

<b>BUILDING AND SWIMMING POOL INSPECTION POLICY</b>	
Type	Governance
GDS Category	Development Control - Public
Responsible Officer	Manager City Development
Policy Adopted	13 December 2021
Review Period	4 years
Last Reviewed	November 2019
Next Review Date	December 2025
Policy Version Number	6
Applicable Legislation	<ul style="list-style-type: none"><li>• Planning, Development and Infrastructure Act 2016</li></ul>
Related Documents	Practice Direction 8 (Council Swimming Pool Inspections 2019)  Practice Direction 9 (Council Inspections 2020)

## 1. PREAMBLE

Section 144 of the PDI Act empowers councils to inspect building work within its area. Such Inspections aim to:

- a) Provide for occupant and public safety; and
- b) Maintain confidence and integrity in the development control system.

By undertaking such inspections, Council also aims to deter persons from undertaking building work except in accordance with a development approval (or exemption) and the requirements of the PDI Act 2016.

In addition, Council intends that where such inspections reveal non-compliance, the evidence gathered by such inspections will permit Council to take action to correct those problems.

This policy does not apply to the appropriate authority constituted under Section 157(17) of the PDI Act commonly known as the Building Fire Safety Committee (BFSC), nor does it apply to any BFSC inspections under Section 157(1).

## 2. PURPOSE

The purpose of this policy is to monitor the standard of building work within the City of Whyalla and to outline the types of developments requiring inspection, both mandatory and non-mandatory, in accordance with the PDI Act.

Pursuant to Section 42 of the PDI Act, the State Planning Commission has issued the following Practice Directions:

1. Practice Direction 8 (Council Swimming Pool Inspections 2019) – in accordance with Section 156(5) of the PDI Act to ensure that swimming pools and designated safety features for swimming pools are inspected due to the high risk they pose for young children;

[https://plan.sa.gov.au/resources/planning/practice\\_directions/practice\\_direction\\_8\\_inspection\\_policy\\_for\\_swimming\\_pools\\_2019](https://plan.sa.gov.au/resources/planning/practice_directions/practice_direction_8_inspection_policy_for_swimming_pools_2019);

The objects of this practice direction are to:

- provide for occupant and public safety;
- maintain confidence and integrity in the development control system;
- the timing of inspections;
- the elements and buildings to be inspected; and
- whether to carry out additional inspections.

2. Practice Direction 9 (Council Inspections 2020) – in accordance with Section 144 of the PDI Act to ensure the carrying out of inspections of certain developments within the council area

[https://plan.sa.gov.au/resources/planning/practice\\_directions/practice\\_direction\\_9\\_council\\_inspections\\_2020](https://plan.sa.gov.au/resources/planning/practice_directions/practice_direction_9_council_inspections_2020)

This practice direction:

- ensures that swimming pool safety features are installed according to the requirements for safe operation and use of swimming pools within the state.
- requires all councils in South Australia to carry out inspections of swimming pools for compliance with the requirements.

In accordance with Section 144(3) and consideration of the mandatory requirements of Practice Direction 8 and Practice Direction 9 using a risk assessment approach this policy has been prepared taking the following matters into account:

- a) the financial and other resources of Council;
- b) the impact that a failure to inspect a certain number of developments over a period of time may have on the local community;
- c) past practices of the Council in regard to inspections;
- d) whether particular parts of the Council area are known to be subject to poor building conditions;
- e) information in the possession of Council on poor building standards within its area; and
- f) the public interest in ensuring that development is undertaken with the requirements of this Act.

### **3. SCOPE**

This policy will apply to all development approvals issued for the City of Whyalla.

### **4. SELECTION OF BUILDINGS TO BE INSPECTED**

Council does not have the resources to inspect all buildings and therefore not all buildings in the Council area will be inspected.

The new mandatory inspection requirements set out in Practice Direction 9 are prescriptive and include class 1 residential buildings, class 2–9 commercial buildings and rural farm buildings.

The practice direction also allows for councils to inspect additional developments if they have information to indicate that the circumstances warrant them. Circumstances that may warrant an additional inspection include building work in relation to, but not limited to:

- a) a building intended for use or occupation by large numbers of people, particularly simultaneously;
- b) a building intended for use or occupation by vulnerable persons or persons with a disability;
- c) a building in respect of which the council has been made aware of a complaint or regulatory issue, whether directly or indirectly, relating to the building or any person involved in the building work;

- d) a building with energy efficiency requirements;
- e) a building constructed by a person who is not a licensed building work contractor under the Building Work Contractors Act 1995;
- f) a building subject to local environment conditions in respect of which additional measures are required to protect the environment, the building and its occupants or users;
- g) a building incorporating construction properties or products, including but not limited to fire-rated construction, fire safety elements or designated building products.

## 5. LEVELS OF INSPECTION

### 5.1 Mandatory Building Inspections

- A. Council will comply with the mandatory building inspection requirements set out in Practice Direction 9 (Council Inspections 2020) as seen in Appendix 1.
  - i. A number of inspections of at least 66% of each class 1 development (dwellings) issued over the course of the financial year, and
  - ii. A number of inspections of at least 90% of each class 2 – 9 building (commercial) issued over the course of the financial year.

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

Council will take all reasonable steps to ensure that each inspection carried out under this policy includes an inspection and assessment of the following elements as may be present at the time of inspection:

- primary structural elements;
- structural framing and roof trusses;
- wet areas and waterproofing;
- barriers to prevent falls;
- cladding;
- egress provisions;
- passive and active fire safety elements; and
- performance solutions.

- B. Council will comply with the mandatory swimming pool inspection requirements set out in Practice Direction 8 (Council Swimming Pool Inspections 2019) as seen in Appendix 2.
  - 100% of swimming pools and swimming pool safety features (including temporary safety barriers) constructed over the course of the financial year within 2 weeks of Council being notified of the completion of:

- i. In the case of a swimming pool, the construction of which required the construction of swimming pool safety features – the construction of those safety features; or
- ii. In any other case – the construction of the swimming pool and swimming pool safety features.

## **5.2 Additional Building Inspections**

Council has determined to carry out the following inspections in addition to the mandatory inspection requirements listed above. The purpose of this is due to the recurring issues found and higher risk associated with buildings constructed by persons who are not licensed building work contractors (owner builders):

- a) Council will inspect 90% of notified inspections associated with non-licensed building work contractors (owner builders).

## **7. COUNTING INSPECTIONS**

- The first inspection of a building under the mandatory inspection requirements is to be counted as one inspection.
- Where a building is inspected at a particular stage, and any issue is detected requiring further inspection, any further inspection related to the particular issue is to be counted as part of the prior inspection related to that issue.
- Except as provided by sub-clause 2(2) of Part 4, an inspection of a building at a later stage is to be counted as a separate inspection, even if the building was inspected at an earlier stage.

## **7. LIABILITY**

Council inspects building work in accordance with the objectives of this Policy and for the public interest. Inspections are undertaken by the Council solely as a result of its duties under the PDI Act and 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 the Council and any other such person as a result of the inspections.

Council does not accept any liability in relation to any inspection.

In the event of any dispute with the Council as a result of an inspection, any conduct engaged in or statements or comments made by an officer of the 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 the Council.

## **8. MANDATORY NOTIFICATIONS**

Pursuant to Section 146 of the PDI Act and Regulation 93 of the Planning, Development and Infrastructure (General) Regulations 2017, a person undertaking building work is required to notify the Council during specified stages of the building work.

Council may require a building works contractor or person in charge of the building works to stop the building work when a mandatory notification stage has been reached pending an inspection by an authorised officer of Council.

Applicants will be advised of the required notification stages in writing at the time of issue of the Development Approval.

## **9. FURTHER INFORMATION**

This policy will be available for inspection at the Council Office during ordinary business hours and available to be downloaded, free of charge, from Council's website at [whyalla.sa.gov.au](http://whyalla.sa.gov.au).

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer.

## **10. RESPONSIBILITIES**

Council's Building Staff/Officers are responsible for ensuring the requirements of this Policy are met.

## **11. REFERENCES / OTHER DOCUMENTS**

### **11.1. Legislation**

Planning, Development & Infrastructure Act 2016 (the PDI Act) and the National Construction Code (NCC) of Australia.

Planning, Development & Infrastructure Regulations (General) 2017

### **11.2. Other**

National Construction Code series, Volume 1 and 2 Building Code of Australia

Practice Direction 8 - Council Swimming Pool Inspections 2019

Practice Direction 9 – Council Inspections 2020