



GUIDELINE

SECRETARY'S PROCESS

**Arranging the appointment of building inspectors
from
Authorised professional associations
(Strata inspector panel)
for
Strata building bond and inspections scheme**

Secretary of the Department of Customer Service's process to arrange the appointment of building inspectors for the Strata building bond and inspections scheme (SBBIS).

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Introduction

This guideline sets out:

1. the requirements that an authorised professional association must have regard to in exercising its functions under clauses 45 and 45A of the *Strata Schemes Management Regulation 2016* (the Regulation), and
2. the process the Secretary¹ will follow to arrange for the appointment by the Secretary of a qualified person as a building inspector to carry out an inspection of, and report on, the building work in accordance with Part 11 of the *Strata Schemes Management Act 2015* (NSW) (the Act).

The process includes the Secretary's expectations of:

- the authorised professional associations that provide a strata inspector panel for the purposes of the Act, and
- the qualified persons that may be appointed building inspectors for the purposes of the Act.

Part 11 of the Act and Part 8 of the *Strata Schemes Management Regulation 2016* (NSW) (the Regulation) contain the requirements for the operation of the Strata building bond and inspections scheme (the Scheme).

Part 11 of the Act and Part 8 of the Regulation apply to building work carried out on a building, or part of a building that is included in a strata scheme. This applies to residential building work including buildings for mixed use purposes that include residential purposes.

A building inspector means a person appointed for the purposes of this Scheme as a building inspector for building work. A member of the panel is qualified to be appointed as a building inspector only if the association is satisfied that the individual is appropriately qualified to carry out building inspector functions for the purposes of the Scheme.

The developer means the developer of a strata scheme by whom or on whose behalf building work to which Part 11 applies, was carried out.

The owners corporation means an owners corporation constituted under section 8 of the Act.

¹ The "Secretary" as per the definition in section 4(1) of the *Strata Schemes Management Act 2015*.

The guideline for developers and owners corporations to appoint a building inspector is located on the Fair Trading [website](#) in the publication 'Guideline: Appointment of building inspectors by developers and owner's corporations for Strata building bond and inspections scheme.'

The requirements for the interim and final reports are located on Fair Trading's [website](#) in the Secretary's approved guideline publication 'Combined interim and final inspection report for Strata building bond and inspections scheme.'

The written notices required under the scheme have been developed for all stakeholders and can be accessed on the Fair Trading [website](#).

This document addresses how the Secretary will arrange the appointment a qualified person as a building inspector for the purposes of the Scheme.

Overview of this Guideline

Part 1 sets out **who** the Authorised professional associations are and **who** the qualified persons are.

Part 2 sets out the **process** to appoint a qualified person as the building inspector.

Part 3 sets out the Secretary's **expectations** and **requirements**.

Part 4 sets out the **standard** and **specific** conditions the listed body must comply with to maintain a strata inspector panel.

Part 5 sets out the how the Secretary will **manage** the co-regulatory framework.

Part 6 sets out the **form** to be completed by the qualified person before appointment by the Secretary.

Part 7 sets out a **glossary** of key terms used in the Guideline.

Part 8 sets out the **versions** and updates to this Guideline.

Part 1: Authorised professional association and qualified person

In exercising its functions under clauses 45 and 45A of the Regulations, an authorised professional association must have regard to these guidelines.

An authorised professional association may establish and maintain a strata inspector panel for building work of a particular kind (strata inspector panel [SIP]). Strata inspector panels are provided by authorised bodies that are listed in the Regulation (Part 8, Clause 44). These bodies are responsible for all aspects of their strata inspector panel (co-regulatory approach).

Each of the authorised professional associations may have individual members with different attributes such as varying qualifications, skills, and experience.

1.1 Authorised professional associations administer the Strata inspector panel

Part 8, Clause 44 of the Regulation contains the following authorised professional associations:

- (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.

1.1.1 Strata inspector panel

Each authorised professional association may appoint an individual to be a member of the strata inspector panel (SIP) if satisfied that the individual is appropriately qualified to carry out building inspector functions to perform building inspections and produce reports for the purpose of the Strata building bond and inspections scheme (the Scheme).²

² Strata Schemes Management Regulation 2016: cl45(2) – person to be appropriately qualified to carry out building inspector functions in relation to the SBBIS

The management and administration of these panels should be such that promotes self-governance in an accountable and transparent way. The strata inspector panel is required to keep a register of members on their respective websites to outline what they are doing to achieve self-governance and information about the members included in their strata inspector panel.³

The following is a summary taken directly from clause 45A of the Regulation:

1.1.2 Register of members of strata inspector panel

- (1) An authorised professional association must keep a register of members of a strata inspector panel established by the association that contains the following particulars in relation to each member —

	The register <u>must</u> contain:
(a)	the member's name,
(b)	any registered business name under which the member carries on business as a building inspector, together with the related Australian Business Number,
(c)	the address of the member's principal place of business,
(d)	the member's telephone number and other particulars (such as an email address) for contacting the member for business purposes,
(e)	any formal qualifications held by the member that are relevant to the individual's business as a building inspector
(f)	any conditions in force under clause 45C in relation to the member that the association has been made aware of as a result of notification to the association under that clause.

	The register <u>may</u> contain:
(2)	any other particulars that the association considers appropriate, including particulars of project experience that have been provided by the member to the association and that the association considers relevant.

An authorised professional association that is required to keep a register under this clause must retain the register and its contents for at least 7 years after the date on which the last entry was made in it.

An authorised professional association that is required to keep a register under this clause must ensure that the register is made available free of charge for inspection by the public—

- (a) at the professional association's offices during ordinary office hours (in paper or electronic form), and

³ Strata Schemes Management Regulation 2016: cl45A – person to be appropriately qualified to carry out building inspector functions in relation to the SBBIS

(b) on the internet.

1.1.3 Liability of professional associations in respect of accreditation functions

A matter or thing done or omitted to be done by a professional association, or an individual acting under the direction of a professional association, does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing functions under this Part, subject the professional association or individual so acting to any action, liability, claim or demand.

1.1.4 Written notices

The written notices required under the scheme have been developed for all stakeholders and can be accessed on the Fair Trading website.

1.2 Qualified person

The authorised professional association may appoint an individual to be a member of that SIP in Part 8 if satisfied that the individual is appropriately qualified to carry out building inspector functions in relation to that kind of building work.

The building inspector functions include but are not limited to carrying out interim and final inspections and the provision of reports as mandated in the Act.

The individual needs to be appointed by the authorised professional association. No other industry specific membership is required to perform strata building inspections for the purposes of the Scheme.

The building inspector must act within their competencies and engage additional specialists required (not required to be sourced from the SIP) to inspect and report on the areas outside of the building inspector's competencies. Any person engaged by a building inspector must be independent of the stakeholders in the construction of the relevant building work. Any reports produced by an additional specialist are to be included in and form part of the interim and final reports. These will be composite and not separate reports.

1.2.1 Obligations of building inspector

A building inspector carrying out functions under this Part cannot and does not represent the interests of the developer of a strata scheme and has a duty to act impartially in carrying out the functions of a building inspector under this Part. This subsection has effect despite any condition of the appointment of the building inspector and whether or not the inspector was appointed by the developer.

A building inspector must act impartially in the course of the building inspector's functions as a building inspector under this Act. They must not seek or accept, or offer or agree to accept, any benefit of any kind, whether on the building inspector's own behalf or on behalf of any other person.

A person must not, on an understanding that a building inspector will act otherwise than impartially in the exercise of the building inspector's functions as a building inspector under this Act, give, or offer to give, any benefit of any kind, whether to the building inspector or any other person.

1.2.2 Conditions imposed on building inspectors by Secretary

The Secretary may impose a condition on the exercise of building inspector functions by a building inspector. Conditions may be imposed on a specified building inspector or a class of building inspectors by written notice—

(a) in the case of a specified building inspector—given to the building inspector and to the authorised professional association that established the strata inspector panel of which the building inspector is a member, or

(b) in the case of a class of building inspectors—given to each authorised professional association and published in the Gazette.

The imposition of a condition under this clause takes effect on the date specified in the notice concerned. A building inspector exercising building inspector functions must comply with any applicable conditions imposed, varied or removed.

1.2.3 Liability of inspectors and persons acting under direction of inspectors

A matter or thing done or omitted to be done by a building inspector, or a person acting under the direction of a building inspector, does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing functions under this Part, subject the building inspector or person so acting personally to any action, liability, claim or demand.

1.2.4 Inspections and reports

1.2.4.1 Interim report

A building inspector appointed is to carry out an inspection of the building work, and provide an interim report, not earlier than 15 months and not later than 18 months after the completion of the building work.

The requirements of the interim report are contained in the Inspection report for Strata building bond and inspections publication on Fair Trading's [website](#).

1.2.4.2 Final report

A building inspector appointed to carry out a final inspection is to carry out a final inspection of the building work, and provide a final report, not earlier than 21 months and not later than 2 years after the completion of the building work.

The requirements of the final report are contained in the Inspection report for Strata building bond and inspections publication on Fair Trading's [website](#).

1.2.5 Copies or notices of reports

A building inspector must give a copy of an interim report or final report to the following persons not later than 14 days after completing the report:

- Developer,
- Owners corporation, if the initial period has ended
- Secretary,
- The builder responsible for any defective building work identified in the report.

1.2.6 Powers of a building inspector

A building inspector appointed to prepare a report may enter and inspect any part of the parcel of the strata scheme.

The building inspector must give at least 14 days written notice to the owners corporation and the owner and any occupier of any affected lot of an intention to enter any part of the parcel of the strata scheme.

The owners corporation, any person who has exclusive use of common property, a strata managing agent, any building manager or manager of the common property and any owner or occupier of a lot must provide any assistance that is reasonable to enable an inspection to be carried out in accordance with this Division.

A person must not, without reasonable excuse, refuse a building inspector access to any part of the parcel of a strata scheme or a lot in the strata scheme, or obstruct or hinder a building inspector, in the exercise of the inspector's functions under this Act.

1.2.7 Written notices

The written notices required under the scheme have been developed for all stakeholders and can be accessed on the Fair Trading [website](#).

Part 2: Process to appoint the qualified person as the building inspector

Part A: Interim inspection and report

2.1 Developer to appoint qualified person as building inspector

The developer must appoint a building inspector, however, if the developer fails for any reason, the Secretary will arrange the building inspector.

2.1.1 Initial period of a strata scheme – ends within 12 months after the completion of building work

The developer must appoint a qualified person as a building inspector to carry out an inspection of, and report on, the building work, where the initial period of a strata scheme ends within 12 months after completion of building work – see: Fair Trading's [website](#) in the publication 'Guideline: Appointment of building inspectors by developers and owner's corporations for Strata building bond and inspections scheme.'

2.2 Secretary to arrange appointment of a qualified person as building inspector Developer failed to appoint – for any reason

If a building inspector is not appointed by the developer through this process, the Secretary will then arrange for the appointment of a qualified person as a building inspector to carry out an inspection of, and to report on, the building work.

2.2.1 Initial period of a strata scheme – ends within 12 months after the completion of building work

On notification by a developer that the developer has not appointed a building inspector, the Secretary will arrange for the appointment of a qualified person as a building inspector to carry out an inspection and report on the building work.

2.2.2 Owners corporation approves the building inspector – owner objects

When an owner's corporation approves the proposed qualified person as the building inspector but an owner of a lot in the subject strata scheme objects to the appointment of that qualified person, that owner may give the Secretary written notice of their objection and the grounds for the objection, no later than 14 days after the approval of the appointment. The Secretary will consider an objection received by written notice only if received within the legislated timeframe.

If the Secretary determines it to be reasonable and appropriate in the circumstances, the Secretary will then arrange for the appointment of another qualified person as the building inspector to carry out an inspection of, and to report on, the building work. The Secretary will make the decision as soon as reasonably practicable.

The appointment of a building inspector arranged by the Secretary is not required to be approved by the owner's corporation.

2.2.3 Initial period for a strata scheme - ends later than 12 months after the completion of building work

If the initial period for a strata scheme ends later than 12 months after the completion of building work, the developer of the strata scheme must give the Secretary written notice of that fact not later than 21 days after the end of that period. The Secretary will then arrange for the appointment of a qualified person as a building inspector to carry out an inspection and report on the building work.

2.2.4 Secretary otherwise becomes aware that a developer has not appointed a building inspector

The Secretary will arrange for the appointment of a qualified person as a building inspector to carry out an inspection of, and to report on, the building work.

2.3 The process the Secretary will follow to arrange the building inspector.

2.3.1 Select the step to access the strata inspector panel

The Secretary will select the listed body in order of the placement in the Regulation and rotate through the list. The Secretary will assess the listed body's information freely accessible on their website.

The Secretary will select a listed body that suitably addresses all the requirements of this Guideline.

The Secretary will inform a listed body in writing when it does not satisfy the requirements. The Secretary will repeat the process to ascertain the next listed body that does meet the requirements.

2.3.2 Select the step to access the qualified persons

The same process will be followed for the selection of a qualified person. The Secretary will review the required information about the selected qualified person available on their website.

If a qualified person satisfies the requirements of this Guideline they must complete and sign the form included in this Guideline (Form 2I). Following the completion and lodgement of the form to the Secretary, the Secretary will consider and determine whether the qualified person will be appointed as the building inspector.

If the selected qualified person does not satisfy the requirements outlined in this Guideline (Part 3.2 and Part 6) they may not be appointed. The Secretary will repeat the process to identify and appoint a qualified person that does meet the requirements of this Guideline.

In the circumstance when the SIP or the qualified person does not satisfy the requirements in this Guideline, the Secretary will provide the reason to enable appropriate corrective action should they choose, by the respective entity.⁴

The Secretary will provide written notification to all interested parties as to the appointment of the selected qualified person as building inspector.

Part B: Final inspection and report

2.4 Final report is required:

2.4.1 Developer does arrange final report

The situations when the developer has arranged the final report are located on Fair Trading's [website](#) in the Secretary's guideline publication 'Guideline: Appointment of building inspectors by developer's and owner's corporations for Strata building bond and inspections scheme'.

2.4.2 Building inspector to be appointed by Secretary – final report

The Secretary will arrange for the appointment of a qualified person as a building inspector to carry out the final inspection of and provide the final report on, the building work in the following circumstances:

- On notification from the developer that the original building inspector is not available,
- The developer makes an application to the Secretary to appoint,
- If the Secretary otherwise becomes aware that a developer has not complied with section 200(1) of the Act

⁴ New amendment making power in s214(a1), (a3) -Regs may be made with respect to:

(a1) - Functions of professional associations in determining whether persons are qualified to carry out functions as building inspectors;

(a3) - Conditions that can be imposed on exercise of functions under Part 11 by building inspectors, including imposing conditions by professional associations OR by the Secretary.

2.5 The process the Secretary will follow to arrange the building inspector.

The process is the same as above in 2.3.

2.6 No final inspection is required

2.6.1 Secretary arranged interim report – no defective building work identified

The Secretary is not required to arrange for a final inspection and report if the interim report was prepared by a building inspector arranged by the Secretary and the report did not identify any defective building work

2.6.2 Application by developer - for no final inspection.

The Secretary may, on application by a developer determine that the developer is not required to arrange for a final report if:

- i. the interim report did not identify any defective building work, and
- ii. the Secretary thinks it appropriate in the circumstances of the case to make the determination.

The Secretary must give written notice of any decision that a final inspection and report is not required to the owners corporation and the developer not later than 28 days after the decision is made.

In any case in which a final report is not required, the interim report is taken to be the final report.

Part C: Additional information

2.7 The specialist and additional inspector's reports

The Secretary expects a person who has been appointed as a building inspector to engage additional specialists to inspect and report on the areas outside of the building inspector's competencies. The building inspector is encouraged to engage additional specialists where required – not required to be sourced from the SIP, but any person engaged by a building inspector must be independent of the stakeholders in the construction of the relevant building work. Any reports produced by an additional specialist are to be included in and form part of the interim and final reports. These will be composite and not separate reports.

2.7.1 Liability of inspectors and persons acting under direction of inspectors

A matter or thing done or omitted to be done by a building inspector, or a person acting under the direction of a building inspector, does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing functions under this Part, subject the building inspector or person so acting personally to any action, liability, claim or demand.⁵

⁵ 213A Liability of inspectors and persons acting under direction of inspectors

2.8 The costs of appointments and reports

The costs of obtaining an inspection and report by a building inspector under the Scheme are to be borne by the developer, irrespective of whether the building inspector was appointed by the developer.

The parties to the inspection agreement will be the developer and the building inspector only, even when additional specialists are engaged. The costs incurred from the additional specialists by the building inspector under this scheme are to be borne by the developer, irrespective of whether the additional specialists were appointed by the developer.

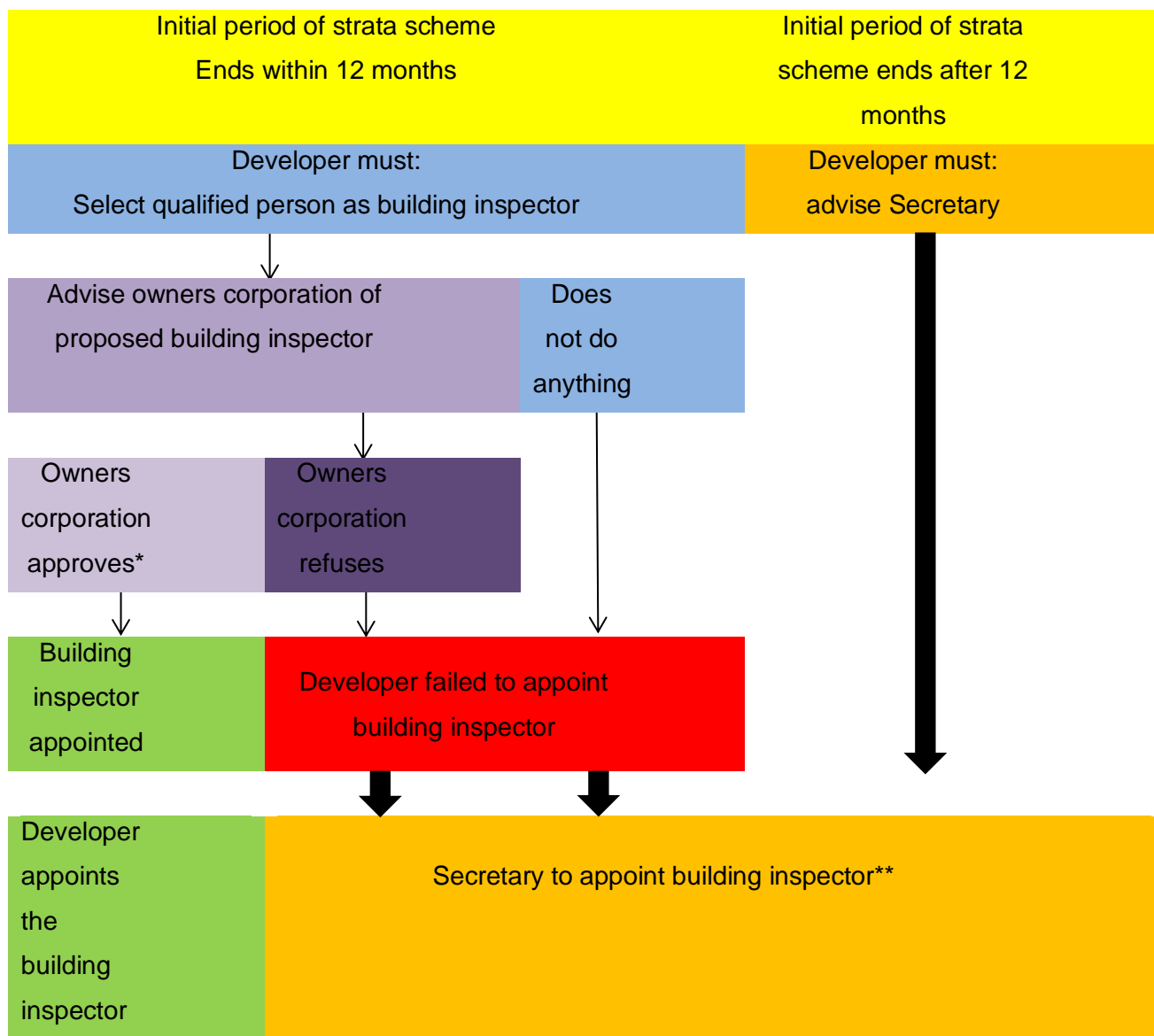
2.9 Interim and final reports

An application to vary the period within which an interim report or a final report is to be provided will be considered by the Secretary on a case by case basis. If a building inspector does not give a copy of the interim report or final report within 14 days after completing the report to the required persons, a penalty may apply.

Part D: Appointing the building inspector - Diagrams

2.10 Appointing the building inspector - developer

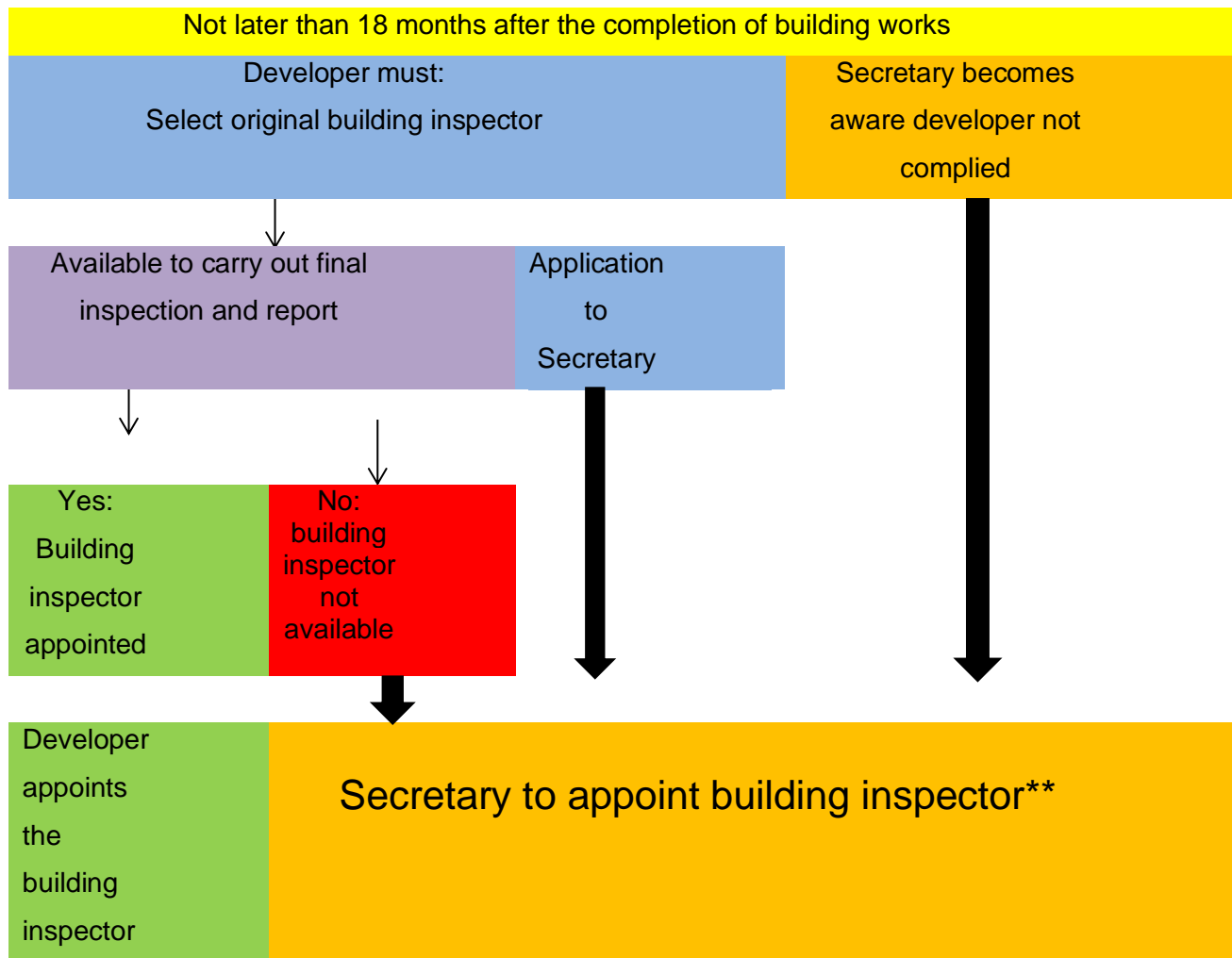
2.10.1 Diagram 1a: Interim inspection



* There is avenue for an owner of a lot in a strata scheme who objects to an approval of the appointment of a building inspector by the owner's corporation to give the Secretary written notice of the objection and the grounds for the objection no later than 14 days after the approval. If appropriate in the circumstances, the Secretary may provide the developer the opportunity to repeat the process or will arrange for the appointment of another qualified person as the building inspector.

** The appointment of a building inspector arranged by the Secretary is not required to be approved by the owner's corporation.

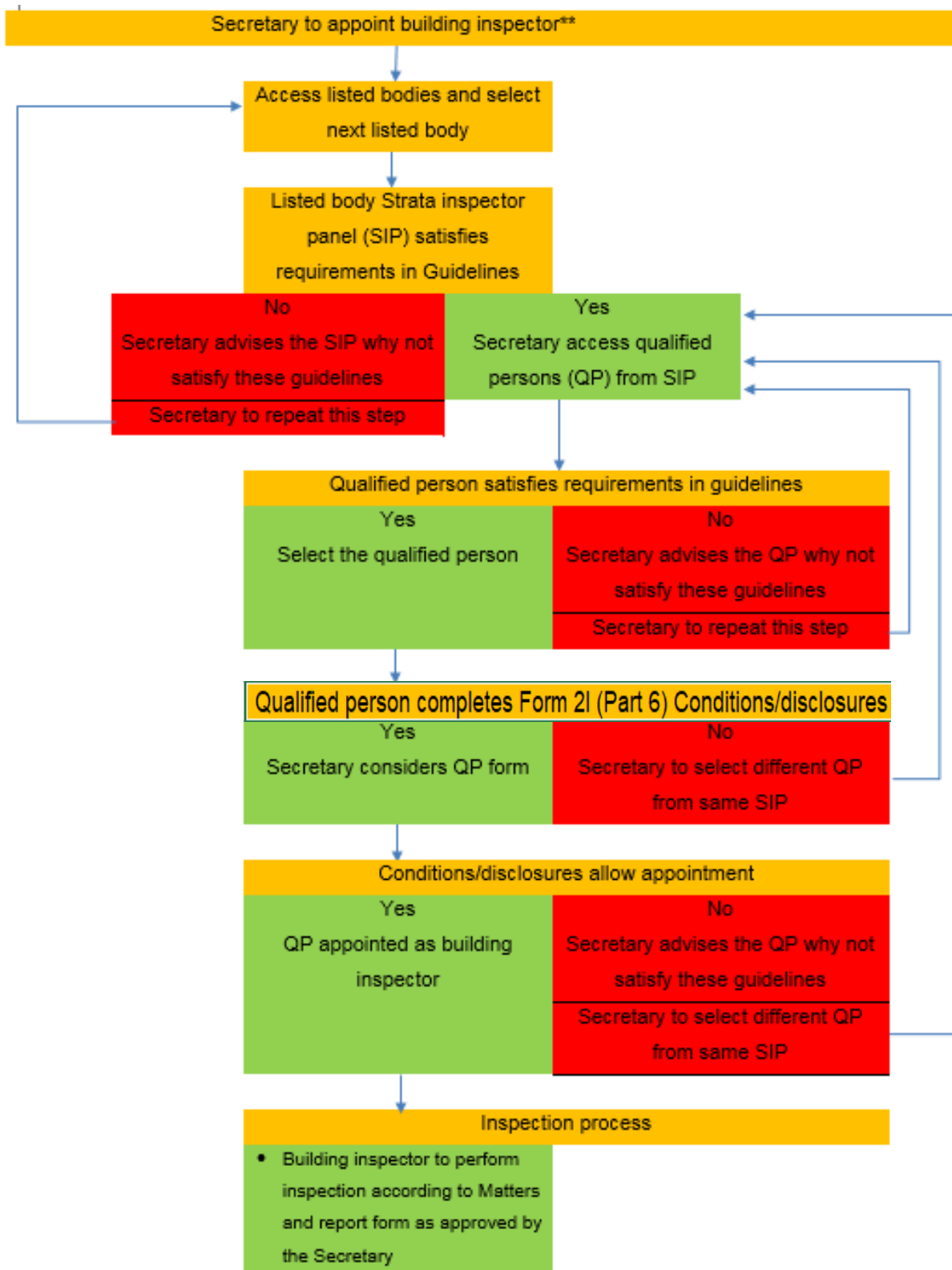
2.10.2 Diagram 1b: Final inspection



** The appointment of a building inspector arranged by the Secretary is not required to be approved by the owner's corporation.

2.11 Appointing the building inspector – Secretary

2.11.1 Diagram 2: Interim and final report



Part 3: Secretary expectations and requirements

3.1 Listed body

3.1.1 Listed body in the Regulation

The listed body must be listed within Part 8 of the Regulation.

3.1.2 Designated contact

The listed body must have a designated contact person for the strata inspector panel to whom the Secretary will direct enquiries relating to the appointment process and all ongoing communication.

The listed body must provide the designated contact person's:

- name
- position title
- email address and whether they will accept electronic communication as primary/service communication
- work telephone number
- work postal address
- office address.

A listed body with a strata inspector panel will need to notify the Secretary in writing within 14 days if their designated contact person changes and provide the Secretary with the details of the new person.

3.1.3 Membership

Membership with one of the listed bodies is the pre-requisite for inclusion onto that listed body's strata inspector panel. The listed body administers the strata inspector panel.

The listed body must outline the membership structure and the requirements for each class, such as qualifications and experience. The member then will be referred to as a qualified person in the strata inspector panel.

3.1.4 Application and renewal process

The listed body must have a publicly documented application and renewal process for membership that is fair, impartial, transparent and timely. As a minimum, the listed body's process must incorporate the following:

- a clear and objective membership level criteria that includes
 - relevant skills, knowledge and experience requirements that an applicant / member must possess to competently perform the building inspector role

- the methods that will be used to evaluate the competence of members as they relate to the scheme and building inspector
- any other entry requirements that the listed body considers necessary;
- a method to verify the applicant's application / renewal information;
- a mechanism for appeal if membership renewal is not granted;
- a mechanism to replace an appointed building inspector should that member become incompetent in any manner to complete the appointed inspection. The proposed replacement building inspector must receive approval from the Owners Corporation only if approval was initially provided. If the Secretary had appointed the initial building inspector, the Secretary must receive written notification of the incompetency to determine further action.

3.1.5 Nature of the listed entity

The listed body must provide a brief outline that includes:

- its history
- current structure
- core activities
- the industry sectors represented.

3.1.6 Terms and conditions

The listed body must publicly document the standard terms and conditions imposed on membership holders under its membership strata inspector panel.

The listed body must include the following:

- a condition that requires a membership holder to keep all records to comply with State and industry record keeping requirements relating to the work they perform as a building inspector for the purpose of this Act;
- a condition that requires a member to make any restriction or condition on their licence (if any) known to any person, with failure to do so resulting in suspension or cancellation of their inclusion in the strata inspector panel as appropriate in the circumstances;
- a condition that a member must not represent that they are able to do work as a building inspector that extends beyond their competency, with failure to do so resulting in suspension or cancellation of their inclusion in the strata inspector panel as appropriate in the circumstances.

3.1.7 Code of Conduct

The listed body must have a publicly documented Code of Conduct for qualified persons. The Code of Conduct must require the qualified person to:

- act in the public interest above all other interests when performing their building inspector role;

- comply with relevant laws *The Home Building Act 1989*, or any standards related to the building inspector role;
- comply with the entity's membership criteria;
- maintain their abilities, skills and knowledge necessary to perform the building inspector role;
- disclose and manage conflicts of interest with information as to what is considered a conflict of interest and the minimum requirements for disclosing and managing conflicts of interest set out in the Code of Conduct;
- act diligently, competently, fairly and with honesty and integrity.

3.1.8 Complaint handling and dispute resolution process

The listed body must have a complaint handling and dispute resolution process for the strata inspector panel process that is free, fair, impartial, transparent, timely, and encourages the resolution of disputes. The process must be publicly documented and must:

- allow any interested person⁶ to make a complaint about the activities of a listed body or a qualified person or in its capacity as a building inspector;
- separate the assessment and investigation of complaints about the qualified person or listed body from the final decision making;
- be conducted by persons who were not involved in the matter complained of and are fit and proper to perform this role;
- have a mechanism for appeal for the complainant and qualified person/building inspector;
- have a mechanism to notify the Secretary of complaints made against a member of the strata inspector panel.

3.1.9 Discipline and sanctions

The listed body must have a procedure for disciplining a member of the strata inspector panel that is fair, impartial, transparent and timely. The procedure must be publicly documented and must:

- apply procedural fairness, including separating the assessment and investigation of a member of the strata inspector panel from the final decision making;
- be conducted by a person, or persons, who are independent and fit and proper to perform this role;
- describe the grounds for disciplining a member of the strata inspector panel,
- describe the forms of discipline and sanctions which may be imposed on a member of the strata inspector panel, including requiring additional training or education, or suspending or cancelling the membership of member of the strata inspector panel;
- describe how the listed body will monitor imposed disciplinary measures and sanctions; and

⁶ Interested person means the same as in *Strata Schemes Management Act 2015*- section 213(2)

- have a mechanism for appeal by a member of the strata inspector panel in respect of any disciplinary action taken against them;
- have a mechanism to notify the Secretary of membership holders who have been subject of any disciplinary action or sanctions.

3.1.10 Monitoring listed bodies

The listed body must have a publicly documented process for monitoring the activities of its members to ensure compliance with the Code of Conduct, and identify areas where improvement is needed or disciplinary action may need to be taken. This could take the form of formal and informal audits of members.

The listed body may also monitor its members for other purposes relating to the operation of the membership of the strata inspector panel and a member's role as a qualified person to perform building inspections for the purpose of the Scheme.

The listed body must have available to the Secretary a copy of its current process for regulating that members' comply with requisite listed body requirements.

3.1.11 Record keeping system

The listed body must have in place a record keeping system to keep all documents about and relating to the strata inspector panel including:

- application and renewal assessments;
- register of current and former members;
- investigations of members;
- complaints records;
- audits of members;
- disciplinary records;
- historical versions of documented processes, including
 - application and renewal process for membership under the scheme
 - terms and conditions imposed on members
 - Code of Conduct for members
 - complaints handling and dispute resolution process for the strata inspector panel
 - procedure for disciplining members
 - process for monitoring the activities of members.

3.1.12 Publishing strata inspector panel information

The listed body must have a free-to-access website that includes clear information about the membership of its strata inspector panel. In addition to the register required, the website must, as a minimum, include the following:-

- a searchable up-to-date register of current and former members listing the member's
 - name individual and trading entity
 - The entity's ABN and/or ACN
 - phone number
 - email address
 - and those items listed in point 1.1.2 above
- any disciplinary action or sanctions imposed on a current or former member;
- current and historical versions of key documents and information about or related to the membership strata inspector panel, such as
 - application and renewal process for membership under the scheme
 - terms and conditions imposed on members
 - Code of Conduct for members
 - complaints handling and dispute resolution process for the membership strata inspector panel
 - procedure for disciplining members
 - process for monitoring the activities of members.
- Exit/cancellation strategy (see below 3.1.13)

3.1.13 Strategy if the listed body exits the strata inspector panel

The listed body must describe its strategy for managing its members who are qualified persons under the Scheme if its inclusion in the Regulation is cancelled by the Secretary or voluntarily surrendered for any other reason.

3.2 Qualified persons requirements

3.2.1 Members

To be appointed as a qualified person to perform building inspections for the purpose of the Scheme, the qualified person must hold membership with at least one of the listed bodies in clause 44 of the Regulation.

The member must then satisfy the listed body's criterion to be held out as a qualified person to perform building inspections for the Scheme (if the listed body has any).

It is the listed body and member's responsibility to maintain the member list from which the developer (or the Secretary) will select the member to perform the building inspections.

3.2.2 Member's probity

It will be the responsibility of the listed body to make inquiries of their members' probity.

The qualified person is required to complete the additional information form included in Part 6 and submit to the Secretary before appointment is finalised.

If any of the conditions cannot be met or are not satisfied in this Guideline, the person will be given the opportunity to provide reasoning to the Secretary as to why they should be considered as a qualified person to perform building inspections for the purpose of *Strata Schemes Management Act 2015* – Part 11 and the Regulation – Part 8.

3.2.3 Record keeping system

The member must have in place a record keeping system to keep all documents about and relating to their inclusion in strata inspector panel including:

- inspection reports
- register of current and former memberships
- investigations records
- complaints records
- audits
- disciplinary records
- historical versions of documented processes, such as inspection methods.

3.2.4 Publishing qualified person information

The member must have a free-to-access website that includes clear information about their services.

The website must, as a minimum, include:

- the member's details:
 - name
 - name of their trading entity
 - physical business address
 - telephone number
 - email address
 - and include those items listed in point 1.1.2 above
- membership details:
 - name of the Clause 44 listed body

- membership number
 - level of membership
- Licence details (if any):
 - Licence/registration number/s
 - Type of licence/registrations
 - Qualifications
 - Skills and Experience
- any disciplinary action or sanctions imposed on them.
- Cancellation strategy (see 3.2.5)

3.2.5 Strategy if the qualified person exits the strata inspector panel

The qualified person must describe their strategy if their inclusion in the listed body is cancelled by the listed body, the Secretary or voluntarily surrendered for any other reason.

Part 4: Ongoing requirements for listed bodies with a strata inspector panel

The Secretary imposes specific conditions on the listed body and / or the strata inspector panel.

4.1 Standard conditions of strata inspector panel

A listed body with a strata inspector panel will need to comply with the standard conditions outlined in the previous Parts in addition to this Part.

The Secretary may from time to time vary this Guideline in accordance with business and other requirements and this may affect eligibility under the Guideline.

The Secretary will notify a listed body with a strata inspector panel if any standard conditions will be imposed, varied or revoked and provide a reasonable time period, at the Secretary's discretion, for those conditions to be implemented.

4.1.1 General obligations

A listed body and its staff involved in the management and operation of the strata inspector panel have the following general obligations to:

- act in the public interest above all other interests in performing its role as co-regulator of a strata inspector panel;
- act independently, fairly and with honesty and integrity in performing its role as co-regulator of a strata inspector panel;
- avoid and manage conflicts of interest, including conflicts of interest between the commercial interest of the listed body, its members and the management of the strata inspector panel;
- proactively ensure that its strata inspector panel members meet changing industry practices;
- notify the Secretary as soon as becoming aware of any activities or matters that may jeopardise public confidence in the strata inspector panel, the members under the scheme or public safety more broadly.

4.1.2 Satisfy requirements of this Guideline

A listed body must continue to satisfy the requirements of this Guideline for the duration of the listed body's strata inspector panel's recognition. For example, the listed body continues to:

- publicly document its application and renewal process for membership under its scheme
- publicly document its Code of Conduct, complaints handling and disciplinary procedures

A listed body must immediately notify the Secretary, of any non-compliance of this Guideline and the strategies to be employed to rectify the non-compliance.

4.1.3 Comply with a request to provide information to the Secretary

A listed body must comply with the reporting requirements outlined in this Guideline. A listed body must also, on written request, provide the Secretary with any information the Secretary reasonably requires about the listed body and / or the listed body's strata inspector panel. This includes, but is not limited to, information about:

- the number of individuals approved under the strata inspector panel;
- accepted and rejected applications and renewals for membership under the strata inspector panel;
- complaints, detailing
 - the number of complaints received by the listed body relating to the strata inspector panel and / or membership holders
 - the source and nature of the complaints
 - the action taken by the listed body to remedy the matter complained of and the outcome of that action (including details of the notification given to the relevant authority, where the subject of the complaint is of a type that requires such notification;
- the number and type of disciplinary actions taken against membership holders.

4.1.4 Comply with relevant laws

A listed body with a strata inspector panel must comply with the provisions of any relevant statutes, regulations, by-laws and requirements of any Commonwealth, State, Territory or local authority.

4.1.5 Notify the Secretary of any circumstances that may affect its ability to comply with any standard or specific conditions

A listed body must immediately notify the Secretary in writing of any circumstances that may affect its ability to comply with any standard or specific conditions. For example, this includes the circumstance where a listed body intends to make a change that may affect its ability to continue to satisfy the requirements of this Guideline.

4.1.6 Comply with audits and investigations conducted by the Secretary

A listed body must comply with any reasonable request of the Secretary to conduct an independent audit and / or investigation of the listed body:

- to determine whether the listed body is complying with the requirements of this Guideline such as the conditions of recognition;
- in response to a complaint lodged about a listed body;
- if the Secretary is of the opinion that it is in the public interest to do so; or

- in any other circumstance that the Secretary considers necessary.

4.2 Variation of Guidelines from time to time

The Secretary may from time to time vary this Guideline in accordance with business and other requirements and this may affect eligibility under the Guideline.

Part 5: Management of co-regulatory membership framework

5.1 Audit or investigate a listed body with a strata inspector panel

The Secretary may audit or investigate matters in relation to the SBBIS of a listed body with a strata inspector panel:

- to determine whether the listed body is complying with the requirements of the guidelines;
- in response to a complaint lodged about a listed body;
- if the Secretary is of the opinion that it is in the public interest to do so; or
- in any other circumstance that the Secretary considers necessary.

5.2 Request information from a listed body with a strata inspector panel

The Secretary may request any information in regards to the Scheme, that is reasonably required about the listed body and / or the listed body's strata inspector panel.

5.3 Notice of voluntary cancellation of strata inspector panel

A listed body will need to give the Secretary at least 90 days' written notice of its intention to voluntarily cancel its strata inspector panel. NSW Fair Trading will publish a notice on its website notifying the public that the listed body's strata inspector panel plans to be voluntarily cancelled by the listed body.

The listed body will need to implement its strategy for managing membership holders that were accepted under the listed body's strata inspector panel. Any membership granted prior to the date of voluntary cancellation will continue to have effect according to its terms, unless in the opinion of the Secretary it is not in the public interest for the membership to continue.

5.4 Warning notices

The Secretary may consult with the listed body and/or qualified person and may publish a notice warning persons of particular risks involved in dealing with a listed body and/or a qualified person in its role as co-regulator of a strata inspector panel.

5.5 Secretary's involvement in complaints

5.5.1 Complaints about a member (building inspector) in a strata inspector panel

The listed body is responsible for handling complaints about its membership holders.

A complainant should attempt to resolve the issue directly with the membership holder or listed body in line with the listed body's documented complaints handling and dispute resolution process.

5.5.2 Complaints about a listed body with a strata inspector panel

A complaint may be made to the Secretary about a listed body with a strata inspector panel that relates to:

- its members of the strata inspector panel; or
- the listed body in its capacity as co-regulator of a strata inspector panel.

A complaint must be made in writing.

For example, if a person has made a complaint to the listed body about a membership holder or the listed body in its capacity as a co-regulator, and is not satisfied with the listed body's response, the individual may make a written complaint to the Secretary to substantiate their complaint about the listed body.

5.6 Secretary's involvement when listed body's strata inspector panel is cancelled

If a listed body's strata inspector panel is cancelled the Secretary may appoint another listed body with their consent, to exercise the functions of that listed body whose strata inspector panel has been cancelled.


5.10 Penalties

The provision of false or misleading information may result in prosecution and upon conviction, a penalty imposed by a court.

Part 6. Secretary's request for additional information from the qualified person before appointment as a building inspector

This a **SAMPLE**. It will not be accepted.
The correct and useable form is accessible on the Fair Trading [website](#).

For building inspectors



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Disclosure

The building inspector is required by the Secretary to complete this form and submit it before the Secretary arranges them as the building inspector. Building inspectors arranged by the Secretary require additional disclosures to those appointed by the developer and owners corporation.

Sections 7, 195(2), 197 of the [Strata Schemes Management Act 2015](#)

Guideline - [Arranging a building inspector by the Secretary](#)

Project number:		Project address:	
Strata plan number:		Occupation certificate issue date:	

Contact details

	Business name	Contact name	Contact phone	Email address for service
Secretary	Secretary	Manager of Strata Building Bond and Inspections Scheme (SBBIS)	Request if required. Email preferred.	stratabond@customerservice.nsw.gov.au
Developer				
Builder				
Owners corporation				
Building inspector				

Verify licensing and membership body details

21-1	Licence Number If applicable.	
21-2	Licence Type e.g. certifier, surveyor.	
21-3	Proposed building inspector membership body Select from drop-down menu in next cell.	<p>Choose organisation</p> <div style="background-color: #ccc; padding: 2px;">the Housing Industry Association Limited</div> <div style="background-color: #e6f2ff; padding: 2px;">the Master Builders Association of New South Wales Pty Ltd</div> <div style="background-color: #e6f2ff; padding: 2px;">the Australian Institute of Building</div> <div style="background-color: #e6f2ff; padding: 2px;">the Australian Institute of Building Surveyors</div> <div style="background-color: #e6f2ff; padding: 2px;">the Australian Institute of Building Consultants Pty Ltd</div> <div style="background-color: #e6f2ff; padding: 2px;">the Australian Society of Building Consultants Incorporated</div>

Building Inspector's disclosure with developer

21-4	Connected persons Are you currently, or at any time in the 2 years immediately before the appointment, connected with the developer? <i>Disclosure Section 7. For full section, see the Strata Schemes Management Act 2015.</i> Note: If you respond 'yes' to the above question, you cannot be appointed as the building inspector. The Secretary will need to select another qualified person.	YES <input type="radio"/>	NO <input type="radio"/>
21-5	Connected plus, design, construction etc Are you currently, or at any time in the 2 years immediately before the appointment, connected with the developer? <i>Disclosure Section 197. For full section, see the Strata Schemes Management Act 2015.</i> Note: If you respond 'yes' to the above question, you cannot be appointed as the building inspector. The Secretary will need to select another qualified person.	YES <input type="radio"/>	NO <input type="radio"/>
21-6	Employment or contractor Have you been employed by the developer (noted above) or by a contractor of the developer at any time within the prescribed period (2 years) preceding the proposed appointment? <i>Disclosure Section 195. For full section, see the Strata Schemes Management Act 2015.</i> Note: If you respond 'yes' to the above question, you can be considered by the Secretary. But as the building inspector, you must disclose that fact to the Secretary before the Secretary determines whether or not to arrange the appointment.	YES <input type="radio"/>	NO <input type="radio"/>

Disclosures


21-7	Secretary's additional disclosures	Please tick the appropriate check boxes if you have anything further to disclose as noted below: <input type="checkbox"/> I have an outstanding court order/s <input type="checkbox"/> I have been declared bankrupt <input type="checkbox"/> I have been refused insurance (personally or otherwise) <input type="checkbox"/> I have been removed from company directorship/s <input type="checkbox"/> I am a connected person with any entity that has been or is being: <ul style="list-style-type: none"> • liquidated or entering voluntary liquidation • declared bankrupt • declined insurance • liquidated or entering voluntary liquidation • investigated or charged for fraud offence/s and/or serious offence/s (criminal and/or civil) • removed from company directorship/s
21-8	Explanation of any declared Secretary's additional disclosures Include attachments if required.	

2 of 6

Signature

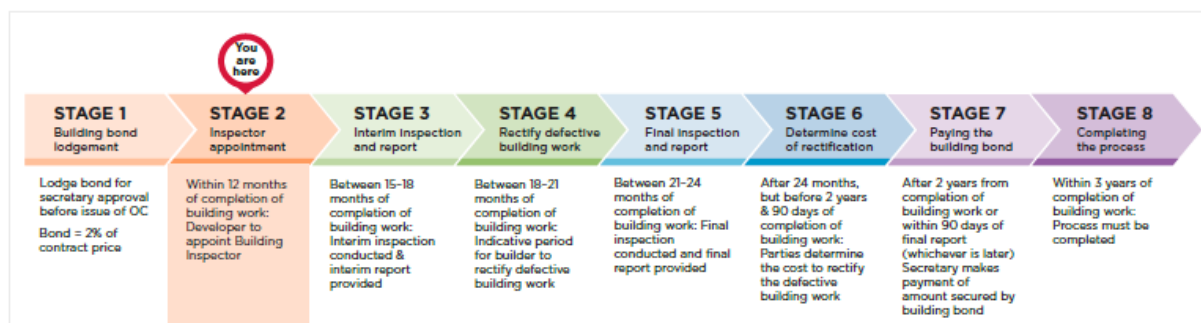
Making a false or misleading statement, giving false or misleading information, or producing false or misleading documents is a serious offence which may render you liable to prosecution for offences including under the Crimes Act which may result in penalties including a fine or imprisonment.

By **signing** you understand the requirement to provide true and correct information and you are agreeing to our Privacy Statement (<https://www.fairtrading.nsw.gov.au/privacy>)

Full name of individual	
Capacity within company (If applicable)	
Signature	
Date	



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



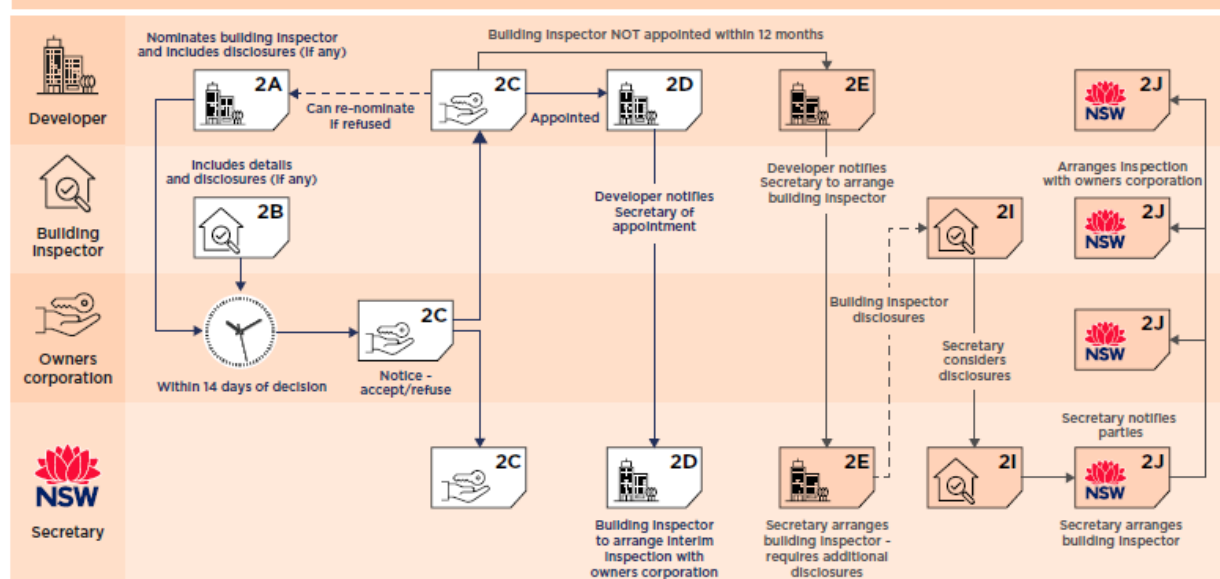
What do I do next?

Forward the completed Form 21 to the Secretary.

The Secretary's email address is: stratabond@customerservice.nsw.gov.au

See the illustrated process below.

Stage 2 - Inspector appointment



What happens next?

If your appointment as the building inspector is approved, the Secretary will notify you by email.

You can then arrange a date for the interim inspection with the developer and owners corporation.

You must give at least 14 days notice of the date of the inspection to the owners corporation and the owner and any occupier of any affected lot. See Form 3A.

Need further information?

Please refer to the [Strata Building Bond and Inspections Scheme webpage](#) on Fair Trading's website.

Privacy and Security of Information

Providing documents to developer/owners corporation/builder/building inspector/other

Provide the document in PDF format. This minimises the recipient's ability to change the document.

Submitting documents to the Secretary

Supply the document in PDF format.

This form and the information provided remains the property of the NSW Government.

All parties have the requirement to provide true and correct information.

The Fair Trading Terms & Conditions and Privacy Statement can be accessed at <https://www.fairtrading.nsw.gov.au/privacy>

Annexure

Definition: Section 7 of the *Strata Schemes Management Act 2015*:

"a person (the principal person) is connected with another person if the other person:

- (a) is a relative (within the meaning of the *Local Government Act 1993*) of the principal person or, if the principal person is a corporation, is a relative of the holder of an executive position in the corporation, or
- (b) is employed or engaged by the principal person or is a business partner of the principal person, or
- (c) if the principal person is a corporation, holds an executive position in the corporation, or
- (d) is the employer of the principal person, or
- (e) is employed or engaged by, or holds an executive position in, a corporation that also employs or engages the principal person or in which the principal person holds an executive position, or
- (f) has any other connection or association with the principal person of a kind prescribed by the regulations."

Definition: Section 195(2) of the *Strata Schemes Management Act 2015*:

"If a building inspector proposed to be appointed by a developer to carry out any such inspection has been employed by, or by a contractor of, the developer at any time within the prescribed period preceding the proposed appointment, the developer and the proposed building inspector must disclose that fact to the owners corporation before the owners corporation determines whether or not to approve the appointment."

NOTE: The prescribed period is 2 years – clause 46 of the *Strata Schemes Management Regulation 2016*.

Definition: Section 197 of the *Strata Schemes Management Act 2015*:

"(1) The developer of a strata scheme must not appoint a building inspector to inspect building work for the scheme if the building inspector is, or was at any time in the 2 years immediately before the appointment, connected with the developer.

- (2) In addition to the circumstances set out in section 7, a building inspector is connected with a developer if the inspector:
- (a) has been involved in the design or any aspect of the construction or certification of the building work or any part of the building work to be reported on, or
 - (b) is connected with any person who has been so involved, or
 - (c) has a pecuniary interest in any aspect of the building work."

Definition: Clause 62 *Strata Schemes Management Regulation 2016*:

"Connected persons

- (1) For the purposes of section 7 (1) (f) of the Act, a person that is a corporation (the principal person) is connected with another person if the other person:
- (a) is a related body corporate or an associated entity (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the principal person, or
 - (b) holds an executive position (within the meaning of section 7 of the Act) in a related body corporate or an associated entity of the principal person, or
 - (c) holds or will hold any relevant financial interest in the principal person, or is or will be entitled to exercise any relevant power (whether in the person's own right or on behalf of any other person) in the business of the principal person, and by virtue of that interest or power is or will be able to exercise a significant influence over or with respect to the management or operation of the principal person.
- (2) In this clause:

relevant financial interest, in relation to a principal person, means:

- (a) any shares in the capital of the principal person, or
- (b) any entitlement to receive any income derived from a business carried on by the principal person, or to receive any other financial benefit or financial advantage from the carrying on of the business, whether the entitlement arises at law or in equity or otherwise.

relevant power means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others:

- (a) to participate in any directorial, managerial or executive position in the principal person, or
- (b) to elect or appoint any person to any such position."

Part 7. Glossary

Authorised professional association means a body listed in Strata Schemes Management Regulation 2016 – Part 8

Building bond means the same as in the *Strata Schemes Management Act 2015* – section 207(1).

Building inspector means the same as in the *Strata Schemes Management Act 2015* – section 193(1).

Building work means the same as in the *Strata Schemes Management Act 2015* – section 190

Code of conduct means a set of principles, values and rules of behaviour expected by the bodies listed on the strata inspector panel within the Strata Schemes Management Regulation 2016

Codes of practice means codes of practice that provide advice to practitioners. Where procedures are recommended for specific professional tasks, these codes are intended to embody 'best practice'. All practitioners must inform themselves of new and updated codes of practice within a reasonable time of their promulgation in order to remain professionally competent.

Connected person means the same as in the *Strata Schemes Management Act 2015* – sections 7, 195, 197

Developer means the same as in the *Strata Schemes Management Act 2015* – section 189

Final report means a report prepared under section 201 of the *Strata Schemes Management Act 2015*

Initial period of an owners corporation of a strata scheme means the same as in the *Strata Schemes Management Act 2015* – section 4

Interim report means a report prepared under section 199 of the *Strata Schemes Management Act 2015*

Lot means the same as in the *Strata Schemes Management Act 2015* – section 4

Occupation certificate means the same as in the *Environmental Planning and Assessment Act 1979*

Owners corporation means the same as in the *Strata Schemes Management Act 2015* – section 4

Prescribed period means the same as in Strata Schemes Management Regulation 2016 - Clause 46

Qualified person means the same as in the *Strata Schemes Management Act 2015* – section 193(2)

Residential building work means the same as in the [Home Building Act 1989](#)

Secretary means the same as in the *Strata Schemes Management Act 2015* – section 4

Strata Building Bond Inspections Scheme means the requirements of *Strata Schemes Management Act 2015* – Part 11 and Strata Schemes Management Regulation 2016 – Part 8

Strata inspector panel means the members the listed body has determined qualified to perform the inspections and provide the reports for the purpose of the Strata building bonds and inspection scheme

8.1 Document Approval

Name and position	Signature	Date
Manager: Strata building bonds and inspections	Melanie Schwerdt	20/12/2017
Secretary: A/Executive Director, or Director	Lynelle Collins	20/12/2017
Secretary: Manager	Melanie Schwerdt	1/07/2020

8.2 Document version control

Version	Status	Date	Prepared by	Comments
1.0	Draft	May 2017	Melanie Schwerdt	
2.0	Draft	October 2017	Melanie Schwerdt	Technical workshop Fair Trading website
3.0	Draft	November 2017	Melanie Schwedt	Fair Trading website
4.0	Final	December 2017	Melanie Schwerdt	Legal Services
5.0	Review	June 2020	Melanie Schwerdt	Amendments to legislation
6.0	Review	July 2020	Melanie Schwerdt	Legal Services

8.3 Document review date

This guideline will be reviewed when the Act or Regulations are amended and annually based on commencement of regime for first two years and assessed thereafter.