

This updates previous practice note 2015-69 issued July 2015 titled Requirement for mandatory inspections.

Purpose

The purpose of this practice note is to provide guidance on the requirements for the inspection of building work during construction. The duties of the builder, relevant building surveyor (RBS) and inspector are explained separately.

Background

Inspections of building work are an important feature of the building permit process.

The purpose of inspections is to carry out an independent assessment of the building work to check that it has been carried out in accordance with the *Building Act 1993* (Act), the *Building Regulations 2018* (Regulations) and building permit.

Inspections occur at certain stages of the works as set out in the Regulations or as defined by the RBS. They provide for the assessment of work before it is covered and for the assessment of key structural, safety and amenity matters.

For inspections to occur, the RBS must determine what inspections are required; the builder must notify the RBS when various stages of the works are reached; and the RBS must cause a person to inspect the building work.

Duties of the builder

The builder must not carry out building work unless the work is carried out in accordance with the Act, Regulations and the building permit issued in relation to the works (section 16).

Mandatory notification stages are set out in the building permit for the work. The RBS may also impose conditions on a building permit which require additional inspections.

The builder must review the building permit, so they are aware of when inspections are required.

During construction, the builder must ensure that the RBS is notified after completion of each mandatory notification stage. The failure to notify the RBS is an offence (section 33(1)). From July 2018, the RBS must report any failure to notify to the Authority (section 33(3)).

The builder must also notify if there is a condition on the permit requiring them to do so.

Notifications must occur without delay after completion of the relevant stage of the work.

The notification must be made to the RBS. If it is proposed that a person other than the RBS inspect the work, such as an engineer, the notification must still be made to the RBS who can then cause the work to be inspected by the other person.

Once the notification is made, if directed by the RBS, the builder must ensure that any person carrying out the building work stops carrying out work in section 33(2).

Where the RBS does not direct the builder to stop work, the builder should not allow building work to be covered over until the work has been inspected and approved.

If building work continues and the work cannot be properly inspected, the RBS may cause any building work to be demolished, opened or cut into or tested where reasonably required to facilitate the carrying out of an inspection in section 36.

Where the inspector identifies that the building work does not comply with the Act, Regulations or building permit, the RBS must be notified and they must issue the builder with a direction to fix or take other action under Part 8 of the Act.

Duties of the RBS

The RBS must determine which prescribed mandatory notifications apply to the work as part

of their assessment of the building permit application.

Prescribed mandatory notification stages are set out in regulations 167, 168, 169 and 172. At each mandatory notification stage an inspection or required inspections (in the case of fire and smoke resistant building elements) must occur. These are the minimum inspections that must occur.

The RBS must specify the mandatory notification stages that apply to the building work in the building permit. (regulation 171).

Prescribed Mandatory Notification Stages

Prescribed mandatory notification stages are specified for the following types of building work:

- the construction of a new building or alteration to an existing building (regulation 167);
- the demolition or removal of a building (regulation 168);
- the construction of a swimming pool or spa (regulation 169).

For construction of a new building or alterations to an existing building, the prescribed stages are:

- before placing a footing;
- before pouring an insitu reinforced concrete member that is specified in the relevant building permit by the RBS;
- completion of framework;
- inspection of fire and smoke resisting building elements as required under regulation 172;
- final, on completion of all building work.

For the demolition or removal of a building the prescribed stages are:

- the completion of precautions for public protection and precautions in accordance with AS 2601 'The Demolition of Structures' (regulation 116 or 117);
- final, on completion of all demolition or removal work.

For the construction of a swimming pool or spa the prescribed stages are:

- completion of excavation for the swimming pool or spa;
- before pouring any footing or insitu

reinforced concrete member that is specified in the relevant building permit by the RBS;

- completion of precautions for public protection (regulation 116);
- final, on completion of the swimming pool or spa and related safety barrier.

If a building permit incorporates multiple types of building works (e.g. construction of a swimming pool, retaining walls, dwelling and demolition and construction of a new shed), the building permit should list the different types of work and specify each of the specific mandatory notification stages for each type of work.

For the construction of a new building or alterations to an existing building, the RBS may omit mandatory notification stages prescribed in regulation 167 if they are not relevant to the building work in regulation 170. Otherwise, all prescribed stages must be specified in the building permit and inspected.

Additional Inspections

Section 35 of the Act also provides a general power for an RBS to cause an inspection of the building work at any time whether or not a mandatory stage has been completed.

Accordingly, when assessing the building permit application, the RBS should consider whether any inspections should occur in addition to the prescribed mandatory notification stages.

If the RBS determines that additional inspections should be undertaken, these can be required as a condition of the building permit.

Examples of elements of building work that the RBS may require additional inspections of are waterproofing (internal and external), fire rated construction (separation of Class 1 buildings, bushfire construction), features required to meet energy efficiency or acoustics requirements, drainage, protection measures, hoardings, unique construction techniques or materials or work undertaken pursuant to performance solution.

The RBS should discuss any additional inspections with the applicant for the building permit to confirm additional fees and the requirement to call for the inspections.

Carrying out inspections

An RBS may carry out the inspection themselves or they may cause a person specified under section 35B of the Act to inspect on their behalf.

The RBS must not cause another person to carry out inspections unless that person is:

- registered as a building surveyor or inspector and authorised under that registration to carry out the inspection; or
- a prescribed person to carry out a prescribed class of inspection in regulation 174.

The RBS must ensure that all inspections at mandatory notification stages are carried out in person (section 34). The RBS cannot conduct the inspection relying only on photographs, video, declarations or reports provided by a person who is not a registered building surveyor or inspector, or a prescribed person as required under section 35B of the Act.

Where the building work being inspected is complex, the RBS can cause multiple persons to inspect the building work. An example, as part of the same mandatory inspection, a fire safety engineer may inspect fire and smoke resisting elements and a building inspector (unlimited) may inspect other aspects of the building work.

Pursuant to section 35A(1) the RBS must ensure an inspection record containing the prescribed information (specified in regulation 173 of the Regulations) is made for all inspections carried out pursuant to section 34 or 35 of the Act.

Upon written request, the RBS must, without delay, provide a copy of the inspection record to the VBA, the relevant Municipal Building Surveyor and the relevant owner of the building or land (section 35A(2)).

Regulation 203(d) specifies that an inspection record is a prescribed document to be provided to the relevant council pursuant to section 73 of the Act.

If it is proposed that a person other than the RBS inspect the building work at mandatory notification stages (for example, an engineer), the RBS must still be notified at the mandatory notification stage and then cause that person to carry out the inspection.

Where the RBS causes a person specified in section 35B to inspect the work on their behalf, the RBS remains responsible for the proper inspection of the work. The RBS should:

- satisfy themselves that the person holds relevant and adequate experience to undertake the inspection;
- satisfy themselves that the person will undertake a thorough inspection to check that the building work complies with the Act, Regulations and building permit;
- put in place procedures to oversee the work of the person to ensure that inspections are being carried out appropriately;
- put in place procedures to ensure that the required record of the inspection is made and given to the RBS promptly;
- put in place procedures to ensure that the person notifies the RBS promptly about any building work that does not comply with the Act, Regulations or building permit.

When reporting the outcome of an inspection, the result should not be “approved”, “approved subject to further (specified) action being taken”, or “refused”, this can be confusing and unclear. Inspections are a means for determining if the building work complies with the Act, Regulations and building permit. The remedy for any non-compliance is a direction to fix or Part 8 actions. The inspection record should state whether the building work is:

- compliant with the Act, Regulations and building permit;
- subject to a direction to fix (identify non-compliances);
- subject to enforcement action under Part 8 (specify what action and identify non-compliances).

Duties of the Inspector

Persons who may carry out an inspection of building work on behalf of an RBS are set out in section 35B and must be either an appropriately registered building surveyor or building inspector, or a prescribed person pursuant to regulation 174 of the Regulations.

It is an offence for a person to carry out work as an inspector if they are not appropriately registered and authorised to carry out that work.

The inspector appointed by the RBS must act on behalf of the RBS and under their direction.

The inspector must not accept a request to inspect on behalf of an RBS unless they have relevant experience and are competent to undertake the type of inspection for the type of building being requested.

The inspector must ensure that all requests for inspections are made via the RBS.

The inspector must promptly provide the RBS with their report of the inspection.

The inspector must not approve variations to the building permit or approve works that do not comply with the Act, Regulations and building permit.

Further Information

Refer to Practice Note 70 – Directions to fix.

Refer to the VBA website for guidance documentation on the inspection of fire and smoke resisting elements.

Want to know more?

If you have a technical enquiry, please email technicalenquiry@vba.vic.gov.au or call 1300 815 127.

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