	Greenacre NSW 2190	F (02) 9742 7483
<a href="http://www.fire.nsw.gov.au">www.fire.nsw.gov.au</a>		Page 1 of 6

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- Details of the Provisions for Fire Safety and Fire Fighting Equipment are limited to a visual inspection of the parts in the building accessed and the fire safety measures observed at the time.
- Possible nonconformities identified in the report may relate to:
  - National Construction Code 2022, Volume 1 Building Code of Australia (NCC), or
  - Essential Fire Safety Measures identified on the Annual Fire Safety (AFSS) observed in the building, and
  - Provisions for fire safety and fire safety equipment.

The items are not an exhaustive list of non-compliances. FRNSW acknowledges that the differences observed at the time may contradict development consent approval or relate to the building's age or heritage status. Therefore, it's the Council's discretion as the appropriate regulatory authority to consider the most appropriate action.

### COMMENTS

In relation to the received fire safety compliant, Authorised Officers did not observe an interference with the operation of any unit entry fire door or obstruction of fire exit areas within the premises.

Notwithstanding this, the following items were identified as concerns at the time of the inspection:

1. Essential Fire Safety Measures
  - 1A. Automatic Fire Detection and Alarm System
    - A. The Fire Brigade Panel (FBP) was displaying one (x1) fault identified as – 'Level 5 North Wing - L1 S59 Z12 ST: Maintenance Fault'.
  - 1B. Fire Hydrant System - The AFSS displayed in the building fails to identify the year of the Australia Standard applicable to the standard of performance for the hydrant system. Therefore, the following comments are made in relation to AS 2419.1–2005 as an appropriate standard of reference.
    - A. Internal Hydrants
      - i. Additional hydrants have been installed on the residential levels (in the southwestern corridors) to achieve system coverage, however additional provisions have not been made to suit the operational requirements of FRNSW, contrary to the requirements of Clause 3.2.3.3 of AS 2419.1-2005. In this regard, fire-fighters would be unaware of the existence of the additional hydrant valves outside the fire

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separated stairway and would benefit from floor plan signage being placed adjacent to the hydrant valves within the fire stairs, detailing the location of the additional hydrants.

B. Hydrant Booster Assembly

- i. The booster assembly, which is affixed to the external wall of the building, is not separated from the building by construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2m each side and 3m above the upper connections in the booster assembly, contrary to the requirements of Clause 7.3(c) of AS 2419.1-2005. In this regard, windows are located within 2m of the booster assembly.
- ii. The booster assembly is setback in a garden area and is obscured behind plants and vegetation, making it difficult for attending firefighting crews to locate and access the booster assembly, contrary to the requirements of Clause 7.3 of AS 2419.1-2005.
- iii. The orientation of the boost/inlet connections was observed to be facing towards the sprinkler booster assembly, therefore compromising hose coupling/connection which is likely to also cause interference when hoses are charged, contrary to the requirements of Clause 7.4 of AS 2419.1-2005.
- iv. A permanent and fade resistant or engraved sign indicating the boost pressure and test pressure was not provided at the booster assembly, contrary to the requirements of Clause 7.10 of AS 2419.1-2005.
- v. Above ground isolating valves are not secured or locked in the open position, contrary to the requirements of Clause 8.5.8 of AS 2419.1-2005.

C. Hydrant Pumproom and Pumpset

- i. The hydrant pumproom and pumpset could not be located. In this regard, the hydrant block plan on display at the hydrant booster assembly indicates a diesel pumpset is located at the rear of the building (possibly within the room labelled 'Sprinkler Stop Valve'), however, the door to the room was not identified with 'Hydrant Pumproom' signage and the door was not fitted with a 003 key lock compatible with FRNSW access key and access was not available.

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- 1C. Automatic Fire Suppression System - The AFSS displayed in the building listed the standard of performance for the sprinkler system as being AS 2118.1-1999. As such, the following comments are provided having regard to AS 2118.1-1999:
- A. The sprinkler booster assembly:
- i. A sign marked with the maximum allowable inlet pressure at the connection was not provided at the booster assembly, contrary to the requirements of Clause 4.4.3 of AS 2118.1-1999.
  - ii. The isolation valve at the sprinkler booster was not secured open by a padlocked chain or a padlocked or riveted strap, contrary to the requirements of Clause 8.2 of AS 2118.1-1999.
  - iii. Storz couplings, compatible with FRNSW firefighting hose connections were not provided to the feed connections at the booster assembly, contrary to the requirements of Clauses 3.1 and 8.5.11.1 of AS 2419.1-2005, 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'.
- B. The sprinkler valves:
- i. The sprinkler control valves appear to be located within a secured room at the rear of the building and are not readily visible and accessible to fire-fighters, contrary to the requirements of Clause 8.1 of AS 2118.1-1999. In this regard, the door leading to the sprinkler valves was not fitted with a 003 key lock compatible with FRNSW access key and access was not available.
- 1D. Smoke seals (unit doors, all gas and electrical cupboards opening to internal common areas).
- A. Several smoke sealed doors to cupboards containing the gas meters (along public corridors) were found open and unable to latch closed when attempted.
2. Access and Egress
- 2A. Fire Separated Stairway
- A. The fire separated stairway in the building contains fire doors on each level which are held in the open position by magnetic hold open devices, which indicates the stairway is being used for general circulation between levels for the occupants, as opposed

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to being utilised primarily for emergency purposes. Based on the stairway being utilised as a circulation stair, the following concerns were observed at the time of the inspection:

- i. The balustrades to the stairway, appeared to achieve a height of less than 1m above the floor level and 865mm above the nosings of the stair treads (between stair flights), contrary to the requirements of Clause NSW D3D18(1) of the NCC.
  - ii. The balustrade to the stairway contains openings that would permit a 125mm sphere to pass through it, contrary to the requirements of Clause D3D19 of the NCC.
  - iii. The balustrade to the stairway, where the floor is more than 4m above the surface beneath, incorporates horizontal elements between 150mm and 760mm above stair trends and landings, which facilitates climbing, contrary to the requirements of Clause D3D20 of the NCC.
  - iv. The handrail to the stairway, appeared to achieve a height less than 865mm above the nosing of the stair tread, contrary to the requirements of Clause D3D22 of the NCC.
- 2B. The entrance doorway of multiple Sole Occupancy Units (SOU's) throughout 'the premises' are located more than 6m from an exit or from a point from which travel in different directions to 2 exits is available, contrary to the requirements of Clause D2D5(1) of the NCC.
3. Compartmentation and Separation
- 3A. Protection of openings
- A. The fire safety door located in the corridor adjacent to unit 5 was found held in the open position by a hook and eye latch and therefore unable to self-close. In this regard, it is unclear whether the door is a fire door for the purpose of compartmentation in accordance with Part C3 of the NCC.

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

**RECOMMENDATIONS**

FRNSW recommends that Council:

- a. Review items 1 to 3 of this report and conduct an inspection.
- b. Address any other deficiencies identified on "the premises".

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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 Matthew Warbrick 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 BFS23/7388 (32680) regarding any correspondence concerning this matter.

Yours faithfully



Mark Knowles  
Senior Building Surveyor  
Fire Safety Compliance Unit