

9.3. Fire and Rescue NSW Inspection Report - 75 Miller Street, North Sydney

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ENDORSED BY	Marcelo Occhiuzzi, Director Planning and Environment
ATTACHMENTS	1. Fire & Rescue NSW Inspection Report [9.3.1 - 4 pages]
CSP LINK	Outcome 8 – An effective, accountable and sustainable Council that serves the community G5. 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 75 Miller Street, North Sydney.

EXECUTIVE SUMMARY:

- Authorised Fire Officers from Fire and Rescue NSW conducted an inspection of 75 Miller Street, North Sydney and issued an inspection report to Council.
- Upon receiving an inspection report, Council must table it at a Council meeting to determine whether to issue a Fire Safety Order and notify the Commissioner of Fire and Rescue of its decision.
- Council's investigation confirmed that the building was constructed in accordance with the standards applicable at the time and that there is no legislative requirement compelling the building to be upgraded to meet current Building Code of Australia provisions.
- Council staff have instructed the building owner to rectify the maintenance-related issues identified, namely the fire door maintenance and display of the Annual Fire Safety Statement.
- This report details the findings of Council's staff, along with a recommendation.

RECOMMENDATION:

- 1. THAT** Council resolve not to issue a Fire Safety Order, based on Council officers' review and findings.
- 2. THAT** Council notify the Commissioner of Fire and Rescue NSW of its determination, in accordance with Schedule 5 of the EP&A Act.

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 section 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—
 - (b) 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—
 - (b) 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 to this report) from Fire and Rescue NSW following an inspection of the building by Authorised Fire Officers. The inspection report identified the following matters:

1. The building is not provided with the required number of exits under the current building code, being Building Code of Australia 2022.
2. The travel distance to exits within the building exceed the maximum stipulated in the current Building Code of Australia.
3. The fire hydrant system within the building does not achieve the requirements of the Australia Standard referenced within the current Building Code of Australia.
4. There were fire doors that had not been maintained correctly and do not meet the requirements of the current Building Code of Australia.
5. A copy of the Annual Fire Safety Statement was not displayed in the building.

Investigation

Council staff conducted a review of the property file to ascertain relevant information regarding the premises. A site inspection was also undertaken by a Council Officer.

The FRNSW inspection report indicates that the observations made by the inspecting officers were assessed against the Building Code of Australia 2022.

Council records show that the building was constructed circa 1973.

There is no legislative requirement for existing buildings to upgrade fire safety systems or building elements to comply with current building standards.

As is common for commercial buildings of this age, there have been multiple upgrades to the premises over time, including extensive fit outs and associated fire safety upgrades. A review of the current Fire Safety Schedule confirms the upgrades of various fire safety measures.

The table below summarises Council's investigation.

FRNSW Comment	Council Investigation/Comment	Proposed and/or undertaken action/s
The building is not provided with the required number of exits under the Building Code of Australia 2022.	The building complied with the requirements in force at the time of construction.	There is no legislative requirement for existing buildings to upgrade fire safety systems or building elements to comply with current building standards. No action is proposed.
The travel distance to exits within the building exceed the maximum stipulated under the Building Code of Australia 2022.	A Fire Engineering Report permitting extended travel distances applies to the premises.	No action is proposed.
The fire hydrant system within the building does not	According to the most recent Annual Fire Safety	There is no legislative requirement for existing

FRNSW Comment	Council Investigation/Comment	Proposed and/or undertaken action/s
achieve the requirements of the Australia Standard referenced within the Building Code of Australia 2022.	Statement, the fire hydrant system complies with the standard of performance, as contained within the building's Fire Safety Schedule.	buildings to upgrade fire safety systems or building elements to comply with current building standards. No action is proposed.
There were fire doors that had not been maintained correctly and do not meet the requirements of the Building Code of Australia 2022.	There were fire doors throughout the building that were not operating to the standard of performance outlined in the fire safety schedule.	Council has directed the building owner to undertake maintenance work to ensure the fire doors comply with the standard of performance outlined in the fire safety schedule. Council will follow-up as per standard investigation processes. There is no legislative requirement for existing buildings to upgrade fire safety systems or building elements to comply with current building standards. No requirement to upgrade to Building Code of Australia 2022 is proposed.
A copy of the Annual Fire Safety Statement was not displayed in the building.	The Annual Fire Safety Statement was not displayed within the building.	Council has directed the building owner to display the statement within the building. Council will follow-up as per standard investigation processes.

Conclusion

Based on the investigation, Council staff have directed the building owners to resolve the matters relating to fire door maintenance and the display of the Annual Fire Safety Statement.

The circumstances identified in the FRNSW inspection report do not currently warrant issuing a Fire Safety Order. If circumstances change and a Fire Safety Order is issued under delegation, the Commissioner of Fire and Rescue NSW will be notified in accordance with Clause 10 of Schedule 5 of the Environmental Planning and Assessment Act 1979.

As required by legislation, this operational matter is presented to Council for determination.

Consultation requirements

Community engagement is not required.

Financial/Resource Implications

There are no financial implications in relation to the recommendations made in this report.

Legislation

Section 17(2) of Schedule 5 of the Environmental Planning & Assessment Act 1979 applies to this report.

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File Ref. No: FRN22/4009 - BFS25/6165 - 8000044937
TRIM Ref. No: D25/128639
Contact: Mark Knowles

31 October 2025

General Manager
North Sydney Council
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Email: council@northsydney.nsw.gov.au

Attention: Manager Compliance / Fire Safety

Dear Sir / Madam

**Re: INSPECTION REPORT
75 MILLER STREET, NORTH SYDNEY ("the premises")**

Fire and Rescue NSW (FRNSW) received correspondence on 4 September 2025 concerning the adequacy of the provision for fire safety in or in connection with the premises.

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 9 September 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.

COMMENTS

The following items were identified in relation to the provisions for fire safety:

Provisions for Fire Safety

Egress

1. Number of exits required – the building achieves an effective height exceeding 25m, as defined by the National Construction Code Volume One Building Code of Australia 2022 (NCC) and a single exit is provided in lieu of 2 exits, contrary to the requirements of Clause D2D3 of the NCC.

Fire and Rescue NSW

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2. Exit travel distances – it appears that there are points on the floor which exceeds 20m from the single exit, contrary to the requirements of Clause D2D5(3) of the NCC.

Fire Hydrant System

The fire hydrant system appears to have been installed in accordance with Ordinance 70 and Ministerial Specification No.10, with a possible partial upgrade to AS 2419.1-1994. Notwithstanding this, the following deviations from AS 2419.1-2021, but not limited to, have been identified:

3. The hydrant booster assembly:
 - A. Test and boost pressure signage has not been provided at the booster assembly, contrary to the requirements of Clause 11.3.4 of AS 2419.1-2021.
 - B. The block plan on display at the booster assembly did not include all the specific information applicable with the system, in accordance with the requirements of Clause 11.5 of AS 2419.1-2021.
4. The internal hydrants throughout the premises are located in the public corridors and not within the required fire-isolated stairways, contrary to the requirements of Clause 3.6.2 of AS 2419.1-2021.
5. The building has an effective height in excess of 25m and a ring main has not been provided, contrary to the requirements of Clause 8.6 of AS 2419.1-2021.

In light of this, FRNSW brings to your attention a position statement published by FRNSW on 12 September 2024. The statement is shown below:

Fire hydrant system in existing building or premises

When a consent authority (e.g. Council) is assessing the adequacy of an existing fire hydrant system installed in accordance with the provisions of Ordinance 70 and Ministerial Specification 10 (or earlier), FRNSW recommend that the system be upgraded to meet the requirements of AS 2419.1:2021 to facilitate the needs of FRNSW appropriate to firefighting operations.

Additionally, any existing fire hydrant system that incorporates an internal booster connection for portable relay pumps (e.g. under Ordinance 70, AS 2419.1–1994) should be upgraded to remove the portable relay pump connection.

FRNSW acknowledge that all aspects of AS 2419.1:2021 may not be able to be complied with due to the characteristics and constraints of the existing fire hydrant system and/or building or premises. A bespoke upgrade solution may be required.

OFFICIAL**Regulatory Requirements**Fire Safety

6. Fire Doors – Multiple fire doors throughout ‘the premises’ had not been maintained in accordance with the requirements of Section 81 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR21). In this regard, multiple fire doors to the fire-isolated stairway, failed to return to the fully closed position (and self-latch) after each opening, when tested, contrary to the requirements of Clause C4D9 and Specification 12 of the NCC and AS1905.1.

Fire Safety Statements

7. A copy of the current Annual Fire Safety Statement (AFSS) and a copy of the Fire Safety Schedule (FSS) were not prominently displayed within the Building B in accordance with Section 89 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EPAR21).

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

RECOMMENDATIONS

FRNSW recommends that Council:

- a. Review items 1 to 7 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. FRNSW refers this matter to the Council as the appropriate regulatory authority and awaits the Council’s advice regarding its determination under Schedule 5, Part 8, Section 17 (4) of the EP&A Act.

LIMITATIONS

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

- FRNSW’s inspection of the premises was a non-invasive visual inspection.
- FRNSW authorised fire officers may not have been able to access all areas of the premises at the time of inspection.

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Please do not hesitate to contact Mark Knowles of FRNSW's Fire Safety Compliance Unit at FireSafety@fire.nsw.gov.au or call (02) 9742 7434. If you have any questions or concerns regarding the above matters, Please ensure that you refer to file reference FRN22/4009 - BFS25/6165 - 8000044937 for any future correspondence concerning this matter.

Yours faithfully



Mark Knowles
Senior Building Surveyor
Fire Safety Compliance Unit