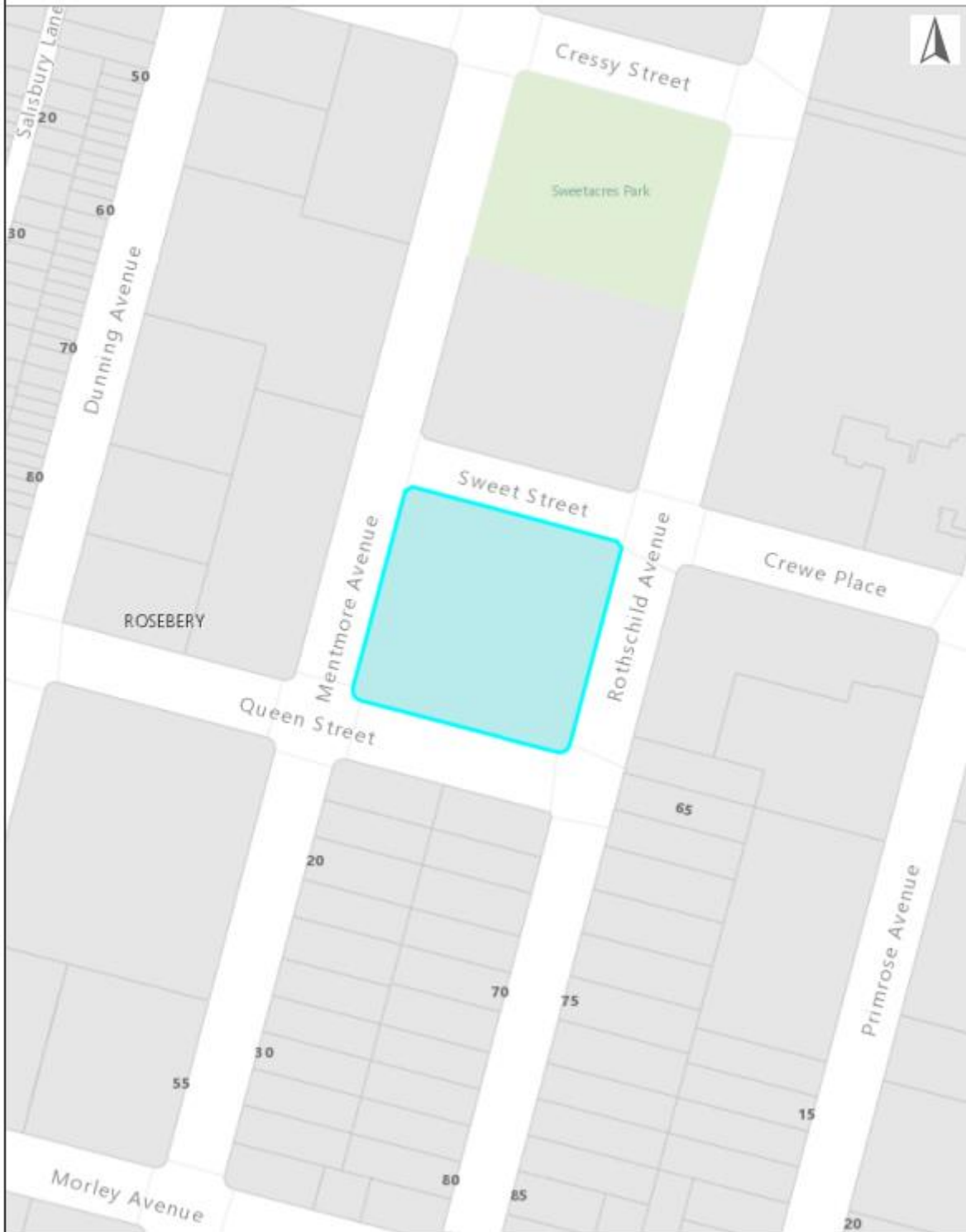


# **Attachment B**

**Inspection Report  
32-38 Rothschild Avenue, Rosebery**



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Notes

408/2022

**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)**

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**File:** CSM 2808310

**Officer:** L. Jeffree

**Date:** 18 August 2022

**Premises:** 32-38 Rothschild Avenue, Rosebery

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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 24 June 2022 with respect to matters of fire safety.

The site contains four residential apartment buildings of varying sizes situated above a common basement carpark which forms a single premises.

The site has an area of 16,740 square metres, bounded by Sweet Street to the north, Rothschild Avenue to the east, Queen Street to the south and Mentmore Avenue to the west.

A building work rectification Order was issued by the NSW Building Commissioner on 28 June 2021 (Section 33 of the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020). The rectification Order required the developer to address a number of substantial defects relating to building elements and fire safety systems. The Building Commissioner's Office advises the developer and owners are making appropriate progress to address the defects identified in their Order.

In addition to the defects mentioned above Fire Rescue NSW have identified a number of fire safety matters that are the subject of this report and require a regulatory response from Council.

An inspection of the premises was undertaken by a Council investigation officer on 21 July 2022. This inspection verified additional fire safety defects to be addressed, including the vertical fire separation of openings on the external facades of the building (spandrel construction) defect highlighted in FRNSW's correspondence.

The subject premises is also fitted with external combustible cladding. The City's cladding compliance team have issued a Fire Safety Order requiring cladding removal and replacement. The owner's corporation have registered with the NSW Government's Project Remediate program and are currently progressing through the respective investigative, remediation design and acceptance stages prior to undertaking any remediation works. To reduce the risk currently posed by the cladding, City officers have initiated precautionary interim fire safety measures. These measures assist in safeguarding occupants whilst cladding removal and replacement works are scheduled and progressed under the Project Remediate program.

The interim measures include raising site cladding risk awareness with all building occupants (and emergency services personnel); the removal of potential fire hazards/processes from critical potential fire start areas; the introduction of site management procedure plans and or temporary rules to carefully manage hot/building maintenance works and the inclusion and implementation of any fire safety or technical expert recommendations.

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.

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**Chronology:**

<b>Date</b>	<b>Event</b>
24/06/2022	FRNSW correspondence received regarding premises 'Otto (Stage 2)' 32-38 Rothschild Avenue, 14J Mentmore Avenue & 16 Queen Street, Rosebery [Council records: 32-38 Rothschild Avenue, Rosebery]
21/07/2022	<p>An inspection of the subject premises was undertaken by a Council officer in the presence of the building manager &amp; owners fire safety consultant where the following items were noted;</p> <ol style="list-style-type: none"><li data-bbox="343 481 1300 515">1. A defective electrical components (loop card) to fire indicator panel</li><li data-bbox="343 548 1316 582">2. Lack of signage for fire-fighting personnel to show hydrant locations</li><li data-bbox="343 616 1133 649">3. Missing warning sign at fire hydrant booster assembly</li></ol> <p>The inspection revealed that a copy of the most recent Annual Fire Safety Statement (AFSS) and Fire Safety Schedule (FSS) were prominently displayed within the building</p> <p>The Council officer verified that the spandrel construction as mentioned in FRNSW's correspondence appears inadequate. Spandrels are required under the National Construction Code (NCC) to separate openings in the external walls to limit the vertical spread of a fire from one storey to another.-Furthermore, the spandrels were considered defective due to fire rated construction/plasterboard (required by NCC) missing behind the outer deteriorating colourback glass.</p> <p>The Council officer observed that the fire indicator panel (FIP) as stated in FRNSW's correspondence was displaying one (x1) fault. The fire safety consultant advised the fault was due to a defective component (loop card) in the FIP which needed replacement &amp; that the new part had been ordered. All smoke detectors appeared to be fully operational</p> <p>The inspection revealed that the control panel for the hydrant pumpset as mentioned in FRNSW's correspondence had been repaired and it showed that the pump had no faults and was operating normally. The officer observed the maintenance record report on site indicating that the pumpset had received regular routine servicing and maintenance dating back to February 2022 with a test of the pump carried out on 4 July 2022, which showed all faults had been fixed</p> <p>Furthermore, with respect to the door in the path of travel to exit in carpark (as mentioned by FRNSW) the Council officer found that the door was able to be freely opened (unlocked) but noted that it had a key lock barrel installed contrary to the applicable building regulations. The Council officer gave a verbal warning/instruction to the building manager to remove the key lock barrel from the door which was carried out shortly after Council's inspection.</p>
05/08/2022	Corrective action letter issued (reference 2022/413253)
6/09/2022	Notice of intention to serve an Order issued.

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## FIRE AND RESCUE NSW REPORT:

References: [BFS22/2842 (21868); 2022/344752]

Fire and Rescue NSW conducted an inspection of the subject premises in response to the Project Remediate programme being undertaken by the NSW Department of Customer Service, to remove high risk combustible cladding on residential apartment buildings in NSW.

Issues The report from FRNSW detailed the following:

Issue	City response
Fire indicator panel displaying one (x1) fault.	To be addressed by the corrective action letter issued
Fire hydrant booster <ul style="list-style-type: none"><li>- 100 mm diameter pressure gauge provided instead of a suitable 150 mm diameter pressure gauge</li><li>- Engraved warning sign was not provided at the booster assembly</li></ul>	This matter has been addressed following the correction action letter of 5 August 2022
Fire hydrant pumpset <ul style="list-style-type: none"><li>- Pump control panel indicated pump was not fully operational</li><li>- Ongoing faults with diesel pump</li></ul>	No action required. Council's inspection revealed that the pump had no faults and was operating normally.
Annual fire safety statement (AFSS) and fire safety schedule (FSS) were not prominently displayed within the building	No action required by the City. Council's inspection revealed that AFSS and FSS were prominently displayed within the building.
Door in the path of travel to exit in carpark was not readily openable without a key	No action required. Egress was not obstructed and key lock barrel was removed promptly from the door by building manager.
A concern about vertical separation of openings in external walls of the building (inadequate spandrel construction)	To be addressed in the Fire Order to require compliant spandrel construction
A concern regarding lack of additional measures to assist FRNSW personnel in locating some fire hydrants situated in the carpark levels	To be addressed by the corrective action letter issued

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

### 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.

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**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	Other (to specify)
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As a result of a site inspection undertaken by Council's investigation officers it is recommended that Council exercise its powers to give a notice of intention (NOI) for a fire safety order to be issued under Schedule 5 of the Environmental Planning and Assessment Act, 1979 to address the fire safety deficiencies identified by FRNSW and Council's building officer.

The issue of a fire safety order will ensure that suitable fire safety systems are in position 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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**Referenced/Attached Documents:**

2022/408576-01	FRNSW S9.32 report dated 23 June 2022
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**Trim Reference:** 2022/408576

**CSM reference No:** 2808310

Unclassified



File Ref. No: BFS22/2842 (21868)  
TRIM Ref. No: D22/49879  
Contact: [REDACTED]

23 June 2022

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  
'OTTO (STAGE 2)'  
32-38 ROTHSCHILD AVENUE, 14J MENTMORE AVENUE AND  
16 QUEEN STREET, ROSEBERY ("the premises")**

In response to the Project Remediate programme being undertaken by the NSW Department of Customer Service, to remove high-risk combustibile cladding on residential apartment buildings in NSW, an inspection of 'the premises' on 16 June 2022 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW), pursuant to the provisions of Section 9.32(1)(b) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

In this instance, the inspection revealed fire safety concerns that may require Council as the appropriate regulatory authority to use its discretion and address the concerns observed at the time of the inspection.

In this regard, 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.

Fire and Rescue NSW

ABN 12 593 473 110

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Fire Safety Compliance Unit

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Unclassified

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.

## COMMENTS

Please be advised that this report is not an exhaustive list of non-compliances. The proceeding items outline concerns in general terms, deviations from the fire safety provisions prescribed in Section 9.32(1)(b) of the EP&A Act and Clause 112 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR 2021).

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

### 1. Essential Fire Safety Measures

1A. The Automatic Smoke Detection and Alarm System did not appear to be capable of operating to the standard of performance from when it was first designed and installed, contrary to the requirements of Clause 81 of the EPAR 2021. The following issues were identified as concerns at the time of inspection:

A. Fire Indicator Panel (FIP) – The FIP was displaying one (x1) fault associated with the Level 2 (ground floor) Garbage Room in E Block.

The Strata Manager was advised of the fault following the inspection, and FRNSW were advised that the issue would be investigated and resolved in a timely manner.

FRNSW received email correspondence from the Strata Manager on 17 June 2022, confirming the fire maintenance company had investigated and replaced the faulty smoke detector and the system was fully operational without any faults or isolations. Photographs were provided with the correspondence to demonstrate 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. The Fire Hydrant System:

A. The booster assembly:

i. The booster assembly appears to be connected 'in series' with the fixed on-site fire pump in accordance with the requirements of Clause 7.6 of AS2419.1-2005. In this regard, a pressure gauge (100mm diameter in lieu of 150mm) is provided at the booster assembly indicating the pressure at the pump discharge pipe/manifold, however, an engraved warning sign is not provided, contrary to the requirements of Clause 7.6(c) of AS2419.1-2005.



- B. The hydrant pumpset did not appear to be capable of operating to the standard of performance from when it was first designed and installed, contrary to the requirements of Clause 81 of the EPAR 2021. The following issues were identified:
- i. The pump control panel indicated the pump was not be fully operational.
  - ii. The latest entry in maintenance logbook for the hydrant pumpset, dated 6 June 2022, indicated there were ongoing faults with the diesel pump dating back to February 2022.

The Strata Manager was advised of the issues following the inspection, and FRNSW were advised that the fire maintenance company would investigate and provide clarification.

FRNSW received email correspondence from the Strata Manager on 17 June 2022, confirming the fire maintenance company had investigated and provided the following clarification:

- *The pump panel appears to be faulty - the pump runs OK but control panel does not correctly indicate pump activity.*

FRNSW received further email correspondence from the Strata Manager on 23 June 2022, confirming the fire maintenance company had completed the works and the pump issues had been resolved. A copy of the Field Service Report was provided with the correspondence to demonstrate 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.

- 1C. Annual Fire Safety Statement (AFSS) and Fire Safety Schedule (FSS):
- A. A copy of the current AFSS and FSS were not prominently displayed within the building in accordance with Clause 89 of the EPAR 2021.

FRNSW is therefore of the opinion that the fire safety provisions prescribed for the purposes of 9.32(1)(b) of the EP&A Act, have not been complied with.

#### **ADDITIONAL COMMENTS**

In addition to the items identified above, relating to the Fire Safety Provisions prescribed by Clause 112 of the EPAR 2021, the following items were also identified as concerns at the time of the inspection and it would be at council's discretion as the appropriate regulatory authority to conduct its own investigation and consider the most appropriate action.

2. Generally:

2A. Access and Egress:

- A. Operation of latch – The northern exit to Sweet Street, from the carpark on Level 1 (beneath Block E), relies upon egress through the 'garbage holding room', however, the door in the path of travel to the exit (i.e. the garbage room door) was not readily openable without a key from the side that faces a person seeking egress, contrary to Clause D2.21 of the National Construction Code Volume One Building Code of Australia (NCC). It is noted that this door appears to form part of a required exit from the carpark, given the location of an exit sign above the door and directional exit signs leading to the door.

2B. Fire Resistance:

- A. Vertical separation of openings in external walls – It is unclear whether the vertical spandrel separation between Sole Occupancy Units (SOU's) is constructed of a non-combustible material achieving an FRL of not less than 60/60/60 in accordance with the requirements of Clause C2.6 of the NCC. In this regard, the colourback glass concealing the spandrels in multiple SOU's was deteriorating and the spandrel construction appeared inadequate.

2C. Services and Equipment

A. Fire hydrant system:

- i. Additional hydrants have been installed at the northern end of the carpark levels (Level 1 and Basement Level) 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 stairs 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 within the carpark levels.

## RECOMMENDATIONS

FRNSW recommends that Council:

- a. Inspect and address item no. 1 of this report.
- b. Give consideration to the other deficiencies identified on 'the premises' identified in item no. 2 of this report.

**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 BFS22/2842 (21868) for any future correspondence in relation to this matter.

Yours faithfully

[REDACTED]

Fire Safety Compliance Unit