

# THE BAROSSA COUNCIL BUILDING INSPECTION POLICY



## 1. Purpose / Policy Objective

1.1 This Policy seeks to monitor the standard of construction work within the Barossa Council ("the Council") area and sets out the Council's policy for the mandatory and non-mandatory inspections of buildings and structures associated with development assessment activities in accordance with the *Planning, Development and Infrastructure Act 2016* ("the PDI Act").

Pursuant to Section 42 of the PDI Act, the State Planning Commission ("the SPC") has issued:

1.1.1 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

1.1.2 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.

1.2 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](http://www.saplanningportal.sa.gov.au).

In preparing this Policy, the Council has taken into account the mandatory requirements in Practice Direction 8 and Practice Direction 9 and used a risk assessment approach, taking into account the matters set out in section 144(3) of the PDI Act, as well as other relevant matters, including (but not limited to):

1.2.1 The financial and other resources of the Council;

1.2.2 The impact that a failure to inspect a certain number of developments over a period of time may have on the local community;

1.2.3 The size and population of the Council;

1.2.4 The amount of development in the Council area;

1.2.5 The type and class of development that predominates within the Council area;

1.2.6 The level of experience and past experience of the builder;

1.2.7 Owner builders, especially where there is the likelihood of work being undertaken by unqualified persons;

1.2.8 In relation to building work, whether particular parts of the Council area are known to be subject to poor building conditions;

1.2.9 Information in the possession of Council on poor building standards within its area; and

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1.2.10 The public interest in ensuring that development is undertaken in accordance with the requirements of the PDI Act.

This Policy will commence operation upon the commencement of the Planning and Design Code and the PDI Act in the Council area.

<b>2.</b>	<b>Scope / Criteria for selection of buildings to be inspected</b>
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2.1 This policy will apply to all Development Approvals issued for development in the Council area.

In selecting a building for inspection, the Council will have regard to the following (non-exhaustive) criteria:

- 2.1.1 Buildings which appear to be unsafe;
- 2.1.2 Buildings which ordinarily present a high risk to life and safety, and in particular swimming pools;
- 2.1.3 Buildings which are used by large numbers of people, particularly where many people do so simultaneously;
- 2.1.4 Buildings which involve roof framing;
- 2.1.5 Buildings with energy efficiency requirements;
- 2.1.6 Buildings which are required to provide access to persons with a disability or buildings which are to be used by vulnerable persons or persons with a disability;
- 2.1.7 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;
- 2.1.8 Buildings constructed by persons who are not licences building work contractors under the *Building Work Contractors Act 1995*;
- 2.1.9 Buildings incorporating construction properties or products, including but not limited to, fire-rated construction, fire safety elements or designated building products;
- 2.1.10 In the event that inspection of the foregoing buildings does not result in the prescribed minimum inspection levels being met, any other buildings;
- 2.1.11 Distribution between owner builders and registered builders;
- 2.1.12 Owner builders, especially where there is the likelihood of work being undertaken by unqualified people;
- 2.1.13 Reputation of registered builder and previous experience with Council;
- 2.1.14 Whether the building work was approved subject to conditions; and
- 2.1.15 Any other reason determined by the relevant Authorised Officer.

Where a building is selected for inspection it may be inspected at any stage of construction, and may be inspected more than once.

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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 account the urgency of the situation and the availability of resources.

Council will inspect the following stages of construction:

1. at completion of structural framing per dwelling and attached verandah
2. at completion of a dwelling within a HIGH Bushfire Zone
3. at completion of commercial buildings
4. at completion of swimming pool fencing

Council may deem (but not limited) to the following defects of a dwelling completion inspection to be serious in nature and not suitable for occupation by occupants for the following reasons:

1. Balustrade not compliant
2. Smoke detectors not compliant
3. Bushfire construction requirements not compliant during bushfire season
4. Sanitary facility door hinges not compliant
5. Unsafe earthworks
6. Non-compliant pool fencing
7. Structural Failure

### **3. Policy Statement / Levels of Inspection**

#### **3.1 Mandatory Inspections**

3.1.1 The Council will comply with the mandatory inspection requirements in Appendix 1 (as set out in Practice Direction 9) relating to:

3.1.1.1 The kinds of development which require inspection;

3.1.1.2 The proportion of developments which require inspection in the Council area;

3.1.1.3 The timing of any inspection required in relation to each building; and

3.1.1.4 The number of inspections required in relation to each building.

3.1.2 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 (elements), as may be present at the time of inspection:

3.1.2.1 Primary structural elements;

3.1.2.2 Structural framing and roof trusses;

3.1.2.3 Wet areas and waterproofing;


3.1.2.4 Barriers to prevent falls;

3.1.2.5 Cladding;

3.1.2.6 Egress provisions;

3.1.2.7 Bushfire protection systems;

3.1.2.8 Passive and active fire safety elements (for further details refer page 4 of Practice Direction 9 in Appendix 1);

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3.1.2.9 Private Bushfire shelters; and

3.1.2.10 Performance solutions.

### 3.2 Swimming Pool Mandatory Inspections

3.2.1 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:

3.2.1.1 100% of swimming pools and swimming pool safety features constructed over the course of the relevant reporting year must be inspected within 2 weeks of the council being notified of the completion of –

3.2.1.1.1 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

3.2.1.1.2 In any other case—the construction of the swimming pool and swimming pool safety feature.

3.2.1.2 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.

3.2.2 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.

3.2.2.1 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.

3.2.2.2 If the pool is approved post 2012, an inspection will take place against the existing approval on council records.

3.2.2.3 Once application is approved (if require) by 3.2.2.1 a compliance letter may be issued if the site has been inspected and deemed compliant.

### Enforcement / Expiations / Fines

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

### Liability

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.

Council does not accept any liability in relation to any inspection.

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

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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.

### **Mandatory Notifications**

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 is required to notify the Council during specified stages of the building work.

Applicants/owners/developers will be advised of required notifications in writing at the time of issue of the Development Approval.

### **Development Approvals**

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.

### **Unauthorised Development**

Inspections by the Council of unauthorised building work will be carried out on a random basis and as resources allow.

Any complaint resulting from unauthorised work will be followed up by the Council.

### **Dangerous Structures**

Any report of dangerous structures within the Council area will be followed up as soon as possible and the necessary action taken immediately.

### **Record Keeping**

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:

1. the date and time of an inspection;
2. type of inspection;
3. who undertook the inspection;
4. elements inspected;
5. breaches, issues, or faults found;
6. rectification required;
7. requirements for re-inspections (including timing); and
8. Enforcement action.

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).

### **Counting Inspections**

The first inspection of a building under the mandatory inspection requirements will be counted as one (1) inspection.

1. 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.

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2. 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.

#### 4. Supporting Processes and Documents

Nil.

#### 5. Related Policies

- 5.1 Building Fire Safety Policy
- 5.2 Enforcement Policy

#### 6. Legislation and References

- 6.1 Planning, Development and Infrastructure Act 2016
- 6.2 Practice Direction 8 – Council Swimming Pool Inspections 2019
- 6.3 Practice Direction 9 – Council Inspections 2020



#### 7. Review

- 7.1 This Policy will be reviewed by Policy owner in consultation with the relevant stakeholders, every four (4) years from the date of implementation of the PDI Act March 2021 or if legislation or Council's need changes.

#### 8. Further Information

- 8.1. This Policy is available on Council's website at [www.barossa.sa.gov.au](http://www.barossa.sa.gov.au). It can also be viewed electronically at Council's principal office at 43-51 Tanunda Road, Nuriootpa and all Council branches, during ordinary business hours. A copy of this Policy can be obtained at those venues upon payment of a fixed fee.
- 8.2. Complaints regarding this Policy or its application can be made to the Customer Service team on 8563 8444 or [barossa@barossa.sa.gov.au](mailto:barossa@barossa.sa.gov.au) at first instance, who will refer you to the most appropriate officer according to Council's Customer Service Policy (see clause 8.1 above for availability).

#### 9. Document Control

<b>Corporate Plan Link:</b>	 	1.11 Provide transparent, efficient and effective development assessment processes and regulatory activities			
		6.2 Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.			
<b>Document Owner:</b>	Director Development and Environmental Services			<b>Document Control Officer:</b>	Senior Assessment Officer, Building
<b>Consultation Rating:</b>	N/A	<b>Audience:</b>	External	<b>Next Review Date:</b>	DD/MM/2024
<b>Version history</b>					
<b>Version No.</b>	<b>Date</b>			<b>Description of Change</b>	
1.0	15/04/2014			Adoption of Building (& Swimming Pool) Inspection Policy	
2.0	DD/03/2021			Policy reviewed to incorporate obligations under PDI Act.	

<b>10.</b>	<b>Definitions</b>
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Business Day	A day when Council is normally open for business – Monday to Friday, excluding Public Holidays and when Council's Principal Office may be closed (e.g. over the Christmas holiday period).
Employee	All full-time, part-time and casual employees of The Barossa Council including trainees, apprentices, and on-hire employees.
Electronic Document and Records Management System ("EDRMS")	An automated system used to manage the creation, use, management, storage and disposal of physical and electronic Documents and Records, for the purposes of supporting the creation, revision and management of digital Documents; improving Council's work-flow, and providing evidence of business activities.
Supervisor	Any direct line supervisor, including Chief Executive Officer, Director, Team Manager, Line Manager, Coordinator, Supervisor or Leading Worker who are responsible for Worker(s) reporting to them.
Worker	<p>A person is a worker if the person carries out work in any capacity for Council, including work as:</p> <ul style="list-style-type: none"> <li>(a) an employee; or</li> <li>(b) a contractor or subcontractor; or</li> <li>(c) an employee of a contractor or subcontractor; or</li> <li>(d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking; or</li> <li>(e) an outworker; or</li> <li>(f) an apprentice or trainee; or</li> <li>(g) a student gaining work experience; or</li> <li>(h) a volunteer; or</li> <li>(i) a person of a prescribed class.</li> </ul>