

Attachment E

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

"Otto Stage 2" 32-38 Rothschild Avenue Rosebery



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Notes

4/07/2023

**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 3010079

Officer: Andrew Porter

Date: 3 July 2023

Premises: 32-38 Rothschild Avenue, Rosebery

Executive Summary:

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises on 30 June 2023 with respect to matters of fire safety.

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

An inspection of the buildings undertaken by a Council investigation officer revealed fire safety deficiencies regarding storage of items above the storage cages in the basement carparks which is causing obstruction of the sprinkler deflectors.

The premises was also subject of correspondence from the Commissioner of FRNSW on 24 June 2022. Council investigations in June and July of 2022 revealed that the premises were deficient in the provisions for fire safety and a fire safety order was issued on 7 October 2022 under Schedule 5 of the Environmental Planning and Assessment Act, 1979 to ensure and promote adequate provision of fire safety/fire safety awareness. Works are in progress and the final completion date is due in October 2024.

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 scheme and are currently progressing through the respective investigative, remediation design and acceptance stages of the said scheme prior to undertaking any remediation works. City officers have directed building management to take precautionary interim fire safety measures to assist in safeguarding occupants whilst cladding removal and replacement works are scheduled. 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 expert given recommendations.

Chronology:

Date	Event
30/06/2023	FRNSW correspondence received regarding premises Otto (Stage 2) 32-38 Rothschild Avenue, 14J Mentmore Avenue & 16 Queen Street, Rosebery [32-38 Rothschild Avenue, Rosebery]
03/07/2023	An inspection of the subject premises was undertaken by a Council officer, and it was noted that there was storage of items above the basement carpark storage cages that would obstruct the operation of the carpark sprinkler system in the event of a fire.

Date	Event
04/07/2023	Corrective action letter issued to building owners to remove storage in and around the sprinkler system in the basement carpark (reference 2023/405418-01).
04/07/2023	Strata Manager advised via email that the Annual fire safety statement is displayed within the noticeboard adjacent to the main fire indicator panel onsite.
31/07/2023	Carried out inspection of the premises and note that all corrective fire safety matters have been suitably addressed as required by correspondence to the building owners on 4 July 2023.

FIRE AND RESCUE NSW REPORT:

References: [BFS23/264 (25968); 2023/399113]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving a complaint about a fire door from the stair well onto the street not being openable.

Issues The report from FRNSW detailed several issues.

Issue	City response
Multiple fire hose reels throughout the premises were detached from the hose guide and nozzle interlocking device.	<p>Inspection on 3 July 2023 revealed all inspected fire hose reels were compliant, attached to hose guides and nozzle interlocking devices.</p> <p>Discussed with building owner's strata manager who advised they had the building fire service contractor complete works to the fire hose reels a week or so ago.</p> <p>Note this non-compliance in the Corrective action letter sent to the owners on 4 July 2023 to ensure all hose reels are maintained in a compliant manner.</p> <p>Surveyed a number of fire hose reels during the Inspection on 31 July 2023 all are maintained in compliance with the required standard.</p>
A 500mm clear space is not being maintained below all sprinkler deflectors in the carpark levels as items were being stored on top of some of the storage cages.	<p>Inspection on 3 July 2023 revealed storage of items above storage cages in the carpark which obstruct the sprinkler deflectors.</p> <p>Corrective action letter sent to owners to rectify this issue on 4 July 2023 with a 7-day compliance period.</p> <p>Inspection 31 July 2023 revealed all items stored above the storage cages have been removed.</p>

Issue	City response
Annual fire safety statement is not displayed in the building.	<p>Inspection on 3 July 2023 revealed no annual fire safety statement displayed within the building.</p> <p>Corrective action letter sent to owners to rectify this issue on 4 July 2023 with a 7-day compliance period.</p> <p>Inspection 31 July 2023 revealed that the most recent annual fire safety statement is displayed in the building main entrance.</p>

Following their inspection in June 2023 FRNSW determined there are inadequate provisions for fire safety within the building.

FRNSW Recommendations

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

1. Inspect the subject premises and take action to have the identified and any other 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 (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)

It is recommended that Council not exercise its powers to give a fire safety order at this time as the new matters raised by FRNSW have been suitably addressed by the owners.

Council officers shall continue with compliance actions under the current Council Orders. The main works remaining are the installation of a fire sprinkler system throughout the buildings, currently under design.

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

Referenced/Attached Documents:

2023/405418-03	Copy of current fire safety order dated 7 October 2022
2023/405418-02	Fire and Rescue NSW correspondence dated 30 June 2023
2023/405418-01	Corrective action letter dated 4 July 2023

Trim Reference: 2023/405418

CSM reference No#: 3010079

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File Ref. No: BFS23/264 (25968)
TRIM Ref. No: D23/58547
Contact: [REDACTED]

30 June 2023

General Manager
City of Sydney
GPO Box 1591
SYDNEY NSW 2001

Email: council@cityofsydney.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear Sir / Madam

**Re: INSPECTION REPORT
'OTTO'
34 ROTHSCHILD AVENUE, ROSEBERY
AKA 32-38 ROSEBERY AVENUE, 14J MENTMORE AVENUE AND 16
QUEEN STREET, ROSEBERY ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 20 January 2023 concerning the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated that:

- *The fire door from the stair well onto the street doors not open. The handle is stuck.*

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 21 June 2023.

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:

- The inspection of the premises was limited to the basement carpark and ground floor common area of building '34 Rothschild Avenue'.

Fire and Rescue NSW

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Community Safety Directorate
Fire Safety Compliance Unit

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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.

COMMENTS

It is noted that FRNSW has had previous dealings with 'the premises', as has Council. I refer you to FRNSW inspection report no D22/49879 (BFS22/2842) (copy attached – Appendix 1). In addition to the information provided in the previous FRNSW inspection report, the following items were identified at the time of the inspection.

1. Essential Fire Safety Measures

- 1A. Fire Hose Reels (FHR's) – Multiple FHRs throughout the premises were detached from the hose guide and nozzle interlocking device, contrary to the requirements of Australian Standard AS2441-2005
- 1B. Automatic Fire Suppression Systems – A 500mm clear space is not being maintained below the level of all sprinkler deflectors throughout the carpark levels, as items were being stored on top of some of the storage cages, contrary to the requirements of Clause 5.4.8 of AS2118.1-1999.
- 1A. Annual Fire Safety Statement (AFSS) – A current AFSS is not displayed in the building contrary to Section 89 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

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

RECOMMENDATIONS

FRNSW recommends that Council:

- a. Review items 1 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. 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.

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Please do not hesitate to contact [REDACTED] of FRNSW's Fire Safety Compliance Unit at FireSafety@fire.nsw.gov.au or call [REDACTED] if there are any questions or concerns about the above matters. Please refer to file reference BFS23/264 (25968) regarding any correspondence concerning this matter.

Yours faithfully

[REDACTED]

[REDACTED]

Fire Safety Compliance Unit

Attachment: Appendix 1 – Inspection Report – BFS22/2842 (D22/49879) - 5 pages

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Appendix 1 – Inspection Report – BFS22/2842 (D22/49879)



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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

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 combustible 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.

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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.

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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.

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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.

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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 [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

