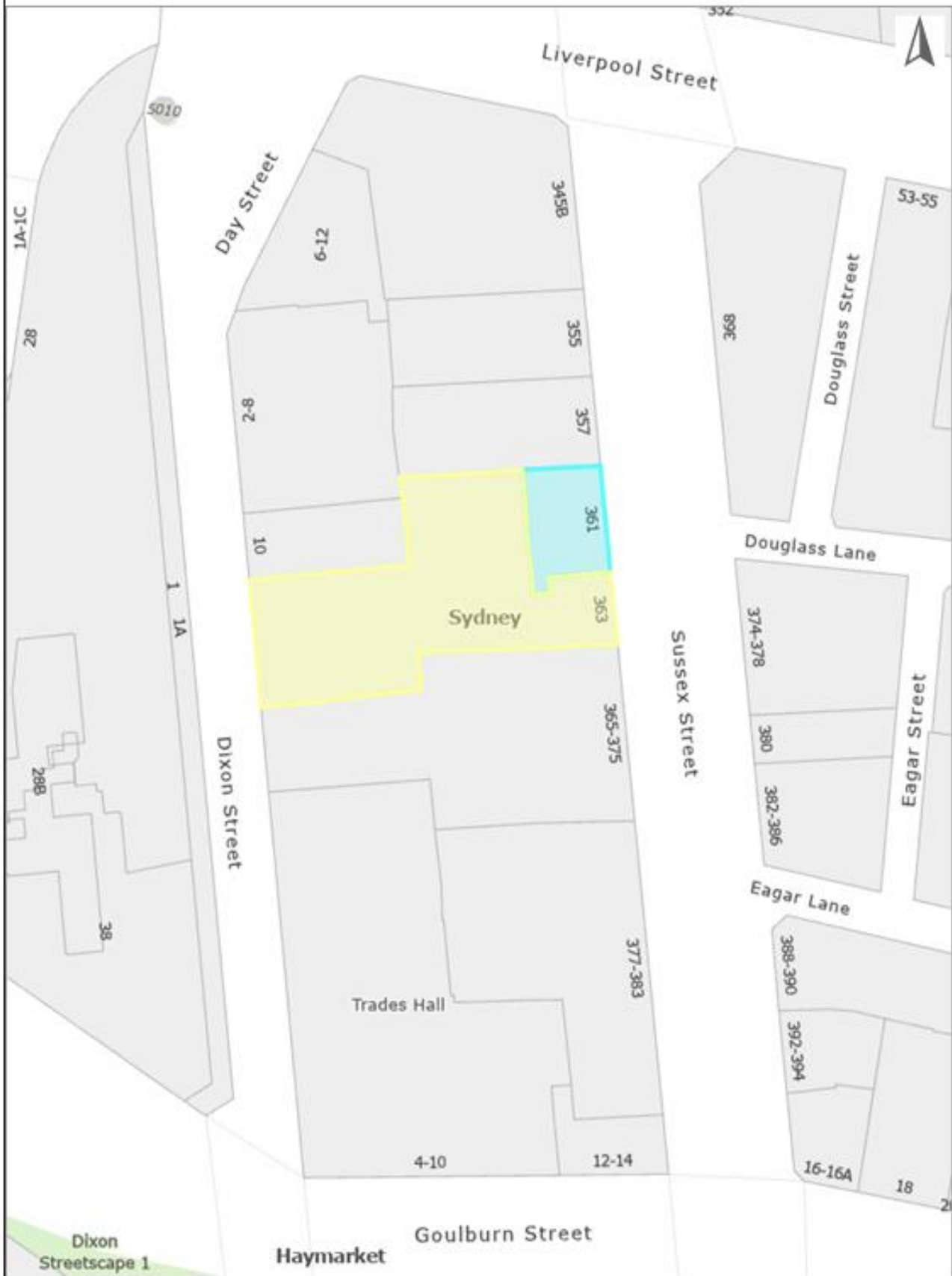


# **Attachment D**

**Inspection Report  
361-363 Sussex Street, Sydney**



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Notes

20/09/2024

**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 3210489**

**Officer: Andrew Manning**

**Date: 20 September 2024**

**Premises: 361 – 363 Sussex Street, Sydney**

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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 6 June 2024 with respect to matters of fire safety.

The premises consists of a 21-storey building used primarily as a residential apartment building with a commercial mall located (Regal Arcade) within the lower two stories.

The ground and lower ground floor comprises a residential lobby, car parking and commercial mall. All other storeys consist of residential apartments and carparking facilities.

An inspection of the premises undertaken by Council investigation officers in the presence of building management which revealed that the premises are deficient in fire safety and egress provisions in the following areas:

- (i) Inadequate fire detection and alarm systems.
- (ii) A lack of adequate facilities for firefighting.
- (iii) Suitable fire resisting construction to prevent the spread of fire
- (iv) Poor fire safety management systems (signs/notices/not displayed etc.).

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 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.

## Chronology:

Date	Event
04/07/2024	FRNSW correspondence received regarding premises 359 – 361 Sussex Street Sydney
25/07/2024	An inspection of the subject premises was undertaken by Council officers noted the following. <ol style="list-style-type: none"><li>1. Faults present with the fire safety measures.</li><li>2. Fire doors damaged, removed, in a state of disrepair, not self-closing and self-latching.</li><li>3. Storage of items blocking fire exits and path of travel to an exit.</li><li>4. Fire hydrant cupboard damaged and obstructed.</li><li>5. Services penetrating fire rated building elements not protected.</li></ol> Verbal warnings were issued on site to building management.
12/08/2024	Re-inspection of the subject premises was undertaken by a Council officer to further investigate the building and to facilitate the issuance of fire safety order.
27/09/2024	Notice of Intention issued.

## FIRE AND RESCUE NSW REPORT:

References: D24/79202; 2024/429672

Fire and Rescue NSW conducted an inspection of the subject premises after receiving correspondence that stated that the building was deficient in fire safety provisions.

### Issues

The report from FRNSW detailed several issues, which are referenced in the below table.

Ref.	Issue	City response
<b>1.</b>	<b>Essential Fire Safety Measures</b>	
A	Automatic Fire Detection and Alarm System <ol style="list-style-type: none"><li>i. Fire Brigade Panel (FBP) – The FBP was displaying four (4) faults</li></ol>	Compliance is to be pursued under Council's Fire Safety Order
B	Emergency Warning and Intercom System (EWIS) <ol style="list-style-type: none"><li>i. Evacuation System Control Panel - The EWIS control panel was displaying one (1) audio fault</li></ol>	Compliance is to be pursued under Council's Fire Safety Order
C	Fire Hydrant System <ol style="list-style-type: none"><li>i. The annual fire safety statement details that the hydrant system is designed to Australian Standard (AS) 2419. No year is included</li><li>ii. Fire hydrant booster<ol style="list-style-type: none"><li>i. Doors to the cabinet housing the fire hydrant booster were damaged and restricting access to the booster inlets side of the cabinet</li><li>ii. Suitable clearance to the handwheel of the left side feed hydrant outlets has not been provided contrary to the requirements of clause 3.2.2.2 of AS 2419.1 – 2021</li></ol></li><li>iii. Two (x2) isolation valves either side of a pressure reduction valve found within the pumphouse was</li></ol>	<ol style="list-style-type: none"><li>i. Compliance is to be pursued under Council's Fire Safety Order</li><li>ii. Compliance is to be pursued under Council's Fire Safety Order</li><li>iii. Item addressed under FRNSW Fire Safety Order No. 1. No further compliance action required</li></ol>

Ref.	Issue	City response
	<p>closed and preventing the system from performing to the required standard of performance</p> <p>iv. Water Supply - Hydrant Pump Tank Feed</p> <p>i. The isolation valves (x2) were not secured in the open position contrary to the requirements of Clause 8.7.1 of AS2419.1-2021</p> <p>ii. The isolation valves (x2) appear to be corroding and may prevent operation of the isolation valves</p>	<p>iv. Item addressed under FRNSW Fire Safety Order No. 1. No further compliance action required</p>
D	<p>Sprinkler System</p> <p>i. Pumproom</p> <p>a. Diesel sprinkler Pump - The diesel start switch of the diesel sprinkler pump control panel was in the 'OFF' position preventing automatic operation. The DIESEL ISOLATED, light emitting diode was illuminated</p> <p>b. Electric sprinkler pump – The main isolator on the electric sprinkler pump control panel was in the 'OFF' position preventing automatic operation of the sprinkler system. The POWER FAIL light emitting diode was illuminated</p> <p>c. Sprinkler Stop Valves - The main stop valve of sprinkler installation # 1 was found in the closed position. As a result, any fire on the levels, BASEMENT, GROUND &amp; LEVELS 1 – 5, would not be controlled by the sprinkler system</p>	<p>Item addressed under FRNSW Fire Safety Order No. 1. No further compliance action required</p>
E	<p>Mechanical Air Handling System</p> <p>i. Stair Pressurisation - The supply air grille on Level 9, within the southern fire isolated stairway, was missing and therefore was posing an unacceptable risk of persons falling through the opening</p>	<p>Item addressed under FRNSW Fire Safety Order No. 1. No further compliance action required</p>
F	<p>Fire Hose Reels</p> <p>i. Non-fire equipment was found stored within FHR cabinet in the Regal Arcade (ground floor) of 'the premises', contrary to Clause 10.4.4 of AS 2441–2005</p>	<p>Compliance is to be pursued under Council's Fire Safety Order</p>
G	<p>Fire Doors</p> <p>i. Multiple fire doors throughout "the premises" were found with damaged or removed self-closing devices contrary to the requirements of Clause C4D6 of the NCC</p>	<p>Compliance is to be pursued under Council's Fire Safety Order</p>
H	<p>Exits Signs</p> <p>i. Multiple exit signs throughout 'the premises' were either not illuminated or missing the pictorial element and had not maintained, contrary to the requirements of Section 81 of the EPAR 2021</p>	<p>Compliance is to be pursued under Council's Fire Safety Order</p>
<p><b>2. Access and Egress</b></p>		
A	<p>Fire Safety Offences (EPAR 2021)</p> <p>i. The fire exit door leading to Dixon Street, adjacent to the Thai Dessert Bar was blocked off</p>	

Ref.	Issue	City response
	by garbage bins, preventing egress to the road. In this regard, the obstruction was cleared by the worker of the shop prior to FRNSW concluding the inspection. Furthermore, the fire exit door has not been provided fire safety notice signage contrary to the requirements of Section 108 of EPAR 2021	Compliance is to be pursued under Council's Fire Safety Order
<b>3. Maintenance &amp; Certification</b>		
A	Annual Fire Safety Statement i. A copy of the current AFSS was not prominently displayed within the building in accordance with Section 89 of the EPAR 2021. In this regard, the AFSS on display was dated December 2022 and is no longer valid	Compliance is to be pursued under Council's Fire Safety Order

FRNSW Recommendations

FRNSW have made a number of recommendations within their report. In general FRNSW have requested that Council inspect the subject premises and take action to have the identified fire safety issues appropriately addressed;

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**OFFICER RECOMMENDATIONS:**

Issue Order	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) to issue 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. The NOI was given on 27 September 2024.

It is recommended that Council exercise its power to issue a Fire Safety Order (following the expiry of the representation period of the NOI) to ensure suitable fire safety systems are in place 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.

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**Trim Reference:** 2024/545312

**CSM reference No#:** 3210489

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File Ref. No: BFS24/2955 (35583)  
TRIM Ref. No: D24/79202  
Contact: Matthew Warbrick

4 July 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: 9.32 INSPECTION REPORT  
REGAL APARTMENTS  
359 - 361 SUSSEX STREET SYDNEY ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 17 May 2024 concerning the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated in part that:

*There has been multiple calls to this building for small fires in the last week. Over the last 10 years there has been approximately 140 fires in this building.*

*On inspection today we found the lifts were inoperable and multiple fire doors chocked open or blocked by refuse from households and businesses.*

*We believe at the moment this is a high risk property...*

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 27 May 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:

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 9

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- A general overview of the building was obtained without using the development consent conditions or approved floor plans as a reference.
- 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 relate to the National Construction Code 2022, Volume 1 Building Code of Australia (NCC), 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. Therefore, it's the Council's discretion as the appropriate regulatory authority to consider the most appropriate action.

### NOTICE OF INTENTION TO SERVE AN ORDER

FRNSW issued a Notice of Intention to Serve an Order (1) dated 28 May 2024 under the provisions of Section 9.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

### REPRESENTATIONS & INSPECTION

Written representations were received concerning the proposed **Order 1** under Schedule 5, Part 6, Section 8 of the EP&A Act, and after receiving the written representations on 31 May 2024 under Section 9.32 of the EP&A Act. Upon reviewing and considering the representation, FRNSW gave an Order under Schedule 5, Part 7, Section 15 of the EP&A Act.

### FIRE SAFETY ORDER NO. 1

Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW issued an Order No. 1, dated 6 June 2024 under the provisions of Section 9.34 of the EP&A Act. A copy of the Order is attached for your information under the provisions of Schedule 5, Part 6, Section 12 of the EP&A Act.

### RE-INSPECTION

Pursuant to the provisions of Section 9.32(1)(b) of the EP&A Act and Section 112 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR2021), Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW inspected the premises on 17 June 2024.



## INSPECTION OUTCOME

At the time of the inspection, the terms of 'the Order' issued on the premises were compliant. In this regard, Council is not required to act on item no. 1.C.iii.a and 1.D of this report. It is the Council's discretion to inspect and address the items identified in his report and any other deficiencies identified on the premises.

## COMMENTS

FRNSW responded to the premises on thirteen (13) occasions in the month preceding the inspection on 27 May 2024. Eleven (11) of the responses were a result of fires

At the time of the initial inspection, Authorised Officers observed contractors onsite undertaken repair works to reinstate the operation of the lifts. The follow up inspection by FRNSW undertaken on 17 June 2024 found one of the lifts in operation and works continuing to be undertaken to reinstate the second lift.

The following items were identified during the inspection:

1. Essential Fire Safety Measures
  - A. Automatic Fire Detection and Alarm System
    - i. Fire Brigade Panel (FBP) – The FBP was displaying four (4) faults.
  - B. Emergency Warning and Intercom System (EWIS)
    - i. Evacuation System Control Panel - The EWIS control panel was displaying one (1) audio fault.
  - C. Fire Hydrant System
    - i. Standard of Performance
      - a. The annual fire safety statement details that the hydrant system is designed to Australian Standard (AS) 2419. No year is included.

The hydrant system appears to be an Ordinance 70 system which has had some form of upgrade, possibly at the time of the Council Order in 2007 and (as indicated on the block plan by Grosvenor Fire) in 2020. The hydrant system does not include a ring-main and the attack fire hydrants are located outside the fire isolated stairway.

The assisted pressure, boost pressure and test pressure stated on the block plan do not meet the design requirements of either AS2419.1-1994 or AS2419.1-2005.

FRNSW recommend a review of the performance standard, to ensure the pump duty is adequate for the height of the building, the correct pressures are recorded on the boost and test

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pressure signage and block plan, to ensure the system can be maintained and used to the correct standard of performance.

- ii. Fire hydrant booster.
  - a. Doors to the cabinet housing the fire hydrant booster were damaged and restricting access to the booster inlets side of the cabinet.
  - b. Suitable clearance to the handwheel of the left side feed hydrant outlets has not been provided contrary to the requirements of clause 3.2.2.2 of AS 2419.1 - 2021
- iii. Pumproom – Hydrant Pressure Reduction Valves
  - a. Two (x2) isolation valves either side of a pressure reduction valve found within the pumproom was closed and preventing the system from performing to the required standard of performance.
- iv. Water Supply - Hydrant Pump Tank Feed
  - a. The isolation valves (x2) were not secured in the open position contrary to the requirements of Clause 8.7.1 of AS2419.1-2021.
  - b. The isolation valves (x2) appear to be corroding and may prevent operation of the isolation valves.

**D. Sprinkler System**

- i. Pumproom
  - a. Diesel sprinkler Pump - The diesel start switch of the diesel sprinkler pump control panel was in the 'OFF' position preventing automatic operation. The DIESEL ISOLATED, light emitting diode was illuminated.
  - b. Electric sprinkler pump – The main isolator on the electric sprinkler pump control panel was in the 'OFF' position preventing automatic operation of the sprinkler system. The POWER FAIL light emitting diode was illuminated.
  - c. Sprinkler Stop Valves - The main stop valve of sprinkler installation # 1 was found in the closed position. As a result, any fire on the levels, BASEMENT, GROUND & LEVELS 1 – 5, would not be controlled by the sprinkler system.

**E. Mechanical Air Handling System**

- i. Stair Pressurisation - The supply air grille on Level 9, within the southern fire isolated stairway, was missing and therefore was

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posing an unacceptable risk of persons falling through the opening.

- a. In this regard, works have been undertaken to temporarily board up the opening to prevent the falling risk. However, in doing so, the air supply may be restricted and likely to compromise the performance of the air handling system contrary to the requirements of Clause E2D4 and AS1668.1.

F. Fire Hose Reels (FHR's)

- i. Non-fire equipment was found stored within FHR cabinet in the Regal Arcade (ground floor) of 'the premises', contrary to Clause 10.4.4 of AS 2441-2005.

G. Fire Doors

- i. Multiple fire doors throughout 'the premises' were found with damaged or removed self-closing devices contrary to the requirements of Clause C4D6 of the NCC.

H. Exits Signs

- i. Multiple exit signs throughout 'the premises' were either not illuminated or missing the pictorial element and had not maintained, contrary to the requirements of Section 81 of the EPAR 2021.

2. Access and Egress

A. Fire Safety Offences (EPAR 2021)

- i. The fire exit door leading to Dixon Street, adjacent to the Thai Dessert Bar was blocked off by garbage bins, preventing egress to the road. In this regard, the obstruction was cleared by the worker of the shop prior to FRNSW concluding the inspection.

Furthermore, the fire exit door has not been provided fire safety notice signage contrary to the requirements of Section 108 of EPAR 2021.

3. Maintenance & Certification

A. Annual Fire Safety Statement

- i. A copy of the current AFSS was not prominently displayed within the building in accordance with Section 89 of the EPAR 2021. In this regard, the AFSS on display was dated December 2022 and is no longer valid.

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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.

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. FRNSW refers this matter to the Council as the appropriate regulatory authority and 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 BFS24/2955 (35583) regarding any correspondence concerning this matter.

Yours faithfully



Paul Scott  
Team Leader  
Fire Safety Compliance Unit

Attachment: [Appendix 1 – Fire Safety Order No.1 – 3 pages]



## Fire Safety Order ORDER No. 1

Under the *Environmental Planning and Assessment Act 1979 (EP&A Act)*  
*Part 9 Implementation and Enforcement – Division 9.3 Development Control Orders*  
*Fire Safety Orders in accordance with the table to Part 2 - Schedule 5.*  
*Give an Order in accordance with Section 9.34(1)(a)*

I, **Paul Scott** Inspector **6776**  
(name) (rank) (number)

being an authorised Fire Officer within the meaning of Schedule 5, Part 8, Section 16 of the *Environmental Planning and Assessment Act 1979*, and duly authorised for the purpose, I hereby order you

**The Owners of Strata Plan No. 50845 & 50844** Owners  
(name of the person whom Order is served) (position, i.e. owner, building manager)

with respect to the premise

**REGAL APARTMENTS & ARCADE**  
**359 – 361 SUSSEX STREET SYDNEY (“the premises”)**  
(name/address of premises to which Order is served)

to do or refrain from doing the following things:

1. Ensure the Fire Hydrant System installed in ‘the premises’ is fully operational, by:
  - a. Opening and securing open, all isolation valves found in the pumproom located either side of the pressure reduction valves.
2. Ensure the Automatic Fire Suppression System (Sprinklers) installed in ‘the premises’ is fully operational, by:
  - a. Opening and securing open, the isolation valve downstream on the alarm valve on installation ‘1 basement ground levels 1 – 5’
  - b. Re-instating operation of the diesel sprinkler pump.

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- c. Re-instating operation of the electric sprinkler pump.
3. Reinststate the supply air grille on Level 9, within the southern fire isolated stairway.

**The reasons for the issue of this Fire Safety Order – Order No. 1 are:**

- a. At the time of inspection, the building was occupied.
- b. FRNSW have responded to multiple fires at the premises in the last month. The fires appear to have been deliberately lit. Fires within the common areas and fire isolated stairways directly impact life safety at the premises.
- c. At the time of the inspection, two (2) isolation valves either side a pressure reduction valve were closed.
- d. To ensure that the Fire Hydrant System is capable of operating in accordance with the standard of performance it was designed and installed to.
- e. At the time of the inspection, the main stop valve of sprinkler installation # 1 was found in the closed position. As a result, any fire on the levels, BASEMENT, GROUND & LEVELS 1 – 5, would not be controlled by the sprinkler system.
- f. At the time of the inspection the diesel start switch of the diesel sprinkler pump control panel was in the 'OFF' position preventing automatic operation. The DIESEL ISOLATED, light emitting diode was illuminated.
- g. At the time of the inspection, main isolator on the electric sprinkler pump control panel was in the 'OFF' position preventing automatic operation of the sprinkler system. The POWER FAIL light emitting diode was illuminated.
- h. To ensure that the Automatic Fire Suppression System (Sprinklers) is capable of operating in accordance with the standard of performance it was designed and installed to.
- i. The supply air grille on Level 19, within the southern fire isolated stairway, was missing. The opening into the supply air shaft had been partially blocked by a piece of core-flute sales signage.
- j. The opening was not protected to prevent persons from falling down the supply air shaft. The intent of Clause D3D17 of the National Construction Code 2022, Volume 1 Building Code of Australia (NCC) is to prevent persons where the trafficable surface is more than 1 m or more above the surface beneath. The shaft is believed to exceed 25 m metres in height, from the missing grille.

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- k. To do or refrain from doing such things specified in the Order to ensure or promote adequate fire safety or awareness.

**The terms of this Fire Safety Order – Order No. 1 are to be complied with:**

By no later than 5pm on the **14 June 2024**.

**Appeals**

Pursuant to Section 8.18 of the Environmental Planning & Assessment Act 1979 (EP&A Act), there is no right of appeal to the Court against this Fire Safety Order – Order 1 other than an order that prevents a person from using or entering premises.

**Non-Compliance with Fire Safety Order – Order No.1**

Failure to comply with this Fire Safety Order – Order No.1 may result in further Orders and/or fines being issued.

Substantial penalties may also be imposed under Section 9.37 of the EP&A Act for failure to comply with a Fire Safety Order – Order No.1.



Paul Scott  
Team Leader  
Fire Safety Compliance Unit

This Fire Safety Order - Order No. 1 was mailed on **7 June 2024**.