PRACTICE DIRECTION 7

Out of Council Areas Inspection Policy

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 *Planning, Development and Infrastructure Act 2016* (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).

2 – Commencement of operation

This version of the practice direction comes into operation on the day on which it is published on the SA planning portal.

3 – Object of practice direction

The object of this practice direction is, in relation to Out of Council areas set inspection requirements to:

(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.

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 an expression used in an instrument made under an Act has, unless the contrary intention appears, the same meaning as in the Act under which the instrument was made.

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 intended for use or occupation by large numbers of people, particularly simultaneously;

c. buildings intended for use or occupation by vulnerable persons or persons with a disability;

d. a building in respect of which the Commission 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; and

e. 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. a building constructed by a person who is not a licensed building work contractor under the *Building Work Contractors Act 1995*;

b. a building subject to local environmental conditions in respect of which additional measures are required to protect the environment, the building and its occupants or users (areas of higher bushfire or flooding risk for example);

c. a building incorporating construction properties or products, including but not limited to fire-rated construction, fire safety elements or designated building products. or

d. any other reason determined as relevant.

(4) Where a building is selected for inspection, it may be carried out at any time during construction or on completion of any building works chosen or required for inspection as set out in **Appendix 1**.

(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) The proportion of building works to be inspected as outlined below and in accordance with the tables at **Appendix 1** are to be calculated each year starting 1 July and ending 30 June of the following year (relevant reporting year).

(2) 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 consent has been issued by a building certifier) as outlined below and in accordance with **Appendix 1**.

a. 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 swimming pool and/or swimming pool safety features; and

ii. the remaining 20% of swimming pools will be inspected within 2 months of the Commission being notified of the completion of the swimming pool and/or swimming pool safety features.

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

(3) Inspections of:

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

b. 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:

i. non-compliance with the relevant development approval;

ii. unauthorised building work;

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

iv. building work which is considered unsafe.

(4) 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, within 3 business days, so that subsequent stages of building works can proceed.

8 – Counting Inspections

(1) Only a building work which is completed within the relevant reporting year can be considered for contribution towards the percentage of mandatory inspection requirements for that reporting year, noting that even if the inspection for that building work occurred during a previous reporting year it can still be counted for the purposes of sub clause (2).

(2) The first inspection of a building work under the mandatory inspection requirements is to be counted as the one inspection required for the purposes of the percentages outlined above and in the relevant table in **Appendix 1**.

(3) Where a development application contains multiple building works (whether of the same class or different class), an inspection of each individual building work may be counted for the purposes of the percentages outlined above and in the relevant building class table in **Appendix 1**.

(4) An additional inspection of a building work at a later stage is not to be counted as a separate inspection for the purposes of the relevant percentages outlined above and in **Appendix 1**.

(5) Where a building work is inspected at a particular stage, and any issue is detected requiring further inspection, any further inspection related to the particular issue is not to be counted for the purposes of the relevant percentages outlined above and in **Appendix 1**.

9 – 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.

Issued by the State Planning Commission

Note: This practice direction commences operation in accordance with clause 2 ‘Commencement of operation’

Version 3: Commences operation on 24 October 2025

Version 2: Commenced operation on 11 April 2024

Version 1: Commenced operation on 1 July 2019

Appendix 1 – Mandatory Inspection Requirements

Table 1. Class 1 buildings

The inspection requirements in Table 1 apply to building work in relation to a class 1 building under the Building Rules

Timing of inspection	Proportion of building to be inspected
During construction or on completion An inspection/s may be carried out at any time during construction or on completion.	Minimum 30% of building work completed in the relevant reporting year.

Table 2. Class 2-9 buildings

The inspection requirements in Table 2 apply to building work in relation to a class 2 to 9 buildings inclusive (other than a farm building or a farm shed) under the Building Rules.

Timing of inspection	Proportion of building to be inspected
During construction or on completion An inspection/s may be carried out at any time during construction or on completion.	Minimum 30% of building work completed in the relevant reporting year.

Table 3. Class 10c buildings (private bushfire shelters)

The inspection requirements in Table 3 applies to building work in relation to a class 10c building/s (private bushfire shelters) under the Building Rules.

Timing of inspection	Proportion of building to be inspected
During construction or on completion An inspection/s may be carried out at any time during construction or on completion.	100% of building work completed in the relevant reporting year.