

Attachment B

**Inspection Report -
33 Ultimo Road, Haymarket**

33 Ultimo Road Haymarket



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Notes

24/01/2022

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 2698698

Officer: G. Scotton

Date: 7 February 2022

Premises: 33 Ultimo Road, Haymarket

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 seventeen (17) storey building with four (4) levels of basement parking, used primarily for residential apartments (known as The Quay North Tower), and is part of a stratum building associated with commercial premises at 33a Ultimo Road, Haymarket and 79 Quay Street, Haymarket. The ground floor includes an entrance lobby to the residential units above, and a vehicular entrance to basement vehicular parking.

An inspection of the premises undertaken by a Council investigation officer in the presence of the building manager revealed that there were no significant fire safety issues occurring within the building.

The premises are equipped with numerous fire safety systems (both active and passive) that would provide adequate provision for fire safety for occupants in the event of a fire.

The annual fire safety certification is overdue, but an extension has been granted until April 2022 to allow for required maintenance and upgrade works. These works are included in the corrective action correspondence sent. The most recent fire safety statement is on display within the building, though not prominently, as required by the Environmental Planning and Assessment Regulation 2000.

Council investigations have revealed that whilst there remains several fire safety maintenance and management works to attend to, including clearing a fault in the fire indicator panel, maintenance of exit pressurisation, and more prominent display of the fire safety statement, the overall fire safety systems provided within the subject premises are considered adequate in the circumstances.

It is considered that the above fire safety works are of a degree which can be addressed by routine preventative and corrective maintenance actions undertaken by the owner's fire service contractor(s) through written instruction from Council.

The subject premises are fitted with external combustible cladding. The City's cladding compliance team has commenced a cladding investigation and have issued a fire safety order requiring cladding removal and replacement (issued 19 February 2020). Appropriate precautionary interim fire safety measures are currently in place to assist in safeguarding occupants whilst construction works are scheduled.

Chronology:

Date	Event
11/01/2022	FRNSW correspondence received regarding premises 33 Ultimo Road Haymarket, in relation to a: -Complaint to FRNSW dated 16 April 2021, regarding defective smoke alarms -FRNSW inspection on 18 November 2021 -FRNSW Notice of intended fire safety Order dated 22 November 2021 -FRNSW reinspection on 30 November 2021 -FRNSW advice of determination to not proceed with the fire safety Order
14/01/2022	FRNSW's concerns were discussed with the managing agent and building manager, who advised: -The fire safety statement is displayed within the building, but not prominently located, within a mail room -The smoke detector and fan maintenance issues have been resolved -The fire safety statement for the premises is overdue -A defect with the stair pressurisation system is resulting in the degree of pressurisation somewhat less than the required standard, and this is currently being assessed in detail by the owners' fire safety practitioner and contractor, with a view to carrying out required rectification works as soon as possible
20/01/2022	Corrective action letter and warning sent to owner requiring maintenance of all fire safety measures, and prominent display of the fire safety statement
03/02/2022	An inspection of the subject premises was undertaken by a Council officer in company with the building manager, when the following items were noted: -The reportedly defective smoke alarm within a residential unit was found to be present and operational -A different fault and local isolation was found in the fire indicator panel, relating to an area of basement parking, which the building manager advised was expected to be resolved within one week -There was a supply of spare sprinkler heads and a spanner within the sprinkler pump room -Other fire safety measures in the building appeared adequately maintained -The fire safety statement is displayed at the premises, however the display location is not considered sufficiently prominent, and the building manager agreed to relocate the statement to a more prominent position near the entrance exit -Emergency services information provided within the fire control room was considered generally adequate, however enhancements were discussed and additional information on same was provided -Exits were clear and unobstructed

FIRE AND RESCUE NSW REPORT:

References: [BFS21/1196; 2022/023260-01]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving an enquiry about a smoke alarm not functioning properly within a residential apartment.

Issues

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

1. An isolation within the fire indicator panel, and maintenance of fans required as indicated in the maintenance logbook.
2. Lack of an adequate supply of spare sprinklers heads for replacement in the automatic fire suppression system.
3. Lack of an emergency services information package for fire-fighting personnel in the fire control centre.
4. The annual fire safety statement was not prominently displayed.

- FRNSW provided a copy of a Notice of intended fire safety Order dated 22 November 2021, which proposed to require repair of the smoke control system and to remove an isolation in the fire panel. FRNSW subsequently determined to not proceed with the Notice.

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

FRNSW Recommendations

FRNSW have made recommendations within their report.

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 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 site inspection undertaken by Council's investigation officers it was determined to issue the owners of the building a compliance letter of instruction to rectify the identified fire safety deficiencies noted by Council and FRNSW.

The above correspondence has requested that building management carry out remedial works to existing fire systems to cause compliance with required standards of performance.

Follow-up compliance inspections are currently being undertaken and will continue to be undertaken by a Council investigation officer to ensure already identified fire safety matters are suitably addressed and that compliance with the terms of Councils correspondence and the recommendations of FRNSW occur.

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

Referenced/Attached Documents:

2022/023260-01	Fire & Rescue NSW letter dated 11 January 2022
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Trim Reference: 2022/023260

CSM reference No: 2698698

Unclassified



File Ref. No: BFS21/1196 (15254)
TRIM Ref. No: D22/532
Contact: [REDACTED]

11 January 2022

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear General Manager

**RE: INSPECTION REPORT
'THE QUAY'
33 ULTIMO ROAD, HAYMARKET ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 16 April 2021, in relation to the adequacy of the provision for fire safety in or in connection with 'the premises'.

The correspondence stated in part that:

The smoke alarm is defective does not work in my apartment ###, even after battery replacment. The matter was first reported to the agent Village Property on moving in in June 2020. Building Fire safety Company has already been as part of annual inspection requirements and confirmed that it does not work. Issue has been reported to the Buiding Manager ### and the property manager ### In June 2020, Sept 20 Oct 20, Nov 20. This alarm has never worked and is still defective 10 months later. I have also recently learnt that the building is made from flammable cladding that does not comply with regulations. Given that the building cladding is not fire safe I would thought that working smoke detectors would of been a priority. I am extremely worried about being trapped in this building should it catch a light and worried that this faulty smoke alarm may fail to alert myself and partner in the event of an emergency and subseqent death.

FRNSW issued a Notice of Intention to Serve an Order (1) dated 22 November 2021 (copy attached). The notice of intention was issued in accordance with the provisions of Section 9.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). FRNSW received written representations in relation to the proposed **Order 1** in

Fire and Rescue NSW

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www.fire.nsw.gov.au

Community Safety Directorate
Fire Safety Compliance Unit

1 Amarina Ave
Greenacre NSW 2190

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accordance with the provisions of Schedule 5, Part 6, Section 8 of the EP&A Act. Upon receipt of the representation an inspection was conducted on 30 November 2021 in accordance with Section 9.32 of the EP&A Act, as a result an Order was not issued.

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.

Please be advised that upon hearing and considering the representation and subsequent inspection, FRNSW has determined not to give an Order in accordance with Schedule 5, Part 7, Section 15 of the EP&A Act.

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 during the inspection:

1. Essential Fire Safety Measures
 - 1A. Fire Indicator Panel (FIP) – Isolating faults to an FIP is likely to delay any fire alarm or signalling apparatus for giving notice of fire. As a result of the inspection on 18 November 2021, a Notice of Intention to Serve an Order was issued for the following observations:
 - A. Zone 2406 Fault Sub-System – General Indications South Tower – Variable speed drive faults south tower kef-5 variable speed drive fault. The LED light to the FIP was lit, indicating an isolation to the system.
 - B. The Logbook Entry dated 15 November 2021 states the following in relation to the FIP – “2 x FIP faults related to the mechanical fans – KEF5 variable speed drive fault & CPEF1 variable speed drive fault (isolated).
 - 1B. Fire Control Room (FCR) – Having regard to Clause E1.8, Specification E1.8 of the NCC and FRNSWs guideline “Emergency Services Information Package and Tactical Fire Plans”, an Emergency Services Information Package (ESIP) ESIPs provide firefighters and other emergency services with specific information that can be used during operations. An ESIP could not be located.

- 1C. Sprinkler Heads – Clause 6.7 of Australian Standard AS2118.1:2017 – “Automatic Fire Sprinkler Systems - General systems”, requires a stock of replacement sprinklers together with the spanners to be located on the premises. There must be an appropriate number of spare sprinklers in accordance with the design for the system for each hazard. At the time of the inspection, replacement sprinklers were not fully stocked.
 - 1D. 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. For ease FRNSW prefers the statement be located beside the FIP. An inspection and a review of council's records may be required.
2. Generally
- 2A. Investigation Outcomes – The following are outcomes from the investigation on Thursday, 18 November 2021:
 - A. Testimony – When questioned the building manager at the time indicated that:
 - i. He was aware of the faults and isolations and was in the process of having the faults repaired.
 - ii. City of Sydney Council has issued Orders on “the premises” to remove the cladding, and it is still in force as the cladding has yet to be removed.
 - iii. The smoke alarms to the units are either maintained by the real estate agent or the owner, and was also unable to provide access the units. Also expressing concerns regarding the pandemic, and as such access would require consent from the owner of the unit.
 - B. Request and Response for Information – As a result of restrictions on access to the Sole Occupancy Units (SOU), the real estate agent of the SOU provided written confirmation from the occupier that the smoke alarm for the subject SOU is functioning.

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 item no. 1 through to item no. 2 of this report and any other deficiencies identified on 'the premises'.

Unclassified

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 BFS21/1196 (15254) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

[REDACTED]

Fire Safety Compliance Unit

Attachments [Appendix 1 – Notice of Intention to Serve an Order – 2 pages]

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Appendix 1 – Notice of Intention to Serve an Order

Unclassified



Proposed 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.
Intend to give an Order in accordance with Section 9.34(1)(b)

I, [REDACTED] 903766
(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, hereby order:

The Owners of SP90018 & SP90019
(name of person whom Order is served)

Owners
(position i.e. owner, building manager)

with respect to the premise

'THE QUAY - HAYMARKET'
SP90018 & SP90019; 33 ULTIMO ROAD HAYMARKET ("the premises")
(name/address of premises to which Order is served)

to do, or refrain from doing, the following things:

1. Repair the fault to the smoke control system so that it is operational to the designed and installed standard.
2. Remove the isolation that prevents an automatic notification by the Alarm Signalling Equipment.

The terms of the Order are to be complied with:

By no later than 30 days from the date of the order

The reasons for the issue of this Order are:

- a. At the time of the inspection on 18 November 2021 the following was observed:
 - (i) The FIP displayed the following: "Zone 2406 Fault Sub-System – General Indications South Tower – Variable speed drive faults south tower kef-5 variable speed drive fault."

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- (ii) The LED light to the FIP was lit, indicating an isolation to the system.
- (iii) The Logbook Entry dated 15 November 2021 states the following in relation to the FIP – "2 x FIP faults related to the mechanical fans – KEF5 variable speed drive fault & CPEF1 variable speed drive fault (isolated)."
- b. Repairing the fault to the Fire and Smoke Control systems for the building ensures that in the event of a fire, the smoke is automatically vented from the building.
- c. Removing the isolation ensures that there is an automatic signal to the Alarm Signalling Equipment. Providing a timely and automatic response by emergency services in an event of a fire or emergency.
- d. The automatic identification and notification that is provided by the FIP is diminished by the faults and isolations. As a result, it is likely that the evacuation routes from "the premises" may be compromised by poor visibility and high levels of toxicity that may endanger human life.
- e. To do, or refrain from doing such things that are specified in the Order, so as to ensure or promote adequate fire safety or fire safety awareness.

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 Order, other than an order that prevents a person using or entering premises.

Non-Compliance with the Order

Failure to comply with this Order may result in further Orders and/or fines being issued.

Substantial penalties may be imposed under Section 9.37 of the EP&A Act for failure to comply with an Order.

NOTE: Representations are to be made in writing and should be received by FRNSW by no later than close of business 6 December 2021.



This Proposed Fire Safety Order No. 1 was sent by mail and email on 22 November 2021.