

1. Objective

- 1.1 This policy sets out the District Council of Mount Remarkable policy on the inspection of buildings and structures associated with development assessment activities in accordance with the *Planning, Development and Infrastructure Act 2016* ("the PDI Act").
- 1.2 Pursuant to Section 42 of the PDI Act, the State Planning Commission ("the SPC") has issued:
 - 1.2.1 Practice Direction 8: Council Swimming Pool Inspections 2019 ("Practice Direction 8") pursuant to Section 156(5) of the PDI Act for the inspection of swimming pools and related safety features to ensure the safety of swimming pools, noting the high risk they can pose, particularly for young children; and
 - 1.2.2 Practice Direction 9: Council Inspections 2020 ("Practice Direction 9") for the purposes of Section 144 of the Act that requires the Council to carry out inspections of certain developments within the Council area.
- 1.3 A copy of Practice Direction 8 and Practice Direction 9 can be accessed online through the SA Planning Portal at www.saplanningportal.sa.gov.au.
- 1.4 In preparing this Building Inspection Policy, Council has considered the mandatory requirements in Practice Direction 8 and Practice Direction 9 and used a risk assessment approach, considering the matters set out in section 144(3) of the PDI Act, as well as other relevant matters including, but not limited to:
 - 1.4.1 the financial and other resources of the Council;
 - 1.4.2 the impact that a failure to inspect a certain number of developments over a period of time may have on the local community;
 - 1.4.3 The size and population of the Council;
 - 1.4.4 The amount of development in the Council area;
 - 1.4.5 The type and class of development that predominates within the Council area;
 - 1.4.6 The level of experience and past experience of the builder;
 - 1.4.7 Owner builders, especially where this is the likelihood of work being undertaken by unqualified persons;
 - 1.4.8 past practices of the Council with regards to inspections;
 - 1.4.9 in relation to building work, whether particular parts of the Council area are known to be subject to poor building conditions;
 - 1.4.10 information in the possession of Council on poor building standards within its area; and

- 1.4.11 the public interest in ensuring that development is undertaken in accordance with the requirements of the PDI Act and that steps are taken to provide for the safety and health of people who use the buildings.

2. Scope

- 2.1 This policy will apply to all Development Approvals issued for the Council area.

3. Mandatory Notifications

- 3.1 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 must notify the Council during specified stages of the building work.
- 3.2 Applicants/owners/developers will be advised of required notifications in writing at the time of issue of the Development Approval.

4. Mandatory Inspections - General

- 4.1 Council will comply with the mandatory inspection requirements in Appendix 1 (as set out in Practice Direction 9) relating to:
- 4.1.1 The kinds of development which require inspection;
 - 4.1.2 The proportion of developments requiring inspection in the Council area;
 - 4.1.3 The timing of any inspection required in relation to each building; and
 - 4.1.4 The number of inspections required in relation to each building.
- 4.2 The 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:
- 4.2.1 Primary structural elements;
 - 4.2.2 Structural framing and roof trusses;
 - 4.2.3 Wet areas and waterproofing;
 - 4.2.4 Barriers to prevent falls;
 - 4.2.5 Cladding;
 - 4.2.6 Egress provisions;
 - 4.2.7 Bushfire protection systems;
 - 4.2.8 Passive and active fire safety elements (for further details refer page 4 of Practice Direction 9 in Appendix 1);
 - 4.2.9 Private Bushfire shelters; and

4.2.10 Performance solutions.

5. Mandatory Inspections – Swimming Pools

- 5.1 Council must comply with the following minimum requirements relating to the inspection of swimming pools, including all swimming pool safety features (such as safety fences and barriers), within the area of the Council:
- 5.1.1 100% of swimming pools and swimming pool safety features constructed over the course of the relevant reporting year must be inspected within 10 business days of the council being notified of the completion of –
- In the case of a swimming pool, the construction of which required the construction of a swimming pool safety feature, the construction of the safety features; or
 - In any other case—the construction of the swimming pool and swimming pool safety feature.
- 5.2 Where a swimming pool is inspected and non-compliance found, any reinspection undertaken to determine whether the problems have been corrected does not count as a new inspection. Any re-inspection is taken to be part of the initial inspection.
- 5.3 Council will upon receiving a request for a Section 7 property search and/or request of a property owner or real estate agent representing the owner, inspect a swimming pool prior to sale.
- 5.4 Owners may be required to lodge a development application if the pool was constructed prior to the latest pool fencing standard (2012). This is to document any changes made to the pool fence to comply with current standards.
- 5.5 If the pool is approved post 2012, an inspection will take place against the existing approval on Council records.
- 5.6 Once an application is approved (if required) by 5.2 a compliance letter may be issued if the site has been inspected and deemed compliant.

6. Unauthorised Development, Dangerous Structures, Other Inspections

- 6.1 Inspections by the Council of unauthorised building work will be carried out on a random basis and as resources allow.
- 6.2 Any complaint resulting from unauthorised work will be followed up by the Council.

- 6.3 Any report of dangerous structures within the Council area will be followed up as soon as possible and the necessary action taken immediately.
- 6.4 Council will monitor developments for compliance with the relevant Development Approval(s) and the conditions imposed on the Development Approval(s). Random inspections to ensure development is being undertaken in accordance with its Development Approval will be undertaken by the Council as resources allow.

7. Selection of Buildings for Inspection

- 7.1 Not all buildings will be inspected. Council does not have the resources to do so, nor is there a requirement that all building work be inspected. Buildings will be selected for inspection in accordance with the following (non-exhaustive) criteria:
 - 7.1.1 buildings which appear to be unsafe;
 - 7.1.2 buildings which ordinarily present a high risk to life safety, and in particular swimming pools;
 - 7.1.3 buildings which are used by large numbers of people, particularly where many people do so simultaneously;
 - 7.1.4 buildings which involve roof framing;
 - 7.1.5 buildings with energy efficiency requirements;
 - 7.1.6 buildings which are required to provide access to persons with a disability or buildings which are to be used by vulnerable persons;
 - 7.1.7 buildings in respect of which the Council has been made aware of a complaint or regulatory issue relating to the building or any person involved in the building work;
 - 7.1.8 buildings constructed by persons who are not licenced building work contractors under the *Building Work Contractors Act 1995*;
 - 7.1.9 buildings incorporating construction properties or products, including but not limited to, fire-rated construction, fire safety elements or designated building products;
 - 7.1.10 distribution between owner builders and registered builders;
 - 7.1.11 owner builders, especially where there is the likelihood of work being undertaken by unqualified people;
 - 7.1.12 reputation of registered builder and previous experience with Council;
 - 7.1.13 whether the building work was approved subject to conditions; and
 - 7.1.14 any other reason determined by the relevant Authorised Officer.
 - 7.1.15 where a building is selected for inspection it may be inspected at any stage of construction, and may be inspected more than once; and

- 7.1.16 in the event that inspection of the foregoing buildings does not result in the prescribed minimum inspection level being met, any other buildings.
- 7.2 Where a complaint is made about the condition or use of a new or existing building and excavation or construction work in progress, an inspection may be undertaken within timeframes that take into account the urgency of the situation and the availability of resources.

8. Inspection Process

- 8.1 Where a building is selected for inspection, Council will inspect the following stages of construction.
- 8.1.1 At completion of structural framing per dwelling and attached verandah
 - 8.1.2 at completion of a dwelling within a HIGH Bushfire Zone
 - 8.1.3 at completion of commercial buildings
 - 8.1.4 at completion of swimming pool fencing
- 8.2 Council may deem (but not be limited to) the following defects of a dwelling completion inspection to be serious in nature and not suitable for occupation by occupants:
- 8.2.1 Balustrade not compliant
 - 8.2.2 Smoke detectors not compliant
 - 8.2.3 Bushfire construction requirements not compliant during bushfire season
 - 8.2.4 Sanitary facility door hinges not compliant
 - 8.2.5 Unsafe earthworks
 - 8.2.6 Non-compliant pool fencing
 - 8.2.7 Structural Failure

9. Counting Inspections

- 9.1 The first inspection of a building under the mandatory inspection requirements will be counted as one (1) inspection.
- 9.2 Where a building is inspected at a stage, and issues are detected requiring further inspection, any further inspection related to the issue will be counted as part of the prior inspection related to that issue.
- 9.3 Except as provided by (2) above 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.

10. Enforcement / Expiations / Fines

- 10.1 Council may upon discretion issue an expiation under the *Planning, Development and Infrastructure Act 2016*.

11. Liability

- 11.1 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.
- 11.2 Council does not accept any liability in relation to any inspection.
- 11.3 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.

12. Record Keeping

- 12.1 Council shall keep records of the inspections it carries out in accordance with this Policy and Practice Directions 8 and 9, and keep those records in a Register that is available for inspection by the State Planning Commission (SPC) upon 5 business days' notice. Records of inspections will include, but are not limited to:
- 12.1.1 the date and time of an inspection;
 - 12.1.2 type of inspection;
 - 12.1.3 who undertook the inspection;
 - 12.1.4 elements inspected;
 - 12.1.5 breaches, issues, or faults found;
 - 12.1.6 rectification required;
 - 12.1.7 requirements for re-inspections (including timing); and
 - 12.1.8 Enforcement action.
- 12.2 The Council will keep its records in accordance with the *State Records Act 1997* and Local Councils and Local Governing Bodies and Authorities (GDS 40).

Building and Swimming Pool Inspection Policy

13. Document administration and control

Policy title:	04.31
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First issued / adopted:	17 August 2021, reference [211-2021],
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Last reviewed:	17 August 2021, reference [211-2021,] 21 st March 2023 [052-2023]
Next review date:	By November 2027
Version:	Version 3
Date revoked:	n/a
Applicable legislation:	
Related documents:	
Public consultation required / undertaken:	No
Availability	<p>This Policy is available for inspection at the Council office and any person may obtain a copy of this Policy upon payment of the fee fixed by Council in accordance with Council's Fees and Charges adopted each financial year. It is also available on Council's website mtr.sa.gov.au.</p> <p>Any grievance in relation to this policy or its application should be forwarded in writing to the Chief Executive Officer of the Council.</p>
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