Building Inspection Policy

Adopted by Council 24 July 2012
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1 Purpose

1.1 The Building Inspection Policy (the Policy) establishes guidelines for inspection of building work. The Policy determines the non-mandatory notifications required and the type of audit inspections that should be performed according to the class of the building.

2 Definitions

2.1 Words and phrases defined by the Act and the Development Regulations 2008 (the Regulations) have the same meaning when used in the Policy. For convenience, an extract setting out the definitions of commonly used terms has been annexed to the Policy (Appendix 1). In addition, the following words and phrases are defined:

**inspection**
For the purposes of the Policy, an inspection involves the visual assessment of any building work against the provisions of the Building Code of Australia, or any other associated Standard, and includes the inspection of a stage of construction. Any follow-up inspection of the same stage of building work shall not be classed as an additional inspection.

An inspection is a comparison by an inspector (with or without assistants) of the visual observations of that building work, and measurements of selected parts of that building work, with:

- the plans and details (if any) which form part of a development approval (or exemption) which relates to that building work, and

- if applicable, any other relevant documents (for example a required checklist)

and may include the interview of any person associated with the building work.

**inspector**
An authorised officer of the Council, appointed under Section 18 of the Act, who holds a current accreditation as a building surveying technician (or equivalent or greater accreditation), or who has been approved by the Minister under Regulation 87(3)(c)

**person**
Includes all legal persons including bodies corporate.

**roof framing**
Means timber roof framing or light steel framing, including coupled and non-coupled framing and roof trusses, but does not include portal framing.
3 Scope

3.1 The Policy covers Council’s operations relevant to the inspection of building work, to be undertaken by Council’s building inspector(s) following approval of development applications under the Development Act 1993 (the Act). By undertaking inspections, Council seeks to ensure that persons undertake building work in accordance with a development approval (or exemption) and the requirements of the Act.

3.2 The Council is empowered by the Act to inspect building work within its area. Such inspections will:

1. detect building work which does not accord with a development approval (or exemption), or the requirements of the Act; and

2. identify buildings and building work which are unsafe.

3.3 In addition, the Council intends that where such inspections reveal problems, that the evidence gathered by such inspections will permit the Council to take action to correct those problems and when appropriate to punish those responsible.

3.4 Inspections undertaken by Council’s building inspector(s) in accordance with the Policy are additional to those undertaken by Council’s planning officers in respect of compliance with conditions applied to the relevant development plan consent.

4 Policy Statement

4.1 Council is committed to providing people with a safe built environment, and will inspect building work regularly in accordance with legislative requirements. The Policy outlines how Council will adopt a best practice approach to the inspection of building work.

4.2 The Policy also recognises that inspections relating to building fire safety, life safety, dangerous structures and complaints will take priority over other inspections. Inspectors shall pay particular attention to inspections relating to buildings containing large numbers of people, such as shopping centres and assembly buildings.

4.3 In developing the Policy, Council has had regard to the following:

- The impact that a failure to inspect a certain number of buildings of the relevant classes over a period of time may have on the local community;

- Past practices of Council with regard to inspections and the assessment of building work in its area;

- Whether the area, or a particular part of the area, of Council is known to be subject to poor building conditions; and

- Information in the possession of the council on poor building standards within its local community;
The public interest in monitoring the standard of building work within the community and in taking steps to provide for the safety and health of people who use buildings; and

The minimum inspection rates prescribed by the Development Regulations 2008, and the Development (Roof Trusses) Variation Regulations.

5 Legislative and Corporate Requirements

5.1 Section 71A of the Development Act 1993 prescribes that Council must prepare and adopt a building inspections policy. The Policy must specify a level or levels of audit inspections to be carried out by Council on an annual basis with respect to building work within its area and the criteria that are to apply with respect to selecting the buildings that are to be inspected.

5.2 Pursuant to Section 71A(4a) the Policy complies the prescribed minimum level of inspections\(^1\) to be carried out by the council on an annual basis with respect to building work within its area (including building work assessed by private certifiers under Part 12 of the Act).

5.3 The Policy does not apply to the Building Fire Safety Committee constituted under Section 71(19), nor does it apply to an inspection under Section 71(1) carried out by an authorised officer for the purpose of determining whether the fire safety of a building is adequate.

5.4 Section 59 of the Act identifies mandatory notification requirements by the builder (or owner) to Council for various stages of the construction process.

6 Selection of Buildings for Inspection

6.1 Not all buildings will be inspected. Council does not have the resources to do so, nor is there a requirement that all building work be inspected. Buildings will be selected for inspection in accordance with the following criteria (in order of preference):

1. buildings which appear to be unsafe;

2. buildings which ordinarily present a high risk to life safety, and in particular swimming pools;

3. buildings which are used by many people, particularly where many people do so simultaneously;

4. buildings which involve roof framing;

5. buildings which are obliged to provide access to disabled persons; and

\(^1\) Regulation 80AB of the Development Regulations 2008
6. In the event that inspection of the foregoing buildings does not result in the prescribed minimum inspection levels being met, any other buildings.

Where a building is selected for inspection it may be inspected at any stage of construction, and may be inspected more than once (i.e. it may be inspected at different stages of construction). Follow up inspections shall be at the discretion of Council’s building inspector.

7 Levels of Inspection

7.1 Prescribed Minimum Levels

In accordance with Section 71A(4a) and Regulation 80AB(2) the following minimum inspection levels will be achieved for all classes of buildings, where the building work involves the construction of any roof framing within the area of the Council:

(a) A number of inspections equal to 66% of the building rules consents issued over the course of the calendar year for building work involving the construction of any roof framing where a licensed building work contractor is responsible for the relevant building work; and

(b) A number of inspections equal to 90% of the building rules consents issued over the course of the year for building work involving the construction of any roof framing where a licensed building work contractor is not responsible for the relevant building work (i.e. owner-builder).

Note: The inspection requirements contained within Clause 7.11 includes all Class 10 buildings under the Building Code of Australia that are attached to any part of the roof framing of a building of another class.

7.2 Additional Inspection Levels

In addition to the prescribed minimum levels, the Council aims to inspect:

(a) A number of inspections equal to 100% of the building rules consents of building work which relates to or affects swimming pool safety, including the construction of all swimming pools;

(b) A number of inspections equal to 20% of all notifications received by the Council under Section 59(1) and Regulation 74(1)(a) for the intended commencement of building work which relates to a residential building or buildings (but excluding free-standing Class 10 buildings);

(c) A number of inspections equal to 10% of all notifications received by the Council under Section 59(1) and Regulation 74(1)(a) in relation to building work which relates to a non-residential building or buildings (but excluding free-standing Class 10 buildings); and
(d) Any other inspection in relation to any building work at the discretion of Council Staff in respect of unauthorised building work, hazardous and dangerous structures, or special issues relating to fire safety.

7.3 Selection of Parts of Building Work for Measurement

An inspection will not involve the measurement of all parts of the inspected building work. The inspector will select which parts of the building work to measure in accordance with ordinary building inspection practice, and taking into account the following factors:

(a) the possible and likely consequence(s) of failure of the part;

(b) whether the part is representative of similar or identical parts;

(c) whether parts of that kind are known or suspected to be incorrectly built, constructed or installed more often than parts of other kinds.

7.4 Counting Inspections

Inspections must be counted to determine whether the minimum numbers set out above are met. The first inspection of the building work forming part of any particular building is counted as one inspection.

Where building work forming part of a building is inspected at a particular stage, and problems are found, any re-inspection undertaken to determine whether the problems have been corrected does not count as an inspection. Rather, it is taken to be part of the initial inspection.

8 Inspection Procedure

8.1 The Principal Planner will, in consultation with the Council’s building inspector(s), prepare an inspection procedure.

8.2 The inspection procedure will:

- include a standard-form inspection checklist;

- identify what evidence should be gathered during an inspection so as to permit punishment of any person found to be responsible for any breach of the Act or Regulations arising from, or in connection with the inspected building work;

- set out what record keeping will occur, including how evidence gathered in the course of an inspection is to be filed; and

- set out what statistics must be identified and reported, including to whom and how such reports will be made.
8.3 All inspections will comply with the inspection procedure insofar as is reasonably practicable and the inspector in each case will complete the inspection checklist.

9 Notifications of Building Work

9.1 Pursuant to Section 59 of the Development Act 1993, Council will require the following notifications for Class 1 and 2 buildings:

- one day’s notice of commencement of building work on the site;
- one day’s notice of the commencement of pouring of footings;
- one day’s notice of the completion of cavity masonry walls;
- one day’s notice of the completion of wall and roof framing;
- one day’s notice of the completion of the building work;
- one day’s notice of the completion of installation of safety barriers (prior to a swimming pool being filled with water).

9.2 Pursuant to Section 59 of the Development Act 1993, Council will require the following notifications for Class 3-10 buildings:

- one day’s notice of commencement of building work on the site;
- one day’s notice of the completion of the building work; and as relevant
- one day’s notice of the commencement of pouring of footings;
- one day’s notice of the commencement of pouring of a suspended floor slab;
- one day’s notice of the completion of masonry walls;
- one day’s notice of the completion of tilt-up walling;
- one day’s notice of the completion of wall and/or roof framing.

10 Enforcement and Dispute Resolution

10.1 All inspectors will hold current delegations which permit directions to be given under Section 84(2) by the inspector.

10.2 Where an inspection reveals deficiencies the inspector will determine what action to take to correct the defects or may refer the matter to a superior officer. In determining what action to take, the inspector will not permit a problem to be fixed in a manner which prevents the inspector from reasonably observing that the problem has been fixed unless the inspector considers exceptional circumstances apply.
10.3 Possible actions include:

(a) obtaining written assurance from the person responsible for the building work that the problem will be corrected by a particular date and will be left in a state so that the correction can be inspected, and scheduling a follow-up inspection on that date to verify that has occurred;

(b) in the case of a breach of the Act or Regulations, giving a direction to a person under Section 84(2) to

- refrain (for a specified period or until further notice) from the act or course of action that constitutes the breach; and/or
- make good any breach in a manner, and within a period, as specified;

(c) taking, or arranging to be taken in the name of the Council, such urgent action as is required because of any situation resulting from the breach pursuant to Section 84(2)(c);

(d) in the case of a threat to safety arising out of the condition or use of a building or an excavation, or a threat to any State or local heritage place, making an emergency order under Section 69(1) which requires the owner of any land or building to:

- evacuate the building or land;
- not to conduct or allow a specified activity;
- immediately terminate a specified activity; and/or
- carry out building work or other work;

(e) also in the case of a threat to safety arising out of the condition or use of a building or an excavation, or a threat to any State or local heritage place, making an emergency order under Section 69(1) which:

- prohibits the occupation a building or land; or
- prohibits the use of a building or land for a specified activity, or an activity of a specified class;

(f) expiating a breach of Regulation 74 (the notification, supervisor’s checklist and non-concealing requirements), pursuant to sub-Regulation 74(8).

10.4 Where the correction of a problem becomes a dispute between Council and another party, Council officers will first attempt to resolve the dispute without use of legal proceedings.

10.5 Attempts which may be made to resolve such disputes include:

(a) in the case of a dispute as to the meaning of a building rules consent, referring the matter to a building assessor;

(b) involving other Council officers and inspectors for clarification and/or a second opinion of the dispute; and

(c) consulting an independent professional with expertise in the relevant area.
11 Liability

11.1 Council inspects building work in accordance with the objectives of the Policy and for the public good. Inspections are undertaken by Council solely as a result of its duties under the Policy. Inspections are not carried out for the benefit of any past, current or future owner, occupier or neighbour of any building work and no legal relationship is created between Council and any other such person as a result of the conduct of the inspections. Council does not accept that it owes a duty to such persons or indeed any particular person in relation to any inspection.

11.2 Section 99 of the Act provides that no act or omission in good faith by a council or an authorised officer in relation to a particular development after the development has been approved subjects that person or body to any liability.

11.3 Council does not accept any liability in relation to any inspection. In the event of any dispute with Council as a result of an inspection, any conduct engaged in or statements or comments made by an officer of Council with the intent of resolving or otherwise managing the dispute are not intended as, and are not to be taken as, any admission of responsibility or liability on the part of Council.
12 Review

12.1 The Policy will be reviewed in line with Council’s Corporate Governance Framework.

13 Access to the Policy

13.1 The Policy is available for public inspection on Council’s web site www.prospect.sa.gov.au and from Customer Service at the Civic Centre, 128 Prospect Road, Prospect or the Prospect Library, 1 Thomas Street, Nailsworth.

14 Further Information

14.1 For further information about the Policy please contact:

Director Community and Planning
City of Prospect
128 Prospect Road
Prospect SA 5082

Ph: 08 8269 5355

E: admin@prospect.sa.gov.au
Appendix 1

Common Terms defined by the Development Act and Regulations

**building**
a building or structure or a portion of a building or structure (including any fixtures or fittings which are subject to the provisions of the *Building Code of Australia*), whether temporary or permanent, moveable or immovable, and includes a boat or pontoon permanently moored or fixed to land, or a caravan permanently fixed to land.

**Building Code**
an edition of the Building Code of Australia published by the Australian Building Codes Board, as in force from time to time and as modified (from time to time) by the variations, additions or exclusions for South Australia contained in the code, but subject to the operation of subsection (7) of the Act.

**building owner**
the owner of land on or in relation to which building work is or is to be performed.

**the Building Rules**
any codes or regulations under the Act (or adopted under the Act) that regulate the performance, standard or form of building work and includes any standard or document adopted by or under those codes or regulations, or referred to in those codes or regulations.

**building rules consent**
a consent granted under section 33(1)(b).

**building work**
means work or activity in the nature of—

(a) the construction, demolition or removal of a building (including any incidental excavation or filling of land); or

(c) any other prescribed work or activity,

but does not include any work or activity that is excluded by regulation from the ambit of this definition.

**construct**
in relation to a building, includes—

(a) to build, rebuild, erect or re-erect the building;

(b) to repair the building;

(c) to make alterations to the building;

(d) to enlarge or extend the building;

(e) to underpin the building;

(f) to place or relocate the building on land.

**structure**
includes a fence or wall.

**supervisor’s checklist**
a checklist published by the Minister in the Gazette for the purposes of Regulation 74(5).

**swimming pool**
an excavation or structure that is capable of being filled with water and is used primarily for swimming, wading, paddling or the like and includes a bathing or wading pool or spa pool (but not a spa bath).

**swimming pool safety features**
a fence, barrier or other structure or equipment prescribed by regulation, namely, (insofar as are relevant to the particular circumstances taking into account the provisions of the Building Code): (a) fences; (b) barriers; (c) water recirculation systems; (d) secondary outlets from a swimming pool; and (e) warning notices.