

Building Defects Advanced Edition FAQ – Declared Design Regime under the D&BPA

What is the SBBIS?

The SBBIS was introduced under Division 3 of the Strata Schemes Management Act 2015 (NSW).

It has been in operation since 1 January 2018 and aims to protect owners of residential strata buildings four storeys or more, which do not have home building compensation insurance. It is also overseen by the NSW Fair Trading.

The SBBIS applies to:

- Residential or mixed-use strata buildings 4 storeys or higher.
- Developments with contracts signed on or after 1 January 2018, or construction starting on/after that date.

The SBBIS does NOT apply to:

- Buildings 3 storeys or fewer (covered by Home Building Act).
- Commercial buildings, stand alone homes, townhouses, or non-strata projects.

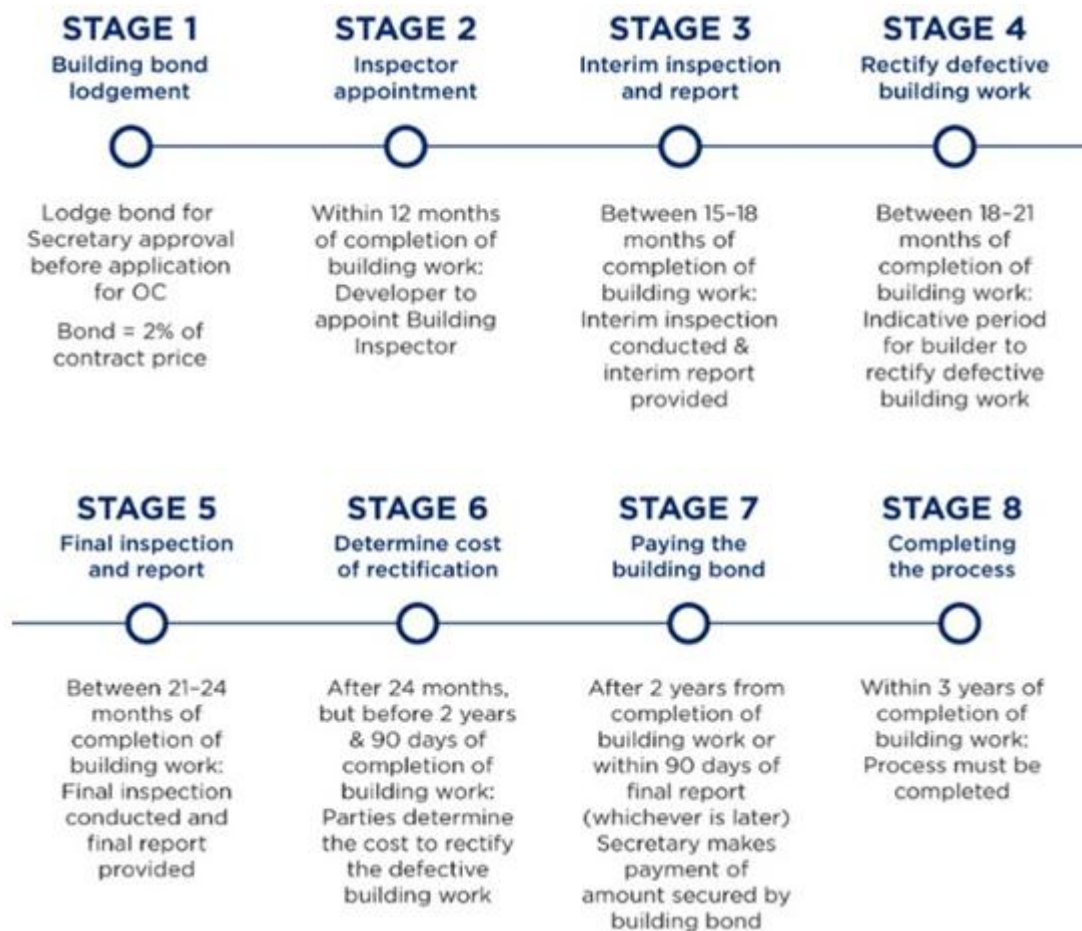
90-day extension

Under the SBBIS, developers are given an opportunity to rectify defects identified in the interim inspection report, typically issued 15–18 months after completion. However, sometimes circumstances beyond the developer's control can impact their ability to carry out timely repairs.

In such cases, a 90-day extension may be requested. This extension must be applied for before the original rectification period expires, and it is only granted if the developer provides a valid reason.

It is important to note that the extension is not automatic. It must be formally requested and approved. If granted, it extends the developer's window to complete rectification works before the final inspection.

How does the SBBIS Work?



What is the process if defects are found?

If the final inspection confirms that defects remain, the following process applies:

1. Bond Claim

The owners corporation can claim against the bond held by NSW Fair Trading to fund the necessary repairs.

2. Scope

The claim must be supported by documented evidence, including the final inspection report, quotes and details of the defect.

3. Bond Allocation

- If rectification costs are less than the bond, the surplus is refunded to the developer.
- If rectification costs exceed the bond, the Owners Corporation may need to pursue the developer through legal channels to recover the shortfall — including via statutory warranties under the Home Building Act 1989 (NSW).

Timing is critical: Claims must be lodged within strict timeframes following the final report.

Disputes about the bond

Disagreements can arise if the developer contests the findings in the final report or the amount claimed by the owners corporation. When this occurs:

1. **Mediation:** The Owners Corporation can apply for mediation through NSW Fair Trading. This step is designed to encourage early resolution without the need for legal action.
2. **Inspection Report as Evidence:** The final inspection report from the independent building inspector plays a crucial role in resolving disputes, as it is the primary evidence used to validate defect claims.
3. **Escalation to NCAT or Court:** If the dispute remains unresolved, the matter may escalate to the Tribunal or the Courts. Therefore, legal advice is essential in such cases.

Consequences for owners corporations

While the primary obligation lies with the developer, the owners corporation also faces significant risks and responsibilities:

1. Commercial buildings are excluded from the SBBIS. Therefore, this scheme only applies to residential or mixed-use strata buildings that contain a component of residential dwellings.
2. The bond may not cover all defects, especially in complex or large-scale buildings. Cost blowouts are common, and the owners corporation may need to fund shortfalls themselves or otherwise pursue litigation.
3. Independent investigations are critical! Developers are responsible for appointing the inspector but must do so from a pool approved by NSW Fair Trading. There are often concerns around the perceived lack of independence if developers engage inspectors they regularly work with.
4. There may also be limited time to act. The final inspection report is issued in a strict timeframe post-completion, and the owners corporation must act swiftly to claim the bond and coordinate rectification works.
5. SBBIS does not override the Home Building Act 1989. Therefore, the owners corporation must be diligent and pursue its statutory warranty claims for up to 2 or 6 years, depending on the type of defect.

Bond increase from 1 July 2026

A key change is coming that affects future developments:

- Bond increases from 2% to 3% of the building contract price;
- This applies to new strata developments (i.e. construction contracts) signed from 1 July 2026 onwards; and
- Developments with contracts signed before this date remain subject to the 2% bond requirement.

This change is designed to provide better financial coverage for defects, especially given the rising costs of construction and repairs.



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Key takeaways for strata managers

Strata managers should:

1. Confirm whether a development falls under SBBIS: It is extremely important to determine if the development falls under the scheme — this applies to buildings that are at least 4 storeys and include a component of residential use.
2. Monitor Inspections and Reports: strata managers should ensure timely engagement of inspectors, review of reports, and scheduling of both interim and final inspections.
3. Maintain Documentation: Keep thorough records of all reports, communications, quotes, defect lists and correspondence with developers and inspectors.
4. Educate your Owners Corporation: Its important to inform committee members and owners about their rights, obligations and deadlines, particularly around the final inspection and building bond claim process.
5. Manage Disputes Proactively: Strata managers should aim to resolve issues early through mediation and always seek legal advice quickly if a matter escalates.

How can we help?

Bannermans Lawyers can provide you with the expert legal advice you need in relation to building defects as we understand that your home or investment property is one of your most important assets.

For a FREE 15 minute consultation on how we can help resolve your defects in a cost effective and efficient manner click [more information](#).

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**Prepared by Bannermans Lawyers
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