

City of Marion Comments – Inspection Practice Direction – December 2019

1. Is the proposed purpose of the inspection policy easily understood? i.e. a focus on occupant and life safety, and to maintain confidence and integrity in the development control system.

The purpose of the inspection policy (as set out in Part 1) is easy to understand.

It is noted that the objects (Part 1, Clause 3) does not refer to the public/community interest and instead refers to two very specific elements.

It is recommended that the primary objects of the inspection policy not be solely directed towards high risk matters. Instead, consider introducing an all-encompassing objective that will require the community interest to be protected by ensuring that development is undertaken appropriately – this will extend beyond a risk based approach and provide flexibility to manage changing community expectations moving forward. Given the current media surrounding the construction industry (cladding issues, construction quality, material quality etc.) and the impacts on the broader community, it is vital that the community be at the forefront of any policy. Community interests will change from time to time and it is important that the objectives of the practice direction reflect this.

Despite the above, maintaining the status quo in having councils as the only authorised body able to inspect buildings is welcomed. As the independent arbiter, there can be no doubt that councils will act in the community interest when undertaking inspections. There are arguments that certifiers/other professionals could undertake inspections (similar to other states) in order to ensure that the best industry expertise is utilised at the inspection stage. There have been well documented examples in other states of this not working. In addition, these experts are engaged directly by the client for whom they are inspecting leaving their independence and interest to be questioned.

These experts could however be employed by councils to undertake inspections should the need for further expertise arise. There will obviously be a need for this to be resourced but these could be garnered from the community as a user pay requirement. Alternatively the fees for inspections could be increased as they have done so in the planning part of the development assessment process in recent years. In some ways this could result in a similar outcome that the 1976 introduction of planning throughout the state resulted in all councils employing an appropriate number of planners to undertake the new requirements.

The proposed inspection approach will however allow councils to act in the community interest. By not requiring mandatory inspection stages this will allow councils the flexibility to direct inspections towards target areas as required.

If the inspection policy is developed to require mandatory inspection stages it is recommended that all stages become mandatory and not just selected stages. A “selected stage” inspection approach is restrictive and will likely narrow the focus away from the broader community focus that is required.

2. Are the proposed inspection requirements easily understood? 66% for Class 1a's and 100% for Class 1b-9?

- Separating the tables into 4 x different tables makes this easy to follow and easier to consider the different inspection requirements for each table.

- Table 1 is entitled “*domestic dwellings*” but then refers to “*building work in relation to a class 1a building.*” It is assumed that this table would apply to new class 1a buildings as well as additions/alterations to existing class 1a buildings. The title of this table could be interpreted as relating to new dwellings only. Consider amending to make it clear that the table refers to all building work involving class1a buildings, and consider applying this to Tables 2-4.

3. In the main, the inspection requirements for Class 1a’s are largely unchanged while Class 1b-9 buildings will require one inspection – do you think this is realistic and achievable for councils?

Achievable:

Having reviewed the inspection policy against current resources we may well likely require additional resources in order to achieve the targets of the policy. We anticipate the time spent on inspection of a class 1b-9 buildings will be considerably more than time spent on class 1a buildings.

Realistic:

Types of inspections:

- Approximately 25% of our class 1b-9 approvals per year are for shop fitouts, or for minor changes in use involving very little building work. Is the public interest best served by inspecting 100% of these minor developments, or could these resources be directed elsewhere? Consider this in Table 2?
- Requiring completion inspections within 1 day of receipt of the Statement of Compliance is neither realistic nor achievable. It is recommended that this be extended to at least 10 business days. This will allow councils time to schedule site access with owners (noting most sites will have been handed over to owners at Statement of Compliance stage) and will allow builders to organise times to meet with owners/councils after site handover.

4. If you answered no to question 3, what level would be achievable? If answering from council, do you think this is static or could this be increased over time?

What level would be achievable?

- With no change in current resources we feel we could potentially achieve 66% across all classes (excluding class 10).
- With additional resources we may achieve the targets within the policy.

Static or increased over time?

This being a first generation policy which is designed to be built on is a sound and supported approach; consideration on amending the policy can be done as needed or at set review stages. Councils should be provided with formal opportunity to comment/contribute at review stages.

5. The practice direction provides a list of circumstances when councils may wish to undertake inspections in addition to the mandatory requirements. Would you suggest any change to this list?

Consider amending Clause (3) (2) to add “consider” after “should” to read “*a council should consider undertaking an inspection in addition to any specified in clause 2 of Part 2...*”

Each circumstance listed is different and will carry with it a different priority – stating that councils should undertake an additional inspection in every circumstance is slightly onerous and, in some circumstances may not meet the objects of the practice direction (or be in the community interest).

In each possible circumstance councils should be allowed to undertake their own assessment of the matter to determine whether an additional inspection is required, and consider providing guidelines for councils to make such decisions.

6. While not in the s144 practice direction, is the potential removal of the 80/20 two week/two month percentage split for pool inspections, to instead require that all pools to be inspected within two weeks of completion supported?

Perhaps a compromise requiring all pools be inspected within 28 days of completion. This will allow Councils to manage the pool inspection process more simply, particularly as they adapt to the new inspection regime, whilst still also meeting the needs of the community.

7. As long as an authorised officer is appointed under r 112 of the General Regulations, the draft policy allows the council to decide which officer to allocate to an inspection (from level 1 to 4) – do you support this approach?

Consider allowing councils to employ experts who are not accredited under the Act. For example, accredited members of other professional bodies such as engineers.

8. Regulation 112 currently allows councils to potentially appoint an accredited professional who is not a council employee to undertake an inspection (e.g. a private building certifier) to enable recruitment of private sector expertise. Do you support this?

Yes, this will provide greater flexibility for councils. However the professional must only be appointed by a council and must demonstrate that they do not have a conflict of interest, to ensure the community interest is not compromised. Refer to the answer provided in Question 1.

9. While not a specific part of this consultation, would you support the reintroduction of a statement requirement for roof trusses, and for this to potentially be expanded to the entire frame?

Yes. Builders and tradespeople must accept some accountability for the quality of construction. Ensuring a form specifically related to structural members is completed will place emphasis on those completing the form to do the right thing.

We consistently detect defects with roof truss construction, as well as changes in approved framing plans. Removal of the statement may result in increased levels of non-compliance.

10. Would you support the introduction of statements for other matters, for example, footings or wet areas?

Yes - provided the reasoning for doing so is justified and is in the best interest of the community.

11. Having read the Background Paper, do you have a good understanding on how the inspection process will work, i.e. setting notifications via decision notice, receiving notifications, undertaking inspections, etc.? Are there any areas you are unsure of that could benefit from further explanatory material?

- Record keeping: The Commission may wish to consider providing councils with a template/pro forma for inspection registers. This will ensure uniformity and ease of reporting.
- Will the inspection registers be a publicly viewable document? Please clarify.

12. Are there any other matters you would like to raise at this point?

- Regulation 93 (1) (d): Private certifiers able to specify a mandatory notification: The intention of this regulation is welcomed, however this regulation does have the potential to be misused, either as a “liability shifter” or assessment short cut by some certifiers. Consider whether this potential loophole can be addressed.
- Practice direction 2(2): The requirement to “assess adequacy” is overly onerous on councils. Builders are ultimately responsible for the “adequacy” of the building, our view is that councils are responsible for inspecting/auditing building work in accordance with approved plans and the objectives of the policy.
- The practice direction does not mention whether councils must consider that development should be built in accordance with approved plans and whether development must meet requirements of the Act. Consider whether this should be a primary consideration of the policy.