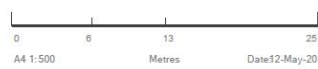


# **Attachment F**

**Inspection Report  
11 Smail Street, Ultimo**



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**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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**CSM: 2600207**

**Officer: G. Scotton**

**Date: 6 September 2021**

**Premises: 11 Smail Street, Ultimo  
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 premise consists of a 7-storey building containing 34 residential units. Records indicate the building was converted from a warehouse and was first occupied in its current use, pursuant to certification issued in 2012.

An inspection of the premises and specifically the matters raised by FRNSW was attempted on 3 September 2021. The building manager advised he is currently a close contact with two confirmed cases of COVID-19 and is currently self-isolating. The inspection was postponed until safe access can be provided at a later date.

Council investigations have revealed that whilst there remains several fire safety “maintenance and management” works to attend to, the overall fire safety systems provided for the subject premises are considered adequate in the circumstances. **An inspection seeking to confirm this will be undertaken once it is safe to do so.**

It is considered (subject to future inspection) that the matters cited by FRNSW can be addressed by routine preventative and corrective maintenance actions under the corrective action correspondence issued by Council.

Council has scheduled future compliance inspections to ensure required fire safety measures and management practices are being carried out to the degree necessary.

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

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## Chronology

Date	Event
03.08.2021	FRNSW correspondence dated 3 August 2021 received regarding premises, in relation to an inspection carried out on 26 May 2021
23.08.2021	A review of City records revealed a fire safety statement dated 21 September 2020 relating to twenty-one fire safety measures, including sprinklers, a fire detection and alarm system, building occupant warning system, and measures as outlined in a fire engineering report
27.8.2021	Issues discussed with both the fire contractor and managing agent, who advised: <ol style="list-style-type: none"><li>1. Rectification of a fault in the fire indicator panel is pending access to a residential unit, as access to the unit has not been able to be obtained to date</li><li>2. The hydrant pump maintenance issue has been resolved, and the pump is now functioning as required by the fire safety schedule</li><li>3. An exit sign maintenance issue is expected to be resolved shortly</li><li>4. Planter boxes at the roof/penthouse level which may have provided a foothold for climbing have been removed (the managing agent was advised to ensure that no planters are placed in proximity to balustrades or barriers so as to provide a foothold for climbing in the area)</li><li>5. The current fire safety statement is prominently displayed in the foyer of the premises</li></ol> The managing agent and fire contractor agreed to provide documentary evidence of rectification upon resolution of the issues raised by FRNSW.
03.09.2021	Following a COVID-19 risk assessment, a review of the nature of the issues, previous history of the premises, and available City records, it was determined that an inspection of the premises not be carried out at this point in time, but to refer the maintenance issues directly to the owner of the premises for resolution, in conjunction with the required fire statement due by 21 September 2021.
06.09.2021	Compliance instruction issued to the owner in writing, requiring maintenance of fire safety measures in accordance with the fire safety schedule, including clearing faults in the fire indicator panel, maintenance of hydrants and exit signage, together with a reminder to ensure objects are not provided in proximity to balustrades, and to provide a compliant fire safety statement by the due date

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## **FIRE AND RESCUE NSW REPORT:**

References: [D21/89280; 2021/373380-01]

Fire and Rescue NSW (FRNSW) conducted an inspection of the subject premises on 26 May 2021 in accordance with Section 9.32 (1) of the Environmental Planning and Assessment Act, 1979 (the Act). The inspection was undertaken after FRNSW received correspondence regarding the adequacy of the provisions for fire safety in connection with the premises.

### Issues

The report from FRNSW detailed the following:

1. Two faults were displayed on the fire indicator panel
2. The hydrant service record indicated *hydrant diesel when running causes smoke, requires urgent attention*
3. An exit sign on the ground floor was not illuminated
4. A balcony balustrade non-compliance with the National Construction Code (Building Code of Australia), including the balustrade design and placement of planter boxes, providing possible footholds for climbing.

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

## FRNSW Recommendations

FRNSW have recommended that Council inspect and address any other deficiencies identified on 'the premises' and require the items within the FRNSW report to be addressed appropriately.

FRNSW have also requested that a notice of any determination in respect of the recommendations is forwarded to them in accordance with Schedule 5, Part 8, Clause 17 (4) 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 the review undertaken by Council investigation officers, it is recommended that the owners of the building continue to comply with the written fire safety compliance instructions as issued by Council officers to rectify the identified fire safety deficiencies noted by FRNSW.

The above correspondence has instructed the responsible site personnel to carry out corrective actions to promote compliance.

Follow-up compliance inspections will be undertaken by a Council officer to ensure all identified fire safety matters are suitably addressed and that compliance with the terms of Council's correspondence occur.

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 documents:**

No#	Document type	Trim reference
A1	FRNSW letter dated 3 August 2021	2021/373380-01

**Trim Reference:** 2021/373380

**CSM reference no.:** 2600207

Unclassified



File Ref. No: BFS21/40 (14137) & BFS21/1427 (15452)

TRIM Ref. No: D21/89280

Contact: [REDACTED]

3 August 2021

The General Manager  
City of Sydney Council  
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  
11 SMAIL STREET, ULTIMO ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 6 January 2021 and 8 May 2021, in relation to the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence on 6 January 2021 stated that:

- *Have contacted the managing agent to get it fixed and she hasn't complied, doesn't care about the lobby fire alarm that is malfunctioning and is a hazard.*

The correspondence on 8 May 2021 stated that:

- *There has been ongoing faults on the fire panel for months and the building manager Charlotte Wehbe has not seen to them. This puts every single person in the building at risk, including young children and families. One day these faults, that are occurring in several places in the building unaddressed, will have grave consequences for people living there.*

Fire and Rescue NSW

ABN 12 593 473 110

[www.fire.nsw.gov.au](http://www.fire.nsw.gov.au)

Community Safety Directorate  
Fire Safety Compliance Unit

1 Amarina Ave  
Greenacre NSW 2190

T (02) 9742 7437  
F (02) 9742 7483

[www.fire.nsw.gov.au](http://www.fire.nsw.gov.au)

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Unclassified

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 26 May 2020 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

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

The following items were identified as concerns at the time of inspection:

### 1. Essential Fire Safety Measures

#### 1A. Automatic Fire Detection and Alarm System:

- a) The Fire Indicator Panel (FIP) was displaying two faults. The faults were associated with a smoke/heat detector in Unit 7 (Zone 002 L1D30) and a lift lobby smoke detector (Zone 001 L1D2).

The Property Manager was advised of the faults via telephone conversation and email correspondence following the inspection, and FRNSW were advised that the issues would be investigated as a matter of urgency.

FRNSW received email correspondence on 28 May 2021 from the Property Manager advising that the faults had been repaired. A photograph of the FIP was also provided in the email to confirm such.

Notwithstanding this, it would be at Council's discretion as the appropriate regulatory authority, to determine whether further investigation is required in this instance.

#### 1B. Fire Hydrant System:

- a) The hydrant pump – The last entry in the 'hydrant installation service record' dated 3 May 2021, stated '*Hydrant diesel when running causes smoke. Requires urgent attention*'.

1C. Exit Signs:

- a) One (1) illuminated exit sign on the ground floor level was not illuminated and had not maintained, contrary to the requirements of Clause 182 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).

2. Access and Egress

2A. Balustrades:

- a) The floor level of the balconies throughout 'the premises', which are more than 4m to the surface beneath, contain horizontal elements between 150mm and 760mm above the balcony floor level which facilitates climbing, contrary to the requirements of Clause D2.16(c) and Table D2.16a of the National Construction Code Volume One 2019 Building Code of Australia (NCC). In this regard, a concrete upturn behind the metal balustrade is located at a height of approximately 520mm and has the potential to act as a foothold. It should also be noted that the planter boxes located directly in front of the balustrade (whilst removable) also facilitates climbing.

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

**RECOMMENDATIONS**

FRNSW recommends that Council:

- a. Inspect and address any other deficiencies identified on 'the premises', and require item no. 1 through to item no. 2 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) [REDACTED]. Please ensure that you refer to file reference BFS21/40 (14137) & BFS21/1427 (15452) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

[REDACTED]

Fire Safety Compliance Unit