PRACTICE DIRECTION 7

Out of Council Areas Inspection Policy 2019

STATE PLANNING COMMISSION

This practice direction is issued by the State Planning Commission under section 42 of the *Planning, Development and Infrastructure Act 2016* (Act) to ensure that inspections are undertaken in Out of Council areas to provide for occupant and public safety, amongst other matters.

Introduction

Section 42 of the Act allows the State Planning Commission (the Commission) to issue practice directions for the purposes of the Act. Generally, practice directions specify procedural requirements or steps in connection with a matter arising under the Act. In certain cases, the Act requires a particular matter to be addressed or dealt with by a practice direction.

Section 144 of the Act requires that the Commission must issue a practice direction that requires councils to undertake inspections of development in their respective areas. As the practice direction required under s144 only applies to councils, this direction sets out inspection requirements in Out of Council areas.

Practice direction

Part 1 – Preliminary

1 – Citation

This practice direction may be cited as the State Planning Commission Practice Direction (Out of Council Areas Inspection Policy) 2019.

2 – Commencement of operation

This practice direction will come into operation on the day on which it is published on the SA planning portal.

3 – Object of practice direction

The object of this practise direction is to, in relation to Out of Council areas:

(a) Provide for occupant and public safety;

(b) Provide for public health and hygiene; and

(c) Maintain confidence and integrity in the development control system.

Note: This practice direction does not seek to address, or imply any additional responsibilities on councils, under the South Australian Public Health Act 2011, or Australian Consumer Law.

Superseded by Version 3 dated 24 October 2025

4 – Interpretation

In this practice direction, unless the contrary intention appears –

Act means the *Planning, Development and Infrastructure Act 2016*.

Regulations means the *Planning Development and Infrastructure (General) Regulations 2017*.

Note: Section 12 of the Legislation Interpretation Act 2021 provides that expressions used in a legislative instrument or other instrument made under an Act have the same meaning as they have in the Act (as in force from time to time).

Part 2 – Inspection Policy

5 – Criteria

(1) The Inspection Policy applies to all development approvals which include a building rules consent and are issued for Out of Council areas by the Commission under the Act, including all classes of building (Class 1 to 10) under the Building Rules.

(2) Buildings will be selected for inspection by the Commission in accordance with the following criteria:

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

b. Buildings which are used by many people, particularly where many people do so simultaneously

c. Buildings which involve roof framing;

d. Buildings which are obliged to provide access to disabled persons;

e. Buildings regarding which the Commission is aware of a complaint having been made; and

f. In the event that inspection of the foregoing buildings does not result in the minimum inspection levels being met (as provided in this Practice Direction), any other buildings.

(3) Other criteria which may be taken into account include:

a. Distribution between owner builders and registered builders;

b. Local environmental factors in the area in which the building work is being undertaken (e.g. wind speeds, flooding, poor soil conditions);

c. Any other reason determined as relevant.

(4) Where a building is selected for inspection it may be inspected at any stage of construction, and may be inspected more than once.

(5) Where a complaint is made about the condition or use of a new or existing building, or excavation or construction work which is in progress, an inspection will be undertaken by an authorised officer within reasonable timeframes taking into account of the urgency of the situation, the availability of resources and the reasonableness of the complaint.

6 – Levels of Inspection

(1) An authorised officer will undertake inspections of building work, where the Commission as the relevant authority has received notification of such building work (including buildings work where the building rules consent has been issued by a private building certifier) as follows:

a. 20% of all approvals for Class 1 and 2 buildings (including dwellings and dwelling additions);

b. 20% of all approvals for Class 3 to 9 buildings (commercial development);

c. 100% of applications where the building work involves the construction of a swimming pool (including safety fences and barriers associated with such swimming pools). Of these:

i. at least 80% of swimming pools will be inspected within 2 weeks of the Commission being notified of completion of the permanent swimming pool child safety barriers; and

ii. the remaining 20% of swimming pools will be inspected within 2 months of the Commission being notified of the completion of the permanent swimming pool child safety barriers;

d. 100% of applications which include designated building products on a designated building;

e. Roof trusses for all classes of buildings, but excluding Class 10 buildings (unless they are attached to a roof frame for another Class of building) portal frame buildings (for example, industrial sheds) and transportable buildings. Of these, the required inspection rates will be:

i. 66% where the work is carried out by a licensed builder; and

ii. 90% where the work is carried out by an unlicensed builder (owner builder or other unlicensed builder);

f. 66% of applications which require the issuing of a Certificate of Occupancy, with inspections to be undertaken prior to issuing of the Certificate of Occupancy.

(2) Inspections of:

i. Class 10a and 10b structures (including verandas, carports, sheds but excluding swimming pools); or

ii. building works undertaken by or on behalf of the Crown, a Minister of the Crown or an agency or instrumentality of the Crown (including a Department or administrative unit of the State);

will not be undertaken unless an authorised officer has a reasonable suspicion of:

iii. non-compliance with the relevant development approval;

iv. unauthorised building work;

v. practices that are not in accordance with the Act, the National Construction Code or Minister's Building Standards; or

vi. building work which is considered unsafe.

(3) The authorised officer, will, during the course of an inspection, also undertake the following additional inspection activities where the authorised officer considers it appropriate:

a. monitoring building works in the Out of Council areas where such monitoring is deemed necessary for valid development approvals;

b. responding to reports of life threatening situations concerning buildings or structures in the Out of Council areas; and

c. monitoring heritage listed buildings in the Out of Council areas for unauthorised work, conditions of approval and to assist building owners with forthcoming development approvals.

7 – Inspection procedures

(1) An authorised officer may determine the procedures to be applied for the carrying out of an inspection, provided that:

a. the authorised officer is reasonably satisfied of any outcomes or findings of such inspection; and

b. such procedures comply with the Act.

(2) Without limiting subsection (1), inspections may be carried out by an authorised officer through external (off-site) means, including through the use of telecommunications technology (where available).

(3) The authorised officer will use reasonable endeavours to conduct inspections within 5 business days of receipt of notice of building works.

(4) Where the Commission determines (prior to the expiration of a notice period under Regulation 93) that an inspection will not be undertaken, the authorised officer will use reasonable endeavours to provide notice to the entity which notified the Commission of such building works, so that subsequent stages of building works can proceed.

8 – Record keeping

(5) In relation to developments that received final development approval under the Act, the Commission will keep records of inspections carried out in accordance with this practice direction.

(6) Records of inspections should include, without limitation, the following details: date and time of an inspection, type of inspection, who undertook the inspection, elements inspected, breaches, issues, or faults found, rectification required, requirements for re-inspections (including timing) and enforcement action, as is appropriate in the circumstances.

(7) This clause does not derogate from any authorisation to dispose of records under the *State Records Act 1997.*

9 – Counting Inspections

(1) Inspections must be counted to determine whether minimum inspection levels are met.

(2) The first inspection of the building work forming part of any particular building is counted as one inspection. The first inspection will count as an inspection for the Class or type of building work inspected, regardless of whether future stages of building work are also inspected.

(3) 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 immediately prior inspection.

(4) The inspection of building work forming part of a building at a later stage is counted as a separate inspection, even if the building was inspected at an earlier stage.

10 – Enforcement

Where a breach of the Act occurs, or is reasonably suspected to have occurred, the authorised officer will take such reasonable action as considered necessary to resolve a breach of the Act.

11 – Review

This policy will be reviewed every two years or at an earlier time if appropriate.

Versions

Version 2 11 April 2024

Version 1 1 July 2019