

18 December 2019

State Planning Commission  
DPTI Building Branch

Dear Sir/Madam

Thank you for the opportunity to provide feedback in relation to the Draft Inspection Policies Practice Direction.

We would like to provide for your consideration the following responses to the questions posed:

### **Overall purpose**

Is the proposed purpose of the inspection policy easily understood? i.e. a focus on occupant and life safety, and to maintain confidence and integrity in the development control system.

The purpose as described provides clarity on the intent of the policy in that occupant and life safety is the objective first and foremost, followed by aiming to maintain confidence and integrity in the development industry. For reasons explored further below, it is felt that the outcomes that this Practice Direction provides does not achieve this intent.

It is our perspective that the secondary intent of confidence in the development industry should not be for the role of Local Government to perform as an objective of this policy. This may well be an outcome that happens due to the inspections being performed; however it should be clear that council's are not there to take action on behalf of owners or occupants where workmanship is below standards. The sole intent for inspections should be to ensure that development occurs to approved standards and that health and safety of the community (not just safety) is the focus of the policy.

### **Inspection levels and capacity**

Are the proposed inspection requirements easily understood? 66% for Class 1as and 100% for Class 1b-9?

The proposed inspection requirements are easily understood as described.

It is noted that the overall reduced inspection rate for Class 1a buildings has considered that the owner builder risk is reduced as there is a high level of non-compliance in this area; however the risk to safety is less due to the nature of constructions. This is a significant

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concern given that the high level of non-compliance noted does speak directly to the intent of the policy as described and it is therefore recommended that the existing 90% inspection rate for owner builders be maintained.

For the main, the inspection requirements for Class 1as are largely unchanged while Class 1b-9 buildings will require one inspection – do you think this is realistic and achievable for councils?

Given that the inspection of a class 1b-9 building will generally take longer than that for a class 1a building, it is considered that there will be additional resourcing requirements for undertaking inspections in accordance with the policy. The resourcing at the City of Unley is able to maintain a high level of compliance with the current policy and therefore can absorb a slight increase in inspection rates; however it is considered that there will be additional resources required to comply with the policy overall. As a result, without knowing what fee recovery model will be included for council's to perform this role, the answer would be that the policy is not achievable.

If you answered no to question 3, what level would be achievable? If answering from council, do you think this is static or could this be increased over time?

Given existing resources it is considered that an overall target of 66% of class 1-9 building would be achievable (other than 90% for owner builders for class 1a buildings). If charges are reflective of additional resourcing requirements, then the targets currently prescribed may be achievable.

The practice direction provides a list of circumstances when councils may wish to undertake inspections in addition to the mandatory requirements. Would you suggest any change to this list?

The Practice Direction should encourage council's to undertake inspections using their direction at any point where they identify that there is a higher risk. This may be in circumstances where previous compliance on a site has been poor, complaints are received or there are matters identified during assessment where inspections may be considered necessary. This type of framework for non-mandatory inspections may be considered as a guide to council's in the Practice Direction.

While not in the s144 practice direction, is the potential removal of the 80/20 two week/two month percentage split for pool inspections, to instead require that all pools to be inspected within two weeks of completion supported?

It is considered that while the new inspection policy is implemented that such a change may have a significant impact on council's and that this should be considered in the future, or alternatively a standard of 4 weeks is more realistic for pool inspections.

### **Who may inspect**

As long as an authorised officer is appointed under r 112 of the General Regulations, the draft policy allows the council to decide which officer to allocate to an inspection (from level 1 to 4) – do you support this approach?

This approach is supported overall as it does provide flexibility to council's who may have limited resources for Level 1 and 2 accredited professionals and support can be provided by other staff. Working under the supervision of an appropriately qualified person will provide suitable oversight on the process to ensure the health and safety aspect is appropriately addressed while also providing opportunities for professional development for level 1 and 2 accredited professionals.

This does raise a possible concern over the liability for council where a level 3 or 4 accredited professional undertakes an inspection and they do not identify an issue, even under supervision of senior staff, and this becomes a serious matter at a later time. It is considered appropriate to have this matter considered prior to implementation.

Regulation 112 currently allows councils to potentially appoint an accredited professional who is not a council employee to undertake an inspection (e.g. a private building certifier) to enable recruitment of private sector expertise. Do you support this?

This proposal is supported in general where it will enable council to have the flexibility to appoint an external consultant to perform an inspection on their behalf. It is not supported to have a private certifier employed to perform an inspection where they have been responsible for the approval of the building as it creates a significant conflict of interest.

A possible alternative to allow private sector expertise to support the inspection process would be for the inclusion of a system similar to the site contamination auditors that is maintained by the EPA. Appropriately qualified professionals could be recognised as certified practitioners to perform inspections, independent of acting as private certifiers for development assessment, where the conflict of interest would be reduced. The auditing process of a system such as this would be critical in maintaining the confidence of such a system amongst the community; however it would provide the development industry an alternative where inspections can result in delays in construction while waiting for council to attend the site. This will also be beneficial where specified timeframes to inspect may be difficult to achieve for Local Government.

### **Statements**

While not a specific part of this consultation, would you support the reintroduction of a statement requirement for roof trusses, and for this to potentially be expanded to the entire frame?

Yes. Builders and tradespeople must accept some accountability for the quality of construction. Ensuring a form specifically related to structural members is completed will place emphasis on those completing the form to do the right thing.

The City of Unley consistently detects defects with roof truss construction, as well as changes in approved framing plans. Removal of the statement may result in increased levels of non-compliance.

Would you support the introduction of statements for other matters, for example, footings or wet areas?

Yes – providing that the reasons for doing so are justified and in the best interests of the community.

### **Process**

Having read the Background Paper, do you have a good understanding on how the inspection process will work, i.e. setting notifications via decision notice, receiving notifications, undertaking inspections, etc.? Are there any areas you are unsure of that could benefit from further explanatory material?

This is not yet clear as to how this will benefit the community and the following questions would be raised:

Small scale commercial buildings should have inspection requirements in line with other forms of development for consistency. Alternatively, given the generally low risk to these types of buildings where incorporating shop fit-outs, this could be reduced to a lower rate of inspection at the discretion of council.

Private Certifiers should not be able to dictate when a council should be undertaking an inspection. The fact that there is no obligation on a council to perform such inspections creates confusion and it should be the responsibility of a council to dictate when an inspection is required.

In order to maintain a consistent reporting mechanism, the portal should be the only way that a notification can be lodged by a builder. Council's should then account for inspections through the portal as well so that this is publicly visible and could be maintained by a standard inspection register template that is consistent for all council's.

The 24 hour timeframe to undertake an inspection after notification is not achievable given resourcing requirements and notification processes currently prescribed. This must be increased to a minimum of 2 business days.

**Other matters**

Are there any other matters you would like to raise at this point?

Clarity on the intent must be considered as health and safety should be the main priority as opposed to just safety. Further, council is not there to ensure confidence in the construction industry, although this may be a by-product of the inspection process. The secondary intent should be that council's are there to ensure that the building is constructed in accordance with the approved plans in accordance with the PDI Act.

It should be clear that the inspection is not there to assess the approval that has been granted. Council's do not have the authority to challenge the validity of an approval granted under the Act.

It is highly recommended that the intent specify that the adequacy of the building is the responsibility of the builder and not council. Council's role is to perform inspections and identify matters that are contrary to the approval only.

The fees that are applicable for inspections will be critical in the final assessment of how council's will be able to achieve the inspection rates. It is strongly encouraged that DPTI engage through the LGA to set reasonable cost recovery mechanisms for the increased resourcing requirements of council to perform the inspections.

Yours sincerely



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