

10.10.Fire and Rescue NSW Inspection Report - 229 Miller Street, North Sydney

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ENDORSED BY	Marcelo Occhiuzzi, Director Planning and Environment
ATTACHMENTS	1. Fire and Rescue NSW - Inspection Report [10.10.1 - 5 pages]
CSP LINK	Outcome 8 - An effective, accountable and sustainable Council that serves the community AG5. Exercise regulatory compliance responsibilities diligently to protect the environment and support our community

PURPOSE:

The purpose of this report is to enable Council to determine whether to issue a Fire Safety Order in response to an inspection report received from Authorised Fire Officers of Fire and Rescue NSW concerning the premises located at 229 Miller Street, North Sydney.

EXECUTIVE SUMMARY:

- Authorised Fire Officers from Fire and Rescue NSW conducted an inspection of 229 Miller Street, North Sydney and issued an inspection report to Council.
- When an inspection report is received, it must be tabled at a Council meeting for Council to determine whether it will exercise its powers to give a Fire Safety Order and notify the Commissioner of Fire and Rescue of its determination.
- The items identified in the inspection report are considered routine and relatively minor for a building of this size and nature. Council staff are currently liaising with the building owners to facilitate the rectification of the fire safety matters raised. The issue of an Order in this instance, would add unnecessary administrative burden without improving fire safety outcomes.

RECOMMENDATION:

- 1. THAT** Council does not exercise its powers to give a Fire Safety Order in response to the Fire and Rescue NSW inspection report.
- 2. THAT** Council notify the Commissioner of Fire and Rescue NSW of its determination.

Background

An Authorised Fire Officer from Fire and Rescue NSW (FRNSW) may inspect a building to determine whether there is adequate provision for fire safety, or whether the prescribed fire safety provisions have been complied with.

Following the inspection, the Commissioner of FRNSW must send an inspection report to Council in accordance with s 9.32(4) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

When Council receives an inspection report from FRNSW, the report and recommendations must be tabled at a meeting of the Council to determine whether it will exercise its powers to give a Fire Safety Order pursuant to cl 17(2) of Schedule 5 of the EP&A Act as indicated in the following extract for the Act:

17 Inspection reports by fire brigades (cf previous s 121ZD)

- (1) *If the Commissioner of Fire and Rescue NSW carries out an inspection of a building under section 9.32 (Fire brigades inspection powers), the Commissioner must furnish to the council of the area in which the building is located—*
 - (a) *a report of the inspection, and*
 - (b) *if of the opinion that adequate provision for fire safety has not been made concerning the building, such recommendations as to the carrying out of work or the provision of fire safety and fire-fighting equipment as the Commissioner considers appropriate.*
- (2) *A council must—*
 - (a) *table any report and recommendations it receives under this clause at the next meeting of the council, and*
 - (b) *at any meeting of the council held within 28 days after receiving the report and recommendations or at the next meeting of the council held after the tabling of the report and recommendations, whichever is the later, determine whether it will exercise its powers to give a fire safety order.*
- (3) *A reference in subclause (2) to a meeting of a council does not include a reference to a special meeting of the council unless the special meeting is called for the purpose of tabling any report and recommendations or making any determination referred to in that subclause.*
- (4) *A council must give notice of a determination under this clause to the Commissioner of Fire and Rescue NSW.*

Following the meeting, Council must give a notice of determination to the Commissioner of FRNSW pursuant to cl 17(4) of Schedule 5 of the EP&A Act.

Report

FRNSW Inspection Report

Council has received an inspection report (Attachment 1) from Fire and Rescue NSW following an inspection of the building by Authorised Fire Officers. The inspection report identified the following:

1. The fire hydrant pipework is not painted the correct colour,
2. The detection system associated with a single apartment is not operational,
3. A fire hose reel cupboard is being used as a storage cupboard,
4. An exit sign is missing,
5. Concerns regarding the registration of an easement and placement of furniture.

Investigation

Council staff conducted an inspection of the building and determined the items identified in the FRNSW inspection report are considered routine and minor for a building of this size and nature. Council staff are currently liaising with the building owners to facilitate the rectification of the fire safety matters raised, without the need to issue a Fire Safety Order. The issue of a Fire Safety Order in this instance would add unnecessary administrative burden without improving fire safety outcomes and is therefore not recommended.

Conclusion

This is an ongoing operational matter, and Council staff are actively liaising with the building owners to rectify and resolve the fire safety matters. Circumstances do not currently warrant the issuance of a Fire Safety Order. In the event circumstances change and a Fire Safety Order is issued under delegation, the Commissioner of Fire and Rescue will be notified in accordance with cl 10 of Schedule 5 of the EP&A Act.

As required by legislation, this operational matter is included in this report to be presented to Council for its determination.

Consultation requirements

Community engagement is not required.

Financial/Resource Implications

There are no direct financial or resource implications as a result of this report.

Legislation

Council is required to table a FRNSW inspection report at a Council meeting to determine whether it will exercise its power to give a Fire Safety Order and give notice of determination to the Commissioner of Fire and Rescue NSW in accordance with cl 17 of Schedule 5 of the EP&A Act.

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File Ref. No: FRN15/94 - BFS25/3441 - 8000042821
TRIM Ref. No: D25/074932
Contact: Station Officer Alex Cross

22 July 2025

General Manager
North Sydney Council
PO Box 12
NORTH SYDNEY NSW 2059

Email: council@northsydney.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear Sir / Madam

**Re: INSPECTION REPORT
VANTAGE
229 MILLER STREET
NORTH SYDNEY ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 26 May 2025 concerning the adequacy of the provision for fire safety in connection with 'the premises'.

The correspondence stated that:

The developer has set a clause in the building regulations which allows the next door IGA store to put four sets of tables and chairs into the narrow laneway from Miller Street to the entrance of Vantage Residences which is at the rear bordering Faith Bandler Place.

Your hydrants are located at the very entrance to this laneway at Miller Street and the tables and chairs are blocking half the width of this narrow walkway which well may cause, in the event of an emergency, a real hazard for escape from residents and blocking fire hoses easy access to the rear .

An inspection might be in order to clarify if this poses a real hazard and needs the furniture removed entirely.

Fire and Rescue NSW

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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 3 June 2025.

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:

- 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

FRNSW are unable to determine if any commercial agreement between the owners of 229 Miller and 231 Miller Streets.

The following items were identified during the inspection:

1. Provision for Fire Safety

1A. Fire Hydrant System

A. The hydrant pipework located at the Miller Street entrance to "the premises" is not coated in signal red contrary to Clause 3.2 of Australian Standard (AS) 2419.3. All hydrant and sprinkler pipework was painted black and grey with artwork highlights.

1B. Smoke Detection and Alarm System (SDAS)

A. One fault was displayed on the Fire Brigade Panel (FBP) associated with *Level 10 Unit 1004 – No Answer*. FRNSW were granted entry into the unit and found the heat detector installed in its base. Maintenance logbooks were not present in the Fire Control Room for FRNSW to determine when the last service was carried out on the SDAS.

B. Two smoke alarms were installed in the Sole Occupancy Unit (SOU), Unit No. 1004. The alarms are not interconnected contrary to S20C3 (2) of the National Construction Code 2022 (NCC).

FRNSW did not enter any other SOU's to determine whether smoke alarms are interconnected.

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1C. Fire Hose Reels (FHR)

- A. The hose reel cabinet in the ground level foyer was used to store cleaning equipment.

2. Access and Egress

2A. Fire Exits

- A. On inspection of “the premises” the exit to a final point of discharge from the pumphouse and garbage room, leading to on Faith Bandler Lane was obstructed by a vehicle. Signage is installed as per the Fire Engineering Report (FER) 172021_229 Miller Street_FER_08. Refer to Comment 3 regarding easement on adjoining property.
- B. Exit signs are not installed in the Pump Room and Garbage room exits leading to Faith Bandler Lane contrary to E4D6 of the NCC.

2B. At the time of inspection there were no tables or chairs blocking the egress from “the premises” to open space at Miller Street.

Additional information was supplied by the complainant on 24 June, showing chairs and tables located in the path of travel from “the premises” to Miller Street (See Image 1).

FRNSW were advised by the manager of the IGA store that the area shown in *Image 1*, forms part of their lease agreement. FRNSW are of the opinion that the pathway is part of 229 Miller Street allotment and believe it to be part of the exit strategy to Miller Street.



Image 1

3. Certification

- 3A. According to the Fire Engineering Report (FER) 172021_229 Miller Street_FER_08 - Performance Solution No. 8 Page 104 (Appendix 1),

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“The Right of Egress must have a width of 1.5m and a length of 34m and must be in favour of the 229 Miller Street and be registered with the Department of Land and Property Information... the easement shall be identified as an Essential Fire Safety Measure and be included on the Fire Safety Schedule.” The 2024 Annual fire safety statement does not list the *EASEMENT* as an essential fire safety measure.

Council should determine whether the easement is registered with the Department of Land and Property Information.

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 Station Officer Alex Cross of FRNSW's Fire Safety Compliance Unit at 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 FRN15/94 - BFS25/3441 - 8000042821 regarding any correspondence concerning this matter.

Yours faithfully



Paul Scott
Team Leader
Fire Safety Compliance Unit

Attachment: (Appendix 1 – Extract Page 104/5 FER – 1 page)

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Appendix 1 – Extract Page 104/5 FER – 1 page

To ensure that the egress pathway is always kept clear, the Performance Solution will require the Right of Egress be provided which provides occupants with unrestricted access onto Miller Street of which is to be maintained for the life of the building. The Right of Egress must have a width of 1.5m and a length of 34m and must be in favour of the 229 Miller Street and be registered with the Department of Land and Property Information.

To ensure the discharge of the exits remains available throughout the life of the building and the use of the adjacent allotment's easement is not altered, the easement shall be identified as an Essential Fire Safety Measure and be included on the Fire Safety Schedule

In addition, the Fire Safety Schedule is to require that at intervals of not greater than annually the easement detail and plans are reviewed and confirmed to remain in existence an unchanged including that Site 229 Miller Street remains a beneficiary of the easement granted.

To allow for a situation where the right of way is agreed to be extinguished it is a requirement of the fire engineering that should the easement be extinguished the garbage room access is to be blocked up. This requirement shall be defined as an Essential Fire Safety Measure and be included on the Fire Safety Schedule.

To ensure that the path of pedestrian access is available and unrestricted additional "No Standing" signs must be provided at 15m intervals on the eastern wall of the 229 Miller Street wall that faces the easement. These signs must be located at a height between 1.2 and 1.5m above the path level. This requirement shall be identified as an Essential Fire Safety Measure and be included on the Fire Safety Schedule.

The required path and signage are to be inspected at intervals of not greater than 3 monthly to confirm the path is clear of obstruction and cleaned if necessary and that the signs are still provided and renewed where required. This requirement is also to be included as Essential Fire Safety Measure on the Safety Schedule

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and form part of the annual certification for the building. It is considered that with the provision of these signs and also by virtue that the easement provides vehicular access to multiple sites the easement will not be blocked by parked vehicles.

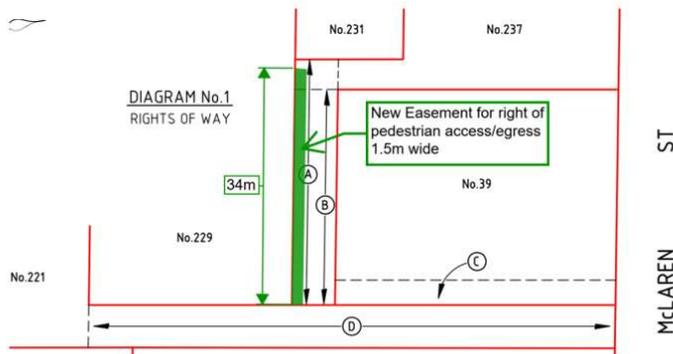


Figure 8-41: Right of Egress Relative to the Site

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