

# **Attachment D**

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



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Notes

18/12/2023

**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 3077110**

**Officer: T. Zeljkovic**

**Date: 18 December 2023**

**Premises: 9 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 30 October 2023 with respect to matters of fire safety.

The premises consists of a four (4) storey brick building, primarily used for residential apartments with ground level commercial café tenancy. The building called “The New Yorker” is contained within a conservation area, under the Sydney Local Environmental Plan 2012.

An inspection undertaken by a Council investigation officer in the presence of a tenant 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) providing adequate provision for fire safety. The annual fire safety certification is current and compliant and is now on display within the building in accordance with the requirements of the requirements of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Council investigations have revealed that whilst there remains several minor fire safety “maintenance and management” works to attend to, 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.

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

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**Chronology:**

<b>Date</b>	<b>Event</b>
30/10/2023	FRNSW correspondence received regarding, 9 Ward Avenue Potts Point pertaining to their attendance on 15 August 2023, initiated by a smoke alarm and water leak enquiry.
31/10/2023	Review of Council records revealed a historical fire order [FIRE/2007/154] was completed on 17 February 2008 upgraded and updated the Fire Safety Schedule / systems.
01/11/2023	A site inspection was conducted, limited to common areas which revealed: <ul style="list-style-type: none"><li>• a fire alarm monitoring primary link fail, secondary link was on line</li><li>• smoke detection- zone block plan not present</li><li>• annual fire safety statement not present – contractor version only</li><li>• final exit doors did not open in direction of egress</li><li>• handrails ground level to level one not present</li><li>• two internal stairs –main stair appeared to be a stainless-steel handrail, minor gaps at returns/landing, rear stair larger openings consistent with older install</li><li>• loose cables, electrical cupboard not lined</li></ul>

Date	Event
	<ul style="list-style-type: none"> <li>level one PVC pipe fire seal issue</li> <li>sole occupancy No. 13 contained a security grill/door</li> <li>a hose reel was not in interlock position</li> </ul>
07/11/2023	Further written instruction sent to owners pertaining to all maintenance issues identified during Council and FRNSW inspection(s).

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

References: [BFS22/1546, D/2023/098817]

Fire and Rescue NSW conducted an inspection of the subject premises after receiving correspondence that smoke alarms may be compromised, due to water leaks at premise.

Issues The report from FRNSW detailed a number of issues, in particular with regard to maintenance of the below:

Ref.	Issue	City response
<b>1. Essential Fire Safety Measures</b>		
1A	Maintenance	
a.	Fire Detection Control and Indicating Equipment (FDCIE) – a disablement noted	Addressed by Council's written instruction - FDCIE no faults/disablements
b.	Alarm Signalling Equipment (ASE) – a primary link fault noted	Addressed by Council's written instruction – Primary fault rectified
1B	Zone Block Plan not present, detector/equipment locations not identifiable	Addressed by Council's written instruction- Zone block plan ordered
1C	Annual fire safety statement – updated version not present	Addressed by Council's written instruction – 2023 AFSS installed
<b>2. Access and Egress</b>		
A.	Handrails - There were breaks in the handrail at landings, contrary to the requirements of Clause D3D22 of the NCC.	Addressed by Council's written instruction, an accredited fire safety practitioner has been engaged to review all handrails
B.	Enclosure of space under stairs and ramps – locked limited access	Existing meter room – an accredited fire safety practitioner assessed enclosure and recommended additional signage be provided.
C.	Installations in exits and paths of travel – second floor electrical cupboard required a non combustible lining	Addressed by Council's written instruction – electrical cupboard relined/smoke sealed
D.	Swinging Doors – The final exit doors open against the direction of egress,	Addressed by Council's written instruction – door, hold open devices installed
E.	Door latches – final exit doors contain deadlocks	Addressed by Council's written instruction – doors are openable without key, lever handles present
<b>3. Compartmentation</b>		
A.	Common Smoke Doors – did not return to the fully closed position	Addressed by Council's written instruction – Second floor obstruction i.e. floor mats removed, smoke door can close

Ref.	Issue	City response
B. a-b	Security door installed to a Sole Occupancy Unit (SOU) - may impede egress, chock open door and or affect fire rating	Addressed by Council's written instruction – SOU security door was removed, fire door/frame inspected by an accredited fire safety practitioner for compliance.

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

FRNSW Recommendations

Council inspects the subject premises and appropriately address noted (and other) deficiencies identified within their report.

**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 above site inspection undertaken by Council's investigation officers it is recommended 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.

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 determination.

**Referenced/Attached Documents:**

2023/722486-01	FRNSW S9.32 report dated 27 October 2023
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**Trim Reference:** 2023/722486

**CSM reference No#:** 3077110

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File Ref. No: BFS22/1546  
TRIM Ref. No: D2023/098817  
Contact: Conor Hackett

27 October 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 Sir / Madam

**Re: INSPECTION REPORT  
THE NEW YORKER  
9 WARD AVENUE POTTS POINT ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 9 April 2022 concerning the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated that:

*The smoke alarms in this building are potentially compromised. Recently, water has leaked into my apartment from the apartment above (which has faulty windows). The water entered my apartment through the lights area. This means that the water has crossed through a conduit in the roof which contains electrical wiring. This same electrical wiring also contains the wiring which powers the smoke alarms, and indeed the communications wires which will send the signals out in case a fire starts. Strata have not acted on the issue and my apartment continues to suffer from this issue. I am of the belief that this entire building is a fire hazard. Please inspect as a matter of urgency.*

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 15 August 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.

Fire and Rescue NSW	ABN 12 593 473 110	<a href="http://www.fire.nsw.gov.au">www.fire.nsw.gov.au</a>
Community Safety Directorate	1 Amarina Ave	T (02) 9742 7434
Fire Safety Compliance Unit	Greenacre NSW 2190	F (02) 9742 7483
<a href="http://www.fire.nsw.gov.au">www.fire.nsw.gov.au</a>		Page 1 of 4

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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.
- 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

This report is limited to observations and sections of the building accessed at the time of the inspection, including potential deviations from the National Construction Code 2022 Building Code of Australia – Volume One (NCC). Please be advised that whilst the report is not an exhaustive list of non-compliances, the items as listed may contradict development consent approval. In this regard, it is at council's discretion as the appropriate regulatory authority to consider the most appropriate action and determine whether an investigation is required.

The following items were identified during the inspection:

### 1. Essential Fire Safety Measures

- 1A. Maintenance – Clause 81 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (the DCFS Regulation) requires that an Essential Fire Safety Measure must be maintained to a standard no less than when it was first installed. Australian Standard AS1851-2012 (amendment 1) - "Service of fire protection systems and equipment", requires essential service measures to be regularly tested. The following is noted:

- A. Fire Detection Control and Indicating Equipment (FDCIE) – There was one disablement displayed on the FDCIE associated with the smoke detection and alarm system.

As a result, management were contacted to address the issue with the FDCIE. Fire Service Technicians attended the premises on 28 August 2023 and removed the disablement.

A further inspection was carried out on 31 August 2022. At the time of the inspection, the FDCIE was clear of disablements and appeared to be operating as normal.

- B. Alarm Signalling Equipment (ASE) - The ASE displayed a 'Primary Link Fail'. As part of FRNSWs investigation, the automatic fire alarm service provider (AFASP), Romteck Grid, were contacted. The AFASP confirmed that the network carrier was temporarily offline for maintenance. The AFASP also confirmed that the secondary communication link remained online.

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- 1B. Zone Block Plan – Section 3.10 of the AS 1670.1 -2015 requires a Zone Block Plan to be securely mounted and located adjacent to the FDCIE. At the time of the inspection, a Zone Block Plan could not be located.
- 1C. Annual Fire Safety Statement (AFSS) – Section 89 of the DCFS Regulation requires the AFSS be updated annually. At the time of the inspection, the AFSS that was displayed did not appear to be up to date.

2. Access & Egress

- 2A. Handrails - There were breaks in the handrail between the flights of stairs and landings contrary to the requirements of Clause D3D22 of the NCC.
- 2B. Enclosure of space under stairs and ramps – The underside of the flight of stairs from the ground floor to the first floor appears to have been enclosed to form a storage cupboard. As the cupboard was locked, a visual inspection could not confirm that the enclosure complies with the Clause D3D9 of the NCC.
- 2C. Installations in exits and paths of travel - The electrical cupboard located on the second floor, does not appear to be enclosed by non-combustible construction or a fire protective covering, contrary to the requirements of Clause D3D8 of the NCC.
- 2D. Swinging Doors – The final exit doors to both the front and rear of the premises open against the direction of egress, contrary to the requirements of Clause D3D25 of the NCC.
- 2E. Operation of Latch – The final exit doors to both the front and rear of the premises contain deadlatches, contrary to the requirements of Clause D3D26 of the NCC.

3. Compartmentation

- 3A. Smoke Doors – The smoke door on the second floor, did not return to the fully closed position (when the door release button was pressed) in accordance with Specification 12 - Clause S12C3 of the NCC. A door mats to the front of Unit 23 prevented the smoke door from fully closing.
- 3B. Bounding Construction – With regard to the screen security door which have been installed on the outside at least one Sole Occupancy Unit (SOU) entry door within the premises, the following is noted:
  - A. Screen doors promote the occupants to 'chock open' the SOU entry fire door, which is in contravention of Clause C4D12 of the NCC which requires a doorway in a Class 2 SOU be protected by a fire door which is equipped with a device which returns the door to the fully closed position immediately after each opening.
  - B. It is noted that the screen doors have been mechanically fixed to the metal doorframe with an opening having been cut through



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the frame at the strike plate to accommodate the latching bolt. In that regard, it is unclear whether the screen door and associated fixings form part of the tested specimen which has been subjected to fire resistance tests in accordance with AS 1530.4 and AS 1905.1.

The following is the formal position of FRNSW in regard to screen doors: *FRNSW recommends against the fitting of security or screen doors to SOUs due to the increased likelihood of the main fire door of the unit being propped open, corridor egress being impeded by an open security/screen door, and the fire rating of the door frame being compromised from any modification when fitting any additional door.*

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

**RECOMMENDATIONS**

FRNSW recommends that Council:

- a. Review items 1 to 3 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.

Please do not hesitate to contact Conor Hackett of FRNSW's Fire Safety Compliance Unit at [FireSafety@fire.nsw.gov.au](mailto:FireSafety@fire.nsw.gov.au) or call (02) 9742 7434 if there are any questions or concerns about the above matters. Please refer to file reference BFS22/1546 regarding any correspondence concerning this matter.

Yours faithfully



Conor Hackett  
Senior Building Surveyor  
Fire Safety Compliance Unit