

# NARACOORTE LUCINDALE COUNCIL

## COUNCIL POLICY

### BUILDING & SWIMMING POOL INSPECTION

9

<b>RESPONSIBLE OFFICER:</b>	Chief Executive Officer
<b>RELEVANT DELEGATIONS:</b>	Manager Planning & Compliance
<b>LEGISLATION AND REFERENCES:</b>	<ul style="list-style-type: none"><li>Planning, Development and Infrastructure Act 2016</li><li>Fire and Emergency Services Act 2005</li><li>Minister's Code for Undertaking Development in Bushfire Risk Areas</li><li>National Construction Code</li><li>Planning, Development and Infrastructure Act 2016</li></ul>

#### PURPOSE OF POLICY

This Policy monitors the standard of construction work within the Naracoorte Lucindale Council ("the Council") area and sets out Council's policy for 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:

- 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
- 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.

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).

#### BACKGROUND

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):

- the financial and other resources of the Council;
- the impact that a failure to inspect a certain number of developments over a period of time may have on the local community;
- the size and population of the Council;
- the amount of development in the Council area;
- the type and class of development that predominates within the Council area;

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- the level of experience and past experience of the builder;
  - owner builders, especially where there is the likelihood of work being undertaken by unqualified persons;
  - in relation to building work, 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 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.

#### SCOPE OF THE POLICY

##### **Criteria for selection of buildings to be inspected (non-mandatory)**

In selecting buildings for inspection, this policy will apply to all Development Approvals issued for development in the Council area.

Council does not have the resources to inspect all buildings and, therefore, all buildings in the Council area may not be inspected.

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

- buildings which appear to be unsafe;
- buildings which ordinarily present a high risk to life and safety, and in particular swimming pools;
- buildings which are used by large numbers of people, particularly where many people do so simultaneously;
- buildings which involve roof framing;
- buildings with energy efficiency requirements;
- 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;
- 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;
- buildings constructed by persons who are not licensed building work contractors under the Building Work Contractors Act 1995;
- buildings incorporating construction properties or products, including but not limited to, fire-rated construction, fire safety elements or designated building products;
- in the event that inspection of the foregoing buildings does not result in the prescribed minimum inspection levels being met, any other buildings;
- distribution between owner builders and registered builders;
- owner builders, especially where there is the likelihood of work being undertaken by unqualified people;

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- reputation of registered builder and previous experience with Council;
  - local environmental conditions in the area in which the building work is being undertaken (e.g. wind speeds, flooding, poor soil conditions). Including where such environmental conditions require additional measures in carrying out the building to protect the environment, the building or its occupants;
  - whether the building work was approved subject to conditions; and
  - 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.

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.

#### **Inspections**

##### **Mandatory Inspections**

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

- a) the kinds of development which require inspection;
- b) the proportion of developments which require inspection in the Council area;
- c) the timing of any inspection required in relation to each building; and
- d) the number of inspections required in relation to each building.

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:

- a) primary structural elements;
- b) structural framing and roof trusses;
- c) wet areas and waterproofing;
- d) barriers to prevent falls;
- e) cladding;
- f) egress provisions;
- g) bushfire protection systems;
- h) passive and active fire safety elements (for further details refer page 4 of Practice Direction 9 in **Appendix 1**);
- i) private bushfire shelters; and
- j) performance solutions.

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#### **Swimming Pool Mandatory Inspection**

- (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:
  - a) 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 –
    - (i) 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
    - (ii) in any other case—the construction of the swimming pool and swimming pool safety feature.

Where a swimming pool is inspected and non-compliance found, any re-inspection 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.

#### **Counting Inspections**

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

#### **EXEMPTION FROM 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 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.

#### **RECORD KEEPING**

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Council will 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 SPC upon 5 business days' notice.

Records of inspections will include, but are not limited to:

- a. the date and time of an inspection;
- b. type of inspection;
- c. who undertook the inspection;
- d. elements inspected;
- e. breaches, issues, or faults found;
- f. rectification required;
- g. requirements for re-inspections (including timing); and
- h. 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).

#### REVIEW OF POLICY

This Policy will be reviewed every 4 years, and in accordance with changes to legislation and / or community expectations.

#### AVAILABILITY OF POLICY

This Policy is available for inspection at Council's Naracoorte and Lucindale offices during ordinary business hours, or via the Council website [www.naracoortelucindale.sa.gov.au](http://www.naracoortelucindale.sa.gov.au) at no cost.

Copies or extracts of this Policy may be purchased for the fee set out in Council's *Fees and Charges Guide*

#### ADOPTION AND AMENDMENT HISTORY

Date	Authorised by	Minute Reference
July 2024	Next Review	
July 2020	Council	Reviewed – Resolution 10/21
May 2018	Council	Reviewed 293/18
25 February 2014	Council	Reviewed 315/14
22 March 2011	Council	Adopted - Resolution 428 / 11

## **Appendix 1 – Mandatory Inspection Requirements**

### **Table 1. Class 1 buildings**

The inspection requirements in Table 1 apply to building work in relation to a class 1 building under the Building Rules.

#### **Timing of inspection**

##### **During construction or on completion**

An inspection may be carried out at any time during construction or on completion.

#### **Minimum number of inspections for each development**

At least one inspection of each development.

#### **Proportion of developments in council area to be inspected**

Minimum 66% of building work commenced in the relevant reporting year.

### **Table 2. Farm buildings and farm sheds**

The inspection requirements in Table 2 apply to building work in relation to a farm building or a farm shed with a floor area of 500m<sup>2</sup> or greater, under the Building Rules.

#### **Timing of inspection**

##### **During construction or on completion**

An inspection may be carried out at any time during construction or on completion.

#### **Minimum number of inspections for each development**

At least one inspection of each development.

#### **Proportion of developments in council area to be inspected**

Minimum 50% of building work commenced in the relevant reporting year.

### **Table 3. Class 2-9 buildings**

The inspection requirements in Table 3 apply to building work in relation to a class 2 to 9 buildings inclusive (other than a farm building or a farm shed) under the Building Rules.

#### **Timing of inspections**

##### **During construction or on completion**

An inspection may be carried out at any time during construction or on completion.

#### **Minimum number of inspections for each development**

At least one inspection of development.

#### **Proportion of developments in council area to be inspected**

Minimum 90% of building work commenced in the relevant

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