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Our Ref: NMJ:ves:101717

Your Ref:

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Corinne Garrett  
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District Council of Yankalilla  
1 Charles Street  
YANKALILLA SA 5203

**VIA EMAIL: [CorinneGarrett@yankalilla.sa.gov.au](mailto:CorinneGarrett@yankalilla.sa.gov.au)**

Dear Corinne

#### **DEVELOPMENT COMPLIANCE AUDIT**

I confirm that Wallmans Lawyers undertook a statutory compliance and "best-practice" audit under the *Development Act 1993* ("the Act") and the *Development Regulations 2008* ("the Regulations") for the District Council of Yankalilla.

During the audit, we:

- reviewed a selection of development application files and other relevant documents;
- determined whether the Council strictly complies with the relevant requirements of the Act and Regulations;
- identified compliance improvement opportunities, professional development and training needs for Officers in relation to legislative obligations and requirements; and
- examined some of the Council's operational processes associated with development assessment.

We attended at the Council offices for the purpose of:

- confirming compliance with statutory requirements;
- ascertaining whether the actual practices and procedures of the Council were in accordance with those statutory requirements;
- identifying the existence of any statutory non-compliance and recommending appropriate methods of rectification of those matters;
- identifying the requirements for the Council to achieve timely and accurate compliance with all of its statutory obligations; and
- suggesting a system for operational improvement procedures, quite distinct from compliance matters.

The development compliance audit was undertaken by reviewing the documents provided to us by the Council, and by interviewing key staff.

## Purpose

The purpose of an audit is to examine Council's development assessment and other relevant processes against provisions of the Act and Regulations and against best-practice administrative standards and to identify areas of non-compliance.

It is expected that Councils strive to meet and comply with legislative and aspire to achieve best-practice standards, and to have in place procedures and processes which achieve these. Accordingly, findings, comments and recommendations are not required where procedures and processes are adequate in this regard.

Where areas of non-compliance are identified, recommendations are made to assist the Council to meet legislative and best-practice standards.

The Audit Report contains two separate parts:

- Part 1 contains comments and recommendations regarding the staffing and day-to-day procedures of the Council; and
- Part 2 contains a legislative compliance table examining the Council's adherence to legislative obligations.

The Audit Report is set out below.

## Part 1 – Operational Processes

### Development Section – structure and responsibilities

1. The Development Section is responsible for undertaking the bulk of Council responsibilities under the Act. The Section currently consists of two staff members, a full-time Senior Planning Officer and a full-time Planning Officer.
2. The team currently has a vacancy for a 0.8 FTE Development Administration Officer. During the course of the audit we were informed that the duties of the Development Administration Officer are currently being divided between the Planning Officer, and other Administration Officers who work in other areas at the Council.
3. The division of responsibilities between the three positions is as follows:
  - 3.1. Senior Planning Officer
    - 3.1.1 strategic planning – this work is undertaken solely by the Senior Planning Officer and occupies around 80% of this officer's time;
    - 3.1.2 development assessment – this work is mainly undertaken on an as-needs basis, and occupies less than 20% of this officer's time;
    - 3.1.3 providing assistance to the Council's Development Assessment Panel; and
    - 3.1.4 development compliance and enforcement.
  - 3.2. Planning Officer
    - 3.2.1 development assessment – this officer undertakes the bulk of development assessment work, and estimates that this work occupies 85% of her time;

- 3.2.2 coordinating building rules assessment (see discussion below at paragraph 19 for more detail); and
  - 3.2.3 development compliance and enforcement.
- 3.3. Development Administration Officer
- 3.3.1 accepting development applications and conducting a very basic preliminary assessment (i.e. checking for schedule 5 requirements and correct lodgement fees) (currently undertaken by Planning Officer or Administration Officers depending on availability);
  - 3.3.2 creating development assessment files (currently undertaken by Administration Officers);
  - 3.3.3 customer service – answering simple enquiries, etc (currently undertaken by Planning Officer);
  - 3.3.4 recording development application details to Synergy (Council's records management system) (currently undertaken by Administration Officers); and
  - 3.3.5 issuing letters to applicants, undertaking public notification and issuing Decision Notification Forms (currently undertaken by Planning Officer).
4. Currently, many administrative tasks are undertaken by Administration Officers from other areas of the Council. These tasks are undertaken with reference to the "*Development, Standard Operating Procedures List: Administration*" which was prepared by the Development Section and contains instructions so that all development documents are entered into Synergy in a uniform fashion.
5. We **endorse** the use of the Standard Operating Procedures List. A high standard of record-keeping assists the Council to discharge each of its legislative requirements in the processing of development applications and within prescribed timeframes. The List ensures that all Administration Officers record data in a detailed manner, to ensure that record-keeping standards are maintained in a uniform fashion.
6. From interviews with the Senior Planning Officer and the Planning Officer, it is clear that there is a need for increased administration support for the Development Section.
- 6.1. Despite the assistance of various Administration Officers, many purely administrative tasks, such as preparing requests for further information, public notification letters and Decision Notification Forms are undertaken by the Planning Officer. This is an inefficient use of staff resources, and results in the Planning Officer having insufficient time to discharge all tasks allocated to that role.
  - 6.2. We **recommend** that the Council advance its efforts to recruit a new Development Administration Officer, or otherwise create an alternative staffing arrangement which will ensure that dedicated administrative support is provided to the Senior Planning Officer and Planning Officer in respect of their development assessment work.

#### Development Assessment Processes

7. When a development application is received by the Council, it is immediately checked by administration staff at the front counter of the Council to ensure that it is accompanied by a Certificate of Title, plans and the lodgement fee. If the application

- does not contain this information, administration staff will arrange for this information to be provided.
8. Once a development application is lodged, administration staff then assign a development application number and create a physical file.
  9. Each physical file has a front-sheet which is created through Synergy. Administration staff are responsible for entering in details of the development application, such as the nature of the development, classification and categorisation.
  10. Throughout the audit we observed a small number of files where the details of the development application on the front-sheet did not match the details of documents within the file. This appears to have been caused by front-sheet details having been incorrectly prepared by administration staff, and being changed upon a subsequent review by the Planning Officer.
  11. Where this situation arises, we **recommend** that a new front-sheet which contains correct details, be affixed to the file. In this way, development application files will not contain conflicting information which may cause confusion, to officers or third parties reviewing those files in the future.
  12. Once a physical file is created, the Planning Officer undertakes a preliminary assessment of the application and will amend details logged into Synergy, if necessary. At this stage, the Planning Officer will determine whether any additional information or fees are required for the application and, if so, will make a formal request for information.
  13. The Planning Officer confirmed that for some applications, a second request for further information is needed, as some additional information required to process an application cannot be identified until a full assessment is underway.
  14. Although we understand that this issue does not arise often, we **recommend** that the Council devise a process which ensures that requests for further information are only made on one occasion.
    - 14.1. According to section 39(2b) of the Act (which commenced in 2009), requests for further information can only be made on one occasion.
    - 14.2. By making requests for further information upon a preliminary assessment, the Council risks not being able to request vital information further into the assessment process.
    - 14.3. Although most developers will provide additional information whenever asked, some developers may refuse to provide this information on the basis of section 39(2b), which may result in increased appeals against Council decisions to refuse such applications.
  15. Once the public notification category is determined for a development application, the Planning Officer then generates lists of persons required to be notified under the Act, and will generate letters and arrange for newspaper advertisements to be provided (if applicable). In our view, this task is best undertaken by an Administrative Officer. It is not an efficient use of resources for this task to be undertaken by a Planning Officer and results in less time being available to carry out development assessment and other responsibilities.
  16. When a development application is released for public consultation, copies of the relevant application documents are made available for inspection at the front counter of the Council's offices. When a person requests to view these documents, the Planning Officer will attend to them. Copies of documents are only provided to those

persons entitled to make a representation, and only after proof of their identity has been provided.

- 16.1. We **endorse** this approach. In our view, only those people who have received a notice for a Category 2 development application should be entitled to inspect the application documents and make representations.
  - 16.2. If a person who is not an adjoining land owner/occupier is allowed to inspect the application documents for a category 2 development proposal, they may mistakenly believe that they have a right to make a representation that will be considered by the Council in its assessment of the application.
  - 16.3. In these circumstances, the Council may create a "legitimate expectation" that the representation would be considered in the assessment of the relevant Development Application.
  - 16.4. Where a public authority, such as the Council, creates a legitimate expectation that a representation will be considered, the failure to consider the representation can create grounds for legal challenge in the nature of judicial review.<sup>1</sup>
  - 16.5. Therefore, only those people who have received a notice from the Council should be entitled to inspect the application documents and make representations (except in special circumstances and where the customer signs a form acknowledging that they do not have any representation rights).
  - 16.6. In addition, application documents should not be made available for inspection after the inspection period expires for the same reason – i.e. that providing those documents may create a legitimate expectation that a resulting representation would be considered.
  - 16.7. Furthermore, the acceptance of late representations leads to delay and, in our view, amounts to a breach of section 38 of the *Development Act*, which could give rise to a legal challenge (either in the ERD Court under section 86 of the *Development Act* or by judicial review proceedings in the Supreme Court) by the applicant.
  - 16.8. Therefore, as a matter of practice, application documents should not be available for inspection outside of the 10-day inspection period.
17. Once public consultation has finished, the application may be determined by staff, or by the Development Assessment Panel, depending on the circumstances of the particular application.

#### Building Rules Assessment Processes

18. The Council out-sources most of its Building Rules assessment functions to two contractors, with a small number of development applications being assessed by the Manager Major Projects and Contracts, in order to maintain his qualifications from the Australian Institute of Building Surveyors. We **endorse** this approach. Many councils outside of the Metropolitan area choose to engage contractors to undertake Building Rules assessment on the behalf of the Council, particularly where the volume of such assessments does not warrant a permanent member of staff.
19. When a development application requiring Building Rules assessment from the Council, rather than a private certifier is received, the Planning Officer will nominate a contractor to perform the Building Rules assessment, depending on the nature of the

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<sup>1</sup> See, eg *Haoucher v Minister for Immigration & Ethnic Affairs* (1990) 169 CLR 648.

development. Administration staff then arrange for application documents to be sent to the contractor.

20. This process results in Development Plan assessment and Building Rules assessment being conducted concurrently. Staff informed us that they communicate regularly with the contractors to ensure that Building Rules consent is not granted before Development Plan consent, and so that Building Rules consent is not granted where Development Plan consent is refused, or recommended for refusal.
21. Although it appears that current Council staff are successfully managing this process so that Building Rules consent is not being issued in the absence of a Development Plan consent, we recommend that the Council consider implementing a formal process where applications for Building Rules consent are not sent to the contractors until it is clear that Development Plan consent will be granted. Such a policy would ensure that this process could continue to be successfully managed, and particularly if staffing changes were to occur in the future.

#### Development Compliance and Enforcement

22. All responsibility for development compliance and enforcement is shared between the Senior Planning Officer and the Planning Officer.
23. Both officers informed us that they do not have the time to attend to and address all compliance issues. Further, they indicated that the number of complaints relating to compliance and enforcement issues around the Council area are increasing, and that they cannot meet this demand.
24. Compliance and enforcement is a growing concern for all Councils in the State. This growth has arisen from increased public awareness of Council's enforcement powers under the Act, and the increasing gentrification of residential areas.
25. Resolving compliance and enforcement issues requires a significant dedication of resources - numerous site visits and telephone calls are required, well-planned investigations must be carried out and detailed records of evidence must be made.
26. Further, often compliance and enforcement issues relate to a safety or building issue, which often takes specialist building qualifications to identify and/or resolve.
27. The officers interviewed for this audit indicated that some enforcement matters have remained unresolved for over five years, and that many compliance issues are simply not being identified by the Council.
28. The Council has a responsibility under the Act to address compliance and enforcement issues in a timely fashion. By not addressing compliance and enforcement the Council is exposing itself to a risk of legal liability, should such a situation result in injury, loss or damage.
29. Accordingly, we recommend that the Council consider creating a position for a dedicated development compliance officer with AIBS qualifications to undertake the compliance and enforcement responsibilities under the Act.

#### Strategic Planning

30. As part of this audit, we reviewed the "Yankalilla District 30 Year Plan – Stage 1", which was produced by the Council. This document sets out a framework for the development of the Council area over the next 30 years. This document was produced after extensive public consultation, and we understand that it has been well-received by the community.

31. We were informed that this document has been reviewed by the Department for Planning and Local Government who have indicated that this document could provide the basis for a future review of the Council's Development Plan under section 30 of the Act.
32. We recognise the effort which has gone into producing this document, and applaud the Council for undertaking detailed planning for its future. Although the Council has not complied with the requirement to review its Development Plan (see below table at section 30), we are confident that this document will ensure that a comprehensive review of the Development Plan as required by this section will occur in the near future.

## Part 2 – Legislative Compliance Audit

### Development Act 1993

<u>Section 18(1), (3) and (4)</u>	<b>Appointment of authorised officers</b>
Requirement	Every authorised officer must be issued an identity card containing a photograph of the authorised officer and stating any conditions of appointment limiting the authorised officer's appointment. An authorised officer must produce the identity card for inspection before exercising the powers of an authorised officer under the Act in relation to any person.
Comment	<p>Matthew Robinson's identity card and instrument of appointment were reviewed during this audit.</p> <p>Matthew Robinson's identity card meets legislative requirements.</p> <p>We did not observe an authorised officer exercising powers under the Act, and therefore, could not ascertain whether the authorised officer produced his or her identity card for inspection prior to exercising his or her powers. We are informed that authorised officers have received training regarding the exercise of their powers and are aware of this requirement.</p>
Compliant	Likely.
Recommendation	<p>Reinforce the requirement for authorised officers to produce the identity card when exercising powers under the Act.</p> <p>This could be achieved by reminding authorised officers under the <i>Development Act 1993</i> that they <u>must</u> produce their identity cards for inspection before exercising their powers under the <i>Development Act 1993</i>.</p>

<b><u>Section 30(1), (5), (5a) and (6)</u></b>	<b>Review of Development Plans by Council</b>
Requirement	<p>A Council must carry out periodic reviews for the purpose of determining the appropriateness of any Development Plan that applies in relation to its area, and the consistency of any such Development Plan with the Planning Strategy.</p> <p>The first review to be carried out by a Council under this section must be completed within four years from November 1995, and each subsequent review must be completed within three years after the completion of the previous review or, if the Minister allows an extension of time on the application by the Council, within five years after the completion of the previous review.</p>
Comment	<p>The Council is currently undertaking the Better Development Plan conversion process in conjunction with the Department of Planning and Local Government. The Council has produced a document "the Yankalilla District 30 year Plan – Stage 1". This document is intended to set a framework for a future section 30 review.</p> <p>No documentary evidence of any previous section 30 reviews were provided because a section 30 review has not been undertaken. However, we reviewed the Yankalilla District 30 Year Plan – Stage 1 as part of this audit and were informed that this document may form the basis for the Council's next section 30 review.</p>
Compliant	<p>No.</p> <p>Council was required to carry out its first section 30 review between 1995 and 1999, and then every 3 to 5 years.</p> <p>We understand from the Council's Development Plan itself that a Section 30 review was last conducted (and a Development Plan Amendment subsequently occurred) in 2002. However, no further section 30 reviews have since been undertaken.</p>
Recommendation	<p>Ensure that a section 30 review is undertaken in 2011, and from thereon, every 3 years.</p>

<b><u>Section 30(2) and (3)</u></b>	<b>Review of Development Plans by Council – Public Notification</b>
Requirement	<p>A Council must give public notice of a review and the notice must contain an invitation to interested persons to make written submissions to the Council on the subject of the review within two months of the date of the notice, or such longer period as may be allowed by the notice.</p> <p>A Council must give any person who makes written submissions in response to such an invitation, an opportunity to appear personally or by representative before the Council or a Council committee and to be heard on those submissions.</p>
Comment	The Council was unable to locate public notice details from the last section 30 review.
Compliant	No. Compliance can only be certified upon production and review of relevant documents.
Recommendation	Reinforce this requirement by ensuring that public notification and consultation in accordance with this section occurs during the next section 30 review.

<b><u>Section 30(5) and (5a)</u></b>	<b>Review of Development Plans by Council – Reporting to the Minister</b>
Requirement	The Council must prepare a report on the review and send a copy of the report to the Minister. The Council must make copies of the report available for inspection (without charge) by the public at the principal office of the Council.
Comment	The Council was unable to locate the report produced for its previous section 30 review.
Compliant	No.
Recommendation	Reinforce this requirement by ensuring that staff are aware of this requirement, and that the Council complies with this requirement during the next section 30 review.

<b><u>Section 34(23) and 34(24)</u></b>	<b>Delegations</b>
<u>Requirement</u>	<p>A Council must delegate its powers and functions as a relevant authority with respect to determining whether or not to grant development plan consent under this Act to its Council Development Assessment Panel; or</p> <p>a person for the time being occupying a particular office or position (but not including a person who is a member of the Council); or a regional Development Assessment Panel.</p> <p>A Council may, make a series of delegations according to classes of development; and vary any delegations from time to time. However, a Council cannot at any time act in its own right in a matter that is subject to delegation; or give a direction with respect to the exercise or performance of a power or function under the delegation.</p>
<u>Comment</u>	Wallmans Lawyers have recently undertaken a review of all Council delegations. We understand that the revised delegations will be adopted soon.
<u>Compliant</u>	Yes, on the basis that the revised delegations will be adopted.
<u>Recommendation</u>	That the Council adopt the reviewed delegations as soon as possible.

<b><u>Section 34 (27)</u></b>	<b>Delegations Policy</b>
<u>Requirement</u>	A Council must establish a policy relating to the basis upon which it will make the various delegations required by subsection (23); and ensure that a copy of that policy is available for inspection at the principal office of the Council during ordinary office hours; and for inspection on the Internet.
<u>Comment</u>	The Council does not have a delegations policy.
<u>Compliant</u>	No.
<u>Recommendation</u>	That the Council prepare and adopt a delegations policy which outlines the basis upon which delegations under the Act and Regulations are made.

<b><u>Section 35(1)</u></b>	<b>Special provisions relating to assessment against a Development Plan</b>
<u>Requirement</u>	If a proposed development is of a kind described as a complying development under the regulations or the relevant Development Plan, the development must be granted a development plan consent.
<u>Comment</u>	<p>The file for DA 260/081/2009 was reviewed. The proposed development was for the construction of a swimming pool. The application was classified as a complying development and granted Development Plan consent.</p> <p>The scope of this audit does not allow for a review of whether the proposed development had been correctly classified as a complying development.</p>
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 35(3)</u></b>	<b>Special provisions relating to assessment against a Development Plan</b>
<u>Requirement</u>	<p>A development that is of a kind described as non-complying development under the relevant Development Plan must not be granted a development plan consent unless –</p> <ul style="list-style-type: none"> <li>➤ where the relevant authority is the DAC – the Minister and, if the development is to be undertaken in the area of a Council, that Council, concur in the granting of the consent;</li> <li>➤ in any other case – <ul style="list-style-type: none"> <li>• the DAC;</li> <li>• in prescribed circumstances – a regional Development Assessment Panel, concurs in the granting of the consent.</li> </ul> </li> </ul>
<u>Comment</u>	The file for DA 260/143/2009 was reviewed. The proposed development was described as "replacement dwelling and new tourist accommodation facility" and was classified as a non-complying development. The DAC resolved to concur and informed the Council of this by way of letter dated 23 October 2009. The Council granted Development Plan consent on 6 November 2009.

<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 35(5)</u></b>	<b>Special provisions relating to assessment against a Development Plan</b>
<u>Requirement</u>	A proposed development that does not fall into the category of complying or non-complying will be merit development (and any such development must be assessed on its merit taking into account the provisions of the relevant Development Plan).
<u>Comment</u>	<p>The file for DA 260/127/2010 was reviewed. The proposed development was described as "dwelling-single storey". The Council determined that this application was for a merit development. This merit proposal appears to have been assessed having regard to the provisions of the Development Plan.</p> <p>The scope of this review does not allow for a review of whether the proposals were correctly classified as merit proposals or whether the proposals were correctly assessed as such.</p>
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 36(2)</u></b>	<b>Special provisions relating to assessment against the Building Rules</b>
<u>Requirement</u>	<p>A development that is at variance with the Building Rules must not be granted a building rules consent unless:</p> <ul style="list-style-type: none"> <li>➤ the variance is with the performance requirements of the Building Code and the Building Rules Assessment Commission concurs in the granting of consent; or</li> <li>➤ the variance is with a part of the Building Rules other than the Building Code and the relevant authority determines that it is appropriate to grant the consent despite the variance on the basis that it is satisfied: <ul style="list-style-type: none"> <li>• that the provisions of the Building Rules are inappropriate to the particular building or building work, or the proposed building work fails to conform with the Building Rules only</li> </ul> </li> </ul>

	<p>in minor respects; and the variance is justifiable having regard to the objects of the Development Plan or the performance requirements of the Building Code and would achieve the objects of this Act as, or more effectively, than if the variance were not to be allowed; or</p> <ul style="list-style-type: none"> <li>• in a case where the consent is being sought after the development has occurred—that the variance is justifiable in the circumstances.</li> </ul>
<u>Comment</u>	An example of such a file was not produced by Council for the purposes of this audit, as the Council has not received a development application which is at variance from Building Rules requirements.
<u>Compliant</u>	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
<u>Recommendation</u>	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Section 36(3)</u></b>	<b>Special provisions relating to assessment against the Building Rules in relation to a State or local heritage place</b>
<u>Requirement</u>	Where an inconsistency exists between the Building Rules and a Development Plan in relation to a State heritage place or a local heritage place, the Development Plan prevails (to the extent of the inconsistency) but the relevant authority must ensure that standards of building soundness, occupant safety and amenity are achieved in respect of the development.
<u>Comment</u>	An example was not produced by Council for the purposes of this audit as the Council has never received such a development application.
<u>Compliant</u>	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
<u>Recommendation</u>	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Section 36(3a)</u></b>	<b>Special provisions relating to assessment against the Building Rules in relation to a State or local heritage place</b>
<u>Requirement</u>	The relevant authority must seek and consider the advice of the Building Rules Assessment Commission before imposing or agreeing to a requirement under s36(3) that would be at variance with the performance requirements of the Building Code.
<u>Comment</u>	An example was not produced by Council for the purposes of this audit.
<u>Compliant</u>	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
<u>Recommendation</u>	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Section 36(4)</u></b>	<b>Special provisions relating to assessment against the Building Rules</b>
<u>Requirement</u>	A relevant authority must accept that proposed building work complies with the Building Rules to the extent that such compliance is certified by the provision of technical details, particulars, plans, drawings or specifications prepared, and certified in accordance with the regulations or such compliance is certified by a private certifier.
<u>Comment</u>	The file for DA 260/143/2009 was reviewed. The nature of the proposed development was described as "replacement dwelling and new tourist accommodation facility". Building Rules consent was undertaken by a private certifier and Building Rules consent was subsequently granted on 17 June 2010.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 36(7)</u></b>	<b>Special provisions relating to assessment against the Building Rules</b>
<u>Requirement</u>	If a relevant authority decides to grant building rules consent in relation to a development that is at variance with the Building Rules, the relevant authority must, subject to the regulations, in giving notice of its decision on the application for that consent, specify (in the notice or in an accompanying document) the variance and the grounds on which the decision is being made.
<u>Comment</u>	An example was not produced by Council for the purposes of this audit as the Council has never received a development application which is at variance with Building Rules.
<u>Compliant</u>	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
<u>Recommendation</u>	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Section 37(1) and (5)</u></b>	<b>Consultation with other authorities or agencies</b>
<u>Requirement</u>	Where an application for consent to, or approval of, a proposed development of a prescribed class is to be assessed by a relevant authority, the relevant authority must refer the application to a body prescribed by the regulations and must not make its decision until it has received a response from that prescribed body. Where relevant authority acting by direction of a prescribed body refuses an application or imposes conditions in respect of a development authorisation, the relevant authority must notify the applicant that the application was refused, or the conditions imposed.
<u>Comment</u>	<p>The file for DA 260/100/2009 was reviewed. The proposal was for a "farmers market" within the Myponga area. This application was referred to the Department for Transport Energy &amp; Infrastructure on 11 June 2009, pursuant to section 37 of the <i>Development Act 1993</i> and schedule 8(19)(g) of the <i>Development Regulations 2008</i>.</p> <p>DTEI replied on 14 June 2009 and directed that they raised no objections to the proposal. The Council issued Development Plan consent and Development Approval for the proposal on 23 July 2009.</p>
<u>Compliant</u>	Yes.

<u>Recommendation</u>	None.
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<b><u>Section 37A(1), (5) and (6)</u></b>	<b>Proposed development involving creation of fortifications</b>
<u>Requirement</u>	If a relevant authority has reason to believe that a proposed development may involve the creation of fortifications, the authority must refer the application to the Commissioner of Police. If the Commissioner determines that the proposed development involves the creation of fortifications, the relevant authority must if the proposed development consists only of the creation of fortifications – refuse the application or in any other case – impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications. If the relevant authority acting on the basis of a determination of the Commissioner refused an application or imposed conditions in respect of a development authorisation, the relevant authority must notify the applicant that the application was refused, or the conditions imposed, on the basis of a determination of the Commissioner.
<u>Comment</u>	An example of such a file was not produced by Council for the purposes of this audit as the Council has never received a development application proposing the creation of fortifications.
<u>Compliant</u>	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
<u>Recommendation</u>	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Section 38(4)</u></b>	<b>Consultation</b>
<u>Requirement</u>	Where a person applies for a consent in respect of the Development Plan for a Category 2 development, notice of the application must be given in accordance with the regulations, to the owner or occupier of each piece of adjacent land and any other person of a prescribed class.
<u>Comment</u>	The file for 206/199/2009 was reviewed. The proposal was for a development described by the Council as "single storey dwelling and garage".  The Council categorised the application as being for a Category 2 development. A review of whether the Council assigned the correct

	<p>category to the application is beyond the scope of this audit.</p> <p>The relevant development file coversheet erroneously states that this file is for a Category 1 development.</p> <p>From the Council's file, it appears that letters were sent to 9 adjoining land owners/occupiers. It is clear that the persons entitled to be given notification of the proposed development were determined by way of printing out a map of the subject land and identifying all adjoining land owner/occupiers.</p> <p>One representation was received within the statutory timeframe. The applicant was informed of the representation on 14 December 2009 and was given an opportunity to respond. On 21 December 2009 the representor was given notice of the Panel meeting. The Council granted Development Plan consent to the proposal on 19 January 2010.</p> <p>A copy of the Council's Decision Notification Form as sent to the representor was not located on the file, though we understand that it is the Council's practice to provide this document to representors.</p>
<u>Compliant</u>	Yes.
<u>Recommendation</u>	As a matter of best practice, Council staff should ensure that development file coversheets accurately represent information contained within the development file (see paragraphs 8 & 9 of Part 1 to this audit for more information).

<b><u>Section 38(5)</u></b>	<b>Consultation</b>
<u>Requirement</u>	Where a person applies for a development assessment of a Category 3 development, notice of the application must be given in accordance with the regulations to the prescribed persons.
<u>Comment</u>	<p>The file for DA 260/100/2009 was reviewed. The application was for a development described by the Council as "market stall". The Council categorised the application as Category 3 development. Whether or not the Council assigned the correct category to this development is beyond the scope of this audit.</p> <p>A public notice was published in "The Times" on 7 May 2009. There is evidence on file of Council sending notice to persons whom it thought required notice on 7 May 2009. Two people lodged representations, one in favour of the development and one objecting to the development. The objector indicated that they wished to be heard before the Panel. The applicant was informed of the representations on 26 May 2009 and given an opportunity to respond. The Panel resolved to approve this development on 23 July 2009. The representors, the applicant and the Environment, Resources and Development Court were informed of the Council's decision to approve the Category 3 development.</p>

<u>Compliant</u>	Yes.
<u>Recommendation</u>	As a best-practice recommendation, the Council should ensure that a map of the locality is maintained on file which shows the location and lists each of the persons to whom notices were sent by the Council. In this way, the Council's decision to notify persons of the proposal can be justified if challenged.

<b><u>Section 38(8)</u></b>	<b>Consultation</b>
<u>Requirement</u>	The relevant authority must forward to the applicant a copy of the representations made and allow the applicant an opportunity to respond in writing to those representations.
<u>Comment</u>	<p>The file for DA 260/100/2009 was reviewed. The application was for a development described by the Council as "market stall". The Council categorised the application as a Category 3 development. Whether or not the Council assigned the correct category is beyond the scope of this audit.</p> <p>The Council forwarded all representations to the applicant, and afforded the applicant an opportunity to respond to all representations received in writing in respect of the application in accordance with legislative requirements.</p>
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 38(10)(b) and (11)</u></b>	<b>Consultation</b>
<u>Requirement</u>	In the case of a Category 3 development – the relevant authority must allow a person who made a representation and who, as part of that representation, indicated an interest in appearing before the authority, a reasonable opportunity to appear personally or by representative before it to be heard in support of the representation. The relevant authority must also allow the applicant a reasonable opportunity, on request, to appear personally or by representative before it in order to respond to any relevant matter.

<u>Comment</u>	The file for DA 260/100/2009 was reviewed. The application was for a development described as a "market stall". Representors were invited to indicate whether they wished to be heard by the Panel in respect of their application and were informed of meeting details, including date, time and location within legislative timeframes.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 38(12) and (13)</u></b>	<b>Consultation</b>
<u>Requirement</u>	Where representations have been made, the relevant authority must give to each person who made a representation notice of its decision and, in the case of a Category 3 development, of the person's appeal rights and, in the case of a Category 3 development, give notice to the Court of its decision and the names and addresses of persons who made representations. Notices must be given within five business days from the date of the decision on the application.
<u>Comment</u>	<p>The file for DA 260/100/2009 was reviewed. The application was for a development described by the Council as "market stall". The Council categorised the application as a Category 3 development. Whether or not the Council assigned the correct category is beyond the scope of this audit.</p> <p>A public notice was published in "The Times" on 7 May 2009. There is evidence on file of Council sending notice to persons whom it thought required notice on 7 May 2009. There is one example of notice being sent on file. Two people lodged representations, one in favour of the development and one objecting to the development. Two persons comprising the one representation in objection indicated that they wished to be heard before the Panel at its meeting dated 11 June 2009 when it considered the application. The applicant was informed of the representations and given an opportunity to respond on 11 June 2009 at the Panel meeting. The Panel resolved to approve this development on 23 July 2009. The Environment, Resources and Development Court was informed of the Council's decision to approve the Category 3 development on 13 August 2010. It is not clear from the file when the representors were informed of the decision. However, as the representors appealed the Council's decision, it is clear that they were given notice at some stage.</p>
<u>Compliant</u>	No. On the basis that the Environment, Resources and Development Court was not notified within five (5) business days of the relevant decision.

<u>Recommendation</u>	That the Environment, Resources and Development Court is given notice within five (5) business days of a decision being made and that evidence of this is kept on the relevant file.
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<b><u>Section 40(1)</u></b>	<b>Determination of application</b>
<u>Requirement</u>	A relevant authority must, on making a decision on an application, give notice of the decision in accordance with the regulations (and, in the case of a refusal, the notice must include the reasons for the refusal and any appeal rights that exist).
<u>Comment</u>	Several Decision Notification Forms were reviewed for the purpose of this audit. Where appeal rights existed, applicants were informed in accordance with this requirement.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 41(1)</u></b>	<b>Time within which decision must be made</b>
<u>Requirement</u>	A relevant authority should deal with an application as expeditiously as possible and within the time prescribed by the regulations.
<u>Comment</u>	System indicator report data was provided for the second quarter reporting period of 2010.
<u>Compliant</u>	Yes. According to the data provided to us for the purposes of this audit, legislative time frames were met for the second quarter of 2010.
<u>Recommendation</u>	None.

<b><u>Section 45A (14)</u></b>	<b>Investigation of development assessment performance</b>
<u>Requirement</u>	Following a Ministerial Investigation into the development assessment performance of the relevant authority, the relevant authority must implement any direction given by the Minister under subsection (11) and (13).
<u>Comment</u>	A ministerial investigation has not been undertaken into the development assessment performance of the Council, and therefore the Council has not received any directions from the Minister.
<u>Compliant</u>	Not applicable.
<u>Recommendation</u>	That staff and the Development Assessment Panel are reminded of this requirement, should a ministerial investigation ever occur.

<b><u>Section 50(1), (3), (4) and (10)</u></b>	<b>Open space contribution scheme</b>
<u>Requirement</u>	Where an application provides for the division of land into more than 20 allotments and one or more allotments is less than one hectare in area the Council may require that up to 12.5% in area of the relevant area be vested in the Council or the Crown to be held as open space or the applicant make a contribution or both and in so acting, the Council must have regard to any relevant provision of the Development Plan that designates any land as open space and must not take any action that is at variance with the Development Plan without the concurrence of the Development Assessment Commission. The money must be immediately paid into a special fund and applied by the Council for the purpose of acquiring or developing land as open space.
<u>Comment</u>	The Council has a trust account set up for Open Space contributions.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 50A(7) and (8)</u></b>	<b>Carparking fund</b>
<u>Requirement</u>	<p>Any money in a carparking fund that is not for the time being required for the purpose of the fund may be invested by the Council and any resultant income must be paid into the fund.</p> <p>The money standing to the credit of a carparking fund may be applied by the Council for the purpose of (and for no other purposes) providing carparking facilities within the designated area or to provide funds for (or towards) the maintenance, operation or improvement of carparking facilities within the designated area or to provide funds for (or towards) the establishment, maintenance or improvement of transport facilities within the area of the Council with a view to reducing the need or demand for carparking facilities within the designated area.</p>
<u>Comment</u>	The Council does not have a carparking fund.
<u>Compliant</u>	Not applicable.
<u>Recommendation</u>	Consider opening a dedicated bank account for future contributions.

<b><u>Section 56A(1)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	A Council must establish a Panel (a Council Development Assessment Panel)
<u>Comment</u>	The Council has a Development Assessment Panel. At the Council meeting of 20 November 2008, the current members were appointed for a period of 2 years.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 56A(3)(a)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	A Panel must consist of 7 members (or otherwise with Ministerial approval)
<u>Comment</u>	The members of the Panel are Councillors Aistrope, Sanderson and Spilsbury; and independent members Angus Moir, David Salkeld (Presiding Member), Vanessa Byers, and Barry Webb.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 56A(3)(b) and (c)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	<p>The presiding member will be appointed by the Council taking into account the following requirements:</p> <ul style="list-style-type: none"> <li>➤ the presiding member must not be a member or officer of the Council;</li> <li>➤ the presiding member must be a fit and proper person to be a member of a Development Assessment Panel;</li> <li>➤ subject to any provision made by the regulations, the presiding member must be a person who is determined by the Council to have a reasonable knowledge of the operation and requirements of this Act, and appropriate qualifications or experience in a field that is relevant to the activities of the Panel.</li> </ul> <p>Up to half of the remaining members may comprise Council members or officers of the Council, the other members are to be independent. With respect to the independent members of the Panel:</p> <ul style="list-style-type: none"> <li>➤ each must be a fit and proper person to be a member of a Council Development Assessment Panel; and</li> <li>➤ subject to any provision made by the regulations, each must be a person who is determined by the Council to have a reasonable knowledge of the operation and requirements of this Act, and appropriate qualifications or experience in a field that is relevant to the activities of the Panel; and</li> <li>➤ the qualifications and experience of these members, when considered in conjunction with the qualifications and experience</li> </ul>

	of the presiding member, must provide a reasonable balance across the fields that are relevant to the activities of the Panel.
<u>Comment</u>	The Panel consists of 3 Elected Members and 4 Independent Members.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 56A(3)(d)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	The Council must, unless granted an exemption by the Minister, ensure that at least 1 member of the Panel is a women and at least 1 member is a man and should, insofar as is reasonably practicable, ensure that the Panel consists of equal numbers of men and women.
<u>Comment</u>	The Panel consists of at least 1 female member.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 56A(5)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	The Council must, within 14 days after appointing a person as a member of a Council Development Assessment Panel, give notice of the appointment by publishing the prescribed particulars in a newspaper circulating in the area of the Council.
<u>Comment</u>	The Council could not locate a copy of the notice which was published announcing the appointment of the Panel members, though we understand that a notice was indeed published.
<u>Compliant</u>	Without being able to review a copy of such a notice, we cannot comment on whether the Council is compliant in this regard.
<u>Recommendation</u>	To ensure that Council, complies with this requirement in the future.

<b><u>Section 56A(6)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	A member of a Council Development Assessment Panel who is not a member of the Council must disclose his or her financial interests in accordance with Schedule 2.
<u>Comment</u>	<p>Primary returns for each independent member were reviewed. Each return was completed in the correct form, <u>however</u>, the returns were completed in September 2010. Primary returns are required to be completed upon appointment, therefore, they should have been completed by March 2009, before the Panel had its first meeting.</p> <p>Ordinary returns for 2007 and 2010 were reviewed for each of the independent Panel members Angus Moir, Barry Webb, David Salkeld (Presiding Member), and Vanessa Byers.</p> <p>We understand that ordinary returns were not completed for 2008 and 2009.</p> <p>Elected Members who are appointed to the Panel are not required to complete primary and ordinary returns for the purposes of the <i>Development Act 1993</i>. Those members who are required to submit ordinary returns must do so before 30 August of each year. Ordinary returns must be in the form set out in Schedule 27 of the <i>Development Regulations 2008</i>.</p> <p>All ordinary returns are required to be submitted on or before 60 days after 30 June in each year (i.e. on or before 30 August 2010). Ordinary returns must be in the form set out in Schedule 27 of the <i>Development Regulations 2008</i> and contain the information set out in Regulation 116(6).</p> <p>All of the ordinary returns sighted were on the correct form. However, the 2010 ordinary returns were not completed by 30 August 2010 – rather they were completed in September 2010.</p>
<u>Compliant</u>	No.
<u>Recommendation</u>	<p>Ensure that primary returns are completed by independent members of the Development Assessment Panel upon appointment no later than 30 June after appointment and that appropriate records are kept. Ensure that primary returns are completed by the prescribed date.</p> <p>Ensure that ordinary returns are completed by independent Panel members no later than 30 August of each year.</p>

<b><u>Section 56A(7)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	A member of a Council Development Assessment Panel who has a direct or indirect personal or pecuniary interest in a matter before the Council Development Assessment Panel (other than an indirect interest that exists in common with a substantial class of persons) must as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the Panel and must not take part in any hearings conducted by the Panel, or in any deliberations or decision of the Panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.
<u>Comment</u>	The minutes of the Panel's meeting of 11 February 2010 were reviewed. In that meeting, Angus Moir declared a conflict of interest and left the meeting before Item 6.1, which was the assessment of DA 260/D026/2008. The basis upon which this member declared an interest was recorded.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 56A(11) and (12)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	<p>A meeting of a Council Development Assessment Panel must be conducted in a place open to the public.</p> <p>A Council Development Assessment Panel may exclude the public from attendance in certain circumstances listed in section 56A(12)(a) during so much of a meeting that consists of its discussion or determination of any application or other matter that falls to be decided by the Panel.</p>
<u>Comment</u>	From a review of the minutes of the Panel meetings, it appears that Panel meetings are conducted in a space open to the public, namely Yankalilla Council Chambers.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 56A(13) and (14)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	A Council Development Assessment Panel must ensure that accurate minutes are kept of its proceedings. A disclosure under subsection (7)(a) must be recorded in the minutes of the Council Development Assessment Panel.
<u>Comment</u>	The Panel minutes of the meeting held 15 February 2010 were reviewed. Mr Angus Moir declared a conflict of interest.
<u>Compliant</u>	Yes, as the nature and extent of the interest was recorded in the minutes.
<u>Recommendation</u>	None.

<b><u>Section 56A(17)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	Minutes must be available under subsection (15)(b) within 5 business days after their adoption by the members of the Panel.
<u>Comment</u>	We were informed that Panel minutes are made available on Council's website within five (5) business days of their adoption.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 56A(20)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	A Council must, at the request of the Minister, provide information to the Minister about the constitution of a Council Development Assessment Panel or about the powers and functions delegated to a Council Development Assessment Panel.
<u>Comment</u>	The Minister has not made a request of this nature.
<u>Compliant</u>	Not applicable.

<u>Recommendation</u>	None.
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<b><u>Section 56A(22) and (23)</u></b>	<b>Councils to establish Development Assessment Panels</b>
<u>Requirement</u>	Each Development Assessment Panel must have a public officer (who must not be a member of the Panel) appointed by the Council and a Council must, on appointing a public officer, ensure that notice of the appointment (including the public officer's name and contact details) is published in the Gazette
<u>Comment</u>	The public officer for the Panel is Chief Executive Officer Roger Sweetman. Roger Sweetman was appointed as the Panel's public officer on 15 March 2007.  A Gazette notice relating to this notice of appointment of a public officer was not produced for this audit because the appointment was not gazetted.
<u>Compliant</u>	No.
<u>Recommendation</u>	Ensure that the appointment of the public officer is gazetted as soon as possible.

<b><u>Section 57(2c)</u></b>	<b>Land Management Agreements</b>
<u>Requirement</u>	A register must be kept available for public inspection (without charge) in accordance with the regulations.
<u>Comment</u>	A public register of all Land Management Agreements is available for inspection.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 57(2e)</u></b>	<b>Land Management Agreements</b>
<u>Requirement</u>	If an agreement is (or is to be) entered into in connection with the granting of development plan consent with respect to a Category 2A, Category 2 or Category 3 development, a note of the existence of the agreement or of the proposal to enter into the agreement), and of the availability of copies of the agreement for public inspection, must be included on the notice of the relevant authority's decision.
<u>Comment</u>	An example of such a file was not produced by the Council.
<u>Compliant</u>	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
<u>Recommendation</u>	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Section 57A(6)</u></b>	<b>Land Management Agreements – Development Applications</b>
<u>Requirement</u>	A register must be kept available for public inspection (without charge) in accordance with the regulations.
<u>Comment</u>	A public register of Land Management Plans is available for inspection.
<u>Compliant</u>	Yes.
<u>Recommendation</u>	None.

<b><u>Section 57A(8)</u></b>	<b>Land Management Agreements – Development Applications</b>
<u>Requirement</u>	If an agreement is entered into under this section in connection with an application for a development authorisation with respect to a Category 2A, Category 2 or Category 3 development, a note of the existence of the agreement must be included on the notice of the relevant authority's decision.
<u>Comment</u>	An example of such a file was not able to be located by the Council as the Council has not entered into a section 57A Land Management

	Agreement.
Compliant	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
Recommendation	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Section 66(4)</u></b>	<b>Classification of buildings</b>
Requirement	Where a Council assigns a classification the Council must give notice in writing to the owner of the building to which the classification has been assigned, of the classification assigned to the building.
Comment	It is evident from the review of several files that building classifications are notified in writing to the owner of the building via Decision Notification Forms.
Compliant	Yes, subject to the owner being sent a copy of the Decision Notification Form in circumstances where the owner of the proposed building is not the applicant for the Development Approval.
Recommendation	None.

<b><u>Section 67(5) and (6)</u></b>	<b>Certificates of occupancy</b>
Requirement	The Council must consider any report or consent from a prescribed agency or authority supplied under subsection (4) before deciding the application. The Council must issue the certificate if it is satisfied that the relevant building is suitable for occupation and complies with such requirements as may be prescribed by the regulations.
Comment	<p>The Council does not issue Certificates of Occupancy itself – rather its Building Rules Assessment Contractors do.</p> <p>The file for DA 260/181/2009 was reviewed. The proposed development was described as "bottle shop extension and new drive through".</p> <p>A Certificate of Occupancy was not located on the file.</p>

Compliant	No. The Council is required to issue a Certificate of Occupancy itself, and cannot delegate this responsibility to a third party in the absence of a formal delegation. The Council can however, take the advice of its contractors before deciding to issue a Certificate of Occupancy.
Recommendation	Ensure that Certificates of Occupancy are issued by a delegate of the Council.

<b><u>Section 67(10)</u></b>	<b>Certificates of occupancy</b>
Requirement	A Council which refuses an application must notify the applicant in writing of the refusal and the reasons for the refusal and the applicant's rights of appeal.
Comment	An example of such a file was not produced by the Council as it has never refused such an application.
Compliant	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
Recommendation	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Section 68(3)</u></b>	<b>Temporary occupation</b>
Requirement	A Council which refuses an application must notify the applicant in writing of the refusal and the reasons for the refusal and the applicant's right of appeal.
Comment	An example of such a file was not produced by the Council as it has never received such an application.
Compliant	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
Recommendation	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Section 69(8) and (9)</u></b>	<b>Emergency orders</b>
Requirement	An order must be given in writing unless the authorised officer considers that urgent action is required in which case it may be given orally. If the direction is given orally, the authorised officer who gave the direction must confirm the direction by notice in writing by 5.00pm on the next business day.
Comment	An example of such a notice was not produced by the Council. This is because the Council does not have a record of it ever having issued a section 69 order.
Compliant	We are unable to comment on whether the Council is compliant as it has not issued such an order.
Recommendation	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Section 71(1a)</u></b>	<b>Fire safety</b>
Requirement	An authorised officer who holds prescribed qualifications must conduct an inspection of a building at the request of an appropriate authority or a fire authority.
Comment	<p>The Council's Building Fire Safety Committee consists of three members, Pat Ryan (Senior Building Fire Safety Officer, SACFS), John Mazzarolo (Building Surveyor) and Steve Ryles (Assistant Building Surveyor).</p> <p>The Council's Building Fire Safety Committee is responsible for requesting fire inspections. Two Committee officers hold the prescribed qualifications and can therefore carry out inspections.</p>
Compliant	Yes.
Recommendation	None.

<b><u>Section 71(19) (a) and (b)</u></b>	<b>Fire safety</b>
Requirement	<p>The following apply with respect to the establishment of an appropriate authority:</p> <ul style="list-style-type: none"> <li>➤ the appropriate authority will be constituted of a person who holds prescribed qualifications in building surveying appointed by the Council or Councils; and a person nominated by the Chief Officer of the South Australian Metropolitan Fire Service or the Chief Officer of the South Australian Country Fire Service, and a person with expertise in the area of fire safety appointed by the Council, and if so determined by the Council - a person selected by the Council.</li> <li>➤ the term of office of a member of the appropriate authority will be a period not exceeding three years determined by the Council or Councils.</li> </ul>
Comment	The Council's Building Fire Safety Committee consists of three members, Pat Ryan (Senior Building Fire Safety Officer, SACFS), John Mazzarolo (Building Surveyor) and Steve Ryles (Assistant Building Surveyor).
Compliant	Yes.
Recommendation	None.

<b><u>Section 71(20)</u></b>	<b>Fire safety</b>
Requirement	A member of an appropriate authority who has a personal interest or a direct or indirect pecuniary interest in any matter before the appropriate authority must not take part in any deliberations or decisions of the authority in relation to that matter.
Comment	An interest has not yet been declared at a BFSC meeting.
Compliant	Unable to comment as no instance of an interest has arisen.
Recommendation	Ensure that all BFSC members are aware of the interest provisions, and that, should an interest arise, that it is recorded in the BFSC minutes.

<b><u>Section 71A(1)</u></b>	<b>Building inspection policies</b>
Requirement	A Council must prepare and adopt a Building Inspection Policy.
Comment	The Council has adopted a Building Inspection Policy.
Compliant	Yes.
Recommendation	None.

<b><u>Section 71A(2)</u></b>	<b>Building inspection policies</b>
Requirement	A Council must, in its Building Inspection Policy, specify a level or levels of audit inspections to be carried out by the Council on an annual basis with respect to building work within its area involving classes of building prescribed by the regulations and the criteria that are to apply with respect to selecting the buildings that are to be inspected under the policy.
Comment	<p>Council's policy states that its officers shall carry out audit type inspections on the following basis:</p> <ul style="list-style-type: none"> <li>➤ Council shall inspect a minimum of 10% of Class 1A and Class 2 buildings per annum selected in accordance with the selection criteria set out in the Policy. In addition, Council shall inspect all Class 1B buildings, all swimming pools, all Class 3 buildings, and a minimum of 10% of Class 4 to 9 buildings per annum as selected in accordance with the selection criteria set out in the Policy.</li> <li>➤ The Policy sets out the relevant selection criteria and types of inspections to be conducted and sets out further detail with respect to each relevant class and specific requirements to be adhered to when conducting building inspections with respect to each class.</li> </ul>
Compliant	Yes.
Recommendation	None.

<b><u>Section 71A(4)</u></b>	<b>Building inspection policies</b>
Requirement	<p>A Council must prepare and adopt a Building Inspection Policy. A Council must, when preparing its Building Inspection Policy take into account:</p> <ul style="list-style-type: none"> <li>➤ the financial and other resources of the Council, and of its local community;</li> <li>➤ the impact that a failure to inspect a certain number of buildings of the relevant classes over a period of time may have on its local community;</li> <li>➤ past practices of the Council with regard to inspections and the assessment of building work in its area;</li> <li>➤ whether the area, or a particular part of the area, of the Council is known to be subject to poor building conditions;</li> <li>➤ information in the possession of the Council of poor building standards within its local community; and</li> <li>➤ 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 buildings.</li> </ul>
Comment	The Policy does not specifically detail any of these factors.
Compliant	No.
Recommendation	Update the Policy to include confirmation that the above factors have been taken into account.

<b><u>Section 71A(4a)</u></b>	<b>Building inspection policies</b>
Requirement	A Building Inspection Policy must comply with any regulation prescribing a minimum level of inspections to be carried out by the Council on an annual basis with respect to building work within its area (including building work assessed by private certifiers).
Comment	The Council's Policy indicates that the Council shall inspect a minimum of 10% of Class 1A and Class 2 buildings per annum selected in accordance with the relevant selection criteria. Council shall inspect all Class 1B buildings, all swimming pools, all Class 3 buildings, and a minimum of 10% of Class 4 to 9 buildings per annum as selected in

	accordance with selection criteria set out within the Policy.
Compliant	Yes.
Recommendation	None.

<b><u>Section 84(3), (4) and (5)</u></b>	<b>Enforcement Notices</b>
Requirement	A direction must be given by notice in writing unless the relevant authority considers that the direction is urgently required, in which case it may be given orally by an authorised officer. If a direction is given orally, the authorised officer who gave the direction must confirm the direction by notice in writing by 5:00pm on the next business day. A written notice must set out any appeal rights that the person may have.
Comment	<p>An example of an Enforcement Order issued orally due to a requirement that urgent action be taken was not provided for this audit and, therefore, a check of whether the direction was confirmed in writing by 5.00 pm on the next business day could not be undertaken.</p> <p>We understand that current Council staff have not issued a verbal order.</p> <p>A Section 84 Enforcement Notice issued in respect of 31 St Andrews Boulevard and Lot 900 (Links Lady Bay Golf Course), Normanville was reviewed. The notice correctly sets out the appeal rights and the fact that directions are still enforceable despite an appeal.</p>
Compliant	Yes, insofar as the Enforcement Notice contains the details required by the Act.
Recommendation	Ensure that all staff are made aware and reminded of the requirement to follow up a verbal direction with a written notice.

<b><u>Section 101A</u></b>	<b>Councils to establish strategic planning and development policy committees</b>
Requirement	<p>A Council must establish a Strategic Planning and Development Policy Committee. The functions of the Committee are:</p> <ul style="list-style-type: none"> <li>➤ to provide advice to the Council in relation to the extent to which Council's Strategic Planning and Development Policies accord with the Planning Strategy; and</li> </ul>

	<ul style="list-style-type: none"> <li>➤ to assist the Council in undertaking Strategic Planning and monitoring directed at achieving –</li> <li>➤ ordinarily and efficient development within the area of the Council; and</li> <li>➤ high levels of integration of transport and land-use planning; and</li> <li>➤ relevant targets set out in Planning Strategy within the area of the Council; and</li> <li>➤ the implementation of affordable housing policies set out in the Planning Strategy within the area of the Council; and</li> <li>➤ other outcomes of a prescribed kind (if any).</li> <li>➤ to provide advice to the Council (or to act as its delegate) in relation to Strategic Planning and Development Policy issues when the Council is preparing –</li> <li>➤ a Strategic Directions Report; or</li> <li>➤ a Development Plan Amendment Proposal; or</li> <li>➤ other functions (other than functions relating to development assessment or compliance) assigned to the Committee by the Council.</li> </ul> <p>Such Committees are required to be established under Section 41 of the <i>Local Government Act 1999</i>.</p>
Comment	The Council has not established a Strategic Planning and Development Policy Committee.
Compliant	No.
Recommendation	That Council establish such a Committee.

<b><u>Schedule 2,</u></b> <b><u>clause 2(1)</u></b>	<b>Disclosure of financial interests – disclosure of interests</b>
Requirement	A prescribed member of an assessment Panel must on appointment, submit to the relevant official a return in the prescribed form relating to his or her pecuniary interests in accordance with the regulations and on an annual basis in accordance with the requirements of the regulations, submit to the relevant official an annual return in the prescribed form relating to his or her pecuniary interests in accordance with the

	regulations.
Comment	<p>Primary returns and ordinary returns for independent Panel members Angus Moir, Barry Webb, David Salkeld (Presiding Member), Vanessa Byers were reviewed.</p> <p>Ordinary returns were not produced for Elected Members on the Panel. This is correct as Elected Members who are appointed to the Panel are not required to complete primary and ordinary returns for the purposes of the <i>Development Act 1993</i>.</p> <p>Primary returns must be submitted as soon as possible after the appointment of a Panel member and must be in the form set out in Schedule 26 of the <i>Development Regulations 2008</i>. Primary returns were not completed by independent members until September 2010, although they were completed on the correct form.</p> <p>All ordinary returns are required to be submitted on or before 60 days after 30 June in each year (i.e. on or before 30 August 2009). Ordinary returns must be in the form set out in Schedule 27 of the <i>Development Regulations 2008</i> and contain the information set out in Regulation 116(6).</p> <p>Ordinary returns for 2010 were set out in the correct form, however none were submitted within the required timeframe.</p>
Compliant	No.
Recommendation	<p>Ensure that primary returns are completed by incoming members of the Development Assessment Panel and that appropriate records are kept. Ensure that primary returns are completed by the prescribed date.</p> <p>Ensure that primary returns are completed by the current members of the Development Assessment Panel as soon as possible.</p> <p>Require all independent Panel members to lodge ordinary returns on the correct forms as soon as possible.</p> <p>Ensure that primary and ordinary returns are completed in accordance with this requirement in the future.</p>

<b><u>Schedule 2,</u></b> <b><u>clause 3</u></b>	<b>Disclosure of financial interests – register</b>
Requirement	A relevant official must maintain a register of interests and cause to be entered in the register all information furnished.
Comment	We were informed that primary and ordinary returns are retained by the Senior Planning Officer.

Compliant	Yes.
Recommendation	None.

Development Regulations 2008

<b><u>Regulation 15(5)</u></b>	<b>Application to Relevant Authority</b>
Requirement	If an application is lodged with a Council but the Development Assessment Commission is the relevant authority, the Council must retain one copy of the application, and one copy of any plans, drawings, specifications and other documents and information accompanying the application and forward the application together with the remaining copies of the plans, drawings, specifications and other documents and information, and a written acknowledgement that the appropriate fees have been paid, to the Development assessment Commission within 5 business days after their receipt by the Council.
Comment	An example of an application being made to the Council instead of the Development Assessment Commission was not produced for this audit.  We understand that the Council was not able to locate such an application, and to the best of the Council's staff knowledge, such an application has never been received by the Council.
Compliant	We are unable to comment in this regard, as we have not reviewed such a file because the Council was unable to locate such an application.
Recommendation	Ensure that all staff are made aware and are reminded of this requirement, so that applications which must be made to DAC are forwarded in accordance with this requirement.

<b><u>Regulation 16(1) and (2)</u></b>	<b>Nature of Development</b>
Requirement	If an application will require a relevant authority to assess a proposed development against the provisions of a Development Plan, the relevant authority must determine the nature of the development and proceed to deal with the application according to that determination. If the relevant authority is of the opinion that an application relates to a kind of development that is described as non-complying under the relevant Development Plan, and the applicant has not identified the development as such, the relevant authority must, by notice in writing, inform the applicant of that fact.

Comment	<p>The file for DA 260/178/2009 was reviewed. The proposed development was described as outbuilding tourist accommodation (retrospective). The application did not specify if this development was non-complying.</p> <p>The Council determined that this proposal was non-complying and informed the applicant of this fact on 18 November 2009.</p>
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 17(4)</u></b>	<b>Non-complying development</b>
Requirement	If a relevant authority resolves to proceed with an assessment of the application, the relevant authority must, before giving any notice required under section 38(4) or (5) of the Act, obtain from the applicant a statement of effect under section 39(2)(d) of the Act.
Comment	<p>The file for DA 260/178/2009 was reviewed. The Council determined that the application was for a non-complying development and requested a statement of effect on 18 November 2009 and 18 January 2010.</p> <p>A statement of effect was provided by the applicants on 7 May 2010.</p>
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 18</u></b>	<b>Notification of application for tree-damaging activity to owner of land</b>
Requirement	If an owner of land to which an application for a tree-damaging activity in relation to a significant tree relates is not a party to the application, the relevant authority must give the owner notice of with application within 5 business days after the application is made and give due consideration in its assessment of the application to any submissions made by the owner within a reasonable time after the giving of notice.
Comment	The significant tree provisions of the Development Act do not apply in the Council's area.

Compliant	Not applicable.
Recommendation	None.

<b><u>Regulation 22(1)</u></b>	<b>Withdrawal of application</b>
Requirement	If an application is withdrawn by the applicant under section 39(9) of the Act, the relevant authority must notify any agency to which the application has been referred and any person who has made a representation in relation to the application
Comment	The Council could not locate an example of such an application and current Council staff confirmed that they had never received a withdrawal in these circumstances.
Compliant	We are unable to comment as we have not reviewed such an application.
Recommendation	Ensure that staff are made aware and are reminded of this requirement, so that, if such an event occurs, the requirements of this provision are met.

<b><u>Regulation 22(3)</u></b>	<b>Applications extending beyond two years</b>
Requirement	A relevant authority must, before it takes action to lapse an application, take reasonable steps to notify the applicant of the action under consideration and allow the applicant a reasonable opportunity to make submissions to the relevant authority (in a manner and form determined by the relevant authority) about the proposed course of action.
Comment	An application that was lapsed under this provision was not provided by the Council. We were informed that current Council staff have never had cause to exercise this power.
Compliant	We are unable to provide comment on compliance with this requirement due to the fact that we have not reviewed such an application.
Recommendation	Ensure that all staff are made aware and are reminded of this provision, so that if an application must be lapsed, it is done so in accordance with this requirement.

<b><u>Regulation 22(5)</u></b>	<b>Applications extending beyond two years</b>
Requirement	If an application relates to a Category 2 or 3 development and at least two years have passed since the date on which notice of the application was given under section 38(4)(a) or (5)(c) of the Act, the relevant authority must not give its consent unless a new notice of the application has been given under section 38(4) or (5) of the Act.
Comment	The Council did not provide an example as they were unable to locate such an application. Current Council staff confirmed that they have not encountered such a situation.
Compliant	Again, we are unable to comment as we have not reviewed such an application.
Recommendation	Ensure that staff are made aware and are reminded of this requirement, so that, if such an event occurs, the requirements of this provision are met.

<b><u>Regulation 24(1)</u></b>	<b>Referrals</b>
Requirement	Where an application for consent or approval relates to a development that falls within a class of development prescribed under Schedule 8, the relevant authority must refer the application, together with a copy of any relevant information provided by the applicant, to the relevant body prescribed by Schedule 8 and must not make its decision until it has received a response from that body in relation to the matter or matters for which the referral was made (but if a response is not received from the body within the period prescribed by Schedule 8, it will be presumed, unless the body notifies the relevant authority within that period that the body requires an extension of time because of section 37(8) of the Act, that the body does not desire to make a response, or concurs (as the case requires)).
Comment	The file for DA 260/143/2009 was reviewed. The proposed development was referred to the Development Assessment Commission on 14 October 2009 and the DAC's response is dated 23 October 2009. Development Plan consent was issued on 6 November 2009.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 25</u></b>	<b>Procedure where concurrence required</b>
Requirement	<p>Where a relevant authority must seek the concurrence of another body prior to issuing a consent or approval, the relevant authority must first comply with the requirements of this Part and Schedule 8 to the extent that the application must be referred to another body or bodies for report or directions (but not concurrence) and with the requirements of Part 6 (insofar as they are relevant to the particular application) and must then forward to the body from which the concurrence is required a copy of:</p> <ul style="list-style-type: none"> <li>• the application together with any plans, drawings, specifications or other documents or information submitted by the applicant</li> <li>• any report received from another body under the Act or the Regulations which may be relevant to the body's decision</li> <li>• any written submissions or representations received by the relevant authority under section 38 of the Act</li> <li>• the statement of effect (if relevant)</li> <li>• any report from a person under Part 15</li> <li>• the conditions (if any) that the relevant authority proposes to attach to its approval.</li> </ul>
Comment	<p>The file for DA 260/143/2009 was reviewed. The application was for a development described as "Tourist Accommodation Facility". Development Plan consent was approved 6 November 2009. The application was sent to the Development Assessment Commission on 14 October 2009. Also enclosed were relevant Council meeting minutes, photographs, representations, statement of effect (submitted by applicant) and other plans and specifications. DAC concurrence was provided 23 October 2009. Development Plan Consent was granted on 6 November 2009.</p>
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 27(1)</u></b>	<b>Additional information or amended plans</b>
Requirement	<p>If a relevant authority has referred an application to a prescribed body and the relevant authority subsequently receives additional information, or an amended plan, drawing or specification, which is materially relevant to the referral, or to any report obtained as part of the referral process, it may repeat the referral process and must do so if it appears that the</p>

	additional information or amendment is significant.
Comment	<p>The file for DA 260/225/2009 was reviewed. Council referred the application to the Department of Environment and Heritage on 13 October 2009. The Department's response is dated 13 November 2009. This response advised that the proposed development was acceptable, and set out the reasons for this view.</p> <p>Council appears to have subsequently received correspondence from the applicant advising of a proposed change of material and colour to the development application (re-roofing of Church), in the form of a letter from the applicant dated 9 March 2010. This letter and proposed amendment to the development appeared to be significant in so much as they indicate that the material and colour of the development was to be changed.</p> <p>Email correspondence between Council officers and an officer for the Department for Environment and Heritage was reviewed, and it appears that the referral process has been repeated.</p>
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 28(3), (4), (5) and (6)</u></b>	<b>Special provisions – referral to fire authorities</b>
Requirement	The relevant authority must refer an application for building rules consent to the relevant fire authority for comment and report in certain circumstances. If a report is not received within 20 business days, the relevant authority may presume that the fire authorities do not desire to make a report. The relevant authority must have regard to any report received. The relevant authority must provide to the Building Rules Assessment Commission a copy of any report received that relates to an application that is referred to the Building Rules Assessment Commission under the Act.
Comment	An example of such a file was not provided by the Council.
Compliant	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
Recommendation	Ensure that staff are reminded of this requirement so that, should such a situation arise, the Council complies with this requirement.

<b><u>Regulation 29(1)</u></b>	<b>Land division applications</b>
Requirement	If a Council is the relevant authority for an application which relates to a proposed development that involves the division of land, the Council must not make a decision on the application until it has received a report from the Development Assessment Commission.
Comment	The file for DA 260/C019/2008 was reviewed. The land division application was lodged on 4 September 2008. The Council received the relevant report from the Development Assessment Commission on 24 September 2008. Development Plan consent was granted 9 January 2009.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 31A(7)</u></b>	<b>Preliminary advice and agreement – section 37AA</b>
Requirement	If an application is withdrawn by the applicant, and the applicant sought to rely on an agreement under section 37AA of the Act in connection with the application, the relevant authority must notify the relevant prescribed body of the withdrawal.
Comment	The Council did not provide an example of such a notification, as a development application relying on section 37AA has never been received by the Council.
Compliant	Unable to comment.
Recommendation	Ensure that staff are reminded of this requirement, so that, if a situation arises, this provision is complied with.

<b><u>Regulation 31A(8)</u></b>	<b>Preliminary advice and agreement – section 37AA</b>
Requirement	If an application is lapsed by a relevant authority under regulation 22; and the applicant sought to rely on an agreement under section 37AA of the Act in connection with the application, the relevant authority must

	notify the relevant prescribed body of the lapsing.
Comment	The Council did not provide an example of such notification, as a development application relying on section 37AA has never been received by the Council.
Compliant	Unable to comment.
Recommendation	Ensure that staff are reminded of this requirement, so that, if such a situation arises, this provision is complied with.

<b><u>Regulation 31A(9)</u></b>	<b>Preliminary advice and agreement – section 37AA</b>
Requirement	If an applicant seeks to rely on an agreement under section 37AA of the Act in connection with the application; and a notice of a decision on the application is issued by the relevant authority under regulation 42,  the relevant authority must send a copy of the notice to the prescribed body within 5 business days after the notice is given to the applicant under regulation 42.
Comment	The Council did not provide an example of such a notification, as a development application relying on section 37AA has never been received by the Council.
Compliant	Unable to comment.
Recommendation	Ensure that staff are reminded of this requirement, so that, if such a situation arises, this provision is complied with.

<b><u>Regulation 33(1)</u></b>	<b>Giving of notice</b>
Requirement	A notice required under section 38(4) or (5) of the Act must describe the nature of the proposed development, identify the land on which the development is proposed, state that the proposed development is non-complying (where applicable) and indicate where and when the relevant application may be inspected, and with whom, and the time by which, any relevant representations may be lodged.
Comment	Several files where applications required public notification were reviewed for the purposes of this audit. The notices which were sent to

	adjoining landowners/occupiers met the requirements of Regulation 33(1).
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 34(1)</u></b>	<b>Public inspection of certain applications</b>
Requirement	The relevant authority must, in respect of any application for consent in respect of the Development Plan for a Category 2 or 3 development, ensure that copies of the application, any supporting plans, drawings, specifications or other documents or information provided and any statement of effect that has been prepared (if relevant) are reasonably available for inspection (without charge) by the public at the principal office of the relevant authority for the period commencing on the day on which notice of the application is first given and ending on a day by which written representations must be lodged
Comment	When applications are put out for public notification, the required information is made available for inspection.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 34(2) and (3)</u></b>	<b>Public inspection of certain applications</b>
Requirement	The relevant authority must, pursuant to a request made within the specified time, on payment of a fee fixed by the relevant authority, provide to a member of the public a copy of any document or information available for inspection. A person who makes a request must provide to the relevant authority his or her name, address and contact details, and must, at the request of the relevant authority, verify this information in such a manner as the relevant authority thinks fit.
Comment	The Council asks for identification prior to providing application documents to a member of the public. The Council does not provide copies of Category 2 application documents to people who are not entitled to make a representation.

Compliant	Yes.
Recommendation	None.

<b><u>Regulation 37</u></b>	<b>Notice of hearing of submissions</b>
Requirement	If pursuant to section 38(10) or (11) of the Act a person is to be allowed to appear personally or by representative before a relevant authority to be heard on a representation, or to respond to any matter, the relevant authority must give the person at least five business days notice of the place and time at which the person should appear.
Comment	<p>The file for 206/199/2009 was reviewed. The proposal was for a development described by the Council as "single storey dwelling and garage".</p> <p>The Council categorised the application as being for a Category 2 development. A review of whether the Council assigned the correct category to the application is beyond the scope of this audit. From the Council's file, it appears that letters were sent to 9 of the adjoining land owners/occupiers. It is clear that the persons entitled to be given notification of the proposed development were determined by way of printing out a map of the subject land and identifying all adjoining land owner/occupiers.</p> <p>One representation was received within the statutory timeframe. The applicant was informed of the representation on 14 December 2009 and was given an opportunity to respond to that representation. On 21 December 2009, the Council informed the representor of the Panel meeting and was informed that a copy of the agenda would be available on the Council website from 8 January 2010. On 11 February 2010 the applicant was provided a copy of the Council's Decision Notification Form.</p>
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 39</u></b>	<b>Assessment in respect of the Building Rules referred to Council</b>
Requirement	If a Council is a relevant authority pursuant to section 34(2) of the Act then, the Council must not give its decision in respect of the assessment against the Building Rules until the Development Assessment Commission has made its decision in respect of the assessment of the

	development against the provisions of the relevant Development Plan.
Comment	Council has never received a DA of this nature.
Compliant	Unable to comment.
Recommendation	None.

<b><u>Regulation 41(1)</u></b>	<b>Time within which a decision must be made</b>
Requirement	<p>A relevant authority should deal with an application within the following periods:</p> <ul style="list-style-type: none"> <li>• 2 weeks – if the application only seeks development plan consent and is complying</li> <li>• 8 weeks – in any other case where the application only seeks development plan consent, other than where the application is for a land division</li> <li>• 4 weeks – if development plan consent has been obtained or is not necessary and the application only seeks building rules consent and no other consent and the building falls within the Class 1 or 10 classification under the Building Code</li> <li>• 12 weeks – in any other case <ul style="list-style-type: none"> <li>➤ Plus 6 weeks (and any extension of time) if the application must be referred to a prescribed body under section 37 of the Act for a report or directions (but not concurrence)</li> <li>➤ Plus 10 weeks (an any extension of time) if the application must be referred to DAC, the Minister or a Council for concurrence under section 35(3) of the Act or referred to a prescribed body under section 37 of the Act for concurrence</li> <li>➤ Plus 2 weeks if the application must be referred to the Building Rules Assessment Commission under section 36 of the Act</li> <li>➤ Plus any additional period equal to the time within which a report must be made if the application must be otherwise referred to another body for report or another body is entitled to report on the application</li> </ul> </li> </ul>
Comment	See responses for section 41 and Regulation 115.

Compliant	Yes, on the basis that all application received in the second quarter of 2010 were within the prescribed timeframes.
Recommendation	None.

<b><u>Regulation 42(1)</u></b>	<b>Notification of decision to an applicant (including conditions)</b>
Requirement	Notice of a decision on an application must be given in the form determined by the Minister for the purposes of this regulation (being a form published by the Minister in the Gazette).
Comment	Several Decision Notification Forms were reviewed for this audit. The forms comply with legislative requirements.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 42(2)</u></b>	<b>Notification of decision to an applicant (including conditions)</b>
Requirement	The notice must be given within 5 business days after the decision is made.
Comment	Decision Notification Forms reviewed during this audit were issued within the required timeframe.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 42(3)</u></b>	<b>Notification of decision to an applicant (including conditions)</b>
Requirement	The notice must be accompanied by details of any condition to which the decision is subject and of the reason for the imposition of the condition (and if any condition is imposed on the basis of a direction of a prescribed body under s37 of the Act, the relevant authority must identify

	that prescribed body).
Comment	<p>The file for DA 260/136/2008 was reviewed. The proposed development was described by the Council as "dam" and was referred to the Department of Water, Land and Biodiversity Conservation in accordance with section 37 of the Act and Schedule 8 of the Regulations.</p> <p>DWLBC recommended that conditions be imposed on any consent issued to the applicant. Development Plan consent was issued to the applicant on 4 August 2008.</p> <p>The conditions imposed by DWLBC were not identified as such on the Decision Notification Form.</p>
Compliant	No.
Recommendation	That conditions imposed or recommended by referral bodies be separately identified from Council-imposed conditions.

<b><u>Regulation 42(4)</u></b>	<b>Notification of decision to an applicant (including conditions)</b>
Requirement	The relevant authority must endorse the set of approved plans and other relevant documentation with a stamp or a similar form of authentication.
Comment	<p>Several files were reviewed and plans were stamped with "Development Plan Consent" (stamps), and where applicable, "Building Rules Consent". Plans that were used for both Development Plan consent and Building Rules consent were stamped with both stamps.</p> <p>Each stamp requires the assessing officer to enter the date and sign the stamp.</p>
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 42(5)</u></b>	<b>Notification of decision to an applicant (including conditions)</b>
Requirement	If a private certifier has made a decision in respect of the building rules consent the relevant authority must attach a copy of the private certifier's decision to any relevant notice of a decision of the relevant authority.

Comment	The file for DA 260/316/2009 was reviewed. The application was for a double storey dwelling. The Council granted Development Plan consent on 10 December 2009. A private certifier (Tecon Australia Pty Ltd) granted Building Rules consent on 21 December 2009. The Council issued its Decision Notification Form on 23 December 2009 and attached it to a copy of the private certifier's decision.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 42(7)</u></b>	<b>Notification of decision to an applicant (including conditions)</b>
Requirement	If the decision is or includes a consent with respect to proposed building work for which a Statement of Compliance will be required under regulation 83AB, the notice must be accompanied by a written notice indicating that the statement will need to be completed in accordance with the requirements of regulation 83AB(8) and indicating what (if any) certificates, reports or other document will need to be furnished at the time of the provision of the statement and a blank copy of a statement of compliance.
Comment	The DNF for DA 260/316/2009 was reviewed. The application was for a double storey dwelling. A blank copy of the Statement of Compliance form was sent to the applicant.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 43(1) and (2)</u></b>	<b>Notification of decision to a prescribed body</b>
Requirement	If an application for the consent or approval of a proposed development is referred to the Development Assessment Commission, the Minister or a Council or to a prescribed body the relevant authority must send a copy of the notice issued by the relevant authority to the Development Assessment Commission, Minister, Council or prescribed body. The relevant authority should comply with this requirement within five business days after the notice is given to the applicant

Comment	<p>The file for DA 260/225/09 was reviewed. The application was for "roof of Church Building". The application was referred to the Department of Environment and Heritage on 13 October 2009. The department provided its response by letter dated 13 November 2009.</p> <p>Development Plan Consent and Development Approval were granted on 13 April 2010. The file did not contain any evidence that DEH were notified of this decision.</p>
Compliant	No.
Recommendation	Ensure that referral bodies are informed of decisions in accordance with this requirement.

<b><u>Regulation 43(3) and (4)</u></b>	<b>Notification of land division decision</b>
Requirement	If a Council is the relevant authority for an application that relates (wholly or in part) to a proposed division of land, the Council must, if or when it issues a development authorisation, send a copy of the notice issued by the Council to the Development Assessment Commission. The relevant authority should comply with this requirement within five business days after the notice is given to the applicant.
Comment	The file for DA 260/C019/08 was reviewed. The file did not contain evidence indicating whether or not Council has sent a copy of its decision notification form with respect to the development to the Development Assessment Commission within 5 business days after notice was provided to the applicant.
Compliant	No.
Recommendation	Ensure that staff are reminded of the requirement that copies of decision notification forms must be uploaded on to EDALA within 5 business days after the notice is provided to the applicant.

<b><u>Regulation 44(1) and (2)</u></b>	<b>Notification of decision to owner of land</b>
Requirement	If an owner of the land to which a decision on an application relates is not a party to the application, the relevant authority must send a copy of any notice issued by the relevant authority to that owner. The relevant authority should comply with this requirement within five business days

	after the notice is given to the applicant.
Comment	<p>The file for DA 260/316/2009 was reviewed. The owner of the land to which the decision on the application relates was Sally Catford, and the applicant is Rivergum Homes Pty Ltd. The nature of the proposed development is described as double storey dwelling.</p> <p>A Decision Notification Form was sent to the applicant on 23 December 2009. No evidence was sighted on the file indicating that Council had sent a copy of the Decision Notification Form to the owner, Sally Catford.</p>
Compliant	No.
Recommendation	Re-enforce this requirement so that the Council complies with this provision within the appropriate timeframe.

<b><u>Regulation 45</u></b>	<b>Scheme description – community titles</b>
Requirement	If an application relates to the division of land by a plan of community division and the relevant authority has endorsed a scheme description pursuant to the <i>Community Titles Act 1996</i> , a notice under regulation 42(1) must be accompanied by two copies of the endorsed scheme description; and a copy of any notice under regulation 43 or 44 must be accompanied by a copy of the endorsed scheme description.
Comment	The file for DA 260/C019/2008 was reviewed. The Council granted development plan consent, land division consent and full development approval on 9 January 2009. One copy of the Scheme Description was attached to the Decision Notification Form. It was not clear if a second copy of a Scheme Description was originally attached to the Decision Notification Form.
Compliant	No, as it could not be determined from the file whether 2 copies of the Scheme Description were attached to the DNF.
Recommendation	Re-enforce the requirements of Regulation 45.

<b><u>Regulation 46(1)</u></b>	<b>Special provisions relating to staged consents</b>
Requirement	If it appears to the relevant authority that all of the consents necessary for the approval of a particular development have been obtained and that no such consent has lapsed and that all such consents are consistent with each other, the relevant authority must forthwith (and in any event

	within five business days after receiving the last consent) issue a notice of approval in the form set out in Schedule 11.
Comment	The file for DA 260/316/2009 was reviewed. The application was for a double storey dwelling. Development Plan consent was granted on 10 December 2009. The Council granted Building Rules consent on 21 December 2009 and then 2 days later, granted Full Development Approval (therefore, within the 5 day requirement).
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 47</u></b>	<b>Endorsed plans</b>
Requirement	If an approval which requires a building rules consent to be granted by a relevant authority, the relevant authority must return to the successful applicant a copy of the plans, drawings, specifications and other documents and information lodged, stamped by the relevant authority.
Comment	No evidence of the return of any prescribed documentation to a successful applicant was provided for this audit. This is because Building Rules Consent is issued by Council contractors. It is outside the scope of this audit to review contractors files.
Compliant	No.
Recommendation	Re-enforce this requirement.

<b><u>Regulation 74(4)</u></b>	<b>Notifications during building work</b>
Requirement	If a notice is given under regulation 74(3)(d) (i.e. by telephone) the Council must make a note recording the receipt of the notice on the relevant file.
Comment	The Council did not provide an example of a notice being given under this section, as it has never received notification by telephone.
Compliant	Unable to comment as compliance cannot be verified without having seen such a note.

Recommendation	Ensure staff are reminded of this provision, so should notice be given by telephone, this provision is complied with.
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<b><u>Regulation 76(4)</u></b>	<b>Essential safety provisions</b>
Requirement	<p>A relevant authority or Council must –</p> <ul style="list-style-type: none"> <li>➤ on granting a building rules consent in relation to the construction of a building to which the regulation applies;</li> <li>➤ on the assignment of a change in the classification of a building to which the regulation applies in a case where there is no building work;</li> <li>➤ on application by the owner of a building to which the regulation applies and payment of the appropriate fee; or</li> <li>➤ on issuing any other certification with respect to building work complying with the Building Rules in a case where the regulation applies</li> </ul> <p>issue a schedule in the appropriate form in Schedule 16 that specifies the essential safety provisions for the building and the standards or other requirements for maintenance and testing in respect of each of those essential safety provisions as set out in <i>Minister's Specification SA 76</i>.</p>
Comment	The file for DA 260/234/2009 was reviewed. The application was for a development described as "shops single storey". A schedule in the appropriate form in Schedule 16 was issued and specified essential safety provisions.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 82(4)</u></b>	<b>Classification of buildings</b>
Requirement	A Council must assign the appropriate classification under the Building Code to a building if it is satisfied that the building possesses the attributes appropriate to its present or intended use.
Comment	The Council assigns building classifications under the Building Code in circumstances where it is satisfied that the building possess the

	attributes appropriate to its present or intended use. It is not within the scope of this audit to review whether the Council assigns the correct classification.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 83(7) and (8)</u></b>	<b>Certificates of occupancy</b>
Requirement	An application for the issue of a Certificate of Occupancy should be decided within five business days from the day on which all documentation required by the Council is received. However, if the Council must seek a report from a fire authority, then the application should be decided within 20 business days from the day on which all documentation required by the Council is received by the Council. A Certificate of Occupancy will be in the form set out in Schedule 19.
Comment	The file for DA 260/234/2009 was reviewed. A Certificate of Occupancy issued by the one of the Council's consultants was reviewed. This certificate was issued in accordance with this provision and complies with the requirements of Schedule 19.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 87(1)</u></b>	<b>Qualifications in building</b>
Requirement	A relevant authority must seek and consider the advice of a person with prescribed qualifications when assessing a development against the provisions of the Building Rules or considering an application for a Certificate of Occupancy or granting approval to occupy a building on a temporary basis (except where the relevant authority is acting through, or on the advice or with the assistance of, an officer who holds the prescribed qualifications).
Comment	The prescribed qualifications are: <ul style="list-style-type: none"> <li>• new current accreditation as a Building Surveyor issued by an approved Building Industry Accreditation Authority; or</li> </ul>

	<ul style="list-style-type: none"> <li>• current accreditation as a Assistant Building Surveyor issued by an approved Building Industry Accreditation Authority if the building does not exceed 3 storeys and 2000m<sup>2</sup>; or</li> <li>• current accreditation as a Building Surveying Technician issued by an approved Building Industry Accreditation Authority if the building does not exceed 1 storey and 500m<sup>2</sup>; or</li> <li>• current accreditation as a Building Surveying Technician issued by an approved Building Industry Accreditation Authority if the building is a Class 1A or 10 building under the <i>Building Code</i> that does not have a rise or stories exceeding 2 and the calculations have been certified by an independent technical expert; or</li> <li>• an approval from the Minister.</li> </ul> <p>The Council out-sources the bulk of its Building Rules assessment responsibilities to suitably qualified professionals.</p>
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 88(2)</u></b>	<b>Certificate of independent technical expert in certain cases</b>
Requirement	A relevant authority must in certain circumstances accept that building work complies with the Building Rules to the extent that such compliance is certified by the provision of technical details, particulars, plans, drawings or specifications prepared and certified by an independent technical expert who certifies and sets out the prescribed matters.
Comment	In circumstances where proposed building work has been prepared and certified by an independent technical expert who certifies that the materials, form of construction and systems will comply with the requirements of the Building Code, and who sets out in detail the basis for the certification, the Council accepts that the proposed building work complies with the Building Rules.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 98(1)</u></b>	<b>Register of applications</b>
Requirement	A relevant authority must keep available for public inspection without fee during its normal office hours a register of applications for consent, approval, or the assignment of building classifications under the Act.
Comment	The Council has indicated that no hard copy registry is maintained.
Compliant	No. To comply with this requirement, a hard-copy register must be prepared and maintained.
Recommendation	Ensure that a hard copy registry is created and made available for public inspection in accordance with the requirements of the Regulation.

<b><u>Regulation 98(2)</u></b>	<b>Register of applications</b>
Requirement	<p>The following must be recorded in the register:</p> <ul style="list-style-type: none"> <li>➤ the name and address of the applicant;</li> <li>➤ the date of the application;</li> <li>➤ the date on which the application was received by the relevant authority;</li> <li>➤ a description of the land which is the subject of the application;</li> <li>➤ a brief summary of the matters, acts or things in respect of which any consent or approval is sought;</li> <li>➤ details or any referral or concurrence on the application;</li> <li>➤ whether any decision is made on the application by a Council, RDAP, DAC or the Governor;</li> <li>➤ any decision on the application (including the date of the decision and any conditions that are imposed);</li> <li>➤ in the case of an application for building rules consent – the fee or fees payable in relation to the application;</li> <li>➤ the date of the commencement of any building work, and the date of completion of any building work; and</li> <li>➤ if any decision on the application is the subject of an appeal, the result of the appeal.</li> </ul>

Comment	See above comments.
Compliant	No.
Recommendation	See above comments for Regulation 98(1).

<b><u>Regulation 99(2), (3), (5) and (6)</u></b>	<b>Register of land management agreements</b>
Requirement	A Council must establish a register of agreements entered into by the Council under section 57(2) of the Act. A register must contain a copy of each agreement entered into by the Council and may contain other information the Council considers appropriate. A register established by a Council must be kept at the principal office of the Council. A register must be kept available for public inspection during normal office hours
Comment	A register containing such information is available for inspection during normal office hours at the principal office of the Council.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 100(2), (3), (5) and (6)</u></b>	<b>Register of land management agreements – Development Applications</b>
Requirement	A Council must establish a register of agreements entered into by the Council under section 57A of the Act. A register must contain a copy of each agreement entered into by the Council and may contain other information the Council considers appropriate. A register established by a Council must be kept at the principal office of the Council. A register must be kept available for public inspection during normal office hours for the office where the register is situated
Comment	A register containing such information is available for inspection during normal office hours at the principal office of the Council.
Compliant	Yes.

Recommendation	None.
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<b><u>Regulation 100(8) and (9)</u></b>	<b>Register of land management agreements – Development Applications</b>
Requirement	A notice given by the relevant authority under section 57A(18) of the Act must be in writing and must identify the relevant development approval and the date on which the approval was given and must state that the relevant authority has decided to lapse the development approval because the agreement has not been noted against the relevant instrument of title or land within the period that applies and must be given to each person named as a party to the agreement. The relevant authority must also give a copy of a notice to any owner of the land who is not a party to the agreement. .
Comment	The Council has never issued such a notice.
Compliant	We are unable to comment as we have not reviewed such a notice.
Recommendation	Ensure that staff are reminded on this requirement, should a development approval lapse due to a LMA not being registered.

<b><u>Regulation 101(1), (2) and (6)</u></b>	<b>Documents to be preserved by a Council</b>
Requirement	<p>A Council must retain a copy of each of the following documents in relation to any building work approved under the Act in its area:</p> <ul style="list-style-type: none"> <li>➤ all technical details, particulars, plans, drawings, specifications and other documents or information relating to building work;</li> <li>➤ all certificates, opinions and other documents submitted to the Council in connection with an application for approval of building work;</li> <li>➤ the duplicate of any Certificate of Occupancy issued by, or provided to, the Council;</li> <li>➤ a copy of any schedule of essential safety provisions issued by, or provided to, the Council;</li> <li>➤ a copy of any certificate submitted to the Council under</li> </ul>

	<p>regulation 76 during the proceeding 6 years; and</p> <ul style="list-style-type: none"> <li>➤ a copy of any other plan submitted to the Council under the regulations</li> </ul> <p>The Council must preserve any document referred to above until the building to which the document relates is demolished or removed. A Council must, at any reasonable time and without the imposition of a fee, allow a person authorised by the Minister to inspect, copy or take extracts from any document retained by the Council.</p>
Comment	All documents relating to approval building work are stored electronically in the Council's Record Management System. Documents required to be maintained under Regulation 101 are able to be accessed and printed through this system.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 104(1) and (4)</u></b>	<b>Transfer of development potential</b>
Requirement	If the provisions of a Development Plan provide for the transfer of development potential, any Council for the area to which the plan relates must maintain a register setting out the information referred to in regulation 100 in relation to each site which is involved in the scheme. The register (known as the Register of Development Rights) must be available for inspection by members of the public during normal office hours on payment of a reasonable fee fixed by the relevant authority which maintains the register.
Comment	A register was not provided by the Council, as its Development Plan does not provide for the transfer of development potential.
Compliant	We are unable to comment on whether the Council is compliant in this respect without having reviewed such a file.
Recommendation	Ensure that staff are reminded of this requirement so that, if such a situation were to arise, the Council complies with this requirement.

<b><u>Regulation 109</u></b>	<b>Notice of appointment of a member of a Panel</b>
Requirement	For the purposes of section 56A(5) of the Act, notice of a person who has been appointed as a member of a Development Assessment Panel, must include the full name of the person, and the term of the appointment.
Comment	The Council's notices comply with this requirement.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 115(1)</u></b>	<b>System indicators</b>
Requirement	A body specified in Column 1 of Schedule 25 must keep and collate the information specified opposite the body in Column 2 of that schedule on a quarterly basis and provide the information for each quarter to the Minister, in a manner and form determined by the Minister, within 21 days after the end of the quarter.
Comment	The system indicators report for the second quarter of 2010. We were informed that these reports are provided to the Minister within the relevant timeframe.
Compliant	Yes.
Recommendation	None.

<b><u>Regulation 116(4)</u></b>	<b>Disclosure of financial interests – assessment Panels</b>
Requirement	<p>A primary return must be in the form set out in Schedule 26 and contain the following information:</p> <ul style="list-style-type: none"> <li>➤ a statement of any income source that the prescribed member required to submit the return or a person related to the prescribed member has or expects to have in the period</li> </ul>

	<p>of 12 months after the date of the primary return;</p> <ul style="list-style-type: none"> <li>➤ the name of any company, or other body, corporate or unincorporate, in which the prescribed member or a member of his or her family holds any office whether as director or otherwise, for the purpose of obtaining financial gain (including at sometime in the future);</li> <li>➤ the information required by sub-regulation (7).</li> </ul>
Comment	Primary returns for each independent member were reviewed for this audit. The returns comply with Schedule 26.
Compliant	Yes.
Recommendation	See our comments for section 56A(6)

<b><u>Regulation 116(5) and (6)</u></b>	<b>Disclosure of financial interests – assessment panels</b>
Requirement	<p>An ordinary return must be submitted on or within 60 days after 30 June in each year. An ordinary return must be in the form set out in Schedule 27 and contain the following information:</p> <ul style="list-style-type: none"> <li>➤ if the prescribed member required to submit the return the prescribed member received, or was entitled to during any part of the return period - the income benefit;</li> <li>➤ if the prescribed member or a member of his or her director or otherwise in any company or other body, unincorporate, during the return period for the purpose gain (including at sometime in the future)—the name of the company or other body;</li> <li>➤ the information required by sub-regulation (7).</li> </ul>
Comment	<p>Ordinary returns for independent Panel members were reviewed.</p> <p>All ordinary returns are required to be submitted on or before 60 days after 30 June in each year (i.e. on or before 30 August 2010). Ordinary returns must be in the form set out in Schedule 27 of the <i>Development Regulations 2008</i> and contain the information set out in Regulation 116(6).</p> <p>All of the ordinary returns sited were on the correct form. However, none of the 2010 ordinary returns were completed by 30 August 2010.</p>
Compliant	No.

Recommendation	Ensure that ordinary returns are completed by 30 August each year.
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<b><u>Regulation 115(7)</u></b>	<b>Disclosure of financial interests – assessment Panels</b>
Requirement	<p>A return (whether primary or ordinary) must contain the following information:</p> <ul style="list-style-type: none"> <li>➤ the name or description of any company, partnership, association or other body in which the prescribed member required to submit the return or a person related to the prescribed member is an investor;</li> <li>➤ a concise description of any trust (other than a testamentary trust) of which the prescribed member or a person related to the prescribed member is a beneficiary or trustee (including the name and address of each trustee);</li> <li>➤ the address or description of any land in which the prescribed member or person related to the prescribed member has any beneficial interest other than by way of security for any debt;</li> <li>➤ any fund in which the prescribed member or a person related to the prescribed member has an actual or prospective interest to which contributions are made by a person other than the prescribed member or a person related to the prescribed member;</li> <li>➤ if the prescribed member or a person related to the prescribed member is indebted to another person (not being related by blood or marriage to the prescribed member or to a member of his or her family) in an amount of or exceeding \$7 500—the name and address of that other person;</li> <li>➤ if the prescribed member or a person related to the prescribed member is owed money by a natural person (not being related to the prescribed member or a member of his or her family by blood or marriage) in an amount of or exceeding \$10 000—the name and address of that person;</li> <li>➤ any other substantial interest of a pecuniary nature of the prescribed member or of a person related to the prescribed member of which the prescribed member is aware and which he or she considers might appear to raise a material conflict between his or her private interest and the duty that he or she has or may subsequently have as a member of an assessment Panel.</li> </ul>
Comment	The primary and ordinary returns reviewed met legislative requirements.

Compliant	Yes.
Recommendation	None.

<b><u>Schedule 7</u></b> <b><u>clauses 2 and 5</u></b>	<b>Distribution of fees between a Council and other authorities</b>
Requirement	A Council must, within 10 business days after the end of each quarter make the payments set out in clause 2. A payment must be accompanied by a return, in a form determined by the Minister, containing reasonable details of the items that make up the amount of the payment. A payment must be made by cheque or in some other manner determined by the Minister.
Comment	Council has indicated that they are currently 3 financial years behind in payments. Council has indicated they are currently in the process of organising payment for the last 2 years worth of distributions, and that DAC are agreeable to this.
Compliant	No.
Recommendation	The requirement to make the payments within 10 business days after the end of each quarter should be re-enforced within all relevant staff, to ensure compliance with this provision in the future.

## **Summary**

The Council complies with most of its statutory requirements under the *Development Act 1993* and *Development Regulations 2008* which relate to Development Plan assessment.

However, there are also many areas of non-compliance (particularly relating to the Development Assessment Panel and Development Plan Amendments) which need to be addressed in accordance with our recommendations.

We **recommend** that the Council consider undertaking training for its staff on the areas of non-compliance, and the areas upon which comments on compliance could not be provided due to relevant files not being located. Sufficient training in this regard will ensure that compliance levels are increased in the future.

We have identified a number of operational issues which need to be addressed (mainly resulting from understaffing) to ensure that the efficiency of the Development Section is improved, and have made a number of recommendations to improve the day to day operations of the Department.

We would be pleased to attend your offices to conduct a workshop regarding our findings and recommendations.

Please do not hesitate to contact Victoria Shute or Natasha Jones if you have any questions in relation to our report.

Yours sincerely  
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