

BUILDING RULES ASSESSMENT AUDIT

SUMMARY OF FINDINGS

As at 31 May 2013

The conduct of building rules assessment audits for councils and private certifiers commenced in November 2012 with a pilot audit program. Building rules assessment audits are risk-based and are focused on the system of procedures established by private certifiers and councils for ensuring compliance with the Development Act 1993 (the Act) and the Development Regulations 2008 (the Regulations) in accordance with Section 56B of the Act.

This presents the nature/theme of the findings identified from completed audits. Toward the end of this document, there are examples of control activities that have been used by councils and private certifiers in managing some of the key risks surrounding the building rules assessment process and in preventing the recurrence of similar issues identified by the audit. (Note that 'issues' and 'findings' are used interchangeably in this document.)

Issue rating table

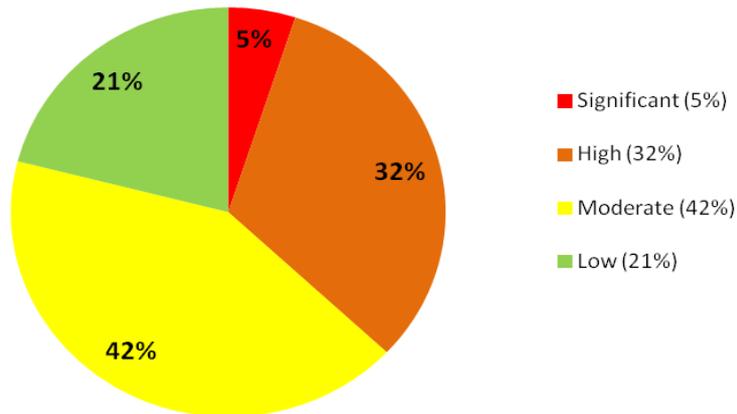
It is important to note that findings in audits are rated in accordance with their priority for rectification. This prioritisation is based on the relative criticality or importance of the risks associated with these findings; furthermore, it provides an indication when action plans to address issues should have been completed or undertaken.

Issue Rating	Description / Nature of Issue	Indicative Timeframe for Addressing Issue
Significant	<ul style="list-style-type: none">represents a breach of the Act, Regulations or to the Code of Practice (CP) that poses a threat or exposure to public health or safety or presents an adverse reputational risk to the Department or to the industry; orthere is a gross misrepresentation or negligence in the conduct of work or the nature of the issue would warrant a reference to another authority	Immediately
High	<ul style="list-style-type: none">represents a breach of the Act, Regulations or to the CP but there is no indication of risk to public safety; orexisting controls or processes are not adequate to ensure compliance with the Act, Regulations or to the CP and there are no compensating controls in place	Within three months of the report date
Moderate	<ul style="list-style-type: none">represents deficiencies in control processes; however, while there are compensating controls in place, residual risks for non-compliance with the Act, Regulations or to the CP exists	Within six months of the report date
Low	<ul style="list-style-type: none">business improvement opportunities that do not pose risk of non-compliance with the Act, Regulations or to the CP.	No timeframe

Summary of Audit Findings

Findings in accordance with priority ratings

The chart below represents the percentage distribution of findings in accordance with the priority rating table in the previous page.

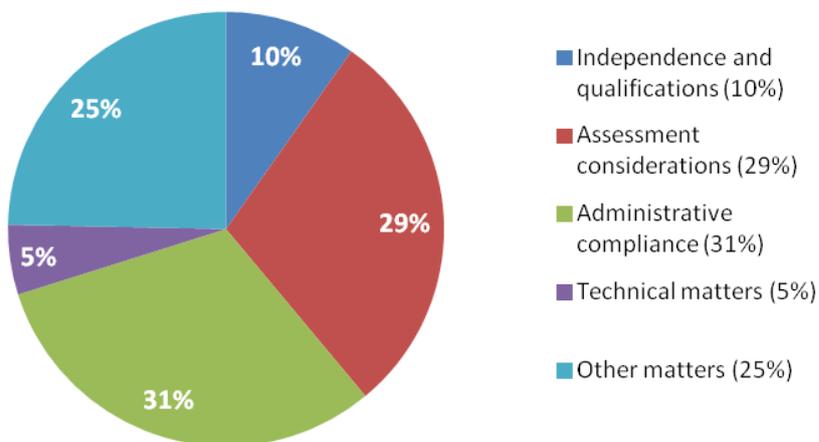


The significant priority findings (5%) are matters of a technical in nature.

Findings in accordance with issue category

The audit findings have been summarised into the following categories for ease of presentation:

- Independence and qualifications (independent technical expert)
- Assessment considerations
- Administrative compliance
- Technical matters
- Other matters



The nature of the findings in the issue category are summarised in the table below:

Issue Category	Percentage	Nature / Theme of the Findings
Independence and qualifications (independent technical expert)	10%	<ul style="list-style-type: none"> no evidence of verification of independence and qualifications of independent technical experts no documented clarity of independence requirements for independent technical experts or for private certifying firms who have multiple assessment staff
Assessment considerations	29%	<ul style="list-style-type: none"> lack of evidence regarding assessment undertaken misuse of conditions of approval on building rules consents (eg items requiring assessment are placed as condition) issues relating to check sheets/checklists (eg contains obsolete information, no regular review to ensure up-to-date) lack of system for monitoring outstanding information from applicants issues relating to reliance on independent technical expert (eg no evidence of review of certificate, erroneous reliance on certificate, certificates not worded appropriately) scribbles / notes on final approved drawings without indication as to whose notes/scribbles these are
Administrative compliance	31%	<ul style="list-style-type: none"> non-payment of the CITB fund or the building indemnity insurance (or lack of verification of their payment) roof framing checklist not completed or verified inaccurate or non-payment of building rules levy information in register of applications is lacking (Regulation 98) no written agreement or application forms with applicants no endorsement of final approved drawings
Technical matters	5%	<ul style="list-style-type: none"> specific technical matters identified
Other matters*	25%	<ul style="list-style-type: none"> filing issues inconsistent assessment procedures undertaken / no documented procedures or policies (relevant with private certifier firms or councils who have multiple assessing officers) superseded references to legislation in templates (eg decision notification forms)

**Other matters – relate to specific matters distinct to a council or a private certifier. This was used to dump all issues that do not fit the other categories.*

Private certifiers and councils who have undergone an audit have all drafted action plans for addressing issues identified in their audit. These action plans typically identify who is responsible for the action and the timeline for implementation.

The next section provides examples of control activities that could be embedded in the building rules assessment process to prevent some of the issues identified above.

Examples of Control Activities

Councils and private certifiers who have not yet been audited may be interested to know what control practices can be implemented to manage some of the key risks of the building rules assessment process. The table below provides examples of such control activities. Some of these examples were identified in the processes established by private certifiers and councils who have already been audited. These practices are straightforward, but require customisation to suit the individual circumstances of councils and private certifiers. Additionally, it does not follow that there is a requirement to implement all the examples provided. These have been compiled for the purpose of illustrating risk mitigation activities that can be used to prevent some of the audit issues identified in the previous page.

Item	Key Risks	Examples of Control Activities
Ethics and Qualifications		
1	Building rules assessment is undertaken by a private certifier (or the relevant building assessment function in council) where independence issues or conflict of interest may exist.	<ul style="list-style-type: none"> Independence requirements are covered in policies, documented procedures, contract agreements or Code of Conduct. There is a requirement to declare any conflict of interest in the conduct of building rules assessments.
2	Building rules assessment may be undertaken by an unqualified individual (applicable for private certifiers and the building officer from councils) who does not have the appropriate accreditation or qualifications to perform building rules assessments.	<ul style="list-style-type: none"> Continuous professional development and maintenance of up-to-date accreditation and qualifications are required as a matter of professional responsibility and policy (in councils or in private certification firms). There is an initial review of building applications so that these are allocated to building surveyors with the appropriate qualifications. Part of the building rules assessment process is to assess the need for an advice from an independent technical expert.
3	Third parties providing certificates or reports in relation to proposed building works are not qualified or independent.	<ul style="list-style-type: none"> Contract of agreement with independent technical experts stipulates the requirement to declare any conflict of interest and to ensure that professional qualifications are in good standing order. (Applicable for those private certifiers and councils that have an ongoing contract with an independent technical expert). Ad hoc requests for professional services from independent technical experts contain a requirement to declare any conflict of interest with respect to the relevant development. An action is undertaken to verify the qualifications of the independent technical expert (eg check in a national registry website); this verification is documented.

Item	Key Risks	Examples of Control Activities
Assessment Considerations		
4	The building rules consent may not be in accordance with the relevant development plan.	<ul style="list-style-type: none"> • Building rules consents are only granted following the review of planning documents (where appropriate). • The consistency check between the building rules and the planning consent is a requirement documented in assessment tools (eg checklists) used.
5	There is a lack of documented evidence on the appropriateness of assessment procedures undertaken by private certifiers or councils in relation to their approval of building rules consents.	<ul style="list-style-type: none"> • There are assessment tools (eg checklists) used that contain the key requirements of the Building Rules (eg the Act, the Regulations, Building Code, Minister's Specifications) to ensure that these are assessed completely. Assessment tools are completed and kept to evidence the assessment procedures undertaken. • There are documented procedures that cover the key requirements of the building rules assessment process. These procedures are updated and are monitored for compliance. • There is an information sheet or brochures for applicants that contain all the requirements for submission accompanying building rules application. • Assessment tools or any other aid used (including template documents) in the assessment process are kept up-to-date in line with changing requirements. • Outstanding information requested from applicants are monitored, followed-up and assessed accordingly. • Relevant information supporting the decision to grant the building rules consents (or otherwise) are retained on file. • There is a quality assurance performed to ensure the appropriateness of assessment procedures undertaken (including any administrative compliance requirements) before building rules consents are finalised.
6	There is no documented evidence of any review or assessment of the reports or certificates issued by third parties (eg third parties providing advice).	<ul style="list-style-type: none"> • Building surveyors perform a reasonableness review of certificates from independent technical experts against supporting documents. • Clarification / correspondence in relation to reliance placed on advice or certificates from independent technical experts are documented. • Requirements surrounding independent technical experts are incorporated in assessment tools (eg checklist) and

Item	Key Risks	Examples of Control Activities
		evidence of their completion is retained.
7	All the required information for assessment against the building rules are not assessed completely and are attached as conditions of approval to building rules consents.	<ul style="list-style-type: none"> • There are assessment tools (eg checklists) used that contain the key requirements of the Building Rules (eg the Act, the Regulations, Building Code, Minister's Specifications) to ensure that these are assessed completely. Assessment tools are completed and kept to evidence the assessment procedures undertaken. • The use of condition of consents are minimised to the extent practicable. Outstanding information requiring assessments are not placed as conditions of consent. • Outstanding information requested from applicants are monitored, followed-up and assessed accordingly.
8	Building rules applications are not assessed for applicability of essential safety provisions.	<ul style="list-style-type: none"> • Assessment tools contain requirements relating to essential safety provisions and are assessed accordingly. • There is a quality assurance performed to ensure that all relevant forms/templates accompanying decision notification forms have all been appropriately completed.
9	Building applications in bushfire prone areas and the related bushfire risk level are not identified.	<ul style="list-style-type: none"> • Building surveyors ascertain whether a development is in a bushfire prone area. • Assessment tools contain the requirement to ascertain if a development is in a bushfire prone area and what the related requirements for assessments are.
10	The relevant information for building applications that include the building of roof frames/trusses are not assessed completely in accordance with the Roof Framing Checklist (Minister Schedule 5).	<ul style="list-style-type: none"> • The Roof Framing Checklist is included as part of the information required to be submitted in information sheets or brochures to building applicants. • Assessment tools contain the requirement to ascertain the applicability of the Roof Framing Checklist. • The information in the Roof Framing Checklist submitted by applicants is verified by the building surveyor. There is an evidence of the verification performed.
Insurance		
11	Costs incurred representing damages resulting from acts of omission or negligence by a private certifier in relation to building rules assessment may not be recovered.	<ul style="list-style-type: none"> • There is a professional indemnity insurance in place that is in accordance with the requirements of the Regulations. • There is a calendar reminder or a similar mechanism to ensure the timely payments of insurance premiums.

Item	Key Risks	Examples of Control Activities
12	Costs or damages incurred resulting from negligence or poor workmanship of builders for domestic building work may not be recovered.	<ul style="list-style-type: none"> • Building indemnity insurance for domestic building work is a requirement indicated in information sheets and brochures to applicants. • Building indemnity insurance is verified as part of the assessment process and is included as a requirement in assessment tools.
Other Requirements		
13	The quarterly building rules levy payments of private certifiers and councils to the Department are not accurate or complete.	<ul style="list-style-type: none"> • The calculation of levy payments is supported with workings reviewed and approved by a person independent of the calculation. • Changes to levy rates are noted and incorporated in the calculation of levy rates. • There are calendar reminders or similar mechanism to ensure that levy payments are made on time.
14	Building rules consent is issued for building work when the related Construction Industry Training Fund (CITF) levy is not paid.	<ul style="list-style-type: none"> • The payment of the CITF levy is indicated in information sheets and brochures to applicants. • The payment of the CITF levy is verified as part of the assessment process and is included as a requirement in assessment tools.