

9 May 2018

NSW Fair Trading

E: [StrataDefectsBond@finance.nsw.gov.au](mailto:StrataDefectsBond@finance.nsw.gov.au)

Dear Sir / Madam,

## **Re: Strata building bond and inspections scheme**

The Urban Taskforce thanks NSW Fair Trading for the opportunity to comment on the *Strata Schemes Management Amendment (Building Defects Scheme) Bill 2018*. Our comments are provided below for consideration.

We understand that the amendment proposes to improve the scheme by strengthening how the contract price of a strata scheme is determined by the developer (and verified by Fair Trading), and by further clarifying the role of the building inspector.

### **The building bond for mixed use buildings should only be calculated on the proportion of the contract price which is relevant to the residential component.**

Under the current scheme, developers must lodge a building bond with NSW Fair Trading equal to 2% of the contract price for residential and mixed-use high-rise strata buildings. The 'contract price' is based on the value of contract for the construction of the **entire** building. For apartment buildings, this is appropriate. However, for mixed use buildings, using the full contract price places an unnecessarily large financial burden upon developers and does not achieve the objective of ensuring a sufficient (not excessive) bond is held to cover defects associated with the residential component of the development.

The building bond should be calculated based on the proportion of the floor space allocated to residential uses plus the relevant percentage of the common areas and whole of building costs.

**Recommendation:** The methodology to determine relevant part of the contract price for a mixed-use building to use to calculate the building bond to be paid by the developer must be based upon:

- The cost of construction the residential portion of the building; and
- For common areas, or whole of building costs, should be split according the percentage of floor space used for the residential component of the building.

### **Building inspectors must be appointed through a competitive process**

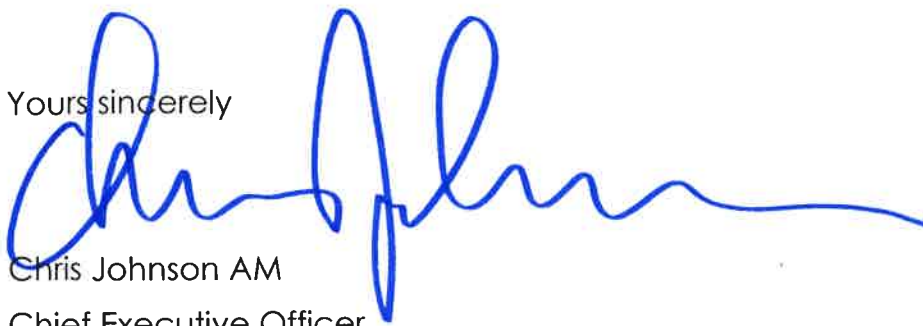
We understand that should a body corporate and a developer fail to agree on the appointment of a building inspector to undertake the inspection of the building, a building inspector will be appointed by the Building Bond Secretary.

This removes any element of competition or efficiency from the process of selecting a building inspector. Generally, inspectors must compete for work and would be appointed based on their pricing and terms of their offer. There is incentive to ensure the inspection process is undertaken in an efficient, timely and cost-effective manner. If a building inspector is directly appointed to a role, there is concern that this removes this competitive element and could lead to building inspectors inflating their costings, engaging unnecessary sub-consultants or undertaking an excessive, lengthy and complicated inspection process. The cost of this must be borne by the developer and will only add to the cost and risk of constructing apartment buildings.

**Recommendation:** When the Building Bond Secretary is required to appoint a building inspector, a competitive bid process should be used to ensure competitive pricing and quality services.

The Urban Taskforce is always willing to work closely with Council to provide a development industry perspective on these issues. Please feel free to contact me on telephone number 9238 3927 to discuss this further.

Yours sincerely



Chris Johnson AM

Chief Executive Officer

**Urban Taskforce Australia**