



GUIDELINE

Building bond for Strata building bond and inspections scheme

Secretary of the Department of Customer Service's guideline for the building bond for the Strata building bond and inspections scheme (SBBIS).

Published by

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Introduction

This document provides guidance to comply with section 207 of the [Strata Schemes Management Act 2015](#) (the Act).

In accordance with section 207 of the Act, the developer (not the builder) of a strata scheme must give the Secretary¹, a building bond, in terms acceptable to the Secretary, for building work to which Part 11 applies, before an application is made for an occupation certificate under the [Environmental Planning and Assessment Act 1979](#) for any part of a building for which the building work was done.

The amount secured by a building bond is to be 2% of the contract price for the building work.

A building bond may be either a bank guarantee or a bond.

A developer must, when giving a building bond to the Secretary, also give the Secretary the documents and information, and administration fee as required in the [Strata Schemes Management Regulation 2016](#) (the Regulation).

This document does not provide details as to when an amount secured by building bond is payable. For details outside the scope of this document, visit Fair Trading's [website](#).

Overview of this Guideline

Part 1 sets out **what** the building bond is and **how to comply** with the requirements.

Part 2 sets out who the **parties** are to the building bond.

Part 3 sets out the **building works** to which the building bond applies.

Part 4 sets out the **undertaking** details.

Part 5 sets out the **jurisdiction** governing the building bond and **formalities** of signing the bond.

Part 6 sets out **important notes** about the acceptance of the building bond.

Part 7 sets out **how to lodge** the building bond.

Part 8 sets out the **suggested format of a building bond** (either a bank guarantee or a bond).

Part 9 sets out a **glossary** of key terms used in the Guideline.

Part 10 sets out the **versions** and updates to this Guideline.

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

Part 1: Building bond

This document provides guidance on how to comply with section 207 of the *Strata Schemes Management Act 2015* (the Act).

A building bond may be either a bank guarantee or a bond.

A suggested format for a form of building bond under sections 207, 208(a) and 208(b) of the Act – sample ‘bond’ and ‘bank guarantee’ is attached to the end of this document in Schedule 1 and Schedule 2 respectively.

In accordance with section 207 of the Act, the developer (not the builder) of a strata scheme must give the Secretary, a building bond for building work to which Part 11 applies, before an application is made for an occupation certificate under the *Environmental Planning and Assessment Act 1979* for any part of a building for which the building work was done.

Giving the Secretary a building bond is not complete until you receive the approval email from the Secretary.

Part 2: The parties

The Developer (not the Principal contractor/builder) of a strata scheme, must give the Secretary a building bond for the building work.

Principal: Secretary as defined in section 4 of the Act.

Developer: For the purpose of Part 11 of the Act, Developer means - the developer of the strata scheme by whom or on whose behalf building work to which this Part applies was carried out.

The full name of the developer as it appears on the construction contract at time of lodgement.

Issuer: Any authorised deposit-taking institution (ADI) or general insurer authorised to conduct new or renewal insurance business in Australia as listed on the Register of ADIs or the Register of general insurance, maintained by the [Australian Prudential Regulation Authority](#) as updated from time to time.

Part 3: Building works particulars

The building bond must be lodged before an application is made for an occupation certificate under the *Environmental Planning and Assessment Act 1979* for any part of a building for which the building work was done.

Required building works particulars:

Address:	The location of the strata scheme as it appears on the construction certificate or if that address has been changed – the address that will be registered at Strata Plan registration.
Staged construction:	If staging is taking place, provide the stage reference.
Development application reference:	Development application number.
Construction certificate reference:	Construction certificate number.
Proposed Strata Plan:	<p>If the strata plan has been registered, provide the Strata Plan identifier.</p> <p>If a proposed strata plan reference has not been provided, the plan details of the lot and deposited plan which will be subdivided to create the Strata Plan.</p>
Unique identifier:	<p>The project number obtained from the Strata building bond and inspections scheme ePortal or reference number from the NSW Planning Portal.</p> <p>The building bond will not be accepted, unless this number is included in the building bond [ie.PN-0000000## or SB-2020-##].</p>
Construction contract identifier:	State name of all contracted parties; and Date contract executed.

Part 4: The undertaking of the building bond

The purpose of the building bond is to secure funding for the payment (up to the amount secured by the bond) of the costs of rectifying defective building work identified in a final report under the Act.

If the building work comprises only part of the building to which a contract price applies, the amount secured is to be 2% of the part of the contract price applicable to the building work under this Scheme.

The contract price for the building work is the total price paid or payable under all the applicable contracts for the building work regardless of when the amounts become payable. This includes GST.

The NSW Civil and Administrative Tribunal may make an order determining the contract price of building work for the purposes of determining the amount of the building bond.

The bond is unconditional and is payable on demand by the Secretary.

In summary:

Purpose: The building bond in compliance with Part 11 of the Act.

Amount secured by a building bond: The amount secured by a building bond is to be 2% of the total contract price (section 207(2) of the Act). This includes GST (clause 50 of the Regulation).

Contract price:

Provided by developer-

- The contract price for building work is the total price paid or payable under all the applicable contracts for the building work regardless of when the amounts become payable, just prior to when application is made for an occupation certificate (clause 50(1) of the Regulation).

and/or

Determined by other method-

- **Quantity Surveyor:**
The contract price for building work is to be the price set out in a cost report 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, builder, a bank or other person providing finance for the building work if:
 - a. there is no written contract for the building work, or
 - b. the parties to the building contract are connected persons (other than as a result of being parties to the contract) (clause 50(2), of the Regulation).
- **Tribunal:**
makes an order specifying the amount of the contract price of building work for the purpose only of determining the amount of a building bond (section 211(3) of the Act).

Terms:

- The bond is unconditional and is payable on demand by the Secretary.
- The Issuer will make payment, should it receive from the Principal, a demand for payment of the Bond in accordance with the Act.
- The Issuer will make payment to the Secretary or the owners corporation if required by the Secretary on demand by the Principal without reference to the developer and notwithstanding any notice given by the developer not to make any such payment.

Undertaking continues until:

Whichever first occurs:

- Issuer has paid such part of the amount secured by the Building Bond as the Principal may require and confirms in writing is the only part required, or
- the Issuer has paid the whole of the amount secured by the Building, or
- the Principal returns the original of this document to the Issuer, or
- the Principal provides written notice to the Issuer that the bond is no longer required.

Part 5: The jurisdiction and formalities

The Strata building bond and inspections scheme is a NSW Government initiative incorporated in the Act and Regulation.

The building work to which the Act applies is situated in NSW and is governed by the laws in NSW.

In summary:

Jurisdiction: The building bond is governed by the laws of New South Wales.

Formalities

Dated: This is to be dated by the Issuer on the date of issue.

Signed: Authorised person, attorney or agent of the Issuer
Signature, name, title, division and name of Issuer.

Part 6: Important notes about bond acceptance

A building bond will only be accepted by the Secretary if the building bond is issued by an authorised deposit-taking institution (ADI) or general insurer authorised to conduct new or renewal insurance business in Australia as listed on the Register of ADIs or the Register of general insurance, maintained by the Australian Prudential Regulation Authority as updated from time to time.

Part 7: Lodgement

The building bond must be lodged **before** an application is made for an occupation certificate under the *Environmental Planning and Assessment Act 1979* for any part of a building for which the building work was done.

The Secretary will process the building bond within a maximum of 10 business days of receipt of the original building bond (the weekend, NSW public holidays and 27-31 December excluded).

In summary, how to lodge the building bond

Instructions

All three steps must be completed:

1. Developer must access the Strata building bond and inspections scheme ePortal or the NSW Planning Portal
 - a. obtain the unique identifier (project number PN-0000000## assigned in the SBBIS ePortal or reference number SB-2020-## assigned in the NSW Planning Portal) for the building works to which the building bond will be lodged
 - b. advise the Issuer of the unique identifier – it must be included in the building bond
2. Electronic upload of building bond
 - a. Upload a scanned copy of the building bond to the Strata building bond and inspections scheme ePortal or the NSW Planning Portal

3. Delivery options for the original building bond:

Please note the delivery address for the bank guarantee/building bond is by one of the following methods:

- Courier
Please mark the envelope as follows:
SBBIS: Strata building bond and inspections scheme, NSW Fair Trading
Attention: Manager SBBIS, Melanie Schwerdt
4 Parramatta Square, 12 Darcy Street Parramatta NSW 2150
- ExpressPost or RegisteredPost
Please mark the envelope as follows:
SBBIS: Strata building bond and inspections scheme, NSW Fair Trading
Attention: Manager SBBIS, Melanie Schwerdt
PO BOX 972, Parramatta NSW 2124
- By hand – if prior arrangements have been made with the SBBIS team

Receipt

A receipt for acceptance of the original building bond will be mailed to the developer's address, as entered in the SBBIS ePortal or NSW Planning Portal.

Part 8. Suggested format for building bond

Schedule 1 - bond

The purpose of this document is to provide industry with a suggested format for a form of building bond under sections 207 and 208(b) of the *Strata Schemes Management Act 2015*

BUILDING BOND UNDER SECTION 207 OF THE STRATA SCHEMES MANAGEMENT ACT 2015 (NSW)

This building bond is given by [insert name of developer] (“Developer”) to the Secretary (as defined in section 4 of the *Strata Schemes Management Act 2015* (NSW)) (“the Act”), Department of Customer Service ABN 81 913 830 179 (“Principal”), as security for building work pursuant to section 207 of the Act, in the amount of [insert dollar value] (“amount secured by the building bond”), being 2% of the total contract price.

This building bond is given in relation to the development at:

Address: [location of the strata scheme]
Staged construction: [If staging is taking place, provide the stage reference]

Development Application reference: [Development application number]
Construction Certificate reference: [Construction certificate number]
Proposed Strata Plan: [If the strata plan has been registered, provide the Strata Plan identifier.
If a proposed strata plan reference has not been provided, the plan details of the lot and deposited plan which will be subdivided to create the SP].

Unique Identifier: [The project number obtained from the Strata building bond and inspections scheme ePortal PN-0000000## or the reference number obtained from the NSW Planning Portal SB-2020-##]

Construction Contract Identifier: [State name of all contracted parties] and [Date contract executed]

Expiry date: Not applicable

At the request of the Developer and in consideration of the Principal accepting this building bond as the security, [Name of Issuer], [ACN], (“Issuer”), of [Address] has agreed to provide this building bond.

The Issuer unconditionally undertakes to pay on written demand any sum which may from time to time be demanded by the Principal to be paid from this building bond, to a maximum of the amount secured by the building bond.

It is unconditionally agreed that the Issuer will make payments to the Principal or as required by the Principal under and in accordance with this undertaking forthwith without any reference to the Developer and notwithstanding any notice given by the Developer not to make any such payment or payments.

This undertaking is to continue until whichever first occurs:

- the Issuer has paid such part of the amount secured by the building bond as the Principal may require and confirms in writing is the only part required, or
- the Issuer has paid the whole of the amount secured by the building bond , or
- the Principal returns the original of this document to the Issuer, or
- the Principal provides written notice that this document is no longer required.

The whole or part of the amount secured by the building bond may be paid from the Issuer directly to the owners corporation for the above Strata Plan, if the Principal so requires.

The benefit of this bank guarantee is personal to the named Principal and is not capable of assignment.

This undertaking is governed by the laws of New South Wales.

Dated at _____ this Day of 20

Signed for and on behalf of
***** Insurance Company Limited**

 Signature of authorised person

 Signature of authorised person

 Print name

 Print name

 Title / Division

 Title / Division

Schedule 2 – bank guarantee

The purpose of this document is to provide industry with a suggested format for a form of building bond under sections 207 and 208(a) of the *Strata Schemes Management Act 2015*

BANK GUARANTEE UNDER SECTION 207 OF THE STRATA SCHEMES MANAGEMENT ACT 2015 (NSW)

This bank guarantee is given by [insert name of developer] (“Developer”) to the Secretary (as defined in section 4 of the *Strata Schemes Management Act 2015* (NSW)) (“the Act”), Department of Customer Service ABN 81 913 830 179 (“Principal”), as security for building work pursuant to section 207 of the Act, in the amount of [insert dollar value] (“amount secured by the building bond”), being 2% of the total contract price.

This bank guarantee is given in relation to the development at:

Address: [location of the strata scheme]
Staged construction: [If staging is taking place, provide the stage reference]

Development Application reference: [Development application number]
Construction Certificate reference: [Construction certificate number]
Proposed Strata Plan: [If the strata plan has been registered, provide the Strata Plan identifier.
If a proposed strata plan reference has not been provided, the plan details of the lot and deposited plan which will be subdivided to create the SP].

Unique Identifier: [The project number obtained from the Strata building bond and inspections scheme ePortal PN-0000000## or reference number obtained from the NSW Planning Portal SB-2020-##]

Construction Contract Identifier: [State name of all contracted parties] and [Date contract executed]

Expiry date: Not applicable

At the request of the Developer and in consideration of the Principal accepting this bank guarantee as the security, [Name of authorised deposit taking institution & ABN] (‘Issuer’) of [Address] has agreed to provide this bank guarantee.

The Issuer unconditionally undertakes to pay on written demand any sum which may from time to time be demanded by the Principal to be paid from this bank guarantee, to a maximum of the amount secured by the building bond.

It is unconditionally agreed that the Issuer will make payments to the Principal or as required by the Principal under and in accordance with this undertaking forthwith without any reference to the Developer and notwithstanding any notice given by the Developer not to make any such payment or payments.

This undertaking is to continue until whichever first occurs:

- the Issuer has paid such part of the amount secured by the building bond as the Principal may require and confirms in writing is the only part required, or

- the Issuer has paid the whole of the amount secured by the building bond , or
- the Principal returns the original of this document to the Issuer, or
- the Principal provides written notice that this document is no longer required.

The whole or part of the amount secured by the building bond may be paid from the Issuer directly to the owners corporation for the above Strata Plan, if the Principal so requires.

The benefit of this bank guarantee is personal to the named Principal and is not capable of assignment.

This undertaking is governed by the laws of New South Wales.

Dated at _____ this Day of 20

Signed for and on behalf of

***** Authorised deposit taking institution**

Signature of Authorised Person

Signature of Authorised Person

Title / Division

Title / Division

Name (Print)

Name (Print)

Part 9. Glossary

Definitions as per *Strata Schemes Management Act 2015*

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

Building work means the same as in the *Strata Schemes Management Act 2015* – section 190(1)

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*

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

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

Part 10. DOCUMENT CONTROL

10.1 Document Approval

Approving authority	Signature	Date
Manager: Strata building bond and inspections	Melanie Schwerdt	20/12/2017
Manager: Strata building bond and inspections	Melanie Schwerdt	30/06/2020
Manager: Strata building bond and inspections	Melanie Schwerdt	19/08/2020

10.2 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	November 2018	Melanie Schwerdt	Legal Services
6.0	Review	November 2019	Melanie Schwerdt	Yearly review
7.0	Review	June 2020	Melanie Schwerdt	Amendments to Legislation + Bank guarantee
8.0	Review	August 2020	Melanie Schwerdt	Incorporate NSW Planning Portal

10.3 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.