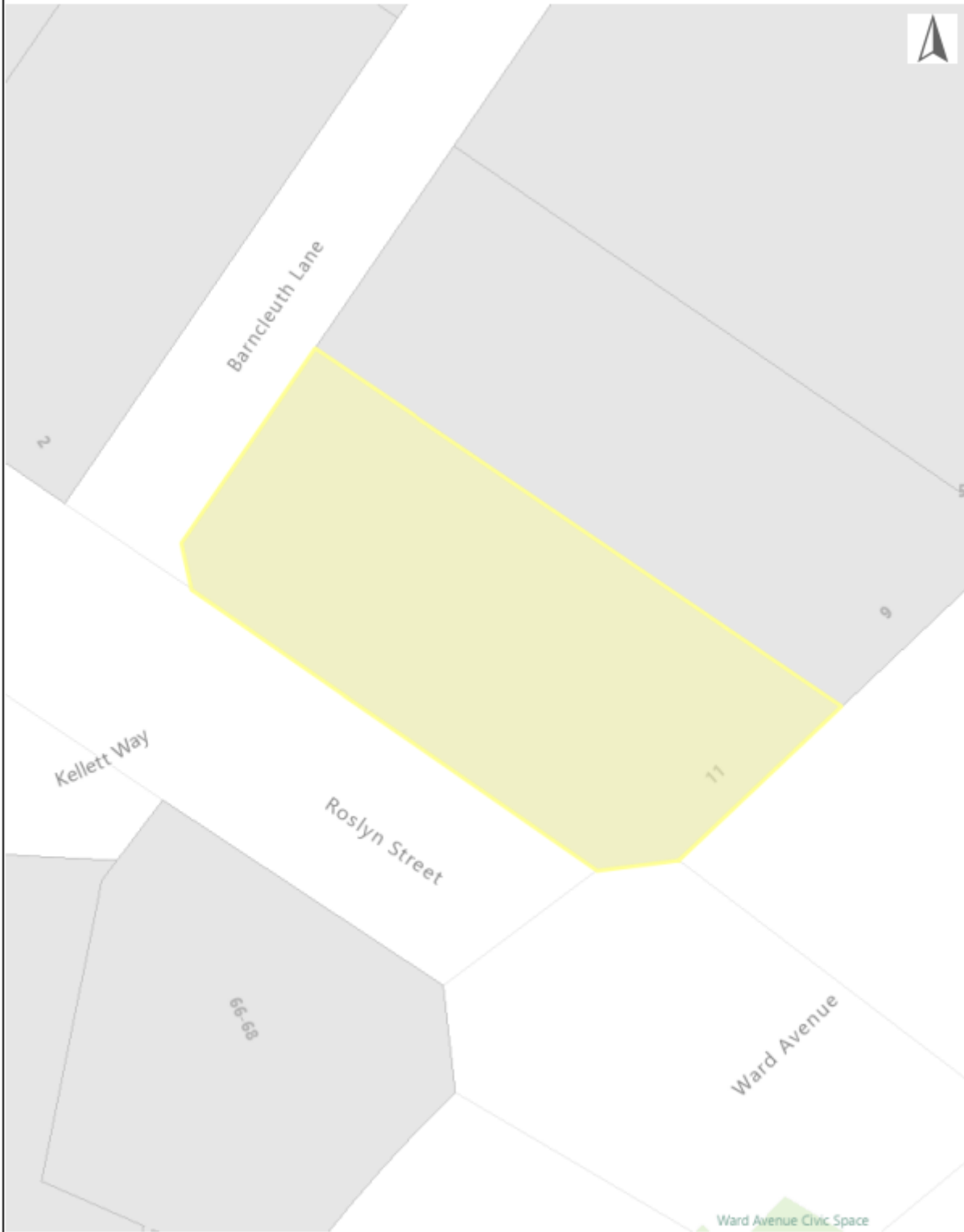


# **Attachment C**

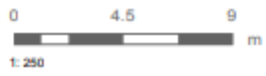
**Inspection Report  
11 Ward Avenue, Potts Point**

11 Ward Avenue, Potts Point

CITY OF SYDNEY 



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Notes

10/10/2023

**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 3052802      **Officer:** D McLennan      **Date:** 27 October 2023

**Premises:** 11 Ward Avenue, Potts Point

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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 18 September 2023 with respect to matters of fire safety.

The premises consists of a five-level building with the following approved uses: basement bathroom facilities and plant rooms, ground floor retail and residential apartments and the remaining levels residential apartments.

An inspection of the premises undertaken by a Council investigation officer in the presence of the building manager revealed 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) Safe emergency egress for occupants to safely evacuate the building in the event of a fire.

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.

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
15/09/2023	FRNSW correspondence received regarding premises 'Mixed use residential flat building' 11 Ward Avenue Potts Point.
10/10/2023	An inspection of the residential part of the subject premises was undertaken by a Council officer, in the presence of the building manager, revealed: <ul style="list-style-type: none"><li>• A current Annual Fire Safety Statement displayed prominently in an unlocked glass notice board of the residential ground floor foyer.</li><li>• The Fire Detection and Controlling Indicating Equipment (FDCIE) displayed faults and isolations.</li><li>• Lack of suitable exit and directional exit signage</li><li>• Lack of a suitable second exit servicing the residential part of the premises.</li><li>• The service tags of portable fire extinguishers and fire hose reels were last tagged in August 2023</li><li>• Sounders for the Building Occupant Warning System located at irregular intervals.</li></ul>

Date	Event
25/10/2023	<p>A follow up inspection of the commercial areas and common areas of the entire premises undertaken by a Council officer, in the presence of the building manager, revealed:</p> <ul style="list-style-type: none"> <li>• The Fire Detection and Controlling Indicating Equipment (FDCIE) did not display faults and isolations.</li> <li>• Lack of fire separation in the basement.</li> <li>• Part of the basement associated with the residential part of the building was vacant.</li> <li>• Electrical meter boards and equipment without non-combustible covers and smoke seals located within the only available exit in the basement.</li> <li>• A smoke detector located in a commercial tenancy that was suspended from, instead of being directly fixed, to the ceiling.</li> </ul>
30/10/2023	A Notice of Intention to give a Fire Safety Order was issued to the owners of premises.

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

**References:** BFS21/3944 (17829); 2023/541889

Fire and Rescue NSW conducted an inspection of the subject premises on 15 August 2023 after receiving an enquiry on 19 October 2021 regarding the delayed activation of smoke alarm system during a fire event on 17 October 2021.

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

Issue	Council response
Fire Safety Upgrade – A visual inspection of the premises revealed that the installed essential fire safety measures appear newer than the age of the building. It may be reasonable to assume that the Council previously required a fire safety upgrade.	A review of Council records show the premises have been subject to two separate Fire Safety Orders. The last Fire Safety Order was completed on 4 January 2000.
Annual Fire Safety Statement (AFSS) – Regulation 89(4)(b) of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR 2021) requires the owner to display an AFSS within the building. The AFSS was displayed behind a locked glass display cabinet. FRNSW prefers the statement to be located beside the Fire Brigade Panel (FBP) for ease	Inspection of the premises showed the Annual Fire Safety Statement was readily accessible and was housed in an unlocked cabinet adjacent to the entrance of the premises, approximately 5 metres from the FDCIE. This is in accordance with the requirements of Clause 89(4)(b) of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.
Fire Brigade Panel (FBP) / Alarm Signalling Equipment (ASE) – There were no faults or isolations to the FBP or ASE. However, determining what Australian Standard applied was challenging as the AFSS is displayed behind a locked glass cabinet	The Council's recorded Fire Safety Schedule for the premises lists the Automatic Detection and Alarm System's Standard of Performance as BCA Specification E2.2a Clause 4 AS 1670.
Smoke Detection and Alarm System – As per the AFSS placement, it was challenging to determine what Australian Standard was used. The Council may require a review to confirm that the following observations are consistent with the approval:	<p>The premises were subject to a previous Fire Order that required:</p> <ul style="list-style-type: none"> <li>• Smoke alarms and detectors within residential apartments complying with AS 3786.</li> </ul>

Issue	Council response
<p>A. The smoke detector type, location and spacings in the common areas varied throughout the premises.</p> <p>B. There are also red sounder bases intermittently spaced in different locations. It is unclear whether its use is specifically for building occupant warning or approved in its location.</p>	<ul style="list-style-type: none"> <li>• Thermal detectors located within residential apartments within 5 metres of entrance doors complying with AS1670.</li> <li>• Smoke detectors complying with AS1670 to common and commercial areas of the premises.</li> <li>• A Building Occupant Warning System in accordance with AS 1670.</li> </ul> <p>The Council has issued a Notice of Intention to Issue a Fire Safety Order (NOI) requiring works and certification of the:</p> <ul style="list-style-type: none"> <li>• Smoke detection and alarm systems; and</li> <li>• Building Occupant Warning System.</li> </ul>
<p>Maintenance – Regulation 81 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR 2021) requires maintenance of the Essential Fire Safety Measure to a standard no less than when it was first installed. At the time of the inspection, authorised fire officers observed the following:</p> <p>A. The service tags for the portable fire extinguishers and fire hose reels were last tagged in March 2023</p> <p>B. The exit signs, paths, and doors may require review, as the Council may have approved the exit system in its current configuration.</p>	<p>A. Inspection showed the service tags of portable fire extinguishers and fire hose reels were last tagged in August 2023. This is consistent with the requirements of AS1851 – 2012 <i>Routine service of fire protection systems and equipment</i>.</p> <p>B. The Council has issued a NOI requiring:</p> <ul style="list-style-type: none"> <li>• upgrading of an existing stairway to serve as an additional exit to the residential apartments.</li> <li>• provision of suitable exit and directional exit signage.</li> </ul>
<p>Items for Further Investigation – The Council may require an investigation as the appropriate regulatory authority to confirm that:</p> <p>2A. The owners maintain the essential fire safety systems and meet the local Council’s obligations to regulate the development consent approval. Specifically, whether the building occupant warning system is approved and sufficient to address the possible anomaly provided in the concern.</p> <p>2B. An accredited practitioner (fire safety) has assessed, inspected and verified the performance of each fire safety measure (including exits) that applies to the building. Furthermore, the owner submits an Annual Fire Safety Statement (AFSS) as part of their obligations under the EP&amp;A Act.</p>	<p>2A. The Council has issued a NOI requiring works and certification of the Building Occupant Warning System.</p> <p>2.B The Council last received an Annual Fire Safety Statement for the premises endorsed by an accredited practitioner (fire safety) on 12 January 2023.</p>

## FRNSW Recommendations

FRNSW have made no direct recommendation within their report other than legislative notification; however, FRNSW made comments as detailed in the above table.

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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	Continue with compliance actions under the current Council Order	Other (to specify)

As a result of a site inspection undertaken by Council investigation officers, a Notice of Intention (NOI) to issue an order has been served on the owner. Following the representation period of the NOI lapsing, it is recommended that Council exercise its powers for officers to serve a fire safety order under Schedule 5 of the Environmental Planning and Assessment Act, 1979 to address the fire safety deficiencies identified by FRNSW and the Council investigation 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.

#### **Referenced/Attached Documents:**

2023/541889	FRNSW s9.32 report dated 15 September 2023
2023/618647	Notice of Intention to Give an Order (NOI) dated 30 October 2023

**Trim Reference:** 2023/541889-02

**CSM reference No#:** 3052802

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File Ref. No: BFS21/3944 (17829)  
TRIM Ref. No: D23/87181  
Contact: [REDACTED]

15 September 2023

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 General Manager

**Re: INSPECTION REPORT  
'MIXED-USE RESIDENTIAL FLAT BUILDING'  
11 WARD AVENUE POTTS POINT (hereafter the "the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 19 October 2021 concerning the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated in part that:

*Regarding fire attended at my neighbour 9/11 Ward Ave, Potts Point 2011 on 17/10/2021 - the smoke detectors had delayed activation. Although at home, I had no idea of a fire occurring as no smoke detector activated until "too late". No one knocked on my door to alert me, but I did hear other doors being banged on and this is what alerted me to a fire danger. I did not hear...*

Pursuant to the provisions of 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 Fire and Rescue NSW (FRNSW) inspected 'the premises' on 15 August 2023. On behalf of the Commissioner of FRNSW, the comments in this report are provided under Section 9.32(4).

The items listed in the comments of this report are based on the following limitations:

- A general overview of the building was obtained without using the development consent conditions or approved floor plans as a reference.

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 7434  
F (02) 9742 7483

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

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- 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**

The following items were identified during the inspection:

1. Investigation Outcomes – The following items are provided to the Council as part of the investigation on Tuesday, 15 August 2023:
  - 1A. Fire Safety Upgrade – A visual inspection of the premises revealed that the installed essential fire safety measures appear newer than the age of the building. It may be reasonable to assume that the Council previously required a fire safety upgrade.
  - 1B. Annual Fire Safety Statement (AFSS) – Regulation 89(4)(b) of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR 2021) requires the owner to display an AFSS within the building. The AFSS was displayed behind a locked glass display cabinet. FRNSW prefers the statement to be located beside the Fire Brigade Panel (FBP) for ease.
  - 1C. Fire Brigade Panel (FBP) / Alarm Signalling Equipment (ASE) – There were no faults or isolations to the FBP or ASE. However, determining what Australian Standard applied was challenging as the AFSS is displayed behind a locked glass cabinet.
  - 1D. Smoke Detection and Alarm System – As per the AFSS placement, it was challenging to determine what Australian Standard was used. The Council may require a review to confirm that the following observations are consistent with the approval:
    - A. The smoke detector type, location and spacings in the common areas varied throughout the premises.
    - B. There are also red sounder bases intermittently spaced in different locations. It is unclear whether its use is specifically for building occupant warning or approved in its location.
  - 1E. Maintenance – Regulation 81 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR 2021) requires maintenance of the Essential Fire Safety Measure to a standard no less than when it was first installed. At the time of the inspection, authorised fire officers observed the following:
    - A. The service tags for the portable fire extinguishers and fire hose reels were last tagged in March 2023.



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- B. The exit signs, paths, and doors may require review, as the Council may have approved the exit system in its current configuration.
2. Items for Further Investigation – The Council may require an investigation as the appropriate regulatory authority to confirm that:
- 2A. The owners maintain the essential fire safety systems and meet the local Council's obligations to regulate the development consent approval. Specifically, whether the building occupant warning system is approved and sufficient to address the possible anomaly provided in the concern.
  - 2B. An accredited practitioner (fire safety) has assessed, inspected and verified the performance of each fire safety measure (including exits) that applies to the building. Furthermore, the owner submits an Annual Fire Safety Statement (AFSS) as part of their obligations under the EP&A Act.

Please do not hesitate to contact [REDACTED] of FRNSW's Fire Safety Compliance Unit at [FireSafety@fire.nsw.gov.au](mailto:FireSafety@fire.nsw.gov.au) or call [REDACTED] if you have any questions or concerns regarding the above matters. Regarding this correspondence, please refer to file reference number BFS21/3944 (17829).

Yours faithfully

[REDACTED]

[REDACTED]

Fire Safety Compliance Unit