Fire Safety & Capital Works — Your Obligations

Client Webinar — Questions & Answers

14th July 2026

Thank you to everyone who attended our fire safety and capital works webinar and those who submitted questions. We've put together this document to summarise all questions asked, and answered in the webinar, including those that didn't we didn't get to. We have grouped the questions by theme, answered each one in plain English, and where it helps pointed to the section of the legislation that sits behind the obligation.

Two changes have reshaped the landscape this year. From 13 February 2026, AS 1851-2012 became the mandatory maintenance standard for fire safety measures in NSW. From 1 April 2026, 10-year capital works fund plans must be prepared in the form approved by NSW Fair Trading. Many of your questions flow from these two shifts, and our answers keep both firmly in view.

Several questions raised on the day are specific to a single scheme for example, when your accounts are finalised, or the status of works already underway. Those are answered in general terms here; your Jamesons strata manager can give you the precise position for your scheme.

Quick reference — who is responsible for what

Several attendees asked for a responsibility matrix. The table below summarises the core roles across fire safety and capital works. Exact responsibilities always depend on your management agreement, any building manager agreement, and your by-laws — but this is the working picture for most schemes.

Role	Primary responsibility	What that means in practice
Owners corporation	Sets the standard, owns the decisions, holds the duty	Approves the 10-year plan and the budget; sets levies; carries the s.106 duty to maintain and repair common property; lodges the Annual Fire Safety Statement. The committee decides on behalf of all owners (SSMA 2015 ss.79–81, 106).
Strata manager (Jamesons)	Runs the machinery and prepares the decisions	Coordinates AS 1851 servicing, the fire practitioner and the AFSS; maintains records and the defect register; prepares the 10-year plan and budget estimates; presents options and manages levies alongside the committee, not around it.
Building manager (if appointed)	On-site operations and first-line records	Day-to-day oversight of contractors on site, access, and maintenance logs. A valuable input to the asset register, but the plan itself remains the owners corporation's obligation. Scope depends on the building manager agreement.
Accredited practitioner (fire safety)	Independent assessment and certification	The FPAS-accredited practitioner assesses each essential fire safety measure and signs the Annual Fire Safety Statement. They rely on the AS 1851 servicing records to do so which is why record-keeping matters.
Fire contractor / servicing technician	Physical servicing to AS 1851-2012	Carries out the monthly, six-monthly and annual routines on each measure and records the results in the logbooks.

Q. Do the new fire regulation laws apply to small strata schemes as well — for example, a property with 5 townhouses?

In short: The fire safety rules are driven by what is in your building, not by how many lots you have. Small schemes are not automatically exempt.

Whether the Annual Fire Safety Statement (AFSS) and AS 1851-2012 apply depends on whether your building has "essential fire safety measures" listed on a fire safety schedule under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. A single-dwelling townhouse (Class 1a) often has no fire safety schedule and so no AFSS obligation. But many townhouse and villa schemes share common fire safety measures: a hydrant or booster, a common fire alarm, emergency lighting or a fire trail and once those measures exist, they must be serviced to AS 1851-2012 and captured in the annual statement.

Separately, the owners corporation's duty to maintain common property (s.106 SSMA 2015) and the obligation to keep a 10-year capital works fund plan (s.80) apply to strata schemes of any size. The only real size-based concession is that a scheme of just two lots may resolve not to hold a capital works fund in limited circumstances (s.74(5)). For a five-townhouse scheme, the practical first step is simple: check whether the building has a fire safety schedule.

In any event, your strata manager can confirm this for you.

Q. How would the owners corporation know if the fire system assets are still compliant?

Compliance is evidenced by three connected layers. First, the fire safety schedule lists every essential measure and the standard it must perform to. Second, the AS 1851-2012 servicing records: the monthly, six-monthly and annual logbooks, show that each measure has been inspected and serviced, and record any defects by criticality. Third, the AFSS is the annual sign-off: an accredited practitioner (fire safety) assesses each measure against the schedule and confirms it performs. If the practitioner can sign the statement, that is your evidence of compliance; if they cannot, the defect register tells you exactly what is outstanding.

In practice, our compliance team maintains the records and the live defect register, aligns servicing to AS 1851-2012, and reports the status back to the committee in plain English — so "are we compliant?" is a question we can answer at any point in the year, not just at statement time.

Q. You mentioned lodgement to council — is there also an obligation to lodge with Fire and Rescue NSW?

Yes. A current Annual Fire Safety Statement must be given to the local council and to the Commissioner of Fire and Rescue NSW, and a copy must be prominently displayed in the building (Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021).

The statement is due every 12 months, tied to the anniversary of your schedule. Because the practitioner's assessment can take weeks, we engage them early rather than in the month it falls due. Late lodgement attracts penalties that accrue for each week the statement is outstanding, and council can issue fire safety orders so timing is managed as part of the compliance calendar.

Q. Is there a difference, or a higher compliance requirement, for a mixed-use building of commercial and residential mix?

The fire safety obligations themselves come from the building's classification under the Building Code of Australia and its fire safety schedule not from strata law so the obligatory framework is the same. What changes is the practical burden. Mixed-use buildings typically carry more essential fire safety measures and more complex systems: larger hydrant and sprinkler networks, commercial kitchen suppression, more demanding compartmentation between commercial and residential parts, and often more fire doors and penetrations. That means more to service, more to assess, and a higher compliance cost and the AFSS covers the whole building, not just the residential part.

Mixed-use schemes also raise fair apportionment questions between commercial and residential lots, which are handled through the budget and, where relevant, by-laws. The s.106 duty to maintain the common property applies across the whole of the common property regardless of use.

Q. What if a building has a problem with theft or crime, and an on-site fire safety schedule cannot be reliably maintained because of it?

A security or crime problem does not suspend the owners corporation's obligations. The measures still have to be maintained (s.106), and the AFSS still has to be lodged. What changes is how you protect the assets and the records. Practical steps include securing vulnerable equipment in tamper-resistant cabinets, adding access control or CCTV to at-risk areas (often itself a capital works or security-by-law item), reporting incidents to police, and keeping the authoritative compliance records with your strata manager rather than relying only on documents displayed on site.

If theft or vandalism is recurring, treat it as a live risk to fire safety and raise it with the committee so a funded response can be planned the same "repair pattern versus one-off" thinking we apply to defects applies here too.

Q. If we are not aligning the budget to CPI, what basis should we be using for budgeting purposes?

Set the levy from the plan, not from an index. The most defensible basis is your 10-year capital works fund plan: take the planned expenditure for the coming years, cost it at today's trade and building prices, factor in the building's condition, and then sanity-check affordability not the other way around.

CPI measures household consumption groceries and rent. A building buys trade labour, steel, membranes and compliance services, which is a different and faster-rising basket. Where you do need an index between full reviews, a construction or building-cost index is far closer to reality than CPI. The legislation supports this approach: when setting estimates, the owners corporation must take into account the major expenditure identified in the 10-year plan (s.79(5) SSMA 2015), and larger schemes must note any difference between the estimates and the plan (s.79(6)). In other words, the plan is meant to be the methodology; the index is at best a placeholder between reviews.

Q. Is there a template for the 10-year plan available in Jamesons' supporting resources, or linked from the strata portal?

From 1 April 2026, the plan must be prepared in the form approved by NSW Fair Trading specifically the "10-year capital works fund plan" document published in Government Gazette No 351 of 29 August 2025, which is prescribed as the form by clause 17I of the Strata Schemes Management Regulation 2016 (under s.80(4) of the Act). The days of a two-page spreadsheet passing as a plan are over: the approved form calls for a complete inventory of capital items with condition and expected replacement year, costed year-by-year forecasts at current prices, and a funding pathway.

Rather than a blank template to fill in yourself, we prepare the plan for your scheme in that approved form, drawing the coming year's capital works estimate directly from it. If you would like to see the approved form or a worked example, your strata manager can provide it and walk you through it.

Q. We are six years into our 10-year plan. You mentioned keeping it as a living document — can you clarify what action is required to keep it up to date?

Two things: an annual refresh, and a full review at least every five years. Being six years in, you are at (or past) the point where the Act requires a formal review the owners corporation must review the plan at least once every five years (s.80(3) SSMA 2015).

Keeping it "living" in practice looks like this across the year:

- **Quarterly** — the committee watches fund balances, repair trends and any AS 1851 defect findings.
- **Pre-budget** — the coming years' figures are refreshed against current quotes and condition data.
- **At the AGM** — the plan is tabled and reviewed; reviewing the 10-year plan is a mandatory AGM agenda item (cl.6 SSM Regulation 2016).
- **When repairs recur** — assets showing end-of-life signals are moved into the plan with a realistic replacement year and cost.

For your scheme specifically, we would recommend a full re-forecast now updating costs to 2026 prices and, ideally, migrating the plan into the new Fair Trading approved form so it is both current and compliant.

Q. How is a committee held accountable for a poorly constructed 10-year plan?

It is the owners corporation — not individual committee members — that carries the underlying duties, and the most direct consequence of a weak plan is financial: if the plan under-funds the works the building actually needs, the owners corporation can still be in breach of its strict duty to repair (s.106), and an owner who suffers reasonably foreseeable loss can claim damages within six years of becoming aware of it (s.106(5)–(6)). A poor plan does not lower the duty; it just leaves the scheme unprepared to meet it.

Accountability for the committee itself runs along a few tracks. Owners can decline to re-elect committee members, or replace them, at a general meeting. Where an owners corporation fails to carry out its functions, the NCAT Tribunal can make orders to compel it to act, and in serious cases appoint a compulsory strata managing agent (Part 12 SSMA 2015). Committee members are generally expected to act in good faith and with due care but "we didn't know" is not a defence when the information was available. The practical protection is straightforward: use expert-prepared, current-cost plans (the Act expressly allows engaging expert assistance, s.80(6)), table the reasoning openly, and record decisions in the minutes.

Q. What happens if the owners corporation votes down the proposed capital works fund levy?

The obligation to fund does not disappear with the vote. The owners corporation must set contributions sufficient to raise the amounts it has estimated it needs for both funds (s.81 SSMA 2015), and the s.106 duty to maintain common property continues regardless of the levy that is struck. If owners reject the recommended contribution, the estimates and the levy resolution need to be reconsidered, but voting for a lower number does not remove the need for the money; it usually just defers it into a special levy later (which the Act expressly contemplates at s.81(4)).

When a levy is voted down, we would typically re-present it with clearer information the plan summary, the works coming up, and the cost per lot per week because informed votes tend to be calmer votes. If the committee still resolves to under-fund, that decision, and the risk it carries, should be explained and minuted, and the plan itself noted for update at its next review.

Q. How will a new capital works plan address a major item that may need to happen sooner than levies can be raised — for example, a lift replacement required in 2–3 years? Does the plan significantly increase levies, or do we still raise a special levy?

You generally have three levers, and the right answer is usually a blend rather than a single spike:

- **Accelerate the ordinary contribution** now, so the capital works fund accumulates toward the item over the next two to three years.
- **Strike a targeted special levy** closer to the time (s.81(4)), which spreads a known, dated cost fairly across the owners of the day.
- **Borrow** to fund the works and repay over time permitted with general-meeting approval (s.100), and sometimes the fairest option for a large, lumpy item.

A well-built plan does not try to fully pre-fund a near-term major item by dramatically inflating ordinary levies overnight; it brings the item forward with a realistic year and cost, shows the funding pathway, and lets the committee choose the mix. We present those options with the numbers so the decision is made deliberately, not on the night.

Q. Is the 10-year plan required to include "green initiatives" — the sustainability items that recently came in as an AGM agenda item?

The plan itself is not required to contain green initiatives — but sustainability must be considered. The recent change sits in the AGM agenda, not in the mandatory contents of the plan.

Every AGM agenda must now include an item to consider environmental sustainability within the scheme, including the common property's annual energy and water consumption and expenditure (cl.6 SSM Regulation 2016). That is a "must consider and discuss" obligation, not a "must fund" one. Alongside it, the capital works fund estimates may include installing or replacing infrastructure for the sustainable use of the scheme for example, solar panels or EV charging (s.79(2)(e1) SSMA 2015) and sustainability infrastructure resolutions benefit from an easier voting threshold (s.132B and s.5). So the correct position is: sustainability is a required agenda conversation each year, and the plan is the natural place to cost any initiatives the owners choose to pursue but the law does not force specific green items into the plan.

Q. Can Jamesons allocate legal fees from the capital works fund?

As a rule, no. The capital works fund can only be used for the restricted purposes set out in s.74(4) SSMA 2015 essentially capital works expenditure of the kind estimated under s.79(2), surplus distributions, building-defect (Part 11) purposes, and transfers to the administrative fund.

Legal fees are ordinarily an administrative fund expense, not a capital works expense. On top of that, engaging legal services generally requires approval by the owners corporation in general meeting (s.103, subject to the regulation's exceptions for urgent or low-cost matters), and where the owners corporation is unsuccessful in Tribunal proceedings it cannot pay those costs from either fund but must raise a levy for them (s.104). So we cannot simply "reallocate" legal costs to the capital works fund; they are handled through the administrative fund or a specific levy, with the required approvals. The one nuance is building-defects litigation under Part 11, where costs and recoveries interact with the capital works fund — but that is a defined exception, not a general licence to charge legal fees to the fund.

Q. What is the liability faced under s.106 — for example, a total lift failure requiring replacement?

A lift is common property plant, and s.106 imposes a strict, continuous duty: the owners corporation must properly maintain and keep common property in a state of good and serviceable repair (s.106(1)) and must renew or replace common property fixtures and fittings (s.106(2)). Replacing a failed lift is squarely within that duty. Importantly, the owners corporation cannot vote the duty away for convenience — the s.106(3) special-resolution "opt out" is not available where the decision would affect safety or access, which a lift plainly does.

The liability therefore has two layers. First, the cost of the replacement itself, which must be funded — through the capital works fund, a special levy, borrowing, or a combination. An under-funded fund does not suspend the duty; it just makes it harder to meet. Second, if the owners corporation delays unreasonably and an owner suffers reasonably foreseeable loss as a result — lost rent, inability to let or occupy an upper-floor lot, or diminished value — that owner can recover damages for breach of statutory duty (s.106(5)), and now has up to six years from becoming aware of the loss to bring the claim (s.106(6)). The pragmatic message from the webinar holds: funding follows duty. Resource the fund, act promptly, and communicate with owners while the works are arranged.

Q. Our building is a two-storey 1948 building with 6 apartments. The balustrade between the two floors is original and does not comply with the current standard — the spacing between rails well exceeds it. What is our obligation to ensure the safety of residents and visitors, particularly the young and vulnerable?

This is a safety issue, and safety is exactly where the duty bites hardest. While an older building is not automatically forced to upgrade every original element to the current standard, a balustrade that presents a genuine fall risk especially wide baluster spacing, a classic hazard for young children — is a different matter.

Two obligations converge here. The owners corporation must keep the common property in good and serviceable repair (s.106), and it owes a duty of care to residents and visitors under the general law and the Civil Liability Act 2002. Where safety is affected, the owners corporation cannot rely on the s.106(3) special resolution to decide the item is "inappropriate" to fix that exception is unavailable precisely when safety is in play. A known, non-compliant balustrade above a fall height is the kind of hazard the duty is designed to catch.

The practical path we would recommend: engage a building consultant or certifier to assess the balustrade against the current standard and quantify the risk; prioritise rectification as a capital works item (compliant infill or replacement); and document the assessment and the decision so the reasoning is on record. Given the vulnerability angle you have raised, this is also a sensible matter to take specific advice on. We can arrange the assessment and bring costed options to the committee.

Q. For buildings with building managers, is it the building manager's responsibility to maintain a detailed asset register so the owners corporation can develop an accurate capital works plan?

There is no provision that hands the 10-year plan to the building manager. Preparing the plan is the owners corporation's obligation (s.80 SSMA 2015), and in practice it is compiled by the strata manager often with expert input such as a quantity surveyor, which the Act expressly permits (s.80(6)) and approved by the committee. That said, a building manager is usually a valuable source of the underlying data: they hold on-site knowledge of plant condition, maintenance history and contractor reports, and a good building manager keeps operational records that feed straight into the asset register.

So the honest answer is: the responsibility for an accurate plan sits with the owners corporation and is coordinated by your strata manager; the building manager contributes the ground-truth on the assets. Exactly what your building manager must provide depends on the building manager agreement we are happy to review that scope with you so the inputs to your plan are clear.

Q. Is there a summary table of the responsibilities of the strata committee, building manager, strata manager and fire certifier — a responsibility matrix for a strata scheme?

Yes — please see the "Quick reference who is responsible for what" table near the front of this document. It sets out the core split across the owners corporation and committee, your strata manager, the building manager, the accredited practitioner (fire safety) and the servicing contractor. If it would help, we can tailor a version to your specific scheme that reflects your management agreement, your building manager agreement and your by-laws.

Q. Will the owners corporation and committee be able to access Jamesons' technical specialists for AFSS-related advice, expert opinion and support — through the strata manager, or by direct enquiry?

Yes — and we would encourage it. Your strata manager is your first point of contact and can bring in our compliance support whenever a question needs deeper expertise.

The most efficient route is through your strata manager, because they hold your scheme's full context the fire safety schedule, servicing history, defect register and plan so the specialist advice lands against the real position of your building. For governance-level questions, our team is led by Paul Culbi as Chief of Governance. Whether it is interpreting an AFSS, a defect finding, or a repair-versus-replace call, tap us early rather than at statement time that is exactly the partnership the webinar described. (This question came up more than once on the day, which tells us it matters to you; the answer is a clear yes.)

Part E — Questions specific to your scheme

A few questions on the day relate to a particular building rather than the law generally. We have answered them in principle here; your strata manager holds the precise position for your scheme and can confirm the specifics.

Q. When are the FY26 strata accounts being finalised?

Financial statements are prepared after the end of your scheme's financial year and finalised in the lead-up to your annual general meeting, where they are presented to owners. The exact timing depends on your scheme's financial year-end and AGM date. If your scheme is a large scheme, or its annual budget exceeds $250,000, the accounts must also be audited before the AGM (s.95 SSMA 2015), which adds a little time. Your strata manager can give you the specific finalisation date for your scheme.

Q. What is happening with the air-conditioning work / building works?

This relates to works underway at a particular scheme, so we cannot give a status here without knowing the building. As a rule, our repairs and maintenance team scopes the works, obtains and collates competitive quotes (checking scope and licensing so you are comparing like with like), and brings a clear recommendation to the committee for a minuted decision then reports back on implementation. Please contact your strata manager for the current status and next steps on your scheme's air-conditioning and building works, and we will give you a precise update.

Where to from here

If the questions above have prompted an action for your scheme, three simple steps are a good place to start:

- **Pull your fire safety file** — the fire safety schedule, the last AFSS, the current servicing contract and any open defect items. That is your fire safety baseline in four documents.
- **Health-check your 10-year plan** — when was it last reviewed, is it in (or moving to) the Fair Trading approved form, and do the next few years' figures reflect 2026 costs?
- **Compare fund to plan** — does your current capital works fund balance match where the plan says it should be this year? On track, ahead, or behind — that is the conversation your next meeting needs.

We are here to help with all of it — fire safety coordination, plan and budget preparation, meeting and motion support, and the specialist advice behind each. Please reach out to your Jamesons strata manager to take any of these forward.

Legislation referenced in this document

References are to the versions in force at the date of this document. This summary is general information, not legal advice.

- Strata Schemes Management Act 2015 (NSW) — ss.74, 79, 80, 81, 95, 100, 102, 103, 104, 106, 132B; Part 11 (building defects); Part 12 (Tribunal orders).
- Strata Schemes Management Regulation 2016 (NSW) — cl.6 (required AGM agenda items) and cl.17I (prescribed form of the 10-year capital works fund plan).
- Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (NSW) — fire safety schedules and the Annual Fire Safety Statement regime.
- Environmental Planning and Assessment Act 1979 (NSW) — fire safety orders and development-consent upgrade triggers.
- AS 1851-2012 — Routine service of fire protection systems and equipment (mandatory maintenance standard from 13 February 2026).
- Civil Liability Act 2002 (NSW) — duty of care to residents and visitors.