



Australia's property industry

Creating for Generations

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Ms Melanie Schwerdt
Principal Project Officer
Strata Building Bonds and Inspections
NSW Fair Trading
60 Station Street
Parramatta NSW 2150

Via email: stratadefectsbond@finance.nsw.gov.au

Dear Ms Schwerdt,

RE: Strata Building Bond and Inspections Scheme review

The Property Council welcomes the opportunity to make a submission on the Strata Schemes Management Act 2015 (the Act) which introduced the Strata building bond and inspections scheme.

We urge the Government to amend the scheme, so the bond amount is calculated based on the value of the residential strata component of the building rather than the entire building.

Calculation of the Bond in mixed use buildings

The calculation of the amount payable for the bond will be crucial to the success of the scheme – it should be sufficient to rectify defects that arise with the building while not seriously impacting the cashflow of developers.

Currently the bond is calculated as “2 percent of the total price paid under all applicable contracts for the building work” of residential and mixed-use high-rise strata buildings of four or more storeys. An issue arises in mixed-use situations where the current definition captures the entire cost of the building rather than limiting it to the residential strata component.

This is problematic as there are many examples of buildings across NSW where the residential component of a mixed-use development accounts for only a small proportion of the total cost. The implication is that developers must lodge disproportionately large bonds which affect cashflow.

This scheme is intended to provide additional protection for owners by minimising issues in new residential high-rise strata, not to raise the cost of development by affecting developers' cashflow.

We would propose that if the residential is included in a separate Stratum to that of an alternate mixed-use stratum then the cost for the residential stratum should reflect the value of the bond.

Increase in Penalty from 200 to 10,000 Units

It is proposed that the maximum penalty for a developer failing to lodge the building bond will increase from 200 penalty units - \$22,000, to 10,000 penalty units (currently \$1.1 million) with the addition of a daily penalty of 200 units for a continuing offence. While we agree that the existing penalty level is too low to act as a deterrent we believe the proposed level is excessive especially given the new introduction of the scheme and teething problems which it will inevitably experience.

Developer's obligation to provide documents relating to defects to building inspector

The proposed addition of new section 198A should be limited to defects which have not been rectified. The provision as currently drafted is too wide and risks encumbering the Building Inspector in unnecessary red tape which will only increase the cost and time of complying with the regime and achieving the intended outcomes.

Independence between the developer and inspector

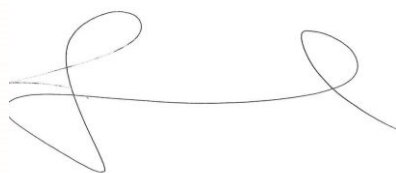
For our larger members with extensive development projects, the practicalities of sourcing inspectors who are completely independent of such groups will be difficult.

Our understanding of the number of available inspectors is limited which also presents other issues such as monopoly of fees and timing issues for initial and final reports. Added to this will be conservative approaches taken and the extra time, management and cost of extra specialist consultants who may be called upon.

Accordingly, we would recommend further engagement with industry to truly understand the issues we believe are and will be evident under the existing regime.

Please contact Tim Wheeler, NSW Senior Policy Advisor on twheeler@propertycouncil.com.au or 02 9033 1909 if you would like to discuss this matter further.

Sincerely,



Jane Fitzgerald
NSW Executive Director