

## The Hon Anoulack Chanthivong MP

Minister for Better Regulation and Fair Trading, Minister for Industry and Trade,  
Minister for Innovation, Science and Technology, Minister for Building,  
Minister for Corrections



Ref: COR-02397-2024

Ms Lynda Voltz  
Chair  
Legislation Review Committee  
Parliament of New South Wales  
By email: [legislation.review@parliament.nsw.gov.au](mailto:legislation.review@parliament.nsw.gov.au)

Dear Ms Voltz, *Lynda*

Thank you for the correspondence on the Legislation Review Committee's concerns about recent amendments to the Strata Schemes Management Regulation 2016 (Amendment Regulation).

The Committee has raised concerns about the discretionary powers granted to the Secretary to cancel building bonds. In particular, the focus is on subclause 55AA(b) of the Amendment Regulation which allows the Secretary to return the building bond where it is considered 'appropriate in the circumstances of the case'.

Prior to the amendments, the *Strata Schemes Management Act 2015* did not allow for the return of the bond if no defects were identified at the mandatory final inspection stage. This meant that the bond no longer had a purpose of being used to rectify defects, but it could not be released to the developer until the legislated time period of the bond had elapsed.

The Amendment Regulation will now allow the Secretary of the Department of Customer Service to cancel a bond if:

- a) a final report on the building work
  - a. does not identify defective building work; **or**
  - b. only identifies defective work which cannot be claimed by the Secretary for payment by the bond, **and**
- b) if the Secretary thinks it appropriate in the circumstances of the case to enable the building bond to be cancelled.

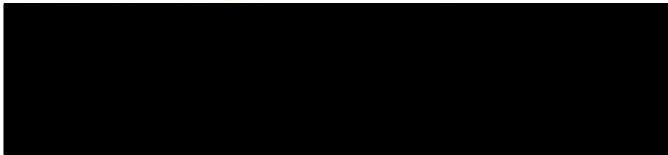
While I understand the concerns raised by the Committee, the legislative extract included in the Legislation Review Committee Review Digest has not been correctly transcribed. It has been reflected that the requirements set out in a) and b) are joined by an 'or' requirement.

The issues raised by the Committee have been appropriately dealt with under the Amendment Regulation, which requires that both requirements of a) and b) be satisfied for the Secretary to return the bond. The amendment does not allow for the bond to be returned solely on the Secretary's discretion.

The building bond is held as security by the Secretary for purposes of rectifying defective building work. If no defects are identified, the Secretary can return funds to developers that they would have received at a later date and would otherwise be unproductively tied up with no potential use.

I trust that this information is of assistance to the Committee.

Sincerely,



16-7-24

**Anoulack Chanthivong MP**

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