

# Building bond

## The strata building bond and inspections scheme

The strata building bond and inspections scheme applies where a developer and builder enter into a contract from 1 January 2018.

The scheme applies to building work to construct residential or partially-residential strata properties that are four or more storeys. Buildings that are three storeys or under are covered under the Home Building Compensation Fund.

This scheme includes a building bond and mandatory defect inspection reports. It provides a structured, proactive process that resolves building issues quickly and cost effectively.

Developers must lodge a building bond with NSW Fair Trading equal to 2% of the contract price for residential and mixed-use high rise strata buildings. The building bond secures funds (up to the amount of the bond). The building bond can then be used to pay the costs of rectifying any defective building work identified in a final inspection report.

## Who is affected?

Key participants involved in the building bond process include:

- Developer
- Owners corporation (owners in a strata scheme)
- Strata inspector panel - made up of nominated bodies in the Strata Schemes Management Regulation 2016 (the Regulation), through which a building inspector can be sourced
- Building inspector - a member of the strata inspector panel
- Builder (contracted by the developer).

The following organisations enable and authorise key stages in the process:

- NSW Fair Trading, on behalf of the Secretary of Department of Finance, Services and Innovation (the Building Bond Secretary).

## Stages in the process

The Strata building bond and inspections scheme is broken down into key stages, including:

1. Preparing to lodge the building bond
2. Bond lodgement
3. Appointing a building inspector
4. Interim inspection and report
5. Final inspection and report
6. Payment of bond
7. Completing the process.

### 1. Preparing to lodge the building bond

Once a builder and developer enter into a contract to construct a strata scheme of four or more storeys, the developer should prepare to lodge the building bond equal to 2% of the contract value of the work.

### 2. Bond lodgement

The developer must upload the following to the Strata building bond and inspections scheme online portal when giving a building bond to the Secretary:

- the lodgement form
- building bond (ie. a bank guarantee or a 'bond')
- supporting documents and information

and pay the administration fee of \$1,500.

The Building Bond Secretary then receives, verifies and accepts the original building bond (ie. a bank guarantee or a 'bond'), which is required before an occupation certificate can be issued.

### 3. Appointing a building inspector

The developer sources a building inspector through the Strata inspector panel. The building inspector must be independent of the developer. The developer can be penalised for failing to disclose any connection with the building inspector. Likewise, the building inspector can be penalised for failing to disclose any connection with the developer.

The developer must notify the Building Bond Secretary and the owners corporation of the proposed appointment

of the building inspector. The owners corporation then approves or rejects the building inspector appointment.

The Building Bond Secretary will appoint an independent building inspector, if:

- the developer fails to organise for one to be appointed
- this includes if the owners corporation rejects the building inspector that the developer seeks to appoint.

The building inspector then arranges a date with the owners corporation to inspect the strata property. At all stages where a building inspector is used in the process, the developer pays for their work.

#### 4. Interim inspection and report

The building inspector conducts their first inspection of the strata property and completes a report identifying any defective building work. This happens between 15 and 18 months after the building work has been completed.

The owners corporation, developer, builder responsible for any defective work and the Building Bond Secretary receive access to the report.

If no defects are identified, the bond may be released to the developer - **two years after the date of completion** (not at 18 months when the interim report is provided by the building inspector).

If there are defects, the builder responsible for the defective work must rectify them. The developer must also organise the building inspector to conduct a final inspection.

The developer must advise the Building Bond Secretary if the original building inspector is unavailable, or make an application to the Secretary to appoint a building inspector. The Building Bond Secretary appoints the new building inspector and notifies the owners corporation and developer of the appointment.

#### 5. Final inspection and report

The building inspector arranges with the owners corporation to conduct a final inspection of the property.

This happens between 21 and 24 months after the building work has been completed.

The building inspector provides a final report to the developer, the owners corporation, builder responsible for any defective work and the Building Bond Secretary. This report will assess whether the defects identified in the interim report have been fixed.

#### 6. Payment of bond

If there are no defects, the bond is released in full to the developer.

If there are defects:

Step 1:

- the cost to rectify the defects must be agreed to by both parties. The Building Bond Secretary will then claim that amount from the issuer of the building bond for payment to the owners corporation, or
- the developer can agree to release part or all of the bond money to the owners corporation

Step 2:

- an agreement is not reached between the developer and owners corporation, the Building Bond Secretary will appoint a quantity surveyor to determine the cost to rectify based on the identified defective building work in the final report.

#### 7. Completing the process

The Building Bond Secretary facilitates the release of the bond money. The owners corporation must use any money they receive to fix the defects identified. After the defects are fixed, any money left over must be returned to the developer.

There is an alternative review process if the owners corporation or developer disagrees with how much bond money, if any, is returned to the developer or paid to the owners corporation.

## More information

Visit the relevant page on the Fair Trading website to learn more about the Building bond and inspections scheme and the process for each participant:

- For developers
- For builders
- For owners corporations and lot owners
- For building inspectors
- Frequently asked questions