

Strata building bond and inspections scheme
(SBBIS)

Owners corporation
information manual

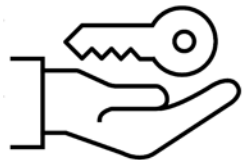


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The content below is general in nature and should not be relied upon to replace legal advice

Please refer to the requisite Legislation and your legal practitioner for advice.

The content below is general in nature and should not be relied upon.

Introduction

The Strata building bond and inspections scheme (the Scheme) commenced on 1 January 2018.

It applies to **building work** for building contracts entered into from 1 January 2018. If there is no contract, it applies to **building work** commenced from this date.

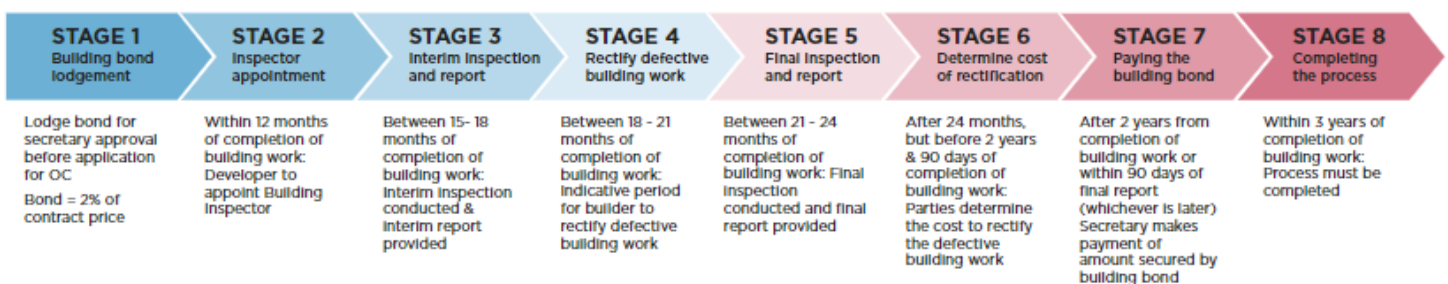
Developers are required to lodge a building bond that is 2% of the **contract price** for the **building work**, with NSW Fair Trading (the Secretary). The building bond secures funds (up to the amount of the bond) to pay for the costs of rectifying defective building work

Building work means, building work that is carried out on a residential or partly residential (mixed-use) strata building, that is four or more storeys. The **building work** must also be carried out for the purposes of, or contemporaneously with, the registration of a strata plan or a strata plan of subdivision of a development lot.

Mixed use purpose could be, for example, a development that includes a combination of residential, retail, commercial, hotel, but it must include residential.

The Scheme does not apply to building work if the work is subject to the requirements to obtain insurance under Part 6 of the *Home Building Act 1989* (Home building compensation cover). For example, the building is three storeys or less.

Strata building bond & inspections scheme (SBBIS) - process stages



Stages in the Scheme

- | | |
|---------|---------------------------------|
| Stage 1 | Building bond lodgement |
| Stage 2 | Inspector appointment |
| Stage 3 | Interim inspection and report |
| Stage 4 | Rectify defective building work |
| Stage 5 | Final inspection and report |
| Stage 6 | Determine cost of rectification |
| Stage 7 | Paying the building bond |
| Stage 8 | Completing the process |



Summary of the key requirements for owners corporations

The following is a summary of the key requirements for the owners corporation. More detail is explained below.

- verification of correct contact person and details for electronic communications
- building inspector approval or refusal as proposed by the developer
- allow access for the building inspector to carry out inspections
- allow access to the builder to rectify defective building work (if any)
- reach agreement with the developer as to the cost to rectify the defective building work (if any)

Key terms

For more information about the **key terms in bold**, please refer to the key terms section on the Strata building bond and inspections scheme page.

	<p>External link</p> <p>Strata building bond and inspections scheme webpage</p> <p>If any inconsistency exists between webpage (external link) and information manual (internal link), in any case the Legislation prevails.</p>
	<p>Internal link – Schedules</p> <p>Schedule 1: key terms</p> <p>If any inconsistency exists between webpage (external link) and information manual (internal link), in any case the Legislation prevails.</p>

How will the Scheme be administered?

Online ePortals

Strata building bond and inspections scheme ePortal (and secured share folder) and NSW Planning Portal

The Strata building bond and inspections scheme is administered across two online platforms:

- Current projects:
 - the SBBIS ePortal for current projects registered with Fair Trading prior to 1 September 2020, and
- New projects:
 - NSW Planning Portal for projects registered from 1 September 2020

The owners corporation does not need to register in the SBBIS ePortal (or upload any documents to the secured share folder) or register in the NSW Planning Portal. These actions relate to the developer's obligations.

The developer must provide the details of the owners corporation and the strata scheme in the SBBIS ePortal or the NSW Planning Portal. This includes the owners corporation name, address, email address for service, telephone number and contact details.

The developer and the Secretary will send the owners corporation notifications to the email address provided by the developer in the SBBIS ePortal or NSW Planning Portal.

When the Secretary approves the developer's building bond lodgement in the SBBIS ePortal or the NSW Planning Portal, a system generated email will be sent to the owners corporation, advising that a building bond has been lodged for their strata building. This notification provides instructions to verify their contact and email details with the Secretary.

The SBBIS ePortal and the NSW Planning Portal will be used for Stage one of the Scheme only, which is used by the developer and Secretary, to:

- facilitate the building bond lodgement process
- enter information about the strata development, builder and owners corporation
- pay the lodgement fee
- for notifications to the developer and owners corporation (using the email addresses provided by the developer), and
- Secretary's actions – issue of Stage one approvals, requests for further information or documents and for refused lodgements.

Email communication



The Scheme is administered by electronic communications. All correspondence required for the Scheme will be via email or emails generated through the NSW Planning Portal.

The owners corporation should ensure they verify their details with the Secretary, when they receive notification of a building bond lodgement from the Secretary.

Written notices suite

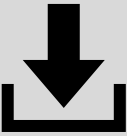
For Stages 2 to 8 of the Scheme, all the written notices required under legislation are available on the Fair Trading [website](#).

These written notices can be used by the owners corporation to complete their obligations under the Scheme.

	<p>External link</p> <p>The written notices will be available on the Strata building bond and inspections scheme webpage.</p>
	<p>Internal link – Schedules</p> <p>Schedule 4: Written notices</p> <p>If any inconsistency exists between webpage (external link) and information manual (internal link), in any case the Legislation prevails.</p>

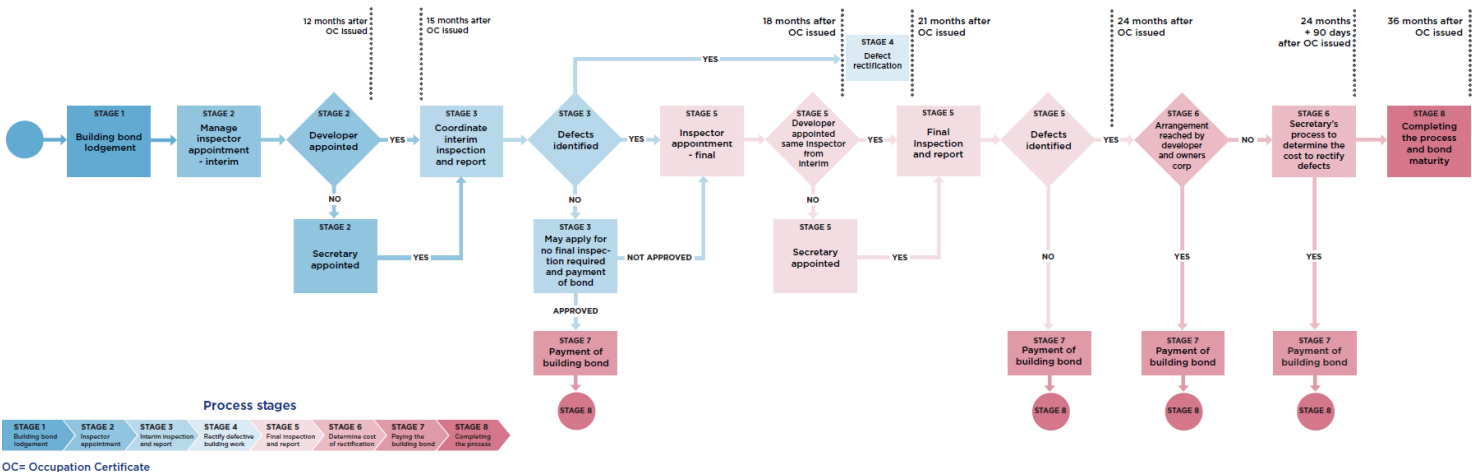
The detailed process

We have created a process map diagram to help you understand each stage in the scheme. You might find it helpful to have it handy while you read the 8 stages below.

	<p>External link</p> <p>Open the process map - this is an online version linking to the website.</p>
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The same process map is reproduced below:

If you have trouble seeing this diagram, please use the link above – it can be expanded

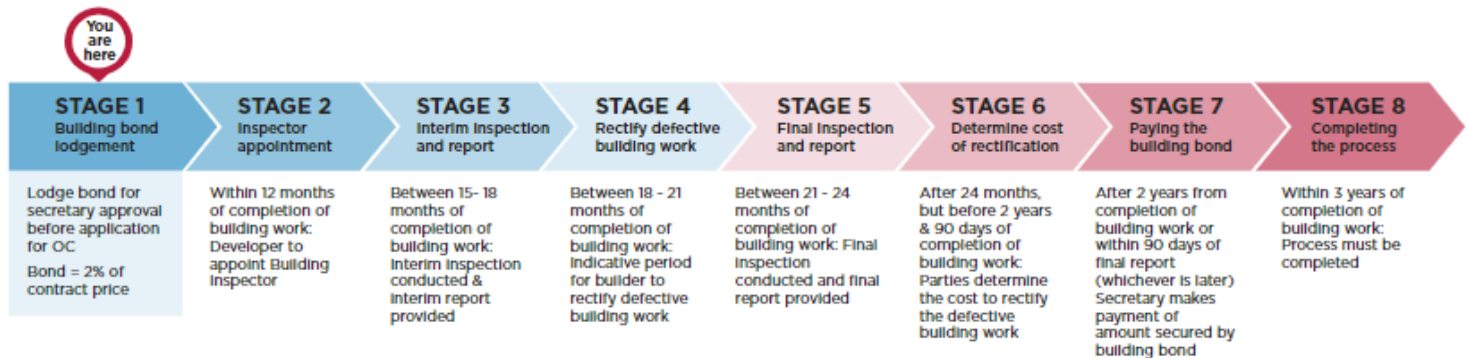


Important:

The information below has been simplified and for full obligations and mandatory requirements, reference should be made to legislation.

Stage 1. Building bond lodgement

Strata building bond and inspections scheme (SBBIS) - process stages



	<p>Written notice – access Forms on the webpage</p> <p>Forms required: Nil. The lodgement form is completed by the developer in the ePortal</p> <p>Form 1A – Developer’s Notice - is a manual form required only if requested by the Secretary.</p> <p>Form 1B – Secretary’s Notice – Developer to provide additional information or documents (to substantiate the contract price for building bond)</p>
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From 1 January 2018, a developer is required to lodge a building bond with the Secretary.

This legislative obligation is required when:

- a developer enters into a contract with a builder for building work on a residential (including mixed use) strata building of four or more storeys, on or from 1 January 2018, or
- where there is no contract, it applies where building work commences on or from 1 January 2018, for building work on a residential (including mixed use) strata building of four or more storeys.

	<p>Legislation</p> <p>Strata Schemes Management Act 2015: Schedule 3 Clause 16</p> <p>Strata Schemes Management Act 2015: Section 207</p> <p>Strata Schemes Management Regulation 2016: Clause 50</p>
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It is the responsibility of the developer to lodge the building bond with the Secretary and have it approved before an application is made for the issue of any occupation certificate (OC) which allows people to occupy the building – whether with conditions or interim OC.

The contract price

The amount to be secured by a **building bond** is to be 2% of the **contract price** for building work. Generally, the contract price is the total price paid or payable under all the applicable contracts for the **building work**, regardless of when the amounts become payable. The contract price should be calculated at a time just before the developer makes application for any **occupation certificate** (OC) which allows people to occupy the building – whether with conditions or interim OC. For example, at practical completion - not the contract price before or at the start of construction - and includes all variations, additions and price fluctuations etc. It also includes **GST**.

The contract price includes, but is not limited to:

- construction and fit out costs (not including appliance and prime cost items)
- demolition and site preparation
- excavation
- car parking
- costs for the common property that is included in the property plan, including landscaping, pools, fencing and gates
- **professional fees**, and
- taxes applied in the calculation of the as-built construction.

	<p>Legislation</p> <p><u>Strata Schemes Management Act 2015: section 189</u></p> <p><u>Strata Schemes Management Regulation 2016; clause 50</u></p>
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Cost report

When there is no written contract for the **building work** (for example where the developer is also the builder or the parties to the building contract are connected persons), the **contract price** for building work is to be the price set out in a **cost report** prepared by a quantity surveyor, engaged by the developer.

The **cost report** must be prepared by a quantity surveyor who is a member of the Australian Institute of Quantity Surveyors or the Royal Institution of Chartered Surveyors and is not connected to the developer or the builder, or a bank or other person providing finance for the building work.

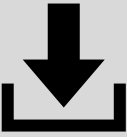
The cost report prepared by the quantity surveyor must include:

- all work that is conducted in relation to the contract, as list above under contract price, and
- a certificate by the quantity surveyor that they have inspected the as-built drawings and specifications for the strata plan to which the report relates.

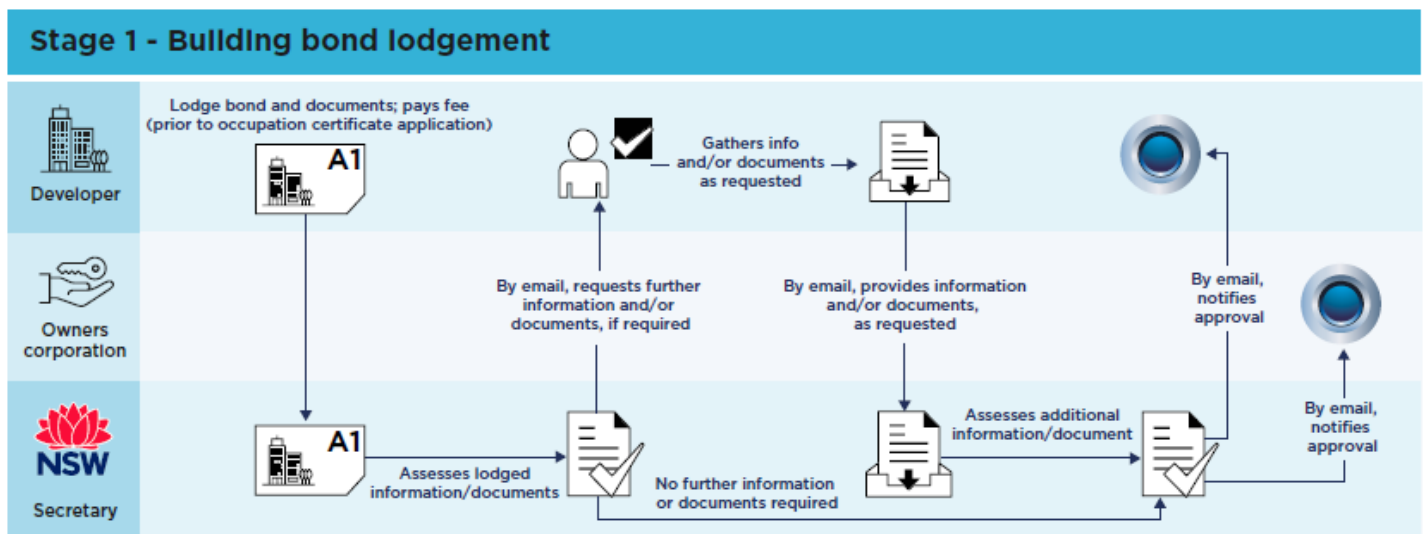
Assessing the developer's building bond lodgement application

The Secretary considers the developer's request to approve their building bond lodgement. The Secretary then completes the validation of the original building bond and approves the developer's building bond lodgement in the SBBIS ePortal or the NSW Planning Portal.

If you need more information on this stage in the process, read this document:

	<p>External link</p> <p>Open the developer's information manual</p>
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Summary of interaction with other stakeholders in stage 1



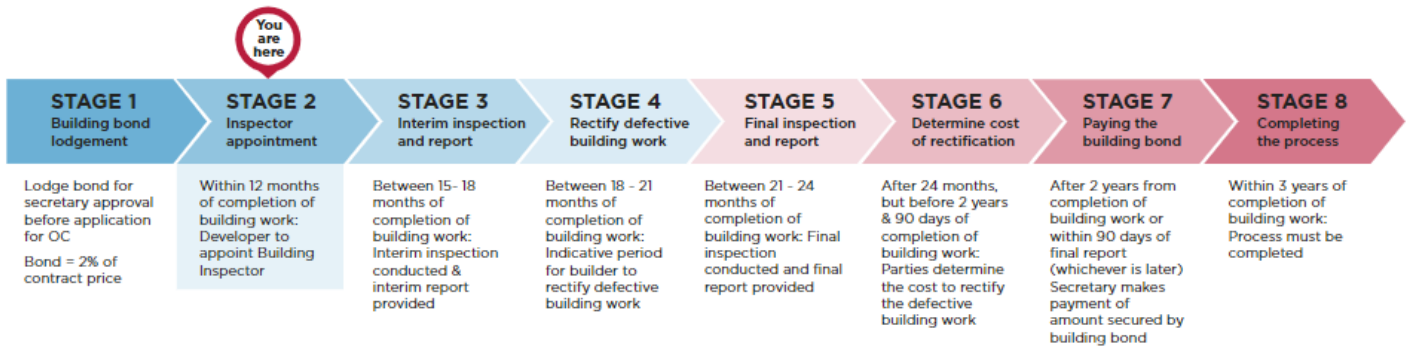
What happens next?

The owners corporation will receive an email from the Secretary informing them a building bond has been received for their strata building and requests verification of their contact details.

The next stage is Stage 2 - Inspector appointment.

Stage 2. Inspector appointment

Strata building bond and inspections scheme (SBBIS) – process stages



A developer must appoint a building inspector to carry out the interim and final inspections and produce the interim and final reports.

	<p>Written notice – access Forms on the webpage</p> <p>Form 2A - Developer - Disclosure and Proposal Form</p> <p>Form 2B - Building Inspector - Disclosure Form</p> <p>Form 2C - Owners Corporation - Accept or Reject Building Inspector</p> <p>Form 2D - Developer - Appointment of the Building Inspector</p> <p>Form 2E - Developer - Building Inspector Not Appointed</p> <p>Form 2F - Owner of a Lot - Objection to Building Inspector</p> <p>Form 2G – Secretary’s Notice – (Objection) Notify parties BI remains</p> <p>Form 2H – Secretary’s Notice – (Objection) Notify parties Secretary appointed new BI</p> <p>Form 2I - Building Inspector – Secretary’s additional Disclosure Form</p> <p>Form 2J – Secretary’s Notice – Notify parties Secretary appointed Building Inspector</p>
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	<p>Legislation</p> <p><u>Strata Schemes Management Act 2015</u>: Sections 195(1), 195(3) and 195(4)</p>
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Appointing the building inspector: interim inspection

The building inspector must be appointed within 12 months of the issue of any occupation certificate (OC) which allows people to occupy the building – whether with conditionals or interim OC, if the initial period of an owners corporation of a strata scheme ends within that 12 months.

The initial period ends when the owners corporation changes from being the original owner of the land (ie. the developer) to the actual owners of the lots. Go to the [starting the owners corporation page](#) for more information on the initial period.

Note

The Secretary will arrange the building inspector if one is not appointed by the developer within 12 months of the issue of the occupation certificate.

A building inspector can be nominated and appointed to carry out inspections and produce reports for the Strata building bond and inspections scheme, if they are a member of a **strata inspector panel**.

Strata inspector panels

The building inspector must be a member of a **strata inspector panel**.

A **strata inspector panel** (SIP) can only be provided by authorised professional associations as listed in [clause 44](#) of the Strata Schemes Management Regulation 2016. A SIP may be established by any of the following:

- (a) the Housing Industry Association Limited
- (b) Master Builders Association of New South Wales Pty Ltd
- (c) the Australian Institute of Building
- (d) Australian Institute of Building Surveyors
- (e) the Australian Institute of Building Consultants Pty Ltd
- (f)) the Australian Society of Building Consultants Incorporated
- (g) the Institute of Building Consultants Inc
- (h) Engineers Australia Pty Limited
- (i) the Association of Accredited Certifiers Incorporated
- (j) the Australian Institute of Quantity Surveyors Ltd
- (k) RICS Australasia Pty Ltd.

Each of these associations will have their own processes and criteria to determine whether to be included in their panel to perform building inspections and produce reports for the purposes of the Scheme. Specific information should be obtained directly from the above professional associations.

Inclusion on a SIP means that the association has determined the qualified person may perform building inspections and produce reports for the Scheme.

Selecting the building inspector


Each SIP will have a register of members who are qualified to be building inspectors for the purposes of the Scheme. This register will be available on each association's website and contain the details and experience of each building inspector, including their contact details.

The developer must nominate a building inspector from one of these SIP's.

The developer accesses the association's website for the SIP register of building inspectors, selects a building inspector and makes their due diligence enquiries with that building inspector. Once satisfied with the selection of their building inspector, the developer must propose them to the owners corporation.


Proposed building inspector and disclosures to the owners corporation

To propose the building inspector, the developer will email the owners corporation and provide information about that building inspector. A **written notice** is available for this notification.

	<p>Written notice – access Forms on the webpage</p> <p>Form 2A has been developed to comply with this requirement. Form 2A is a mandatory form and must be used by the developer when proposing a building inspector to the owners corporation.</p>
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The developer must include disclosures or connected person interests (if any) between the developer and the proposed building inspector.

The proposed building inspector will also email the owners corporation and let them know of disclosures and connected person interests (if any) with the developer. A **written notice** is available for this notification.

	<p>Written notice – access Forms on the webpage</p> <p>Form 2B has been developed to comply with this requirement.</p>
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Appointing the building inspector

The developer can only appoint the building inspector if the owners corporation approves the appointment by a resolution at a general meeting.

The owners corporation must call a general meeting of the owners to consider the proposed inspector by the developer and any disclosures from the developer and/or the proposed building inspector.

The owners corporation must pass a resolution to approve or refuse the appointment of the building inspector. The general meeting resolution is determined by a simple majority. A developer or lessor of a leasehold strata scheme cannot vote, or exercise a proxy vote, on a matter concerning building defects.

The owners corporation must provide **written notice** by email to the developer and the Secretary within 14 days of approving or refusing the appointment of the building inspector. A **written notice** is available for this notification.



Written notice – access Forms on the [webpage](#)

Form 2C has been developed to comply with this requirement.

If the owners corporation rejects the proposed building inspector, the developer has the option to repeat the process until the owners corporation approves an inspector within the 12 month period. The developer will notify the Secretary once a building inspector has been approved by both the developer and owners corporation.

If for any reason, the developer fails to successfully appoint a building inspector within 12 months, they must provide written notice to the Secretary by email within 21 days after the end of the 12 month period.

The Secretary will then arrange the appointment of a building inspector and notify the developer and owners corporation.

If the Secretary arranges the building inspector, the owners corporation approval is not required.

The developer must pay all inspector costs, even when the inspector is arranged by the Secretary. There is a service fee if the Secretary arranges the building inspector.

If you need more information on this stage in the process, read the Secretary's approved guidelines:




External link

1. [Open the guideline – Appointing a building inspector by the developer and owners corporation](#)
2. [Open the guideline – Arranging a building inspector by the Secretary](#)

Objection by an owner of a strata scheme lot

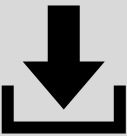
An individual owner of a strata scheme lot may object to the owners corporation approval of a building inspector, for any reason. The individual owner must lodge their objection with the Secretary within 14 days after the owners corporation approves the appointment.

	<p>Written notice – access Forms on the webpage</p> <p>Form 2F has been developed to comply with this requirement.</p>
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The Secretary will consider the objection and if appropriate in the circumstances arrange the appointment of another building inspector. The Secretary will give **written notice** of the appointment to the developer and owners corporation.

If the decision is to not appoint an alternative building inspector, the Secretary will notify those concerned of the decision, by email.

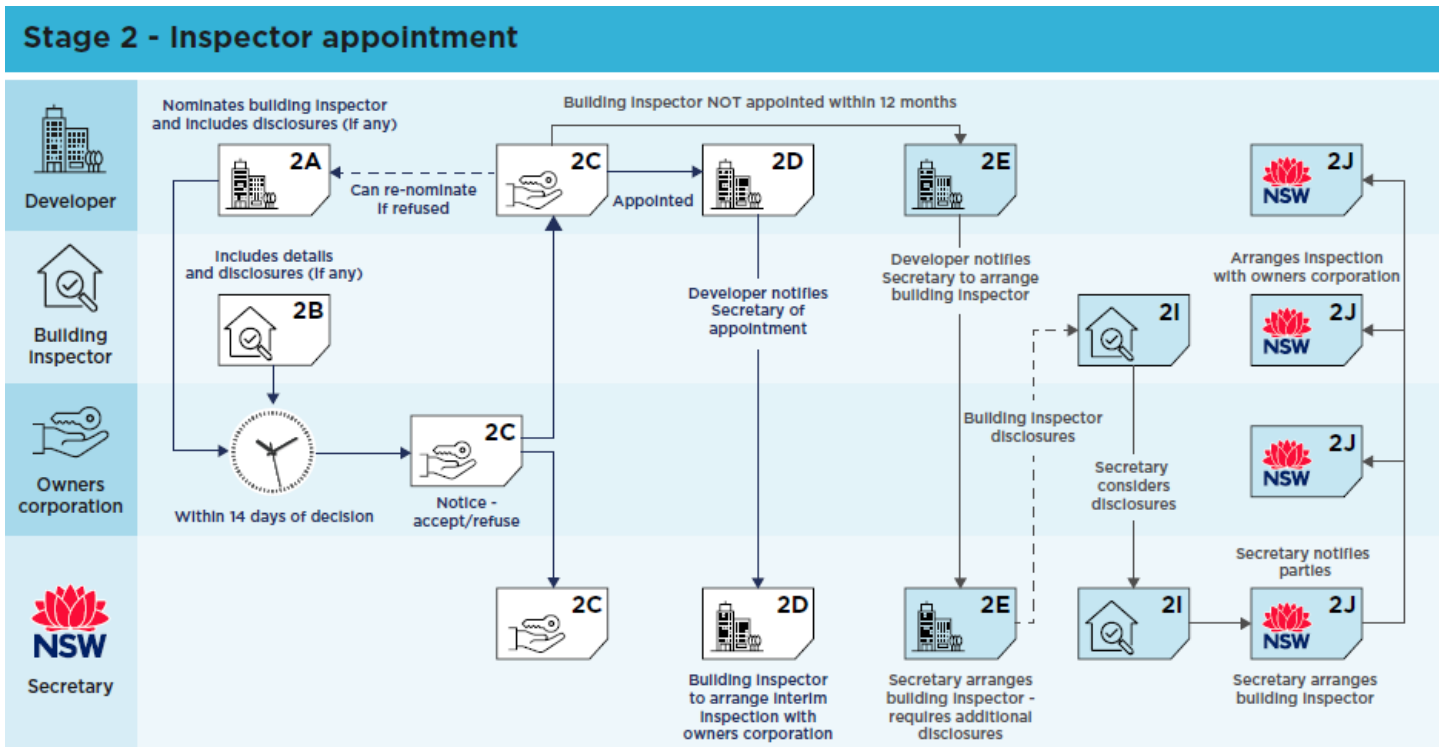
If you need more information appointing/arranging building inspectors, read the Secretary's approved guideline:

	<p>External link</p> <p>Open the guideline – Arranging a building inspector by the Secretary</p>
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Appointing the building inspector: final inspection

Heads up note. Stage 5 is the final inspection. A building inspector may be required to carry out a final inspection and needs to be organised before the end of Stage 3 ie. before 18 months after the issue of the occupation certificate. This arrangement is explained at Stage 5 below – Final inspection and report.

Summary of interaction with other stakeholders in Stage 2



What happens next?

What happens if the building inspector is approved by the owners corporation?

The owners corporation completes and forwards Form 2C to the developer and the Secretary within 14 days of the general meeting approving the developer's building inspector.

The developer will then notify the Secretary by completing and forwarding form 2D to the Secretary. The building inspector will then arrange a time with the owners corporation to conduct the interim inspection.

What happens if the building inspector is refused by the owners corporation?

The developer can continue to nominate other building inspectors to the owners corporation within the 12 month period after the completion of building work.

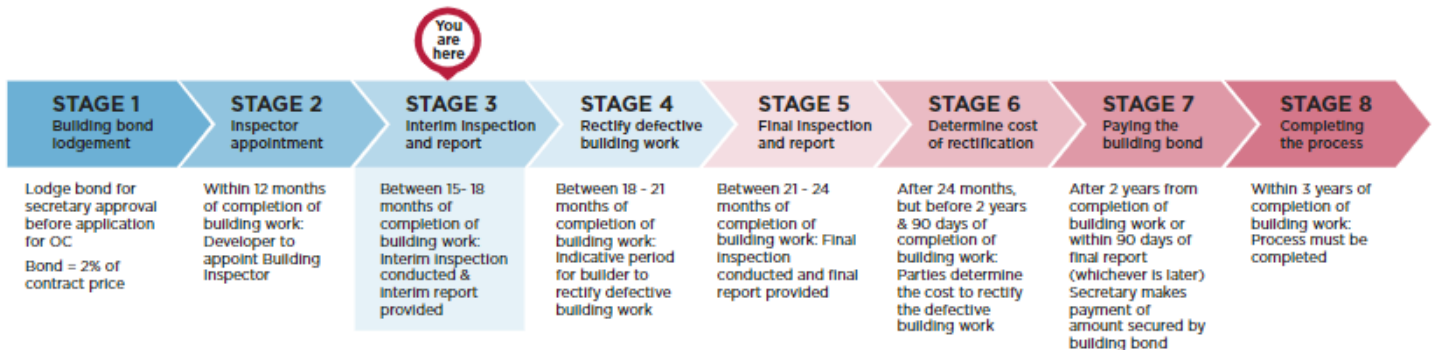
What happens if a building inspector has not been appointed?

The Secretary will appoint one. If the Secretary appoints the building inspector, the approval of the owners corporation is not required.

The next stage is Stage 3 – Interim inspection and report.

Stage 3. Interim inspection and report

Strata building bond and inspections scheme (SBBIS) - process stages



The building inspector must conduct the interim inspection and provide the interim report.

	<p>Written notice – access Forms on the webpage</p> <p>Form 3A – Building Inspector – Notice to enter strata scheme for <u>interim</u>/final inspection</p> <p>Form 3B – Building Inspector – Notice <u>interim</u>/final report finalised and served</p> <p>Form 3C – Owners Corporation – notice to owners of lots interim/final report available</p> <p>Form 3D – Developer – Application to Secretary for order not to arrange final report</p> <p>Form 3E – Secretary-s Notice – Developers application not to arrange final report is approved/refused</p>
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	<p>Legislation</p> <p><u>Strata Schemes Management Act 2015</u>: Sections 199, 202(2), 202(3) and 203</p>
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Interim inspection

The building inspector conducts their first inspection - the interim inspection, between 15 and 18 months after the issue of the occupation certificate. The building inspector must attend the site to perform the interim inspection.

The interim inspection is carried out to identify any defective building work for the strata scheme.

The building inspector will arrange with the owners corporation a suitable time to attend the property to conduct the interim inspection of the strata scheme.

The building inspector must give at least 14 days' written notice to the owners corporation and the owner / occupier of any affected lot, (eg. apartment) if they plan to enter the lot.

The owners corporation, any person who has exclusive use of common property, a strata managing agent, building manager or manager of the common property, and any owner or occupier of a lot, are required to provide reasonable access and assistance and not to obstruct or hinder a building inspector.

Interim report

The building inspector will also complete a report, known as the interim report, between 15 and 18 months after the occupation certificate is issued.

The building inspector must produce the interim report in the form approved by the Secretary (see below).

The interim report records the identified defective building work (if any), and if reasonably practicable, identifies the cause of that defective building work. The building inspections do not provide another level of compliance, but does identify defective building work, to which Part 11 *Strata Schemes Management Act 2015* applies.

Defective building work is to be identified at the time the interim inspection is performed. The final report must not contain matters that relate to defective building work not identified in the interim report, other than arising from rectification of defective building work identified in the interim report.

Destructive and/or invasive testing is not required for the purpose of this Scheme.

Defective building work is to be identified by visual inspection and use of equipment/techniques that do not involve destructive testing. The inspection is to include the removal of any object designed to be moved/opened whether or not it requires a specialist to remove/open any object. It includes any test whereby the object or assembly can be returned to its prior state without the replacement by a new component.

A secondary inspector should perform inspections outside of the appointed building inspector's skillset. Any additional specialist/expert reports must be included as part of the interim report and be paid by the developer.

The building inspector must give a copy of the interim report to the owners corporation within 14 days after completing the report and before 18 months after the issue of the occupation certificate.


Within 14 days of receiving the report from the building inspector, the owners corporation must let the lot owners of the strata scheme know that the interim report has been received, and how they can get an electronic copy from them.

No defective building work identified

If there is no defective building work identified in the interim report, the developer can apply to the Secretary that a final report is not required.

If this application is approved by the Secretary, the interim report becomes the final report. The building bond can then be returned to the issuer of the building bond (lodged by the developer) within 90 days of the final report.

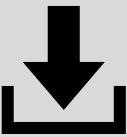
The Secretary may provide a release to the developer to enable the building bond to be cancelled.

	<p>Legislation</p> <p>Strata Schemes Management Act 2015: Section 210A</p>
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Defective building work identified

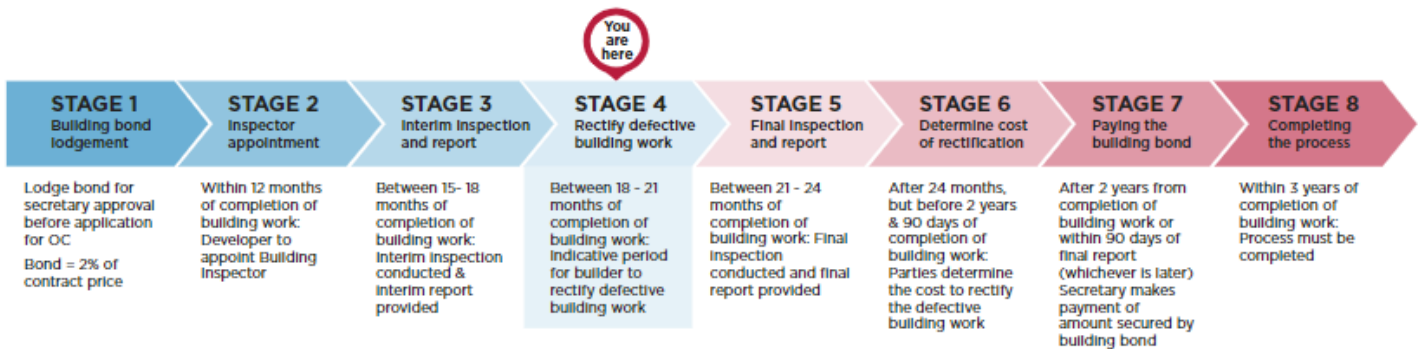
If defective building work was identified in the interim report, the developer should arrange with the builder responsible for the defective building work, to rectify it before the final inspection is carried out. See Stage 4 below – Rectify defective building work.

If you need more information about how the building inspector is to produce their report, read the Secretary's approved guideline:

	<p>External link to guideline</p> <p>Open the guideline - Combined interim and final inspection report</p>
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Stage 4. Rectify defective building work

Strata building bond and inspections scheme (SBBIS) – process stages



The builder must rectify any defective building work identified in an interim report from the building inspector.

	<p>Written notice – access Forms on the webpage</p> <p>Forms required: Nil.</p>
	<p>Form 4A – Builder – Notice to enter strata scheme to fix defects</p> <p>Form 4B – Developer – New builder appointed to fix defects</p>

	<p>Legislation</p> <p>Strata Schemes Management Act 2015: Section 206</p>
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Correcting any defective building work identified in the interim report is the responsibility of the developer, who will liaise with the builder.

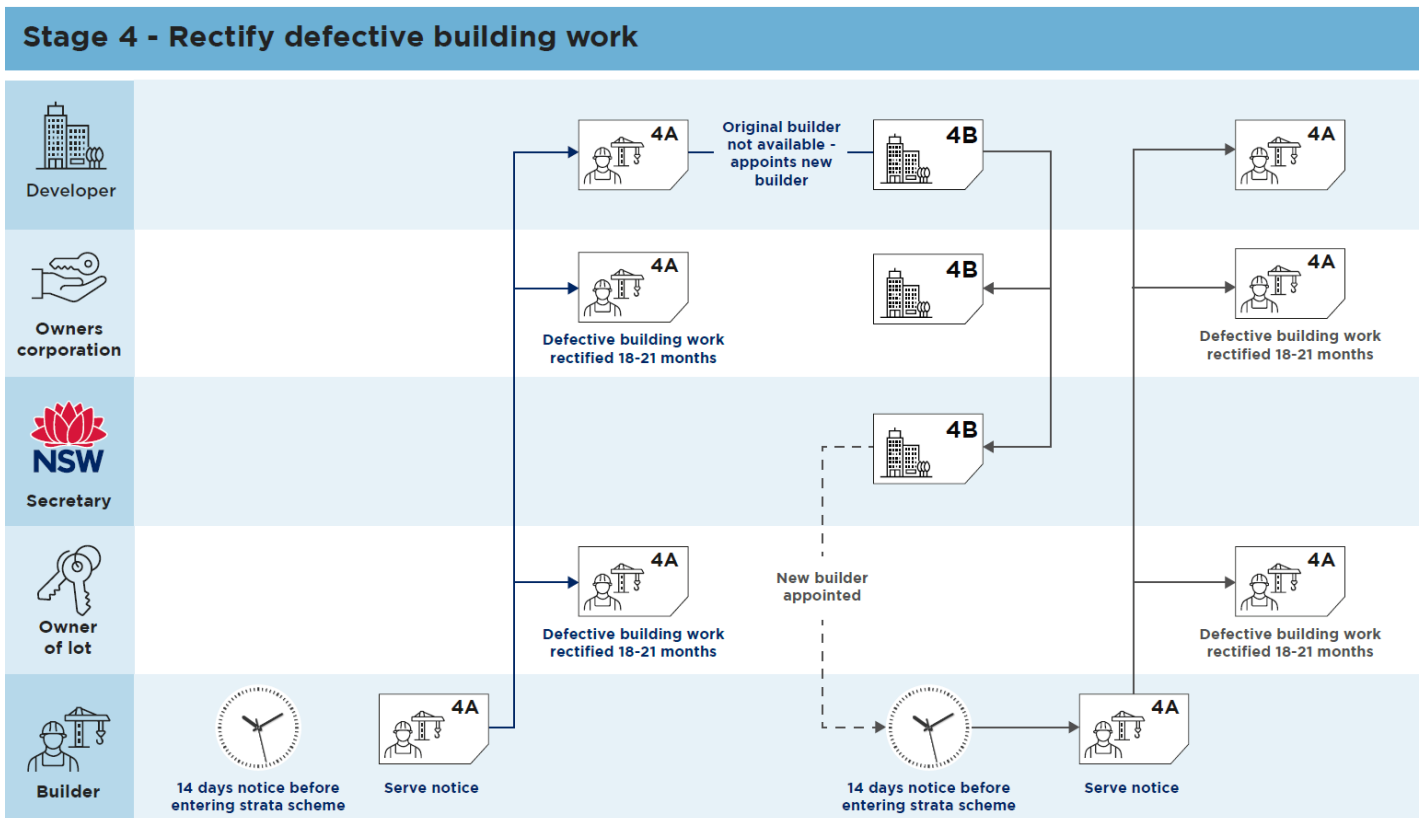
If the original builder is not available, the developer is required to arrange for another builder to do the rectification work.

Rectifying defective building work can occur at any time after the building work is completed. But if the defective building work was identified in the interim report, it should be rectified between 18 and 21 months after the issue of the occupation certificate, but before the final inspection.

If the builder needs to enter the affected lot (eg. apartment), to fix the defective building work, they must give at least 14 days' written notice to the owners corporation, the developer, the lot owner and occupier of the lot.

The builder may enter the lot only at a time that is reasonable, or at a time agreed with the owner or occupier of the lot. A person cannot unreasonably refuse a builder access to any part of the strata scheme if the builder has given required notice.

Summary of interaction with other stakeholders in stage 4



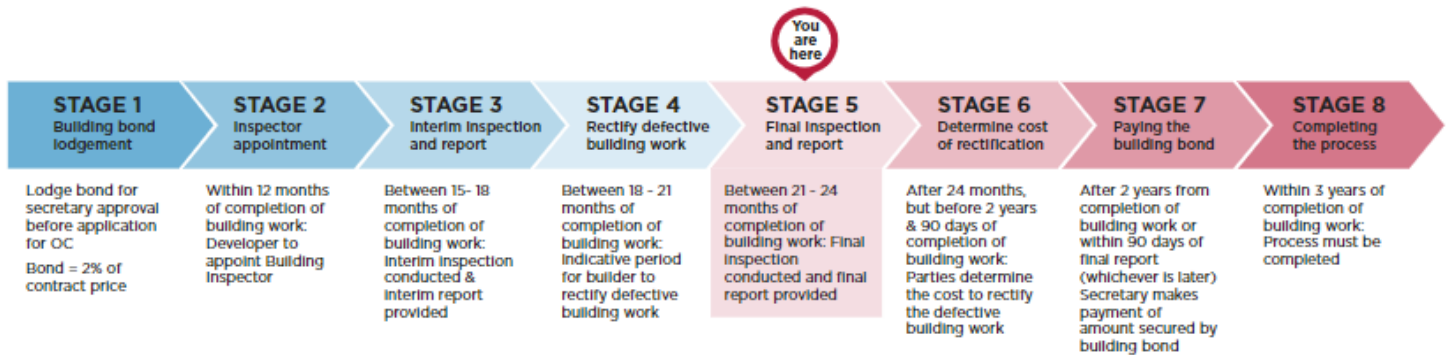
What happens next?

The building inspector will conduct their final inspection on the building work.

The next stage is Stage 5 – Final inspection and report

Stage 5. Final inspection and report

Strata building bond and inspections scheme (SBBIS) – process stages



The building inspector must conduct the final inspection and provide the final report.

	<p>Written notice – access Forms on the webpage</p> <p>Forms required: Nil.</p> <p>Form 3A – Building Inspector – Notice to enter strata scheme for interim/<u>final</u> inspection</p> <p>Form 3B – Building Inspector – Notice interim/<u>final</u> report finalised and served</p> <p>Form 5A – Developer – Notice to Secretary appointment of building inspector for final inspection/report</p> <p>Form 5B – Developer – Notice to Secretary that building inspector not available for final inspection/report</p> <p>Form 5C – Secretary’s Notice – Notify parties Secretary appointed new Building Inspector</p>
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	<p>Legislation</p> <p>Strata Schemes Management Act 2015: Section 200(1), 200(2) and 201</p>
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Appointing the building inspector: final inspection

Within 18 months of the issue of the occupation certificate, the developer must arrange for the same building inspector who prepared the interim report to carry out the final inspection and provide the final report.

The developer must then notify the Secretary of this, arrangement within 14 days. A **written notice** is available for this notification.

If the original building inspector is not available, the developer must give the Secretary written notice of this, within 14 days (after becoming aware).

Arranging the building inspector

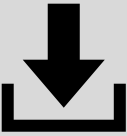
The Secretary will arrange the building inspector when:

- the original building inspector who prepared the interim report is not available
- the developer applies by email to the Secretary to appoint an inspector, or
- the Secretary becomes aware that the developer has not complied with the requirement to appoint a building inspector for the final inspection.

If the Secretary arranges the building inspector, the approval of the owners corporation is not required.

The developer must pay for all inspector costs, even when the inspector is appointed by the Secretary. There is a service fee payable by the developer if the Secretary arranges the building inspector.

If you need more information on this stage in the process, read the Secretary's approved guideline:

	<p>External link to guideline</p> <p>Open the guideline - Arranging a building inspector by the Secretary</p>
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Final inspection

The final inspection must be done between 21 and 24 months after the occupation certificate is issued. The building inspector must attend the site and perform the final inspection.

This inspection is to inspect whether the defective building work identified in the interim report has been rectified.

The building inspector will arrange with the owners corporation a suitable time to attend the building to conduct the final inspection of the strata scheme.

If the building inspector needs to enter any lot (eg. apartment), they must give the owners corporation and any owner / occupier 14 days' notice.

The owners corporation, any person who has exclusive use of common property, a strata managing agent, building manager or manager of the common property, and any owner or occupier of a lot must provide any reasonable access and assistance and not to obstruct or hinder a building inspector.

Final report

The building inspector will complete the final report between 21 and 24 months after the issue of the occupation certificate.

The final report will record:

- any defective building work identified in the interim report that has not been rectified
- identify any defective building work arising from the rectification of defective building work previously identified in the interim report, and
- specify how the defective building work identified in the report should be rectified.

The final report cannot contain defective building work not identified in the interim report. The building inspector must produce the final report in the form approved by the Secretary (see below).

The building inspector must produce the final report in the form approved by the Secretary (see below).


The building inspector must give a copy of the final report to the owners corporation within 14 days after completing it and before 24 months after the issue of the occupation certificate.

Within 14 days of receiving the report from the building inspector, the owners corporation must let the lot owners of the strata scheme know that the final report has been received and how they can get an electronic copy from the owners corporation.

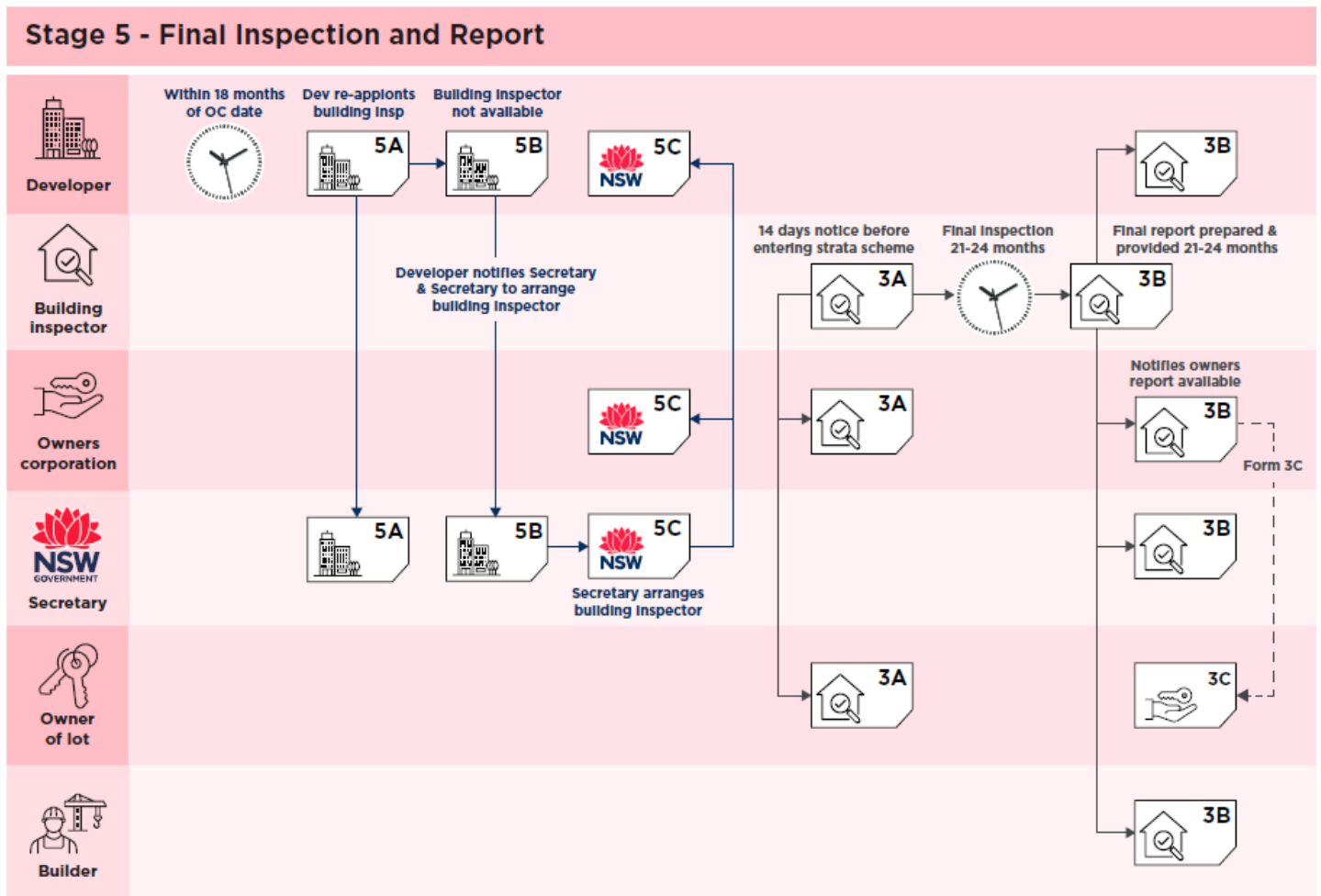
If there is no defective building work identified in the final report, the Secretary releases the bond in full see Stage 7 below - Paying the building bond.

If defective building work is identified in the final report, the cost to rectify it will be determined - see Stage 6 below – Determining the cost to rectify defective building work.

If you need more information about how the building inspector is to produce their report, read the Secretary's approved guideline:

	<p>External link to guideline</p> <p>Open the guideline - Combined interim and final inspection report</p>
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Summary of interaction with other stakeholders in stage 5



What happens next?

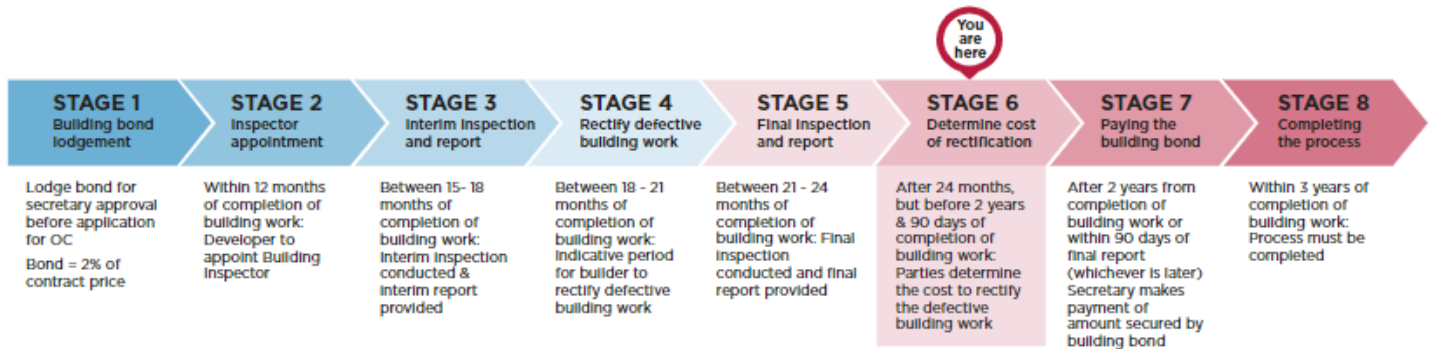
The cost to rectify defective building work is determined between the developer and the owners corporation.

If the defective building work has been rectified, the developer (with the owners corporation agreement) can apply to the Secretary to release the building bond in full.

The next stage is Stage 6 – Determining the cost to rectify defective building work.

Stage 6. Determining the cost to rectify defective building work

Strata building bond and inspections scheme (SBBIS) – process stages



The owners corporation and the developer must agree on the cost to rectify defective building work.

	<p>Written notice – access Forms on the webpage</p> <p>Form 6C – Person to Determine Works/Costs to Rectify – Disclosure form to Secretary</p> <p>Form 6D – Secretary’s Notice – Arrangement of person to determine Work/Costs to rectify</p> <p>Form 6E1 – Developer – Joint application - Release whole or part of building bond to owners corporation / cancel building bond</p> <p>Form 6E2 – Owners corporation – Joint application - Release whole or part of building bond / cancel building bond</p> <p>Form 6F – Secretary’s Notice – Amount & intention to release bond</p> <p>Form 6G – Person to Determine Works/Costs to Rectify – Inform Secretary work/costs to rectify</p>
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	<p>Legislation</p> <p>Strata Schemes Management Act 2015: Sections 209(3) and 209A</p> <p>Strata Schemes Management Regulation 2016: Clause 53</p>
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If there is defective building work identified in the final report, the cost to rectify that work must be determined.

Determining the cost to rectify defective building work

This can happen in two ways:

Step 1. Agreement

The developer and the owners corporation reach an agreement regarding the cost to rectify the defective building work.

They both provide a 'deed of agreement' and make application to the Secretary to release the agreed amount from the bond, within 30 days of receiving the final report.

If the deed of agreement is not received within the 30 days, the Secretary will move to Step 2.

Step 2. No agreement

If the developer and owners corporation cannot reach agreement on the cost to rectify the defective building work, the Secretary will arrange for an appropriately qualified person to determine the cost to rectify defective building work (for example, a quantity surveyor who is a member of the Australian Institute of Quantity Surveyors or the Royal Institution of Chartered Surveyors). The cost for arranging this person will be shared equally between the developer and owners corporation.

The amount determined by the qualified person will be released from the bond to pay for the cost to rectify the defective building work.

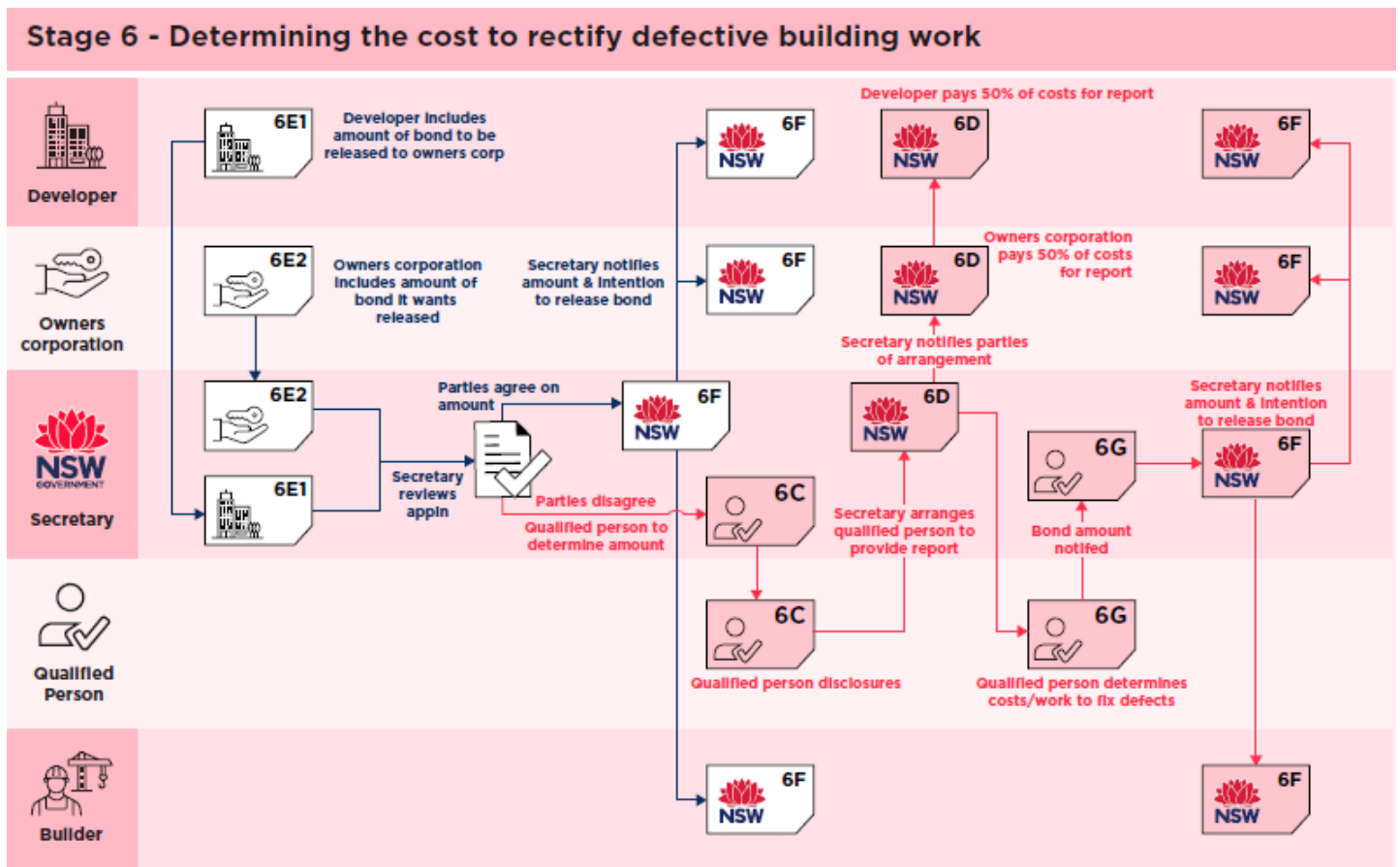
The building bond is then realised and claimed based on the amount determined by the appropriately qualified person. See Stage 7 below - Paying the building bond.



Written notice – access Forms on the [webpage](#)

Form 6E2 has been developed to comply with this requirement.

Summary of interaction with other stakeholders in stage 6



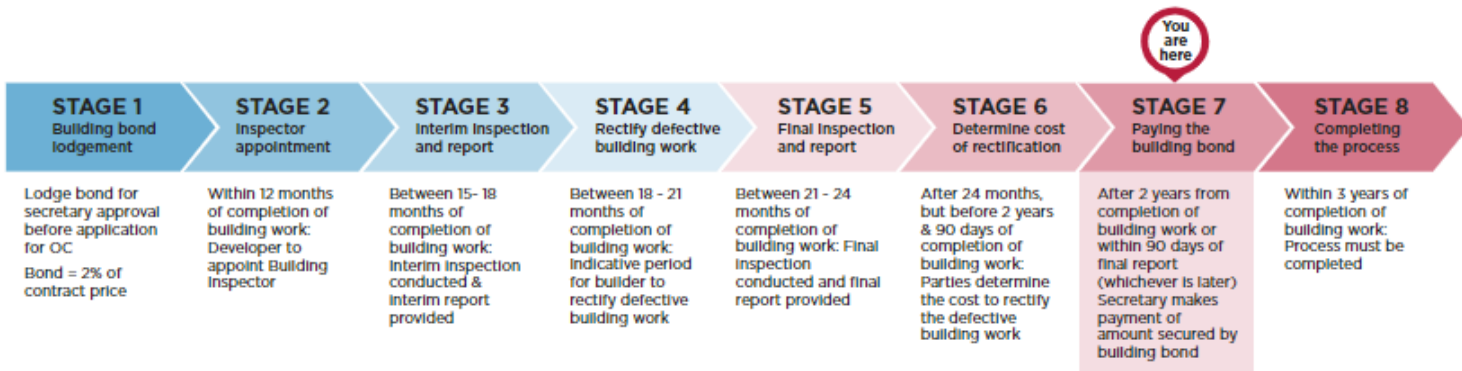
What happens next?

Once the developer and owners corporation agree on the amount to be released from the building bond or a qualified person has determined the amount, the building bond is released to the owners corporation.


The next stage is Stage 7 – Paying the building bond.


Stage 7. Paying the building bond

Strata building bond and inspections scheme (SBBIS) – process stages



Payment from the building bond to the owners corporation, if required and release of the building bond back to the issuer.

	<p>Written notice – access Forms on the webpage</p> <p>Forms required: Nil</p> <p>Form 7A – Developer – Apply to Secretary to claim whole of bond – interim becomes final/final report no defects</p> <p>Form 7B – Secretary’s Notice - Release to Developer for building bond to be cancelled</p>
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	<p>Legislation</p> <p>Strata Schemes Management Act 2015: Section 209</p> <p>Strata Schemes Management Regulation 2016: Clause 55</p>
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The whole or part of the amount secured by the building bond may be claimed or realised by the Secretary between two and three years after the date of completion of the building work.

If the cost to rectify the defective building work is less than the amount secured by the building bond, that amount is paid to the owners corporation. If the cost to rectify the defective building work is more than the amount secured by the building, the whole amount of the building bond is paid to the owners corporation.

The developer must take any necessary steps to enable the Secretary to claim or realise an amount of building bond given by the developer and required to be paid.

The Secretary may refuse to claim or realise an amount, or reduce the amount payable, if the Secretary is satisfied that the developer or the builder responsible for defective building work was unreasonably refused access to the strata building for the purpose of rectifying that work.

The Secretary will provide the owners corporation, the developer and the builder 14 days written notice of any proposed payment from the building bond.

Release or payment from a building bond

Releasing or payment from a building bond can happen in these circumstances:

1. Consent of the developer and owners corporation

At any time between two and three years after the date of completion of building work, the owners corporation can make a claim to release the whole or part of the amount of the building bond, with the developers consent.

The owners corporation and developer make application to the Secretary. The building bond is realised or claimed by the Secretary for payment to the owners corporation, to the agreed amount. The building bond is then released back to the issuer. The Secretary will also provide a release to the developer (with the owners corporation's agreement) to enable the building bond to be cancelled.

2. Interim report – no identified defective building work

If no defects are found in the interim report and the developer successfully applied to waive the requirement of a final report, the interim report becomes the final report - the building bond will be returned to the approved issuer within 90 days of the final report. The Secretary will also provide a release to the developer to enable the building bond to be cancelled.

3. Final report – no identified defective building work (rectified)

If no defects are found in the final report, the building bond will be released within 2 years and 90 days after the final report on the building work is given to the Secretary by the building inspector. The building bond will be returned to the approved issuer. The Secretary will also provide a release to the developer to enable the building bond to be cancelled.

4. Final report – identified defective building work (not rectified)

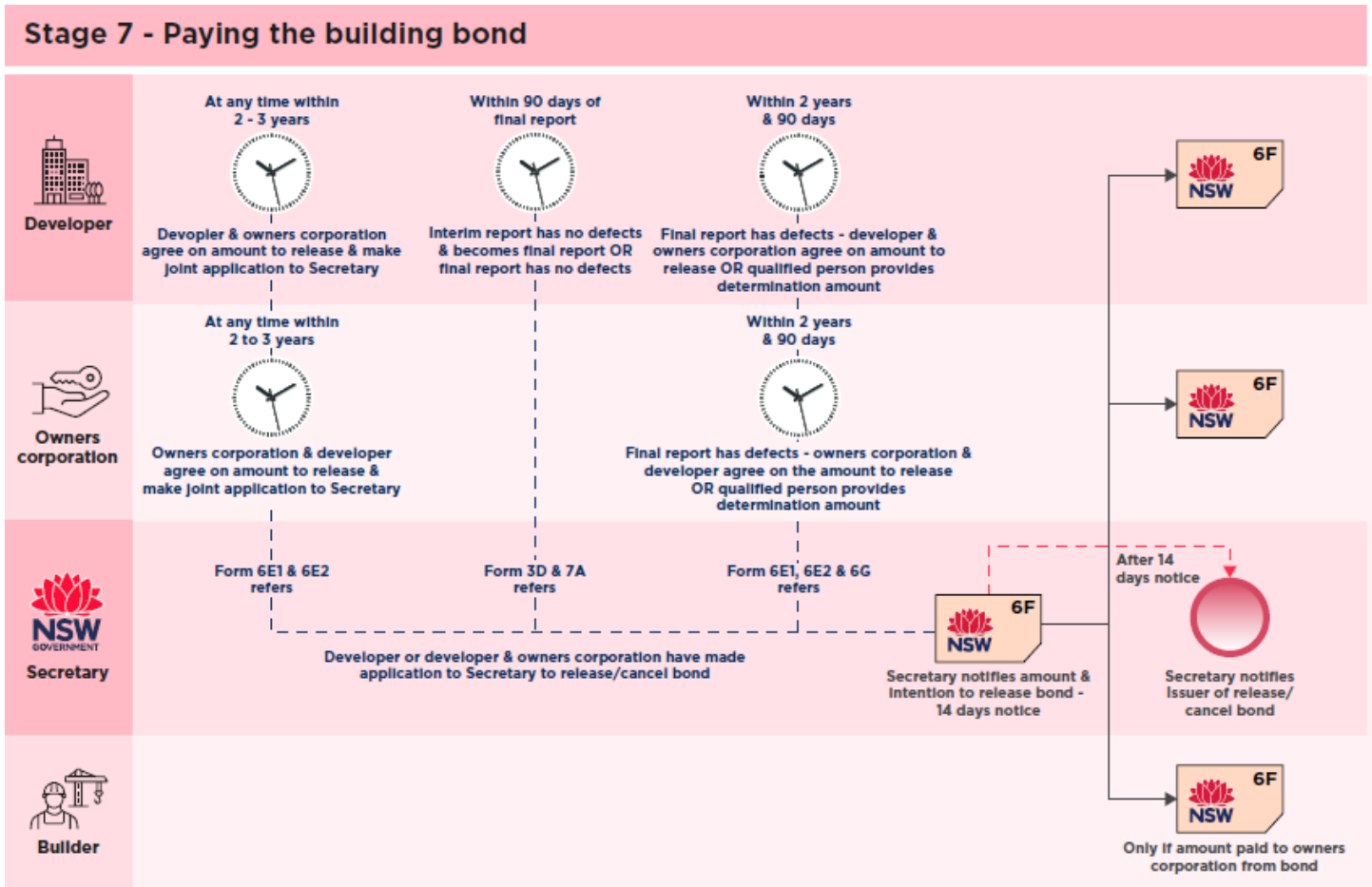
Defective building work is identified in the final report (see stage 5) and will be paid for from the building bond. This happens within 2 years and 90 days after the final report on the building work is given to the Secretary by the building inspector.

Stage 6 requires the determination of the cost to rectify defective building work. When the parties agree on the amount, the building bond may be realised or claimed by the Secretary for payment to the owners corporation.

If agreement is not reached, the Secretary will realise or claim the amount determined by the appropriately qualified person for payment to the owners corporation.

The building bond will be returned to the approved issuer. The Secretary will also provide a release to the developer (with the owners corporation's agreement) to enable the building bond to be cancelled.

Summary of interaction with other stakeholders in stage 7



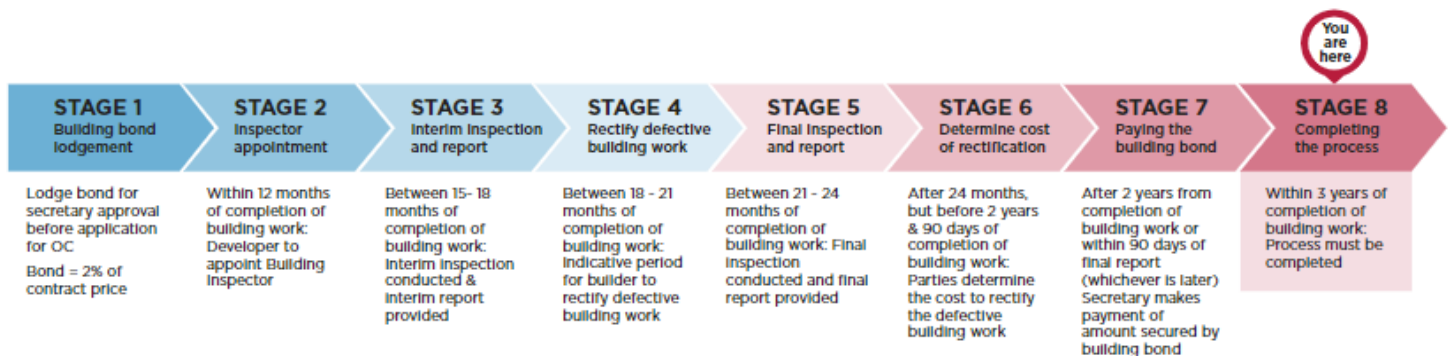
What happens next?

The owners corporation receives payment from the building bond to fix defective building work, if any.

The next stage is Stage 8 – Completion.

8. Completion

Strata building bond and inspections scheme (SBBIS) – process stages



The process should complete between 2 and 3 years after the completion of building work.

	<p>Written notice – access Forms on the webpage</p> <p>Form 8A – Owners Corporation – Notification to Developer –defects fixed/repay any excess building bond amount</p> <p>Form A1 –Application for review</p> <p>Form A2 –Application for review – owner of a lot</p> <p>Form A3 – Variation of time application</p> <p>Form A4 – Secretary’s Notice – Variation of time - Notifies parties application received/result of application</p>
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	<p>Legislation</p> <p>Strata Schemes Management Act 2015: Section 210(1) and 210(2)</p> <p>Strata Schemes Management Regulation 2016: Clause 55</p>
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The owners corporation must notify the developer when they have completed the rectification of the defective building work and repay any excess building bond amount back to the developer.

The owners corporation must use any money it receives from the building bond to rectify the defective building work identified in the final report or for costs related with the rectification, within a reasonable time.

The owners corporation must also give the developer written notice of the completion of the rectification of the defective building work.

Penalties may apply for failure to comply with this requirement.

	<p>Written notice – access Forms on the webpage</p> <p>Form 8A – Owners Corporation – Notification to Developer – defects fixed/repay any excess building bond amount</p>
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	<p>Legislation</p> <p>Strata Schemes Management Act 2015: Section 210(2)</p>
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After the defective building work is corrected, the owners corporation must return to the developer any leftover building bond amount.

This does not prevent the owners corporation from retaining any part of a building bond and using it for any purposes, with the consent of the developer.


Time from start to completion

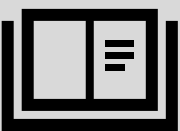
Excluding the time it might take the owners corporation to rectify any defects mentioned in the final report, this whole process should be completed within 3 years from the date of the occupation certificate.

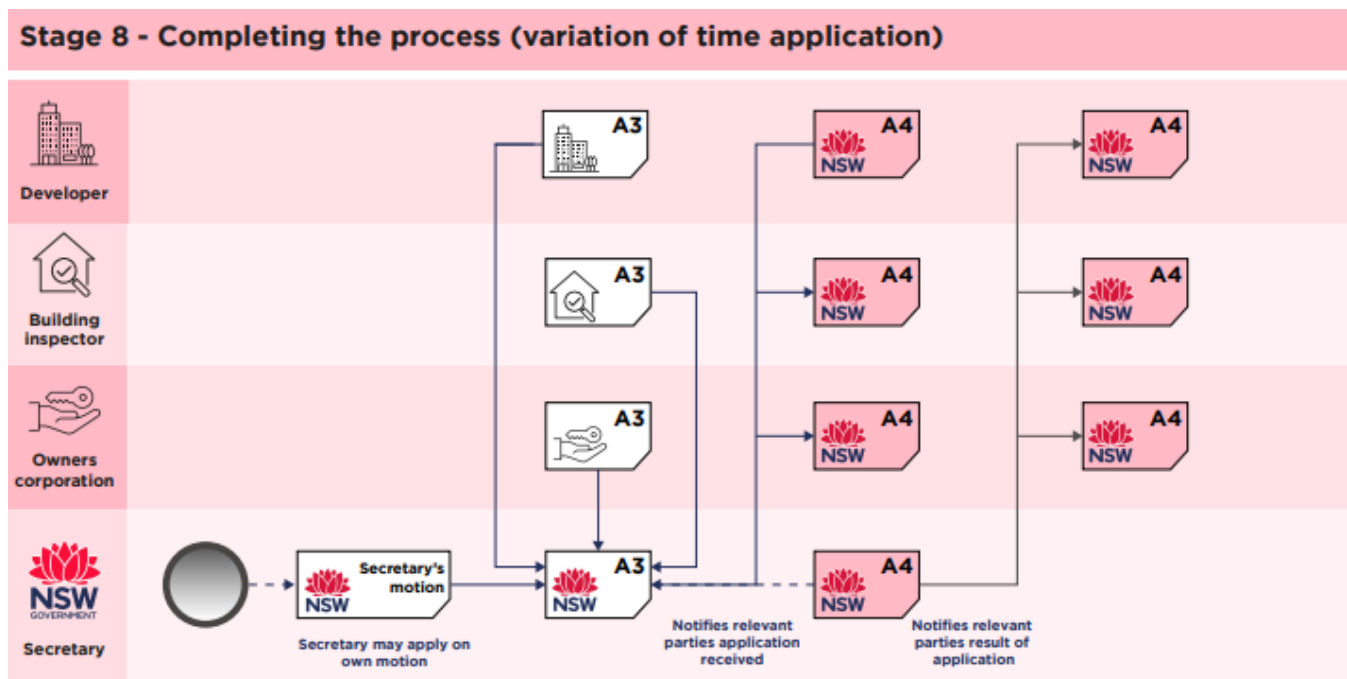
These following events can affect that timeline:

1. Applications for extensions

The developer, owners corporation or building inspector, may have made application to the Secretary to vary the period an interim or final report is to be provided, or any other action is to be done.

	<p>Written notice – access Forms on the webpage</p> <p>Form A3 – Variation of time application</p> <p>Form A4 – Secretary’s Notice – Variation of time - Notifies parties application received/result of application</p>
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	<p>Legislation</p> <p>Strata Schemes Management Act 2015: Section 212</p>
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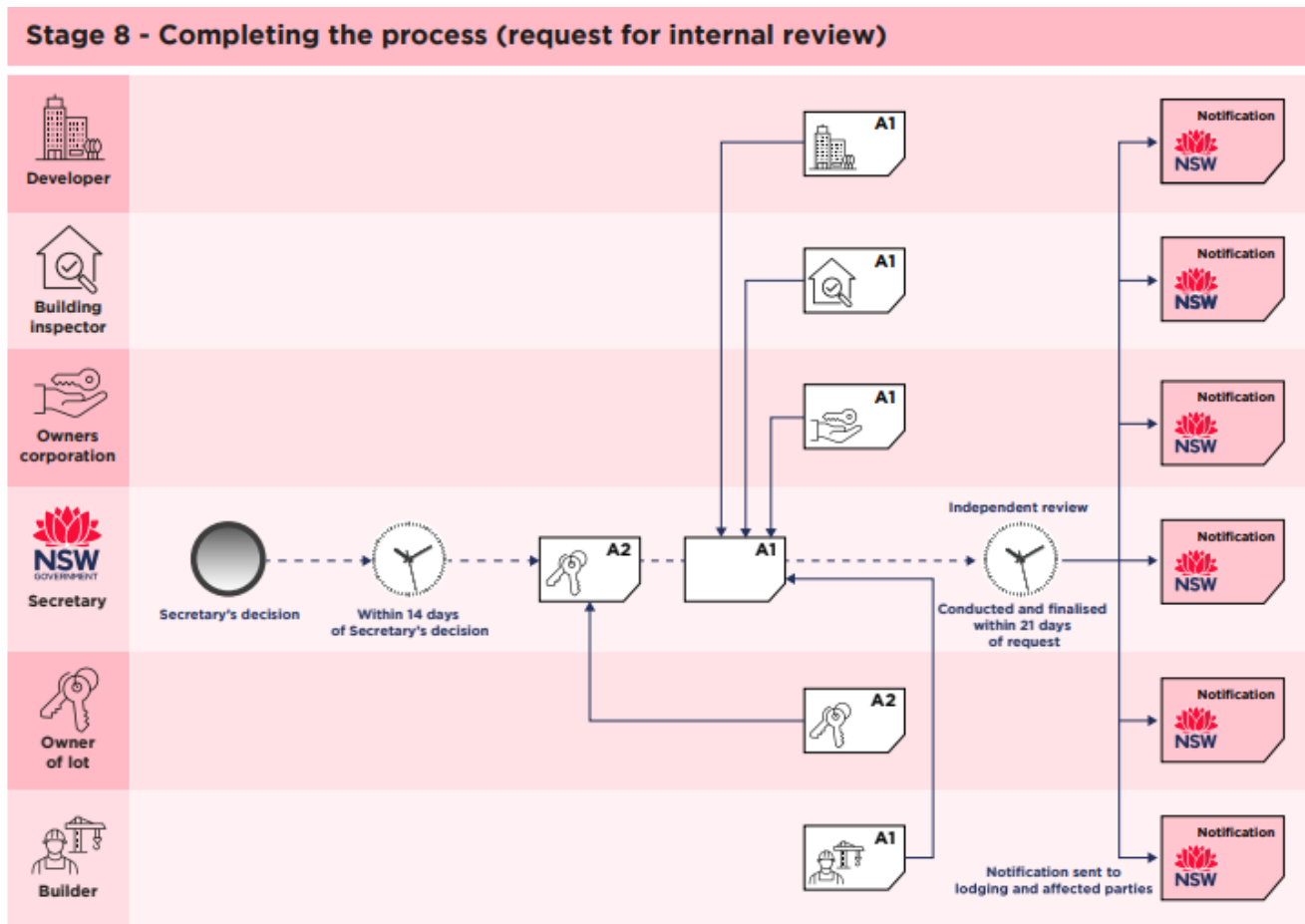
2. Reviewable decisions

Some decisions of the Secretary are **reviewable decisions**. This may result in the timeline being extended.

The owners corporation can apply to the Secretary for a review of a reviewable decision. The owner of a lot in the strata scheme, can also apply to the Secretary for a review of a reviewable decision.

	<p>Written notice – access Forms on the webpage</p> <p>Form A1 - Application for review</p> <p>Form A2 – Application for review – owner of lot</p>
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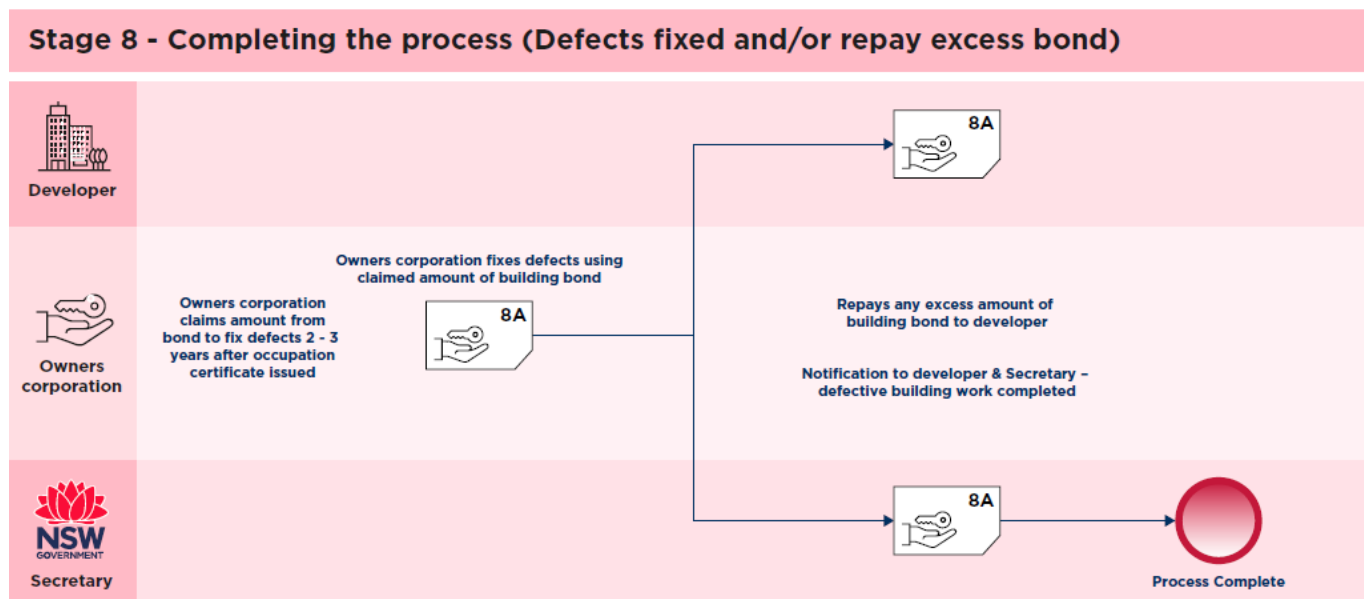
	<p>Legislation</p> <p>Strata Schemes Management Act 2015: Section 213</p>
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3. Tribunal orders

A developer, the Secretary or the owners corporation can apply to the NSW Civil and Administrative Tribunal for an order specifying the contract price for building work to determine the amount to be secured by a building bond. This may result in the amount of the building bond, provided by the developer, being varied.

Summary of interaction with other stakeholders in stage 8



Further information

Contacting us

During any stage of the process, you can email us at stratabond@customerservice.nsw.gov.au.

Record keeping

All information and documents relating the building bond will be stored in accordance with NSW Government record keeping policy.

Applications for review of a decision

An application for review of the Secretary's decision must be made within 14 days after notice of the decision has been given.

You can apply to review a decision if you are the:

- developer
- owners corporation
- owner of a lot in the strata scheme
- builder who carried out building work or who is responsible for defective building work.

The following decisions of the Secretary are reviewable decisions:

- a decision under section 200(2)(a) of the Act to arrange for a final inspection and report
- a determination by the Secretary under section 200(4) of the Act that a developer is not required to arrange for a final report
- a decision to vary the period within which an interim report or final report is to be provided, or other action is to be done
- a decision that the whole or part of a building bond may be claimed or realised for payment to an owners corporation, developer or other person.

A decision by the Secretary is not reviewable if the amount from the bond has already been paid in accordance with the Secretary's decision.

If an application to review a decision to pay the whole or part of the building bond is made, the amount is not to be paid until the application for the review is determined or withdrawn.

The Secretary has developed a written notice for the application for review of a decision.

The application must be made in writing and signed by the applicant. It must specify the decision to be reviewed and the reasons for the application along with any extra information and why that information was not previously provided, and an email address where that decision will be sent. Email your review application to revdec@customerservice.nsw.gov.au.

For more information see section 213 of the [Strata Schemes Management Act 2015](#) and clause 56 of the [Strata Schemes Management Regulation 2016](#).

NSW Civil and Administrative Tribunal (Tribunal) orders

Regarding access:

- The Tribunal (on application) may make an order requiring the occupier of a lot (or any other person) to allow access for the purpose of inspection or rectifying defective building work.
- An application may be made by an owners corporation, the developer, a building inspector or a builder.

Regarding contract price:

- The Tribunal (on application) may make an order specifying the amount of the contract price of building work - to determine the amount of a building bond. If there are other incidental proceedings being dealt with by a Court, then the application must be made to the Supreme Court of NSW.
- An application may be made by an owners corporation, the developer, or the Secretary. A determination under this section of the amount of the contract price of building work does not bind a court or tribunal in any other proceedings.

For more information see section 211 of the [Strata Schemes Management Act 2015](#).

Schedule 1: Key terms

For key terms, refer to the Strata building bond and inspections scheme [web page](#).

If any inconsistency exists between webpage (external link) and information manual (internal link), the Legislation prevails in any case.

Key terms

The definitions of these identified terms, are included in the Strata Schemes Management Act, Strata Schemes Management Regulation or other Act or Regulation as referred. Legislation and Regulation are updated from time to time and it is the user's responsibility to refer to the current version at the applicable point in time.

The content below is general in nature and should not be relied upon.

Approved issuer

The building bond must be issued from an authorised deposit-taking institution or a general insurer authorised to conduct new or renewal insurance business, who are regulated by the [Australian Prudential Regulation Authority](#) (APRA).

The issuing authority must be listed on the:

- * [Register of authorised deposit-taking institutions](#), or
- * [Register of general insurance](#) (authorised to conduct new or renewal insurance business), which is maintained by [APRA](#).

Building bond

The developer (not the builder) of a strata scheme must give the Secretary a security - a building bond. The amount secured by a building bond is to be 2% of the contract price for the building work.

The building bond may be either a bank guarantee or 'bond' issued by an approved issuer and must contain the unique identifier number issued by the portal.

The building bond must be lodged before any occupation certificate (OC) is issued to allow occupation (including conditional and interim OC) for any part of a building affected by the work. A penalty may apply if a developer does not lodge the building bond with the Secretary and receive approval, before the occupation certificate is issued.

The building bond must comply with the [Secretary's guideline](#).

See sections 207 and 208 of the [Strata Schemes Management Act 2015](#)

Contract price

Section 189 of the *Strata Schemes Management Act 2015*; Part 8 of the *Strata Schemes Management Regulation 2016*

Generally:

The contract price for building work is the total price paid under all applicable contracts for the building work at the date just prior to the issue of any occupation certificate (not the contract price before construction commences). The amount secured by the building bond is calculated at this time (not at the start of the build) to include all variations, additions and price fluctuations etc.

All work that is conducted in relation to the contract will determine the bond amount. This includes, but is not limited to:

- construction and fit out costs (not including appliance and prime cost items)
- demolition and site preparation
- excavation
- car parking
- costs for the common property that is included in the property plan, including landscaping, pools, fencing and gates
- professional fees, and
- taxes applied in the calculation of the as-built construction.

Cost report

When there is no written contract for the building work (for example where the developer is also the builder), or the parties to the building contract are connected, the contract price is the price set out in a cost report prepared by a quantity surveyor. The quantity surveyor must be a member of the Australian Institute of Quantity Surveyors or the Royal Institution of Chartered Surveyors and must not be connected to the developer or the builder.

A cost report prepared by a quantity surveyor must include:

- all work that is conducted in relation to the contract, as list above under Contract price, and
- a certificate by the quantity surveyor that they have inspected the as-built drawings and specifications for the strata plan.

NCAT determination of contract price

The NSW Civil and Administrative Tribunal (on application) may make an order specifying the amount of the contract price of building work - to determine the amount of a building bond.

For further details on the NSW Civil and Administrative Tribunal, refer to 'Tribunal orders – contract price and access to a strata scheme', under 'Key terms' below.

Building work

Sections 189 and 191 of the *Strata Schemes Management Act 2015*

Connected person

Sections 7, 195, and 197 of the *Strata Schemes Management Act 2015*, clause 62 of the *Strata Schemes Management Regulation 2016*

Defective building work

Section 189 of the *Strata Schemes Management Act 2015*

Developer

Section 189 of the *Strata Schemes Management Act 2015*

Final report

Section 189 of the *Strata Schemes Management Act 2015*

Interim report

Section 189 of the *Strata Schemes Management Act 2015*

Occupation certificate (OC)

See sections 6.4 and 6.9 of the *Environmental Planning and Assessment Act 1979*.

For the purposes of the Strata building bond and inspections scheme, 'the' or 'any' occupation certificate issued for the strata scheme refers to the first occupation certificate (OC) issued which allows people to occupy the building – whether conditional or interim OC.

Also, refer to section 3C of the *Home Building Act 1989*.

Owners corporation

Owners corporation means an owners corporation constituted under section 8 of the *Strata Schemes Management Act 2015* for a strata scheme.

Residential building work

Residential building work has the same meaning as it has in the *Home Building Act 1989*.

Secretary

Section 4 of the *Strata Schemes Management Act 2015*, defines the Secretary as:

- the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or

- if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

Strata inspector panel (SIP)

A building inspector must be a member of a strata inspector panel. A strata inspector panel can only be provided by an authorised professional association, as listed in the [Strata Schemes Management Regulation 2016](#).

A strata inspector panel may be established by any of the following:

- (a) the Housing Industry Association Limited
- (b) the Master Builders Association of New South Wales Pty Ltd
- (c) the Australian Institute of Building
- (d) the Australian Institute of Building Surveyors
- (e) the Australian Institute of Building Consultants Pty Ltd
- (f) the Australian Society of Building Consultants Incorporated
- (g) the Institute of Building Consultants Inc
- (h) Engineers Australia Pty Limited
- (i) the Association of Accredited Certifiers Incorporated
- (j) the Australian Institute of Quantity Surveyors Ltd
- (k) RICS Australasia Pty Ltd.

Each of these associations will have their own processes and criteria to determine whether a person may perform building inspections and produce reports for the purposes of the scheme.

Inclusion on a panel qualifies the person to be a building inspector.

Applications for review of a decision

An application for review of the Secretary's decision must be made within 14 days after notice of the decision has been given.

A developer, owners corporation or owner of a lot of a strata scheme to which a reviewable decision is related and a builder who carried out building work or who is responsible for defective building work, to which a reviewable decision relates, can apply to the Secretary for a review of a reviewable decision.

The following decisions of the Secretary are reviewable decisions:

- a decision under section 200(2)(a) of the Act to arrange for a final inspection and report
- a determination by the Secretary under section 200(4) of the Act that a developer is not required to arrange for a final report
- a decision under section 212 of the Act to vary the period within which an interim report or final report is to be provided, or other action is to be done, under Part 11 of the Act
- a decision that the whole or part of a building bond may be claimed or realised for payment to an owners corporation, developer or other person.

This decision by the Secretary is not reviewable if the amount has already been paid in accordance with the Secretary's decision.

If an application to review a decision to pay the whole or part of an amount secured by a building bond is made in accordance with the *application process*, the amount is not to be paid until the application for the review is determined or withdrawn.

The application must be lodged through the revdec@customerservice.nsw.gov.au email box, be in writing and signed by the applicant. It must specify the decision to be reviewed and the reasons for the application. Applicants should provide any extra information and the reason why that information was not previously provided, and an email address where that decision will be sent.

See section 213 of the *Strata Schemes Management Act 2015* and clause 56 of the *Strata Schemes Management Regulation 2016*.

Tribunal orders - contract price and access to a strata scheme

Access

The *NSW Civil and Administrative Tribunal* (on application) may make an order requiring the occupier of a lot in a strata scheme or any other person to allow access to the lot or any other part of the parcel for the purpose of or in connection with an inspection or rectifying defective building work.

An application may be made to the Tribunal for an order by an owners corporation, the developer, a building inspector or a person entitled to enter any part of a parcel of a strata scheme to perform an inspection or rectify defective building work (such as a builder).

Contract price

The *NSW Civil and Administrative Tribunal* (on application) may make an order specifying the amount of the contract price of building work - to determine the amount of a building bond. If there are other incidental proceedings being dealt with by a Court, then the application must be made by the Supreme Court of NSW.

An application may be made to the Tribunal for an order, by an owners corporation, the developer, or the Secretary. A determination under this section of the amount of the contract price of building work does not bind a court or tribunal in any other proceedings.

See section 211 of the *Strata Schemes Management Act 2015*.

Written notice

A written notice includes email notifications.

The Strata building bond and inspections scheme communications is administered by electronic transmissions.

Written notices for the Scheme are available to download from the Strata building bond and inspections webpage.

Schedule 2: SBBIS ePortal & secured share folder step by step instructions

See instructions on the Fair Trading [webpage](#). These instructions are only applicable for those projects registered through the SBBIS ePortal prior to 1 September 2020.

Schedule 3: Uploading of documents checklist

Only required if the project is registered through the SBBIS ePortal.

Strata building bond and inspections scheme

CHECKLIST

Document Type		Complete (check box)
Building bond	1. I have uploaded the building bond document to the secured share drive 2. I have paid \$1500.00 through the SBBIS ePortal 3. I have supplied the original building bond document to Fair Trading	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Contract price	I have uploaded the documents to the secured share drive	<input type="checkbox"/>
Contract Agreement	I have uploaded the documents to the secured share drive	<input type="checkbox"/>
Specifications & variations; issued for construction; as built; alternative solutions	I have uploaded the documents to the secured share drive	<input type="checkbox"/>
Written warranties	I have uploaded the documents to the secured share drive	<input type="checkbox"/>
Approved samples	I have uploaded the documents to the secured share drive	<input type="checkbox"/>
EP&A Act issued	I have uploaded the documents to the secured share drive	<input type="checkbox"/>
Fire Safety requirement – alternative solution	I have uploaded the documents to the secured share drive	<input type="checkbox"/>
Design certificates	I have uploaded the documents to the secured share drive	<input type="checkbox"/>
Inspection reports	I have uploaded the documents to the secured share drive	<input type="checkbox"/>
Other documents or information requested by the Secretary	I have uploaded the other documents or information here to the secured share drive	<input type="checkbox"/>
Upload checklist	I will upload the CHECKLIST (this document) when I have <u>signed the declaration statement</u>	<input type="checkbox"/>

Declaration statement:

1. I have given the building bond for the above Strata Development, ☐
2. I have given all additional documents for the above Strata Development and ☐
3. I understand that the provision of false or misleading information or documents by me is a serious offence and may result in proceedings being brought against me under the Crimes Act, 1900 that could lead to imprisonment of up to two years and/or fines of up to \$22,000. ☐

Signature

The CHECKLIST is now ready to be uploaded in the secure share folder.

Schedule 4: Written notices.

Samples:

Secretary's forms

- Form 1B – Secretary's Notice – Developer to provide additional information or documents (to substantiate the contract price for building bond)
- Form 2G – Secretary's Notice – (Objection) Notify parties BI remains
- Form 2H – Secretary's Notice – (Objection) Notify parties Secretary appointed new BI
- Form 2J – Secretary's Notice – Notify parties Secretary appointed Building Inspector
- Form 3E – Secretary's Notice – Developers application not to arrange final report is approved/refused
- Form 5C – Secretary's Notice – Notify parties Secretary appointed new Building Inspector
- Form 6D – Secretary's Notice – Arrangement of person to determine Work/Costs to rectify
- Form 6F – Secretary's Notice – Amount & intention to release bond
- Form 7B – Secretary's Notice - Release to Developer for building bond to be cancelled
- Form A4 – Secretary's Notice – Variation of time - Notifies parties application received/result of application

Developers forms

- Form 1A – Developer- Lodgement Form
- Form 2A - Developer - Disclosure and Proposal Form
- Form 2D - Developer - Appointment of the Building Inspector
- Form 2E - Developer - Building Inspector Not Appointed
- Form 3D – Developer – Application to Secretary for order not to arrange final report
- Form 4B – Developer – New builder appointed to fix defects
- Form 5A – Developer – Notice to Secretary appointment of building inspector for final inspection/report
- Form 5B – Developer – Notice to Secretary that building inspector not available for final inspection/report
- Form 6E1 – Developer – Joint application - Release whole or part of building bond to owners corporation / cancel building bond
- Form 7A – Developer – Apply to Secretary to claim whole of bond – interim becomes final/final report no defects

Owners corporation forms

- Form 2C - Owners Corporation - Accept or Reject Building Inspector
- Form 3C – Owners Corporation – notice to owners of lots interim/final report available
- Form 6E2 – Owners corporation – Joint application - Release whole or part of building bond / cancel building bond

Form 8A – Owners Corporation – Notification to Developer - defects fixed/repay any excess building bond amount

Building inspector forms

Form 2B - Building Inspector - Disclosure Form

Form 2I - Building Inspector – Secretary’s additional Disclosure Form

Form 3A – Building Inspector – Notice to enter strata scheme for interim/final inspection

Form 3B – Building Inspector – Notice interim/final report finalised and served

Builder forms

Form 4A – Builder – Notice to enter strata scheme to fix defects

Owner of lot

Form 2F - Owner of a Lot - Objection to Building Inspector

Qualified person

Form 6C – Person to Determine Works/Costs to Rectify – Disclosure form to Secretary

Form 6G – Person to Determine Works/Costs to Rectify – Inform Secretary work/costs to rectify