

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.

As these Out of Council areas fall under the jurisdiction of the State Commission Assessment Panel (SCAP), this practice direction represents SCAP's policy on the inspection of buildings and structures associated with development assessment activities under the Act and the Building Rules.

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 practice 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.

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 (Development Assessment) Regulations 2017.

Note: Section 14 of the Acts Interpretation Act 1915 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 issued for Out of Council areas by the SCAP under the Act, and to all classes of building (Class 1 to 10) under the Building Rules.
- (2) Buildings will be selected for inspection in accordance with the following criteria:
 - a. Buildings which appear to be unsafe;
 - b. Buildings which ordinarily present a high risk to life safety, and in particular swimming pools;
 - c. Buildings which are used by many people, particularly where many people do so simultaneously;
 - d. Buildings which involve roof framing;
 - e. Buildings which are obliged to provide access to disabled persons;
 - f. Buildings in respect of which a complaint has been made; and
 - g. In the event that inspection of the foregoing buildings does not result in the prescribed minimum inspection levels being met, any other buildings.
- (3) Other criteria which may be taken into account by the relevant officer 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 by the relevant authorised officer.
- (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, an excavation or construction work in progress, an inspection will be undertaken within timeframes that take account of the urgency of the situation, the availability of resources and the reasonableness of the complaint.

6 – Levels of Inspection

SCAP will undertake inspections, as a minimum, of building work as follows:

- a. Dwellings – new and additions: 20% of all approvals for Class 1 and 2 buildings for which the SCAP receives notification, including buildings where the Building Rules Consent has been issued by a Building Certifier.
- b. Commercial Development: 20% of all approvals for Class 3 to 9 buildings for which the SCAP receives notification including buildings where the Building Rules Consent has been issued by a Building Certifier.
- c. Inspect 66% of applications prior to issuing a Certificate of Occupancy.
- d. Verandahs/Carports/Sheds/Other Structures – not attached to roof frame:
The SCAP will not undertake inspections of Class 10a and 10b structures (other than swimming pools) unless there is a concern regarding compliance with the Development Approval, unauthorised building work, practices that are not in accordance with the Act; the National Construction Code or Minister’s Building Standards, or building work which is unsafe.
- e. Swimming Pools - where the building work involves the construction of a swimming pool (including safety fences and barriers associated with such swimming pools): a number of inspections equal to 100% of the pools constructed over the course of the year.

Of these:

- i. at least 80% of swimming pools will be inspected within 2 weeks of the SCAP being notified of completion of the permanent swimming pool child safety barriers;
 - ii. the remaining 20% of swimming pools will be inspected within 2 months of SCAP being notified of the completion of the permanent swimming pool child safety barriers.
- f. Roof trusses for all classes of buildings, including carports and verandahs where attached to a roof frame, except Class 10 buildings (other than where attached to a roof frame), portal frame buildings (e.g. industrial sheds) and transportable buildings.
 - i. Of these the required inspection rates will be 66% where the work is carried out by a licensed builder and 90% where the work is carried out by an unlicensed builder (owner builder or other).
 - g. Designated building products on designated buildings – 100% of these instances.
 - h. Inspection for other purposes: The authorised officer, shall, during the course of inspection, include the following additional inspection activities:
 - i. Unauthorised work: monitoring development works in the Out of Council areas that the SCAP deems necessary for valid development approvals.
 - ii. Hazardous and dangerous structures: responding to reports of life threatening situations concerning buildings or structures in the Out of Council areas.

- iii. Heritage: 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 – 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.
- (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.

8 – Enforcement

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

9 – Mandatory Notifications

- (1) Pursuant to section 146 of the Act and regulation 93 of the Regulations, a person undertaking building work in the Out of Council areas must give the SCAP notification during the following stages of work (as applicable):
 - a. One (1) business days' notice of the intended commencement of building work on the site;
 - b. One (1) business days' notice after completion of steel reinforcement for footing prior to pouring concrete; (the SCAP may accept a certificate from a professional engineer confirming compliance of the footing design.)
 - c. Two (2) business days' notice of the intended commencement of pouring concrete for a suspended floor slab;
 - d. One (1) business days' notice after completion of wall framing prior to installation of linings;
 - e. One (1) business days' notice after completion of roof framing prior to installation of linings;
 - f. One (1) business days' notice after completion of wet areas prior to tiling; (the SCAP may accept a certificate from a licensed building supervisor under the *Building Work Contractors Act 1995* confirming compliance of the wet areas);
 - g. One (1) business days' notice of the intended commencement of the installation of a designated building product on a designated building; and
 - h. One (1) business days' notice of completion of the building work.
- (2) For sites where the building work involves the construction of a swimming pool (including safety fences and barriers associated with such swimming pools):
 - a. Two (2) business days' notice of intended commencement of building work on the site;

- b. One (1) business days' notice of the completion of construction of swimming pool (before the pool is filled with water); and
 - c. One (1) business days' notice of the completion of a safety fence or barrier for the swimming pool (temporary/permanent).
- (3) In relation to some other form of building work where swimming pool safety features are relevant:
- a. One (1) business days' notice of the completion of that aspect or those aspects of the building work relating to the swimming pool safety features.
- (4) All applicants will be advised of the relevant notifications in writing at the time of issuing the Development Approval.

10 – Monitoring, Reporting and Review

- (1) The authorised officer shall on a bi-annual basis, prepare a report to the SCAP which shall include the number of inspections undertaken and any enforcement action required. This will enable the SCAP to review future inspection obligations.
- (2) This policy to be reviewed within one year of the Commission approved inspection policies under section 144 of the Act being implemented.

Issued by the State Planning Commission on 1 July 2019