

Building Practice Note MI-01: Mandatory notification stages and inspection of building work

This Practice Note provides guidance to practitioners on the requirements for the mandatory inspection of building work during construction.

The context below provides guidance for:

- Mandatory Inspection Requirements
- Role of the RBS
- Role of the Building Inspector
- Role of the Builder



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

Abbreviations & Definitions

The abbreviations and definitions set out below are for guidance only. They are not intended to vary those set out in the Building Act 1993 (the Act), Building Regulations 2018 or the National Construction Code (NCC).

- **Act** – The Building Act 1993
- **RBS** – Relevant Building Surveyor
- **Record of inspection** – A record under section 35A of the Act made by the RBS
- **Regulations** – The Building Regulations 2018

Mandatory Inspection Requirements

The mandatory notification stages are critical stages when building work must be inspected, allowing inspection of core components to ensure compliance with the Act, Regulations, and the building permit.

Inspections occur at certain stages of building work, as set out in the Regulations, or as defined by the RBS. These inspections provide for the assessment of building work before further work can continue and are critical in ensuring key structural, safety and amenity matters are achieved.

The RBS must determine which prescribed mandatory notifications as set out in regulations 167, 168, 169 and 172 apply to the work as part of their assessment of the building permit application. At each mandatory notification stage an inspection must occur in accordance with the stages that apply to the building work under a building permit (regulation 171).

The 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 in-situ 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.

Regulation 172 requires additional mandatory inspections in each storey of a Class 2, 3 or Class 4 part of a building for:

- (a) any building element that is lightweight construction required to resist the spread of fire in at least one sole occupancy unit
- (b) one of each stair shaft, lift shaft or service shaft of lightweight construction required to resist the spread of fire
- (c) the components and junctions of the building elements listed above.

Regulation 172(2) also requires a mandatory inspection for one of each type of fire protection method for each type of service penetration that is required to resist the spread of fire or smoke on each storey of a Class 2, 3, 4, 9a or 9c building.

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 in-situ 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 work (e.g., construction of a swimming pool, retaining walls, dwelling and demolition and construction of a new shed), the building permit must 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 must be inspected.

To maintain building safety standards, the RBS has a critical role in ensuring that mandatory inspections are carried out in accordance with the legislation.

Section 35 provides a general power for an RBS to cause an inspection of the building work at any time whether 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, fire rated construction, features required to meet energy efficiency or acoustic requirements, drainage, protection measures, hoardings, unique construction techniques or materials or work undertaken pursuant to a performance solution.

The RBS should discuss any additional inspections with the applicant for the building permit to confirm 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 mandatory inspection relying only on photographs, drone, video, declarations, or reports provided by a person who is not a registered building surveyor, inspector, or a prescribed person 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. For example, as part of the same mandatory inspection, a registered fire safety engineer may inspect fire and smoke resisting elements and a building inspector, registered in an appropriate category, may inspect other aspects of the building work.

If it is proposed that a person other than the RBS inspect the building work at mandatory notification stages, for example a registered 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.

Record of inspection

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

It is common practice where an RBS engages a person to inspect on their behalf, that they use the person's inspection report such as a certificate of compliance building work (regulation 123) as the record of inspection. This practice is permissible under the Act however the RBS must still ensure that a record of inspection is made which contains the prescribed information under regulation 173. This means that if the person's inspection report does not contain all the required information under regulation 173, the RBS must either make a compliant record of inspection or request the person's inspection report include the missing information.

Recommended procedure for non-compliant building work after inspection

If non-compliant building work is identified after an inspection, the direction to fix process must be undertaken. Refer to Practice Note 70 – Directions to Fix Building Work.

If the non-compliances are resolved in the direction to fix process, the RBS then should make a record of inspection with the outcome being that the mandatory inspection stage has been approved and that the building work is compliant. This is important as the record of inspection then leaves no doubt as to whether or not the non-compliances have been resolved.

If builder fails to comply with a written direction to fix, the RBS then should make a record of inspection with the outcome being that the mandatory inspection stage has not been approved and include details of the non-compliant building work. The RBS may then decide to proceed with serving a building notice or building order under Part 8 of the Act. Refer to Practice Note 25 – Notices and orders.

Role of the Building Inspector

Persons who may carry out an inspection of building work on behalf of an RBS are set out in section 35B. This person 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 can only be engaged by the RBS and must act on behalf of the RBS and under their direction. The inspector must not approve variations to the building permit or approve works that do not comply with the Act, Regulations and building permit.

Role of the Builder

During construction, the builder named on the building permit, after completion of each mandatory notification stage, must ensure that the RBS is notified that a stage is ready for inspection. Once the notification is given to the RBS, the builder must ensure that no further building work occur if directed by the RBS. Where the RBS does not direct the builder to stop work, the builder must not allow building work to be inspected or to be covered until the work has been inspected and approved.

Section 33(3) requires that where the relevant building surveyor becomes aware of any non-compliance with subsections (1) or (2), they must notify the VBA.

Failure to notify the RBS of when a mandatory inspection is ready to be inspected is an offence under section 33(1).

Any notification made to the RBS proposing the use of a prescribed person other than the RBS to undertake an inspection of the work, must be formally made to the RBS who can then cause the work to be inspected by the other person, for example an engineer who has consented to inspecting the footings.

If building work continues and the work cannot be properly inspected, the RBS may cause any building work to be demolished, opened up or cut into or tested where reasonably required to facilitate the carrying out of an inspection under Part 4 of the Act.

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

Related Documentation

- Building Act 1993 (VIC)
- Building Regulations 2018 (VIC)

Contact Us

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