

The Building Defect Bond Scheme – Not for the Bulk of this Construction Cycle

New strata laws will commence on 30 November 2016. As a part of the change to the strata laws, a building defect bond scheme is due to commence on 1 July 2017.

Under this scheme, developers will be required to lodge a 2% bond with the Secretary of the Department of Finance, Services and Innovation for the final contract price of the building.

The purpose of the bond is to act as security in the event that it becomes necessary to rectify defects to the building work once the building is completed.

How does this affect Builders and Developers now?

Builders and developers should note that the scheme only applies to:

1. buildings which are not eligible for home warranty insurance i.e. buildings over three stories high;
2. contracts for residential building work which are entered into after 1 July 2017; and
3. if there is no contract or where the builder and developer are the same entity, where works commenced after 1 July 2017.

Accordingly the scheme will not apply to the majority of the current construction cycle.

Further Advice

If and when you need advice regarding the building defect bond scheme and how it affects you, we can assist. For example we can assist with the following issues which will arise after 1 July 2017:

1. *Amount of the bond* – how to calculate the 2%.
2. *Voting rights* – developers will be excluded from voting at meetings on various matters concerning building defects.
3. *Expert reports* – appointment and payment of experts to draft defect reports.
4. *Release of the bond* – a comprehensive process to undertake rectification of defects and secure release of the bond.

Key takeaways

- The Building Defect Bond Scheme will commence on 1 July 2017, requiring developers to lodge a 2% bond.
- The scheme applies only to buildings over three stories and contracts entered into after the commencement date.
- Developers will be excluded from voting on matters concerning building defects.
- The bond serves as security for rectifying defects post-completion of the building work.
- Bannermans Lawyers can assist with various issues related to the bond scheme.

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