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**From:** DPTI:PD Building Branch  
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**To:** Powell, Chris (DPTI)  
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**From:** Peter Morgan [mailto: ]  
**Sent:** Wednesday, 18 December 2019 4:26 PM  
**To:** DPTI:PD Building Branch <DPTI.PDBuildingBranch@sa.gov.au>  
**Cc:**   
**Subject:** submission - Draft Inspection Policy

Department of Planning, Transport & Infrastructure  
Building Branch  
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Via email [DPTI.PDBuildingBranch@sa.gov.au](mailto:DPTI.PDBuildingBranch@sa.gov.au)

Dear Sir/Madam,

**Submission on the Draft Building Inspection Policy (Practice Direction X)**

Thank you for the opportunity to comment on the draft practice direction for Council Inspection Policies. My comments won't be extensive but (due to the limited consultation deadline and time of year) but will cover some of the matters that I see are important in an effective Building Inspection regime for SA (I have worked as a Building Inspector/Surveyor in Local Government for after over 30 years). These are also my own personal, professional comments (as time hasn't permitted their endorsement by my Council). Despite having worked for urban, peri-urban and regional council's, my comments are given in consideration to the potential implications of this proposal on regional Councils.

In providing these comments I have previously read: the Botten Levinson Report (March 2019); the SPC Background Paper (October 2019); and the SPC Council Inspection Policies (draft for consultation – 23/10/19).

I don't think the reports (above) published in this regard adequately reflect the diversified role of a Building Surveyors in both urban and regional areas. Focusing purely on inspection outcomes and requirements, the reports do not appear to have considered that in rural and regional councils Building Surveyors also undertake the majority of building rules assessment/approval for their areas (e.g. 70-80% not unheard of) due to strong community ties and working relationships with local builders etc. Council Building Surveyors also administer Building Fire Safety committees; provide preliminary customer advice and assistance; respond to enquiries from elected members, or very specific complaints from community members; undertake negotiations between owners and builders; administer/assist council building asset programs etc.

The further the distance from Adelaide, the more multidisciplinary roles the local Building Surveyor is likely to have.

Similarly the 'Commissions Building Committee' reports have not been included in the background paper for the consultation documentation. If this committee (i.e. BAC and/or BRAC) is constituted by experts in their field appointed by the Minister, it would have been more advantageous (and transparent) to have provided their minutes or comments (as an appendix) as they would form an important part of the proposed building inspection reforms.

For simplicity and brevity I've submit my comments under the following headings:

### **Historical context.**

We need to learn from our history in order to improve the future. The documentation (listed above) supporting the proposal for new inspection policies, has ignored previous legislative regimes, namely:

- Under the former *SA Building Act 1971*, councils were adequately resourced (e.g. an average urban council with a population of 66,000 had approximately 3.5 - 4.0FTE Building Officers to 1.0FTE Planning Officer). Consequently all development was inspected before being signed off as completed, or before Certificates of Occupancy were issued.
- the introduction of the *Development Act 1993* repealed (rescinded) all inspection requirements. This was a deliberate policy shift (after considerable lobbying from the building industry bodies). Inspections were replaced by: a) self certification (SOC); and b) adequate training of construction workers (CITB).
- Consequently councils downsized their building inspection capabilities (i.e. development assessment only) and these vacancies were replaced by Planning Officers (completely reversing the previous planning/building resourcing balance).
- In 2002 the State Government realised this deficiency, encouraged councils to again undertake nominal inspection levels and introduced 'Guidelines for Council Inspection Policies'. This guideline never developed beyond draft stage – this didn't encourage councils to again commence building inspections (which weren't mandatory).
- 2011/2012 saw the introduction of new, (66/90%) mandatory building inspection and notification requirements (i.e. Truss Regulations) and soon after (with little or no consultation) the swimming pool inspection requirements (100%).
- Anecdotally the requirement for mandatory notifications and particularly the Regulation 74 - Supervisors Checklist has been very successful in improving the quality of timber framing in SA.

This historical context verifies that Councils can only undertake building inspection regimes successfully (as proven under the former Building Act 1971) if the State Government sets very clear policy in a supportive

legislative framework. After nearly 20 years (1993-2012) of neglect (due to bad policy decisions) it will take time to reverse this trend, to a point previously enabled under the *Building Act 1971*.

The new legislative framework should therefore address/include:

**a) Aim or purpose of inspections.**

The overall proposed purpose of undertaking building inspections is to ensure occupant and life safety of persons using those buildings. Building Surveyors also play an integral role in ensuring the adoption and application of national uniform building standards (refer Development Act 1993, Part 1.3). However this shouldn't comprehensively imply consumer protection – as there are separate avenues for this requirement.

**b) Resourcing**

One of the recommendations of the Shergold Weir report (#18) requires that building inspection levels be increased while acknowledging the resourcing issues in having suitably qualified Building Surveyors available to undertake this requirement. This is a significant issue due to the current situation, including:

- (i) previous reduction of Council Building Inspection resources in favour of planning resources (refer historical context); and
- (ii) increase in professional qualification and accreditation requirements (prohibiting recruitment); and
- (iii) subsequent competition for qualified, accredited persons between private certification companies and councils; and
- (iv) limited availability of qualified, accredited persons, particularly in country and regional areas.

Therefore suitably qualified staff resources in both private and council sectors are of concern, particularly in the regional areas. The new accreditation scheme of a Level 4 Building Inspector may assist this process for urban councils. However for many regional councils (who are usually resourced by a single Building Surveyor - some on a part time basis, or multi-disciplined) who already undertake inspections and assessment – so employing a Level 4 Building Inspector to assist with inspections wont be a viable proposition (see also 'd' below).

A cohesive approach needs to be undertaken to promote and grow the Building Surveying profession in order to address this issue and enable inspection levels to be adequately achieved (see also 'c' below).

**c) Appointment of officers under r112**

Again not covered by the draft inspection policy – but critical to its success (as this matters potentially affects approx. 20 Building Surveyors in country and regional SA).

Building Surveyors have been subject to mandatory CPD and Accreditation since the early 90's, but the new SA Accredited Professional Scheme is unlikely to assist councils to maintain the current inspection levels (let alone the proposed inspections of Class 2-9 buildings). This is because the amended accreditation scheme is limiting Level 3 Building Surveyors (who can currently assess/inspect commercial buildings up to 500m2)

to only Class 1a buildings (most of which are 'cottage builders' from Adelaide and are privately certified these days).

The draft inspection policy will increase inspection requirements across commercial buildings but by removing existing L3 accredited Building Surveyors from this role it is likely to impact detrimentally on regional councils (already struggling to attract and recruit from the limited pool of Building Surveyors). Level 3 Building Surveyors who have been performing this function for several decades and should be permitted to assess/inspect all building classifications up to 500m2 and/or two storey (as per current Regulation 87).

#### **d) Assistance with inspections**

It is most unlikely that it would be appropriate, possible or practical for country and regional councils to appoint external resources to undertake building inspections, due to:

- (i) cost prohibitive (especially as private inspectors would charge more than the fees currently received), and
- (ii) limited inspection time frames (after notifications received) unlikely that predominantly urban based certifiers/private inspectors would be available at short notice for potentially one inspection in a country or regional location; and
- (iii) Intermittent frequency of notifications e.g. council might receive several notifications for inspections on one day and then nothing for an indefinite period. This would make the employment of a Level 4 or Private Certifier on a causal basis for inspections (with 1 days notice) very difficult for rural and regional councils.

#### **e) Funding for an increased building inspection regime**

Traditionally communities and rate payers appreciated that their council provided a building inspection service at no additional cost. However the transition of more legislative responsibilities onto local government; significant reductions in funding from the Federal and State tiers of government; the squeeze on rate increases etc. puts increased pressure on council budgets.

In other States the development application fees are significantly higher than in SA – to support the inspection regime. In SA it is appreciated that charging building inspection fees is not desired by the building industry as it is likely this cost shall be passed onto the consumer, however the expense of inspections to councils is a significant issue.

A working example for consideration is that under the *SA Public Health Act, Waste Water Regulations*, applications for Waste Water (septic) systems includes payment for a set number of inspections to be undertaken by council (Environmental Health Officer). This demonstrates that the industry is already paying for specific inspections – so this approach should be consistent across all development (plumbing and building codes are already unified under the NCC).

#### **f) Mandatory notifications for inspections**

History illustrates that the success of any regulatory inspection regime is reliant on a uniform and consistent approach (e.g. plumbing inspections in SA). Thus the mandatory notification/inspection stages must be consistent across the State...and not subject to variances. If policy permits councils to determine which inspection(s) will be undertaken for each development (on a case by case basis) it will cause confusion in the industry.

The Botten Levinson report (item 10 on page 21) also recognised the importance of notifications in driving the inspection process.

My recommendation is for the Shergold Weir Report recommendations for minimum notifications and inspections, namely:

- In situ reinforcement in footings/slabs (as it isn't always feasible for Adelaide based engineers to inspect footings etc. in country or regional areas);
- Frames, including roof construction;
- Fire rated wall systems;
- Pool barriers; and
- Final; completion of all work.

I would also recommend wet areas, sealing of balconies etc. (although I haven't personally experienced any damp proofing issues in new dwellings - from wet areas).

In addition if a certifier is permitted to stipulate inspection stages beyond and above the mandatory notification/inspection level (recommended by Shergold Weir), then this additional inspection (nominally for a technical alternative solutions, or technically unusual, or critical aspect of the building element) should be undertaken by the certifier (or their agent) because of the specialist nature of the issue (and not the council whose objective under the *Act* is to ensure the *adoption and efficient application of uniform building standards*). Refer also 'j' below.

#### **g) Statements of Compliance (SOC)**

This requirement was introduced in the *Development Act 1993* as a self certification process to compensate for all building inspections being repealed. Although this requirement never worked particularly well after its introduction due to:

- a) no inspections were being undertaken;
- b) no provision for expiation – thus prosecution only too expensive and resource hungry;
- c) builders were omitted and consequences lay with the owner (usually the innocent party).

Although SOC is not part of the draft Council Inspection Policy, if undertaking inspections (especially final or completion inspections) then part of the process is to ensure that an SOC is received – so the requirements for SOC's should be enhanced and are integral to the building compliance inspection reforms.

#### **h) Certificate of Occupancy**

This requirement was continued in the *Development Act 1993* and initially applied to all building classifications – but was soon after restricted to only Class 2-9 buildings.

Again this is outside of the draft Council Inspection Policy – but it is and will continue to be an integral part of the regulatory reforms – despite the fact that I've seen no rational being provided for the re-introduction of the Certificate of Occupancy requirement for dwellings (Class 1a).

The requirements for both *Statements of Compliance* and *Certificates of Occupancy* should be rationalised (i.e. no certificate of occupancy for Class 1a) and continued but with clearer responsibilities for builders (plus

expiations for non compliance with SOC requirements) to reduce the administrative and technical resource burden on the building compliance inspections.

### **i) Supervisors checklist**

As discussed in the 'historical context', this requirement for the Regulation 74 - Supervisors Checklist has been very successful in improving the quality of timber framing in SA (after a long period of deregulation of building inspections).

Following a coronial enquiry into the Riverside Building collapse, this 'Reg 74' requirement was introduced into SA development legislation after a comprehensive review of light timber framing requirements by the 'Roof Truss Task Force'. In addition, the building industry (e.g. HIA) has spent considerable resources in training carpenters etc. to complete the required supervisor's checklists.

No basis for the removal of the checklist has been given and therefore it is recommended that this remain and be included in the Inspection Policy Requirements.

### **j) Minimum inspection requirements**

The draft policy outlines the minimum mandatory inspection requirements that councils must comply with. As mentioned, the Botten Levinson report recognised that the inspections are driven by notifications (hence my argument for standard, minimum mandatory notifications).

The draft policy report also suggests that council can choose to do additional inspections, however in reality it is unlikely that councils will do more inspections than the minimum requirement (as is the current situation) unless the financial implications are offset.

### **k) Draft Inspection Policy - comments**

Part 1 – no issues.

Part 2 – mandatory inspections – refer (f) above.

Too many variables provided here – it will only lead to confusion and lack of consistency here in SA as to when inspections are required. The Botten Levinson report stated (page 19) that the differences in existing inspection policies 'seem to reflect nothing more than the fact that they were prepared by different people in different organisations', so why perpetuate this anomaly.

The draft council inspection policy already specifies what needs to be inspected, the proportion and number etc. It should also specify the timing (notifications). It would not be advantageous to then let councils change or alter this. It should be uniform across the whole state (as for the unincorporated areas) for consistency and uniformity. Ideally the inspection policy could be a uniform, scheduled document (e.g. Schedule 19a) so all that needs to be added is the Council name at the top and formally adopted by council (as for 'Building Fire Safety Committee')

Same for the elements to be inspected 2(2) lets stick to the minimum required by the Shergold Weir Report as a starting point.

Part 3 – Authorised Officers – refer comments previously given, as outcomes dependant on building surveying resources.

Part 4.1 record keeping – more detail on 'central register' required before comment can be made.

Part 4.2 Counting inspections – unrealistic to count follow up inspections as part of the mandatory inspection (e.g. pools have a high level of non compliance and can take several inspections to ensure compliance). Although 2.3 may allow for some flexibility in that regard.

Table 1.

The proposed building inspection policy for 1a buildings requires 1 inspection per 66% development approvals except where clause (b) applies. Therefore council could simply nominate to undertake only final inspections – but this is dependant on the SOC being received.

Recommend that the requirements for SOC’s are generally tightened up (as previously discussed). SOC’s should be issued 5 days BEFORE the house is occupied, not within 10 days of its occupation.

Recommend that the 1 business day requirement be increased (to enable regional councils with large areas and low resources to adequately inspect).

Table 3 & 4.

Recommend merging the two tables for simplicity (no obvious advantage in having the separate tables).

Table 2 refers to commercial buildings including class 7B farm buildings. Regional councils approve many farm buildings which are of low risk to the public and occupants. Recommend farm buildings are removed from requiring inspection requirements.

Thank you for your consideration of the above comments and please do not hesitate to contact me for clarification or discussion on [REDACTED] (usually Mon-Wed) or via email at [REDACTED]

Yours faithfully,

**Peter Morgan**  
Building Officer

