

Discussion paper: Site inspections

The Building Commission have recently released a report on roof inspections within WA, being particularly critical about the number of non-compliant timber roofs on single residential constructions ([general_inspection_report_2016](#)). The Building Commission are setting up working groups to progress all of the recommendations of the report, including the following recommendation:-

Prescribe mandatory inspection of completed roof framing and tie downs

The Association supports inspections being undertaken within the building construction process to ensure that consumers are getting a quality product, however, there is no local government sector position on whether these inspections should be mandatory, who should undertake the inspections and at what stage in the construction phase they should occur.

As part of the above discussions with the Building Commission on the mandatory inspection of roof framing, it would be beneficial to have a clear position on inspections across all of the possible inspection stages and for all types of construction, not just the single residential market.

The following paper is prepared to provide a snapshot of other jurisdictions, a series of thoughts and questions as to the potential impact on local government, as well as a link to a 'Survey Monkey' questionnaire to collate views that will help develop a local government sector position on mandatory inspections.

Mandatory critical stage new building inspections by jurisdiction <i>Inspection stage</i>	<i>NSW</i>	<i>Victoria</i>	<i>Queensland</i>	<i>South Australia</i>	<i>Tasmania</i>
Commencement	✓	✗	✗	✗	✗
Foundation and Footings	✓	✓	✓	✗	✓
Slab/ reinforcement or bearers/joists	✓	✓	✓	✗	✗
Frame	✓	✓	✓	✗	✓
Wet area waterproofing	✓	✗	✗	✗	✗
External drainage/storm water	✓	✗	✗	✗	✗
Occupancy	✓	✗	✗	✗	✓
Final/completion	✗	✓	✓	✗	✓

Source: Volume 7, Productivity Commission's Report - Performance Benchmarking of Australian Business Regulation: Role of Local Government as Regulator 2012

It is also important to note that the following States/Territories have compliance certification and issue of final approvals/building permits

- Northern Territory (1993)
- Victoria (1994)
- Queensland (1998)
- ACT (1999)
- NSW (2000)

While the following have compliance certification only: -

- South Australia (1996)
- Tasmania (2004)
- Western Australia (2011)

A summary of the various jurisdictions experience is provided in the following section of this report, primarily to compare the States and Territories experience in inspection requirements.

The NSW Experience

In New South Wales, planning and building issues are covered under a consolidated Act and this facilitates the consideration of building issues (either before, during or post construction) as part of the development assessment process.

*LGs in New South Wales are required to conduct the highest minimum number of building inspections with **seven** separate stages of a construction project subject to scrutiny by LG or private certifiers for Class 1 and 10 buildings. The New South Department of Planning and Infrastructure noted the current regime was established in response to the recommendations of the Campbell Inquiry into general building quality issues in 2002, to ensure not only that the building was fit for occupation but also that work is generally consistent with the planning approval. Moreover, it noted that while it generally supported a risk-based approach to inspections, a discretionary inspection regime in a competitive certification environment would lead to a variable practice in the industry and could result in an overall loss of building quality. It also pointed to the significant cost of rectifying defective building work and the role that appropriate regulation plays in mitigating the cost of defective work.*

Source: Page208, Volume 7, Productivity Commission's Report - Performance Benchmarking of Australian Business Regulation: Role of Local Government as Regulator 2012

In its submission to the Building Professionals Board (BPB) in 2014, on the *Building Certification and Regulation – servicing a new planning system for NSW*, the Local Government Association of NSW indicated that there are a number of issues with building certification and regulation that need further analysis and resolution. The problems stem largely from the unclear roles and responsibilities of all players and a lack of regulatory clout and oversight of the entire process by the BPB. Many NSW councils maintain that the private certification system has a poor track record with respect to issuing certificates that are significantly inconsistent with planning and building consents, failing to detect and act on unauthorised work; and certifying incorrect plans or incorrectly applying Building Code of Australia (BCA)/Regulations. And although the BPB have been undertaking random audits of the paper work of the certifiers they are not undertaking any random audits in regards to the actual inspections being undertaken by the certifiers.

Building and construction firms operating in New South Wales face greater potential compliance costs than other jurisdictions. By extension, New South Wales LGs also have higher building resourcing requirements which may be more effectively employed in the processing of building applications to reduce approval times.

Source: Page 282, Volume 7, Productivity Commission's Report - Performance Benchmarking of Australian Business Regulation: Role of Local Government as Regulator 2012

The Victorian experience

Inspections are outlined in the Building Regulations, requiring inspections to be undertaken at four stages of the building process. The Regulations specifically state: -

Building Regulations 2006 - Part 9—Inspections notices and orders

901 Mandatory notification stages for inspection

- (1) *For the purposes of Part 4 of the Act the mandatory notification stages are—*
- (a) prior to placing a footing; and*
 - (b) prior to pouring an in situ reinforced concrete member nominated by the relevant building surveyor; and*
 - (c) completion of framework; and*
 - (d) final, upon completion of all building work.*

- (2) *The relevant building surveyor may vary a stage set out in sub regulation (1) in relation to building work if it is inappropriate to the building work.*
- (3) *The mandatory notification stages for building work determined in accordance with sub regulation (1) or (2) must be set out in the building permit for that building work.*

The Registered Building Surveyor (RBS) is therefore responsible for the issue of the building permit, undertaking the inspections of the mandatory notification stages throughout the construction of the project and issuing the final inspection certificate or occupancy permit. During the on-site inspections, the RBS is required to ensure that the building work is being undertaken in accordance with the approved building permit documents.

Section 35 of the Act also provides a general power for the RBS to cause an inspection of the building work at any time whether or not a mandatory stage has been completed. A practice note has been prepared by the Victorian Government to provide further guidance on Inspections: Requirement-for-Mandatory-Inspections

If there is a dispute, an owner can request the Victorian Building Authority (VBA) to appoint an independent domestic building inspector to conduct an inspection of the building work. The inspector will only examine items in the home that are considered defective as a result of the builder's workmanship and which are in dispute.

The Queensland experience

The carrying out of the four mandatory inspections for approved building work is the responsibility of the building certifier who issued the permit. Mandatory inspections are currently required under the Building Act 1975 and the Building Regulation 2006.

Building Regulation 2006 - Part 6 Inspections of assessable building work

24 (3) If the work is the construction of a single detached class 1a building, the stages also include—

- (a) after excavation of foundation material and before the footings for the building are laid; and*
- (b) if the building is to have a slab—after the placement of formwork and steel for the slab but before the concrete for the slab is poured; and*
- (c) to the extent the bracing for the frame of the building consists of cladding or lining—after the cladding or lining has been fixed to the frame; and*
- (d) to the extent the bracing for the frame of the building does not consist of cladding or lining—before the cladding or lining is fixed to the frame; and*
- (e) if reinforced masonry construction is used for the frame of the building—before the wall cavities are filled; and*
- (f) at the completion of all aspects of the work*

A notice for inspection must be in a format agreed to between the builder and the building certifier and does not have to be in writing. In practical terms the notice may be a phone call, email or fax. As part of adopting good business practices, it is expected the builder will keep a record of giving the notice for inspection to the building certifier. In the case where the building certifier is a local government building certifier, the builder may give notice to the building certifier by giving it in writing to the local government.

The QLD Government has prepared *Guidelines for inspection of class 1 and 10 buildings and structures*, which can be accessed here: [final-inspection-guidelines-class-1a-and-10](#).

The South Australian Experience

In South Australia, planning and building issues are covered under a consolidated Act and this facilitates the consideration of building issues (either before, during or post construction) as part of the development assessment process.

Private certifiers are not required, under legislation, to carry out inspections of building work. Section 71A (1) of the Development Act requires Council to prepare and adopt a Building Inspection Policy which specifies:

- the level of audit inspections to be carried out within the Council area including buildings that have been privately certified for building rules consent; and
- the criteria that are to apply with respect to selecting the buildings that will be inspected under the policy.

Whether buildings will be inspected is up to individual councils and the policies it has adopted. As a minimum, Councils must undertake an inspection of at least 66% of development involving roof framing (increasing to 90% for work undertaken by owner builders). Most inspections are conducted randomly.

In South Australia, building firms were only required to notify LGs on commencement and completion of building work and LGs are given discretion to perform audit inspections at any stage of the construction process. While all South Australian LGs are required to have a formal inspection policy, these can vary from one LG to the next.

For example, Adelaide City Council inspects:

- all Class 1 and 2 buildings twice
- 80 per cent of class 3 to 9 buildings once prior to issuing a Certificate of Occupancy
- all swimming pools
- 50 per cent of other class 10 buildings (Adelaide City Council 2003).

Source: Page 282, Volume 7, Productivity Commission's Report - Performance Benchmarking of Australian Business Regulation: Role of Local Government as Regulator 2012

A copy of a 'Model Building Inspection Policy' from the Local Government Association of South Australia is attached to this discussion paper.

The Tasmanian Experience

On July 1 2004, Tasmania's *Building Act 2000* became fully operational. The Act requires 'mandatory inspections under Section 92.

92. Certificate of final inspection

(1) A building surveyor is to issue a certificate in an approved form on completion of the final inspection following the final mandatory notification stage of the building work if satisfied that –

- (a) the building work is completed; and*
- (b) all directions given under this Act in respect of the building work have been complied with; and*
- (c) the building work is in compliance with this Act, in so far as it is reasonably practicable to inspect.*

(2) A building surveyor is to –

- (a) issue the certificate of final inspection to the owner or an agent of the owner; and*
- (b) provide a copy of it to the permit authority and the builder.*

Through the Building Regulations 2004, the following mandatory inspections are listed: -

10. Mandatory notification stages

*For the purposes of the definition of **mandatory notification stage** in section 3(1) of the Act, the following are stages of building work that require notification to the building surveyor:*

- (a) covering in the foundations;*
- (b) pouring structural concrete;*
- (c) cladding or building in the structural framework;*
- (d) completing the building work;*
- (e) any other stage of work determined by the building surveyor and listed on the certificate of likely compliance.*

The Northern Territory Experience

In the NT, building certification is undertaken by registered private certifiers who assess building applications, issue building permits, undertake site inspections and issue permits to occupy on satisfactory completion of any building works.

BUILDING REGULATIONS - REG 15A - Inspection stages for notification during building work

- (1) *For section 62(2) of the Act, the inspection stages for residential building work are those stages named and described in the table below that are relevant to the work.*
- (2)

	Inspection Stage	Description
1.	<i>pre-pour</i>	<i>before pouring the footings, ground floor slab or other in situ concrete building element</i>
2.	<i>frame</i>	<i>before covering the framework for floors, walls, roof or other building element</i>
3.	<i>block wall</i>	<i>before pouring any reinforced masonry or block walls</i>
4.	<i>fire separation</i>	<i>before covering walls, floors or ceilings, for the purpose of checking that fire resistance levels comply with the Building Code (see note)</i>
5.	<i>wet area</i>	<i>before covering waterproofing in wet areas</i>
6	<i>Final</i>	<i>After completing the building work but before issuing occupancy certification in relation to the work</i>

Note for table - A fire separation inspection may form part of an inspection of the building work carried out at one or more of the other inspection stages.

(2) *For subregulation (1), residential building work is work for or in connection with the construction of any of the following:*

- (a) a Class 1a building;*
- (b) a Class 2 building;*
- (c) a Class 10 building.*

It is important to note that local government does not have any jurisdiction over planning and building compliance in the Northern Territory. The process is controlled by the Northern Territory Department of Planning and Infrastructure.

Overseas example

Building regulations that apply across England and Wales are set out in the Building Act 1984 while those that apply across Scotland are set out in the Building (Scotland) Act 2003.

In the UK, Building work must be inspected during its progress, by a Local Government Building Control officer, specifically at the: -

- Commencement of work
- Excavation to foundations; prior to covering up of any hardcore or damp proof membrane
- Drains; prior to covering
- Occupation; if prior to completion
- Final completion

Upon satisfactory completion of the building work, the Local Government provides a completion certificate to verify that the work has been inspected through to completion. A completion certificate can be presented to financial institutions, solicitors, surveyors etc when they require evidence that the work has been completed to the satisfaction of the Local Authority.

Extract from the Productivity Commission's review in 2012

In the Commission's view, [it] highlights the need for an effective auditing regime to guard against the risks of non-compliant building work.... The role of a certifier in conducting mandatory inspections should be the assessment of compliance with the minimum building standards required to preserve human safety (a functional test), it is not to police a general quality benchmark set above the standards contained in the BCA.

Source: Page 281, Volume 7, Productivity Commission's Report - Performance Benchmarking of Australian Business Regulation: Role of Local Government as Regulator 2012

WALGA Comments – the possible questions/issues about mandatory site inspections

1. Conflict of interest

It has been suggested in several jurisdictions that private building certifiers become more focused on their clients' needs and less on other local government requirements or the public interest. This combination of factors may lead to a reduced standard of assessment and approval work by building certifiers.

There may also be a possible conflict of interest for Local Government to be involved in the inspections, with its other role of enforcement and compliance. This could result in a situation where the Local Government has signed off on an inspection, but years later if there is a fault found through a compliance process, there could be liability implications.

2. Risks

It is not clear that States with less intensive inspection regimes are subject to an increased incidence of defective building work or greater safety risks or costs from building defects safety.

Source: Page 282, Volume 7, Productivity Commission's Report - Performance Benchmarking of Australian Business Regulation: Role of Local Government as Regulator 2012

The commentary from other States and jurisdictions seems to indicate that even with their mandatory inspections, they are not effective unless there is random auditing by either by a State Government Department or through compliance checks at a local government level.

Or should there be an annual % of inspections undertaken – based on a risk based model?

Could a risk based inspection policy for all existing public and commercial buildings occur, with inspections every 1 to 10 years, depending on the level of risk, with a charge on the rates notice?

And how would inspections be undertaken in the regions? A different ratio or percentage of inspections based on the level of risk?

3. *Resourcing – financial*

There is the potential for significant imposts on local government in this discussion and would need to be backed up with a significant increase in fees if inspections are required to be undertaken by Local Government, or if an enforcement model is imposed on local government.

Is it unreasonable for the State Government to require Local Government to undertake the inspections, with minimum ability to charge for service or flat out don't allow for any ability to offset the cost of the inspections?

4. *Resourcing – personnel*

Any discussions on inspections would need to be accompanied by discussions about the qualifications and training of those undertaking the inspections.

Are there enough qualified professional to undertake the inspections?

Who would regulate the inspections being undertaken and how the 'Inspectors' may operate?

Should the builder be improving their QA rather than 'Inspections' being required?

5. *Compliance and enforcement*

The fourth recommendation arising from the roof report will be looking at the existing compliance and enforcement processes in local government, and whether improvements or a consistent compliance model is required. As this is a very detailed and complex issue, a separate survey will be undertaken with members to determine the current levels of compliance and enforcement, prior to any changes being proposed (NB: the data will only be in aggregate form only, no individual local governments results will be used).

Questions would relate to how many compliance issues are typically addressed by a permit authority per year? And of these, how many are the result of complaints and how many are proactive? How much does the compliance and enforcement role cost? What current enforcement penalties are inadequate? Could Local Government be paid to do the random audits from funding out of the Building Services Levy?

6. *Should the banks and/or insurance companies be involved more?*

In the UK, there is a heavy reliance on inspections as part of the financing arrangements of the banking institutions, with progress payments not released unless the inspections are confirmed by the local government and certificates supplied to the bank. There may need to be a broader discussion about the level of involvement of the banks and insurance companies within the inspection process in WA.

Survey of Local Government Building Surveyors

Site Inspections – at what stage? And by whom?

(Electronic Survey can be found here - <https://www.surveymonkey.com/r/SiteInsp>)

<i>Inspection stage</i>	Mandatory	Random by Local Government	Random on behalf of Building Commission		Local government	Builder/ Supervisor	Independent Certifier (who issued the CDC)	Independent Certifier	Other	Inspections already being conducted by LG
Commencement										
Foundation and Footings										
Slab/ reinforcement or bearers/joists										
Frame / Wall										
Wet area waterproofing										
External drainage/storm water										
Roof										
Occupancy										
Final/completion										
Bush fire requirements										
Energy efficiency										
Noise attenuation										

Other concerns/issues:

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Other comments:

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Model Building Inspection Policy

July 2013

1. Policy Objective

This policy sets out The XX Council's policy on the inspection of buildings and structures associated with development assessment activities in accordance with the Development Act 1993 and the Building Code of Australia. Section 71A (1) of the Development Act requires Council to prepare and adopt a Building Inspection Policy which specifies:

- the level of audit inspections to be carried out within the Council area including buildings that have been privately certified for building rules consent; and
- the criteria that are to apply with respect to selecting the buildings that will be inspected under the policy.

Development Regulation (80A) requires that this policy is applied in respect of Class 1 and 2 Buildings. However, Council's policy also encompasses Classes 3-10.

In preparing its Building Inspection Policy, Council has used a risk assessment approach, taking account of the following:

- the financial and human resources of the Council;
- the impact that failure to inspect a certain number of buildings of the relevant classes over a period of time may have on its local community;
- past practices of the Council with regards to inspections;
- whether particular parts of the Council area are known to be subject to poor building conditions;
- information in the possession of Council on poor building standards within its area; and
- the public interest in monitoring the standard of building work within the community and in taking steps to provide for the safety and health of people who use the buildings.

2. Scope

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

3. Notifications

Pursuant to section 59 of the Development Act 1993 and regulation 74(1) of the Development Regulations, a person undertaking building work must give Council notification during the following stages of work:

- one business day's notice of the commencement of building work on the site;
- one business day's notice prior to the commencement of the pouring of footings and other reinforcing steel works¹.
- one business day's notice after the completion of wall and roof framing;
- one business day's notice of wet areas prior to tiling;
- one business day's notice after the completion of building works; and
- in the case of swimming pools, one business day's notice of completion of the safety barrier and prior to the pool being filled with water.

All applicants will be advised of the relevant notifications in writing at the time of issuing the Development Approval.

4. Inspection Policy

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

Dwellings – new and additions

- 10% of all approvals for Class 1 and 2 buildings for which the Council receives notification including buildings where the Building Rules Consent has been issued by a Private Certifier.

Commercial Development

- 10% of all approvals for Class 3 to 9 buildings for which the Council receives notification including buildings where the Building Rules Consent has been issued by a Private Certifier.

Verandas/Carports/Sheds – Not attached to roof frame

- 10% of all approvals for Class 10a buildings

Other structures, including swimming pools

- 100% of all approvals for Class 10b applications for swimming pools to ensure compliance of safety barriers prior to the swimming pool being filled with water.
- 10% of all approvals for Class 10b approvals for retaining walls, fences, towers etc

Roof Trusses for all classes of buildings, including carports and verandahs where attached to a roof frame.

¹ Council may accept a certificate from an Engineer confirming compliance of the footing design.

Buildings excepted from this requirement include Class 10 buildings (other than where attached to a roof frame), portal frame buildings (eg industrial sheds) and transportable buildings.

- for all Building Rules Consents falling into the above category 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 owner builder.

Building Rules Compliance

- all Essential Safety Provision inspections prior to occupancy.
- all dangerous structures as soon as they are identified.
- All sites for which there is a report of non-compliance.

5. Criteria for selection of buildings to be inspected

Inspections of development where the policy requires less than 100% of approvals will be determined by the relevant officer at the time of notification and will be based on the following criteria:

- distributed between owner builders and registered builders.
- reputation of registered builder and previous experience with Council.
- local environmental factors in the area in which the building work is being undertaken (eg wind speeds, flooding, poor soil conditions).
- whether the building work was approved subject to conditions.
- any other reason determined by the relevant professional officer.

6. Monitoring and Reporting

Records will be kept of inspections and collated on a quarterly basis to account for the performance of Council in meeting the requirements of this policy.

7. Further information

This policy will be available for inspection at the Council Offices listed below during ordinary business hours and available to be downloaded, free of charge, from Council's internet site: www.xxxx.sa.gov.au

Insert Council Office
details.

Copies will be provided to interested parties upon request.

Email council@xxxx.sa.gov.au

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.