

# NSW Fire Safety Reforms Fact Sheet

## Upcoming changes to fire safety regulations to implement in 2024

In the constantly evolving strata community, keeping up with regulatory changes is crucial for maintaining a secure, and safe living environment. One key regulatory area set to experience further shifts over the next six to eight months is fire and life safety. In a bid to enhance fire safety standards, there will be an array of new measures that schemes and their committees will need to understand and comply with.

These changes follow the 2021 amendments to the Environment Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, which brought Accredited Fire Safety Practitioners (APFS) into the fold of the Annual Fire Safety Statement (AFSS). These reforms will be implemented in two primary stages, set for 2023 and 2025, designed to help improve building compliance and mandate procedures for the upkeep of fire safety measures.

In this article, we explore all you need to know to prepare for upcoming NSW fire safety requirements for your strata property:

1. **Key dates**
2. **Introduction to building manuals**
3. **Fire safety measures for new and existing buildings**
4. **How to prepare for upcoming fire safety reforms**
5. **Key takeaways**
6. **How a strata manager can help**
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# Key Dates

## 1 February 2023

- Councils and certifiers are now authorised to correct minor errors and replace missing fire safety schedules (FSS). The previous process to 'seek an order' for these issues is no longer required.
- Under the [Design and Building Practitioners Act 2020](#), builders must lodge a fire safety certificate with a building compliance declaration.

## 1 August 2023

- Councils/certifiers (including APFS) will be required to use the new mandated [fire safety schedule template](#) published by [NSW Fair Trading](#). This means the [Annual Fire Safety Statement Form \(AFSS\)](#) will be consistent across all local council areas, including your various contracts.
- Practitioners must now consult with [Fire and Rescue NSW \(FRNSW\)](#) for any proposed non-standard 'alternate fire solutions (if a construction certificate is required for the building work). **Please note:** it will be the responsibility of the scheme or building to verify that the practitioner has consulted with FRNSW as part of this process.

## 13 February 2025 (or 18 months after an accreditation scheme is approved)

- The next tranche of reforms will focus on implementing mandatory maintenance, inspection, verification, and certification of all essential fire safety measures. All fire and essential services measures and equipment must comply with Australian Standard 1851-2012. This will likely involve material variations to the scope and extent of inspection and maintenance works undertaken within buildings annually.

It is important to remember that NSW strata schemes and associations are still responsible for repairing and maintaining their property. This includes inspecting, maintaining, and certifying all fire and essential measures are compliant and in good maintenance and repair.

The new regulations under [Australian Standard 1851-2012](#) were introduced to help provide better guidelines for maintenance work and certification provisions around fire and essential service equipment for NSW strata properties.

As a result of these changes, repairs or overhauls that may not have been deemed essential in the past must now be rectified if required as part of the assessment undertaken by an APFS. Therefore, it is anticipated that there will be an increase in annual inspection, certification, and maintenance costs.

Committees will need to ensure they are:

- Budgeting for administrative costs (annual inspection, certificate, and minor repairs)
- Budgeting for capital works expenses (replacements arising from major overhauls, end-of-life cycles, etc.)
- Commence obtaining advice from their selected APFS as early as possible.

In particular, major services for larger ticket items are sometimes not adequately assessed or maintained by schemes (if at all). This can include:

- Passive fire measures: All schemes must now have an asset register (including passive fire measures).
- Large plant and equipment overhauls at five, ten, and 25-year intervals as set out in the standard (e.g., fire hydrants, pumps, sprinklers, etc.).
- Dampers.
- Interface testing (e.g. fire indicator panels, BMS etc.).

Under the new reforms, the APFS must personally visit the site to verify all records and systems and ensure they can prove that the system performs as endorsed when audited. This includes personally re-inspecting after repairs (if required) to verify performance.

### PICA Group tip



The committee should be well aware of any upcoming changes and ensure they are:

- Undertaking a review of the current scope and terms of their existing fire maintenance and certification contracts to ensure they comply with the new requirements. If necessary.
- Update the terms and conditions of their current scope and contractual documentation with their APFS (or conduct a tender for this service where appropriate).
- Making appropriate provisions for ongoing expenses within their administrative and capital works budgets.

## Introduction of building manuals

It is anticipated that strata properties will be required to maintain and complete a building manual in the future. Although the timeframe for this is yet to be determined, it would be prudent for schemes to start preparing for this likely occurrence now to avoid a rush of activity in the future.

The manual provides key information outlining all design aspects of a building's safety systems and maintenance obligations, such as:

- Layout.
- Building class.
- Construction type.
- Drawings.
- Specifications.
- Maintenance schedules.
- Asset registers.

Over time, this will greatly assist with the maintenance and certification process for both owners in strata and association schemes and technical practitioners. It will help address the absence of readily available information about ability around:

- The original schedule of essential fire safety measures.
- Passive and damper registers.
- Maintenance schedules.
- Original plans and technical drawings.

## Fire safety measures for new and existing buildings or schemes

All new fire safety measures introduced or added to an existing building must be certified by a FSA. These requirements differ from the scheme approved by the NSW Government for APFS, which was introduced as part of the 2021 Reforms.

Over time, for new buildings, the new accreditation scheme will mean that an adequately qualified and accredited person must take personal responsibility for ensuring that a fire safety system complies.

A building should be compliant when it is being completed or when a fire safety system is modified. When a FSA reviews performance for an annual fire safety statement, it is done knowing the building did comply, and they can genuinely assess performance.

## How to prepare for upcoming fire safety reforms

The committee should be well-informed and prepared to transition to the upcoming fire safety changes and requirements.

Any scheduled committee meetings should include a motion to determine appropriate action to address the forthcoming changes. Your strata manager can help provide guidance on the appropriate steps required.

There are two (2) key actions to be undertaken by each scheme:

### 1. Review current maintenance contracts.

All committees should review the current scope of work and terms of the contract with their APFS. This will help identify if any scope changes are required to satisfy the new requirements and ensure compliance with the changes by February 2025.

This review should involve:

- Contact the existing APFS to seek advice on any required modifications to the current scope of work to ensure compliance with the upcoming changes and verify the existence of an asset register if it is available.

- The committee may consider scheduling a formal meeting between the APFS and the committee to discuss the changes and agree on the next steps required to achieve compliance before February 2025.
- Obtain the revised formal contract terms from the APFS to implement changes via a resolution of the strata committee, and conduct a tender process if necessary.
- Putting formal maintenance or contract terms in place before February 2025 via the engagement of an APFS.

**Please note:** If the committee is unsure about the essential fire safety measures (EFSM) on their site, it may be necessary to engage a fire engineer to prepare a schedule and formal scope of works for tender purposes in the first instance. On these occasions, the fire engineer should also be engaged to conduct the tender process and provide formal recommendations to the committee.

## 2. Budget appropriately

Based on the outcome of the review process above, it is likely that the scheme's administrative and capital works budgets and forecasts may need to be adjusted to reflect any increase in costs arising from the annual inspection and certification process. In all instances, guidance should be sought from the appointed APFS regarding the appropriate budget requirements along with the yearly contracted costs attached to the approved maintenance/certification contract.

It is likely that strata properties will experience challenges navigating fire safety. These could be attributed to hidden building issues or the fact that most fire protection services did not have the proper qualifications until recently. Therefore, the best solution is for committees to actively make and use maintenance plans to fix these problems with the help of an officially chosen fire safety expert (APFS).

Additional guidance may occasionally be required from a strata manager, an accredited professional, a fire engineer, or the FRNSW. This could happen when new rules are created or new equipment needs to be added or updated in your property group.

# Key takeaways

NSW strata communities should actively consider the actions they need to take to help ensure the essential services in their property are appropriately maintained.

- If a scheme is required to submit an annual or supplementary fire safety statement, they are already required to maintain the essential fire safety measures in the building. These schemes should ensure maintenance contracts are updated to require compliance with this standard before 13 February 2025.
- Whilst the new standard is not mandatory until 13 February 2025, it is best practice to ensure that common property and essential service equipment are properly maintained during this time. In addition, a maintenance contract should be implemented and updated to require the service provider to follow the new standard.
- If an annual fire safety statement has not been traditionally submitted or considered 'required', building owners should still ensure that the fire safety measures serving the building are adequately maintained. If a scheme resolves to obtain an annual fire safety statement but NOT submit it to their local council and Fire and Rescue NSW, this instruction should be recorded in the meeting minutes.

- Committees must understand that regardless of whether their local council has previously issued or requested an AFSS, they have an underlying statutory obligation to ensure these items forming part of the common property are appropriately repaired and maintained to the required standard. This obligation is consistent with a scheme's same duty under section [106 of the Strata Schemes Management Act 2015](#): '*Properly maintain and keep in a state of good and serviceable repair the common property*'. The equivalent obligation for association schemes can likewise be found under section [109 of the Community Land Management Act 2021](#).

## How a strata manager can help

Strata managers are trained professionals with the knowledge and expertise required to help maintain proper and timely compliance with the legal, meeting, record-keeping, accounting, financial, insurance and safety requirements relevant to a strata property. Their expertise brings an extra layer of assurance for the owners corporation, as they can provide industry-standard guidance.

In the context of the upcoming fire safety reforms, strata managers can be particularly useful. They can work with the strata committee to ensure the corporation is prepared for these regulatory changes, meets its legal obligations, and avoids non-compliance risk.

### Important note



Strata managers are **not appropriately qualified third parties nor an APFS** and, therefore, cannot provide technical advice on these issues. The strata manager's role is to communicate these changes in requirements to the owners and facilitate the engagement of an appropriately qualified practitioner to provide advice to the scheme or committee directly. Any resolution relating to appointing a third-party expert, practitioner, or new contracts should be recorded in a formally convened committee or general meeting.

# FAQ'S

## Terminology / Legend:

Abbreviation	Definition
AFSS	Annual Fire Safety Statement = a legal document issued on behalf of the owner(s) of a building stating that all fire systems required for that building still <i>perform</i> as designed & installed
APFS	Accredited Practitioner (Fire Safety) – previously known as "CFSP"- the person that inspects, verifies and 'endorses' (signs) an essential fire safety measure as <i>performing</i> .
D&BP Act	Design & Building Practitioners Act 2020 – the law that underpins the accreditation regime for APFS.
Endorse	To sign off as having assessed, inspected, and verified (in person) the performance of each fire safety measure and inspected the fire exit/ egress systems in a building.
EFSM(s)	Essential Fire Safety Measure(s) – the individual types of fire-related equipment/ systems and the performance codes they are required to achieve for that building – e.g. "Fire Hydrants" or "Automatic Fire Detection & Alarm Systems".
EP&A	Environmental Planning & Assessment (Act or Regulation) – the law that requires maintenance & AFSS to be issued.
FSA	Fire Safety Assessor - the qualification/ role to become accredited as an APFS to endorse measures on an AFSS

## 1. What is a fire safety schedule (FSS)?

A fire safety schedule (FSS) is a document that sets out a list of all existing and proposed fire safety measures that are installed and required to be installed in a building to ensure essential fire and life safety services are in place. The measures specified in the fire safety schedule will vary for each building and can include both essential and critical fire safety measures.

The FSS must be issued by a council, registered certifier, or other consent authority when:

- Granting development consent for a change in building use, other than by a complying development certificate, where there are no proposed building works,
- Issuing a complying development certificate for building work or a change of building use.
- Issuing a construction certificate for building work.
- A fire safety order concerning a property.

The FSS must deal with a building as a whole and include the minimum standard of performance for each fire safety measure, including how it must be designed, installed, and capable of operating.

The AFSS is generally submitted as a consolidated document for building management committees.

**Please note:** FSS is not required to be issued for Class 1A buildings (e.g., dwelling houses or villas) and associated Class 10 structures (e.g., garages, carports, and decks) and temporary structures. However, if class 1A townhouses sit on top of the common garage, FSS may be required.

## 2. Selecting an APFS

Since 1 July 2020, specific accreditation has been required from an APFS when visiting, inspecting, and confirming each essential fire safety measure at a site.

It is important to note that not every APFS is accredited for every measure. For example, your current APFS may be a sprinkler expert but not yet competent to endorse hydrants, smoke alarms, etc.

You can find a register of all APFS here: <https://connect.fpa.com.au/FireSafetyAssessor>.

Anyone on this register has:

- Passed preliminary exams.
- carries professional indemnity insurance, including run-on-cover.
- Has committed to moving from 'experienced' to 'qualified' within four years of formal recognition.
- They have signed a code of practice allowing external audits of their work, meaning their accreditation status will be revoked if they are endorsing measures incorrectly.

**Please note:** The APFS accreditation scheme still requires further enhancements, and not all essential fire safety measures are currently covered by an accreditation.

### 3. What if a scheme has not obtained or lodged an AFSS?

Irrespective of whether a scheme currently has an inspection and certification regime in place or obtains (or lodges) an AFSS presently, building owners must ensure that the fire safety measures serving the building are adequately maintained and, as of 13 February 2025, maintained to AS1851-2012.

In the event a scheme wishes to continue to abstain from obtaining or lodging an AFSS, the equipment MUST be maintained following these standards, and any instruction to refrain from obtaining (or lodging an AFSS) should be recorded via a minuted resolution at a formal convened general or committee meeting.

What if no information is available about what fire and essential equipment is present? Depending on the site and complexity of a building, the scheme will need to engage either an APFS or a Fire Engineer to provide advice in this regard and help prepare a fire safety schedule if one does not exist.

#### Further information and resources:

Register of APFS	<a href="https://connect.fpaa.com.au/FireSafetyAssessor">https://connect.fpaa.com.au/FireSafetyAssessor</a>
Sample APFS AFSS Checklist (20/20 Fire)	<a href="#">PROC-040_AFSS-Essential-Fire-Safety-Measures-Checklist (1).xlsx</a>
NSW Fair Trading Guidelines:	<a href="https://www.fairtrading.nsw.gov.au/housing-and-property/reforms-to-fire-safety-regulation">https://www.fairtrading.nsw.gov.au/housing-and-property/reforms-to-fire-safety-regulation</a>