

Practising certificates

Compliance audits of maintenance of competence

Pilot outsourcing

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More information

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Acknowledgements

Mines Rescue Pty Ltd and Core Mine Training Pty Ltd (auditing contractors)

Amendment schedule		
Date	Version	Amendment
17 October 2022	0.1	Draft outline

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Executive summary

A pilot of outsourcing audits of NSW practising certificate holders for their maintenance of competence was conducted from March to October 2022 by the NSW Resources Regulator.

Two suppliers (Mines Rescue Pty Ltd and Core Mine Training Pty Ltd) were contracted under the Department of Regional NSW procurement framework to request and complete each 50 audits in accordance with the Regulators prescribed processes.

149 requests and 105 audits were completed from April to July 2022. Overall, the findings are the majority of holders were found to be substantially complying with the gazetted maintenance of competence requirements. For those who were not, review of their audits reveals they are demonstrating actions to comply, and the Resources Regulator has chosen not to take further action against them.

This report shows the scope and objectives of the pilot project were fulfilled. The report information will be used to inform stakeholders and a proposed future review of the maintenance of competence scheme and in considering further outsourcing of auditing.

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1. Key findings

1.1. Audit outcomes

1. Practising certificate holders are acting to comply with their maintenance of competence condition by completing and recording their learning activities in appropriate logs.
2. The majority (81%) of the 105 practising certificate holders audited for compliance with the maintenance of competence scheme conditions were found to be substantially conforming (6 or less types of non-conformance)
3. The 19% of holders found to be substantially non-conforming (more than 6 non-conformances) were generally claiming far more hours than required, but were not ensuring they were claiming correctly.
4. The Resources Regulator has found that no further action is necessary to be taken against those found to be substantially non-conforming, given their level of overall compliance and other mitigating factors.

1.2. Outsourcing auditing

5. The pilot was successful in achieving the scope and objectives set (refer 4. Introduction)
6. The Resources Regulator was able to procure two suitable organisations to conduct the minimum of 100 audits of maintenance of competence within the contracted 4 month period (April to July 2022)
7. The audits completed by contractors were to the standards specified by the Resources Regulator, as verified through sampling.
8. The contractors found the specified processes and documentation for auditing overall suitable, including the threshold of number of 6 types of non-conformances to determine whether a holder is substantially conforming or not.
9. The Resources Regulator and contractors identified items that can be improved in the scheme and outsourcing of auditing, including the Regulator making the initial request to the holder for a log or providing authenticating information documents for the contractor to forward on.

2. Recommendations

- A. This report on the pilot be published on the Resources Regulator website once finalised and sent to stakeholders by first quarter 2023.
- B. The Resources Regulator to review its guidance and audit documentation in light of feedback from contractors and audit findings, prior to any further audits in 2023.
- C. A review by the Resources Regulator in 2023 of the maintenance of competence scheme after 5 years of operation to take into consideration this report.
- D. The Resources Regulator to consider continuing with and expanding the outsourcing of audits, possibly with a panel of eligible contractors to complete a target number of audits annually.

3. Background

3.1. Practising certificate scheme

NSW practising certificates are issued for a 5 year period to eligible individuals to exercise WHS statutory functions in classes of mines, when nominated by a mine operator.

The certificates have conditions, including standard ones for:

- maintaining their competence in accordance with the gazetted scheme.
- keeping their contact details up to date with the Regulator

Guidance is provided on the NSW Resources Regulator [website](#), including the Guide to the maintenance of competence scheme for practising certificates.

3.2. Auditing of practising certificates

The Resources Regulator in the Guide: practising certificate holders for maintenance of competence' stated a minimum of 5% of holders to be audited for compliance annually with the aim of up to 10% to be audited. The minimum amount of 5% has not been achieved. Instead, a small number of voluntary audits were completed during 2019-2020 to assist practising certificate holders to comply. Learnings from these audits have been shared by the Regulator in presentations to industry and in revised guidance and templates.

In consultation with the Mining and Petroleum Competence Board, the Regulator decided to conduct a pilot outsourcing of compliance audits to inform the level of compliance by a cross sample of practising certificate holders and plan future compliance auditing.

4. Introduction

4.1. Scope and objectives

4.1.1. Scope

The Resources Regulator to outsource to selected organisations from April to July 2022, 100 or more compliance audits for the maintenance of competence condition for a cross sample of practising certificate holders for different functions, who were due to renew their certificate before 31 December 2023.

4.1.2. Objectives

1. inform practising certificate holders audited on their conformance with the maintenance of competence gazetted scheme prior to them possibly renewing their practising certificate
2. establish an indicative level of compliance to the maintenance of competence condition by practising certificate holders for each WHS statutory function and in total
3. identify what parts of the gazetted scheme holders are not conforming with to establish any themes that can be addressed by stakeholders, including future education engagement by the Regulator
4. pilot outsourcing of compliance audits to contractors to establish whether it is effective and efficient to inform whether the Regulator continues with it

4.2. Process

1. Contractors reviews list of practising certificate holders supplied by the Regulator to be audited and declare any conflicts of interest with any holder so they did not audit them.
2. Using standard templates, contractors email practising certificate holders on behalf of the Regulator to request a copy of a log of learning activities claimed for their current certificate with 14 days, with a reminder email after this for a further 7 days
3. Non responses or responses from holders with reasons for not providing a log were referred to the Resources Regulator for follow up and resolution.
4. Contractor assessed each log and requested from holder a minimum of 4 items of evidence for different claims and types of learning to be supplied within 14 days.
5. From the initial draft audits conducted by the contractors, 5 from each were reviewed by the Resources Regulator and feedback provided on their suitability and accuracy.
6. Audit completed and notification letter emailed to holder informing them of the outcome which were categorised by the number of different type of non-conformances found for different requirements as either:
 - a. Substantially conforming: 6 or less
 - b. Substantially non-conforming: more than 6

Note: categorisation is not based on total number of non-conformances, so holders were not penalised for recurring non-conformances of a certain type. For example, claiming in excess of 4 hours per year for a certain type of learning for 2 or more times only counted as 1 non-conformance.

7. All records of the contractor and holder returned to the Resources Regulator for storage in holder electronic files.
8. Resources Regulator reviews audits outcomes of substantially non conforming to determine whether any further compliance and enforcement action is to be undertaken.

4.3. Contractors

Mines Rescue Pty Ltd and Core Mine Training Pty Ltd were procured for the pilot. Refer to 5. Contracting for more details.

4.4. Auditees

The contractors were provided with contact lists of certificate holders for statutory WHS functions at surface or underground mines where they may have a reduced risk of conflicts of interest to declare. Functions with a larger number of practising certificate holders were assigned more audits:

Table 1 - Audits to be completed by contractor for class of mine and each function

Contractor	Class of mine	Functions	Target amount
Mines Rescue	Surface - coal	Mining Engineering Manager	10
		Open Cut Examiner	10
		Electrical Engineer	10

Contractor	Class of mine	Functions	Target amount
		Mechanical Engineer	10
	Surface - mines	Quarry Manager	10
Core Mine Training	Underground - coal	Mining Engineering Manager	3
		Undermanager	10
		Deputy	10
		Ventilation Officer	3
		Ventilation Auditor	3
		Dust Auditor	3
		Electrical Engineering Manager	3
		Mechanical Engineering Manager	3
	Underground - metalliferous	Mining Engineering Manager	3
		Underground mine supervisor	10

5. Contracting

5.1. Project

The following activities formed the project for piloting the outsourcing of auditing:

Table 2 - High level project plan of activities by month

Month of 2022	Activities of Regulator and contractors
March	Request and receive quotations for evaluation and selection
April	Awarding contracts to organisations that quoted. Commenced sending requests from spreadsheets provided. Project kick off meeting.
May - July	Monthly meetings or upon completion of milestones between Regulator and contractors.
August	Project close out meetings.

Month of 2022	Activities of Regulator and contractors
September – October	Regulator review of audit outcomes, in particular those holders substantially non-conforming to decide on any further action. Preparation of report on pilot and outcomes.

5.2. Procurement

Procurement was carried out by the Resources Regulator in accordance with the Department of Regional NSW framework for low value procurement up to \$150,000. This enables services to be obtained by requesting a quotation from selected organisations.

Mines Rescue Pty Ltd and Core Mine Training Pty Ltd were selected to quote because of their:

- Specialised expertise in maintenance of competence for NSW practising certificates and capacity to audit
- Size based on less than 200 employees means they are a Small to Medium Enterprise (SME)
- Core Mine Training was also eligible because they are a regional business (outside the Newcastle, Sydney and Wollongong metropolitan areas).

Quotes were received from both organisations and evaluated against the following criteria:

Table 3 - Evaluation criteria for quotes for auditing pilot

Evaluation	
Mandatory criteria	1. Organisation business processes shall ensure their adherence to Privacy and Personal Information Protection Act 1998 and support the Resources Regulator to comply
Weighted criteria	2. Fixed price for: <ul style="list-style-type: none"> a. a minimum of 50 audits plus price for each audit in excess of this amount b. requests completed to obtain audit log from holder
	3. Previous experience and performance in meeting the requirements covered in the Statement of requirements, or related
	4. Working knowledge of WHS legislative requirements in Australia, relevant to authorising individuals to carry out statutory requirements
	5. Capability and capacity of the project team or individual to perform the Contract, using an auditing methodology of sufficient quality to achieve deliverables, citing any current qualifications or accreditation for auditing or related

Both quotes were evaluated and found to be satisfy the criteria to represent value for money to be recommended for a contract.

Contracts were executed to commence the project in April 2022 and completed in August with the invoicing of work.

5.3. Delivery

Each contractor completed the following activities as part of the contract:

Table 4 - Completed contracted activities

Activity	Request for log	Audits completed
Core Mine Training	81	55
Mines Rescue	68	50
Total	149	105

The Regulator followed up requests where a log was not supplied (refer 6.0 Audit outcomes).

The Resources Regulator reviewed 5 audit assessments and outcome letters from each contractor to provide feedback, which was actioned by them.

5.4. Feedback

As part of the project close out meeting, each contractor was invited to and provided written feedback on the conduct and success of the pilot for specified items that were raised during the project. Their combined feedback is summarised in the table:

Table 5 - feedback on audits from contractors

Category and items	Feedback summarised
Methodology	
Requesting log from PC holders by contractor	Suggest email Letter from Regulator to holder introducing the contractor and outsourcing (removes the “I thought you were SPAM response”). Also identify invalid addresses.
Templates used, including results letter	Generally okay. Improvements suggested to results letter to remove claiming as much as possible. Streamline as much as possible.
Whether 6 or less or more non-conformances is the appropriate threshold for determining whether they are substantially conforming or non-conforming.	Both contractors thought 6 was the appropriate threshold for determining level of compliance.
Privacy concerns eg. delete all information held after so no longer an issue	Agreed to remove or lock down records once provided to and accounted by Regulator.
Anything else	Provide more time to conduct given the number of extensions and general workflow eg. 14 days from 1st email, 7 days from reminder, 7 days for evidence = could be 28 days. Allowing for audits not commencing immediately on receiving log.

Category and items	Feedback summarised
Communication	
Was communication publicising project sufficient?	Yes, it was in the Regulator Mine Safety News 3 times but better if a month prior. Some auditees still unaware of project.
Could other guidance documents been useful?	Yes, factsheet on auditing process
What would be important items to report to industry for useful learnings?	<ul style="list-style-type: none"> • People claiming ineligible routine work (eg. daily production meetings) and not what maintains competence as the focus. • Many did not retain suitable evidence eg. evidence of compliance with criteria for formal training courses • Onus on people who use apps to still produce an accurate, correct log – it is not the Regulator’s apps so cannot access. • Holders to keep contact details up to date with Regulator • Calculate by year from date of certificate issue for annual caps, not calendar year.
Future auditing	
Further to the above, how could auditing be outsourced better to improve the effectiveness and efficiency of it	Develop a process for any requests for phone calls or disputes/questions on audit outcomes
The MOC scheme	
Are there parts of the scheme that require improving and if so what?	<ul style="list-style-type: none"> • Reduce number of informal learning types and areas of competence, but retain caps • Standardise and simplify caps on types of learning • Summary of what can be claimed by function like that provided in Qld • Recognition of audits (eg. critical controls) and in house assessments • Whether in house supervisor sessions and in house assessments of training can be claimed

Category and items	Feedback summarised
Any other developments or trends you would like to make us aware of	Refer to feedback provided (as summarised above)

6. Audit outcomes

6.1. Responses to log requests

As stated in 5.3 Delivery there was 149 requests from the contractors to holders to provide a log of claimed learning. For 30% of requests (44), there was no response (25 - 17%) or were not delivered (12 - 8%) or they no longer wanted to practise (5 - 3%) or on leave – no return date (1 - 1%) or out of the office (1 - 1%).

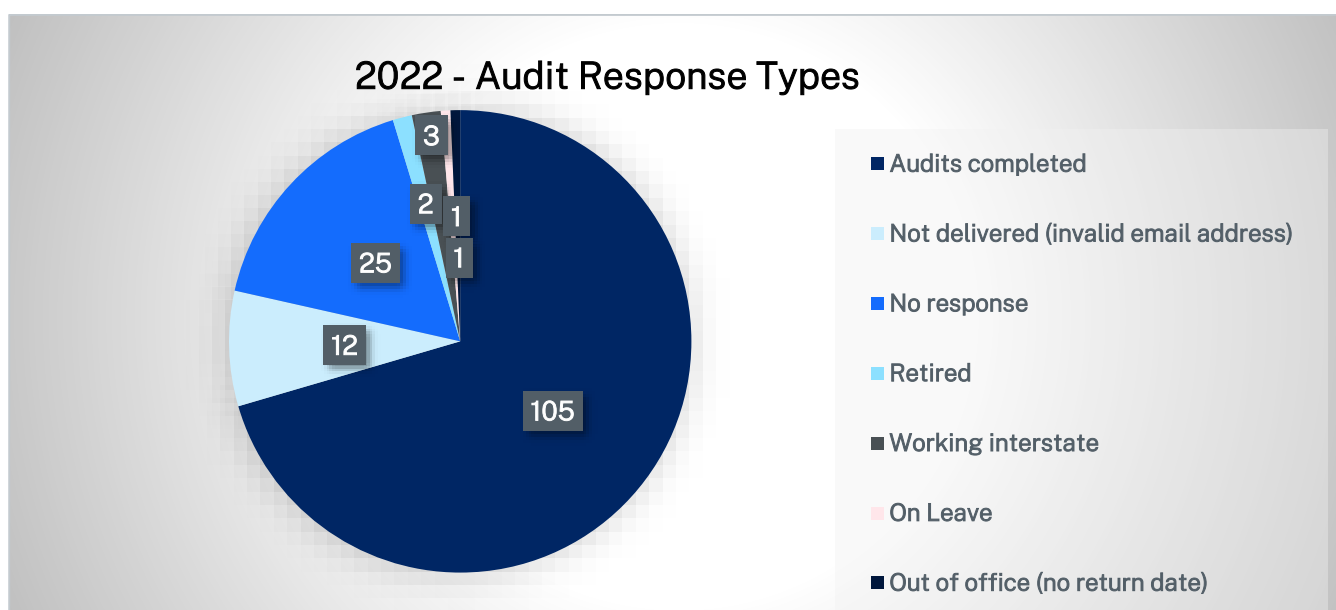


Figure 1 - Request for log responses

The requests where no log was provided for the various reasons were looked into so as to resolve, with the focus on obtaining a log. A summary of the outcomes and any further action proposed is provided below.

Table 6 - Follow up of non-response

Response	Number	Resolution - Audited	Follow up action (if any)
No response	25	3	Still being followed up to be audited next time or upon renewal
Not delivered	12	2	As above
Retired	2	0	Noted – allowing certificate to lapse
Working interstate ongoing	3	0	As above

Response	Number	Resolution - Audited	Follow up action (if any)
On leave (long term)	1	0	Noted on records for to be audited next time or upon renewal
Out of office (no return date)	1	0	As above
Total	44	5	

6.2. Audits completed and conformance

105 audits were completed with a breakdown of those found to be substantially conforming (6 or less types of non-conforming) to substantially non-conforming:

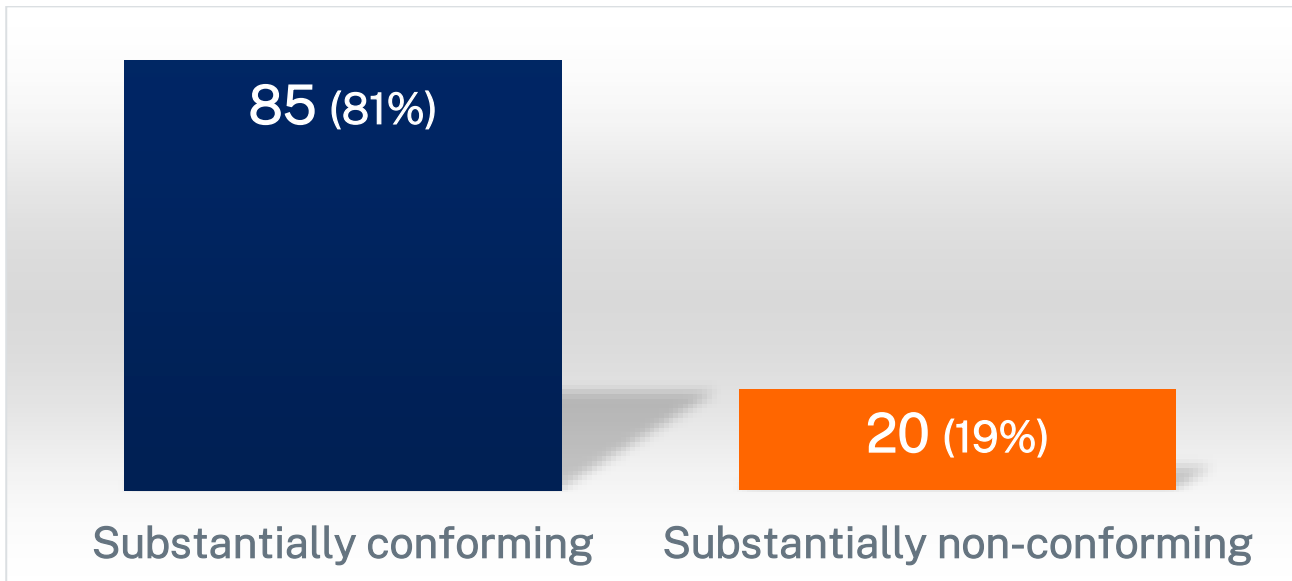


Figure 2 - Breakdown of conformance levels for auditees

The breakdown of conformance by statutory functions for the highest one held by each holder:

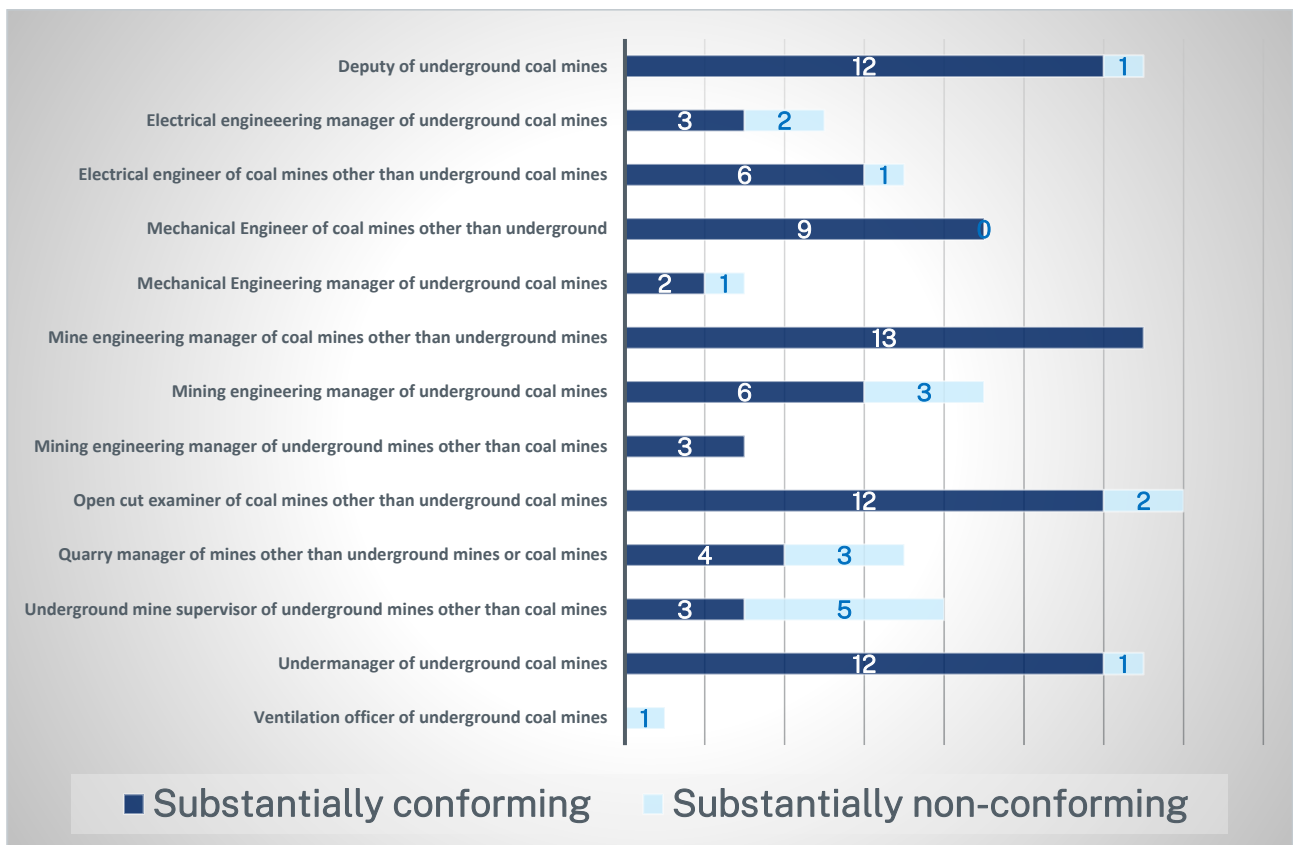


Figure 3 - Conformance levels by highest statutory function held by each holder

Analysis of how well holders for functions performed reveals:

- Best performing were Mining Engineering Manager of coal mines other than underground and Mechanical Engineer of coal mines
- Least performing holders were Underground Mine Supervisor and Quarry Manager, followed by Electrical and Mining Engineering Managers of underground coal mines.

Other first line supervisor functions (Deputy, Open Cut Examiner) conformed well given the larger numbers audited and expectations that these holders were not as used to initiating and recording maintenance of competence activities compared to Managers.

6.3. Non-conformances

Analysis of different types of non conformance identified in audit outcome letters by referencing parts of the Guide: maintenance of competence for practising certificates reveals:

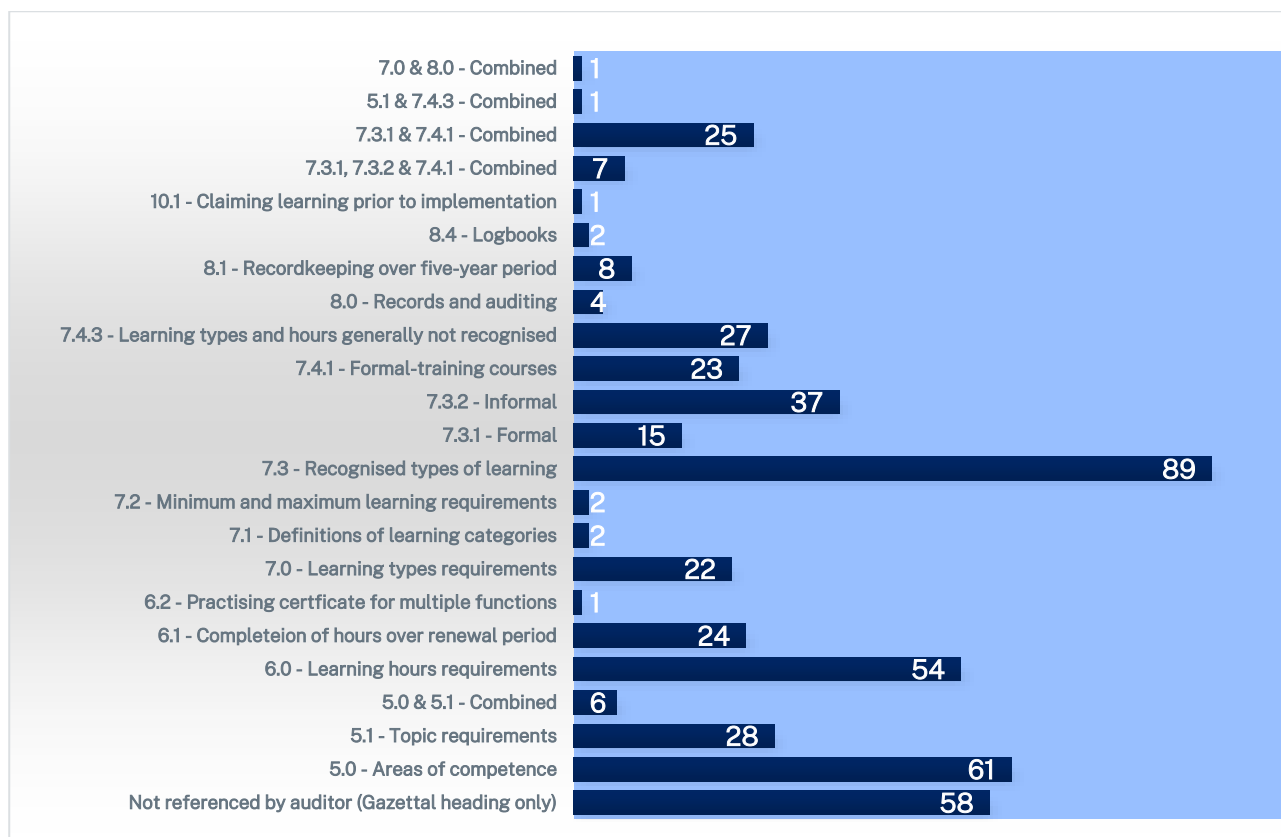


Figure 4 - number of non-conformances for different requirements

Note: maintenance of competence gazette is not numbered so unsuitable for easy reference in above.

The ranking by the higher number of non conformances for a section is:

- 7.3 Recognised types of learning (89), with some auditors being more specific to reference a sub section or in combination with another section:
 - 7.3.2 Informal learning types (37)
 - 7.3.1 Formal learning types and 7.4.1 Formal training courses (25)

A combined total for all of the above is **151**.

- 5.0 Areas of competence (61):
 - 5.1 topic requirements (28)
 - 5.0 and 5.1 combined (6)

Combined total **95**

- 6.0 Learning hour requirements (54):
 - 6.1 Completion of hours over renewal period (24) eg. exceeding 1/3 of total hours a year
 - 6.2 Practising certificate for multiple functions (1)

Combined total **79**

6.4. Substantially non-conforming holders

The review of the 20 practising certificate holders found to be substantially non-conforming for number of non-conformances versus total hours claimed learning reveals:

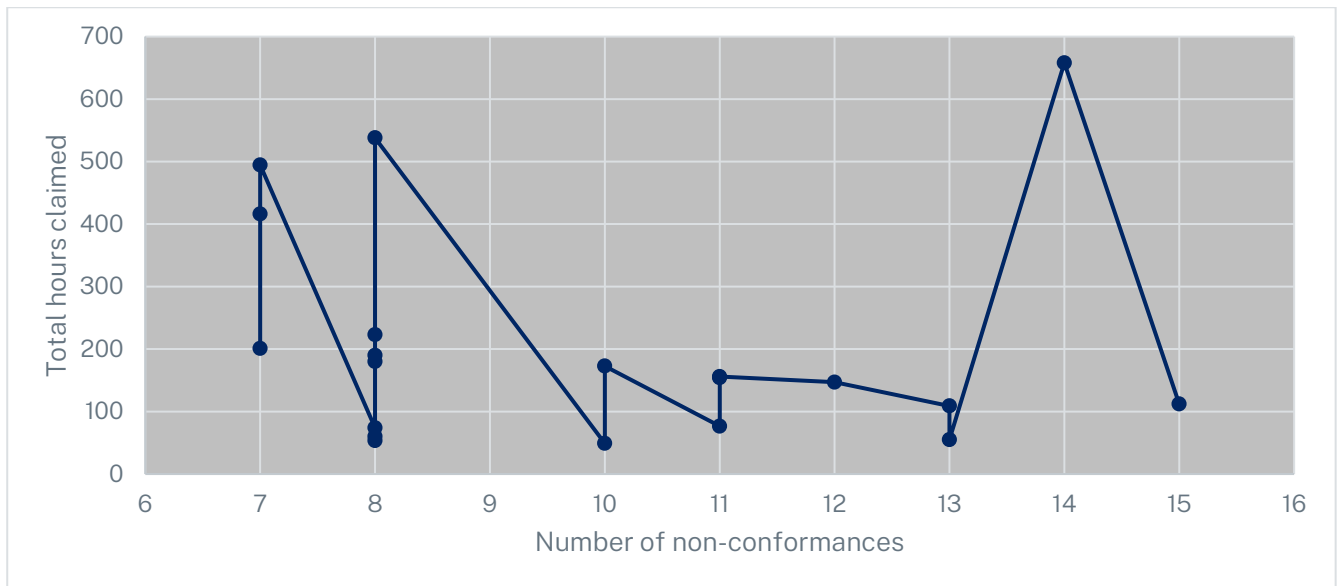


Figure 5 - Substantially non-conforming holders analysis

Analysis of the information reveals:

- 2 holders for underground mine supervisor function just satisfied their total learning hours required (48 hours given 20% dispensation for covid) by the expiry of their certificate. One holder was an interstate mutual recognition holder who is no longer practising in NSW.
- The remainder of the holders exceeded their total hours claimed by multiples of up to 7 times
- Majority had extensive detailed logs but did not:
 - a. apply requirements to what they were claiming eg. learning not eligible or
 - b. did not meet the requirements eg. 8 of the 19 holders have not completed the Learning from Disasters course or 7 hours of training in disasters.
- Those with excessive hours claimed have received one non-conformance for exceeding the maximum hours that can be claimed in one year of the log (maximum 1/3 of total hours). This has prompted dissent from some holders since for why they are being 'penalised' for claiming more than required.

The Resources Regulator has taken the regulatory position of not taking action against any of the substantially non-conforming holders because:

1. All demonstrated they had made a substantial effort to comply with the schemes requirements and were co-operative with the auditors.
2. Most still have time in which to rectify any non-conformances in the log before their certificate expires. If they choose to renew then they can declare they have satisfied the requirements as required in the application.
3. The Regulator has indicated that it would apply more leniency in this introductory five year period of the scheme.

Those with substantial non-compliances will be informed in writing of the requirement to:

- a. Correct the non-conformances in their log or evidence documents
- b. Submit a copy of their corrected log with their application for renewal of their practising certificate so the Regulator can confirm this

6.5. Positive observations

The auditors identified the following positive outcomes from the compliance audits:

- 81% were found to be substantially conforming
- Most people who were substantially conforming have attended the Learning From Disasters course. The auditors cited this as a good example of directed learning (except for those holders substantially non-conforming).

7. Referencing

NSW Guide to the maintenance of competence scheme for practising certificates (March 2021)

<https://www.resourcesregulator.nsw.gov.au/safety/certification/practising-certificates/maintenance-of-competence>

NSW gazette maintenance of competence requirements

<https://www.resourcesregulator.nsw.gov.au/sites/default/files/documents/gazette-revised-maintenance-of-competence-requirements.pdf>

8. Further information

8.1. Legislated and gazetted maintenance of competence requirements extracts

Work Health and Safety (Mines and Petroleum Sites) Regulation 2022

Current version for 26 August 2022 to date (accessed 26 October 2022 at 12:30)

142 Conditions of practising certificates

- (1) The regulator may, by written notice to the holder of a practising certificate –
 - (a) impose conditions on the practising certificate, or
 - (b) vary or revoke a condition imposed by the regulator.
- (2) It is a condition of a practising certificate that the holder of the certificate must, if required by the regulator by written notice, do the following within the time specified in the notice –
 - (a) provide specified information relating to the individual's competency or other matters relating to the practising certificate,
 - (b) satisfy the regulator that the individual has a knowledge of law and ethics to the level necessary to hold the particular practising certificate,
 - (c) undertake and successfully complete specified training courses or other specified forms of training.

(3) It is a condition of a practising certificate that the holder of the certificate must keep records that demonstrate the individual's eligibility to hold the certificate, including evidence of the completion of courses and time sheets.

(4) The holder of a practising certificate must comply with the conditions imposed on the practising certificate.

Maximum penalty —

- (a) for an individual — 12.5 penalty units, or
- (b) for a body corporate — 60 penalty units.

WORK HEALTH AND SAFETY (MINES AND PETROLEUM SITES) REGULATION 2014 **Notice pursuant to Practising Certificate 2020** **(Maintenance of Competency)**

I, **GARVIN BURNS**, Chief Inspector, with the delegated authority of the Secretary, Regional NSW, pursuant to clause 143 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 (the Regulation) make the following Notice.

Dated this 28th day of July 2020.

Garvin Burns
Chief Inspector
Regional NSW

1. Name of Notice

This Notice is the *Notice pursuant to Practising Certificate 2020 (Maintenance of Competency)*.

2. Commencement

This Notice commences on the date it is published in the NSW Government Gazette and has effect until it is revoked.

3. Revocation

The *Notice pursuant to Practising Certificate 2019 (Maintenance of Competency)* published in the NSW Government Gazette No 67 of 28 June 2019 at pages 2315 to 2478 is revoked on the date of commencement of this notice.

4. Interpretation

In this Notice:

conditions mean the conditions specified at item 6 below in accordance with clause 143 of the Regulation.

formal learning means organised and structured learning with specific learning objectives as referred to Table 3 of Schedule 1 and meets the criteria in schedule 1.

holder means a person who holds a practising certificate to exercise a statutory function.

informal learning means learning as a by-product of experience in participating or carrying out an activity as referred to in Table 3 of Schedule 1 as informal learning.

learning hours means the number of hours spent undertaking formal or informal learning.

practising certificate means a certificate issued by the regulator under clause 141 of the Regulation enabling a person to exercise a statutory function as specified in Schedule 10 of the Regulation.

recognised learning types mean the types of learning specified in Schedule 1.

the Regulation means the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014.
risk profiling tool means the tool used by the regulator to assess the hazards and complexity of a specified mine.

Tier-2 quarry means a mine determined by the regulator using the risk profiling tool to be a Tier-2 quarry.
 Terms used in this Notice have the same meaning as in the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2017*, *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014*.

5. Exemption

Holders of practising certificates issued under the *Regulation* with a condition restricting them to practise at a specified mine or mines for Mines other than underground mines or coal mines, or Underground mines other than coal mines or any Teir-2 quarry are not required to comply with the requirements in this notice.

6. Conditions

The conditions specified in Schedule 1 below are the conditions which apply practicing certificates which contain a maintenance of competency condition that requires compliance with requirements published by the regulator in the NSW Government Gazette.

Schedule 1

Table 1

Maintenance of competency requirements	Holders of practising certificates are required to complete the specified amount of hours of recognised learning types in areas of competence over the period for which the practising certificate is granted, including completing the specified minimum or up to the maximum number of hours of learning in each competence area, according to the function(s) the practising certificate is granted for, as set out in Table 2 and Table 3.
Areas of competence	<p>The holder of a practising certificate must complete the specified number of hours of learning in each of the following five areas of competence required for the statutory function(s) for which the practising certificate is held, as set out in Table 2:</p> <ul style="list-style-type: none"> • Mining and work health and safety (WHS) systems, including completion of hours in each of the following four compulsory subjects: <ul style="list-style-type: none"> ○ Safety management system ○ Principal hazards ○ Principal control plans ○ Specific control measures • Legislation • Emergency management • Leadership and management • General work health and safety topics (including learning from disasters). <p>The holder of a practising certificate must complete topics in each area of competence relevant to the statutory function(s) for which the practising certificate is held.</p>
Learning hours	<p>When completing learning hours, the holder of a practising certificate must:</p> <ul style="list-style-type: none"> • complete no more than one third of total learning hours in any one year

	<ul style="list-style-type: none"> • complete learning in three or more years out of the five year period, and • not carry-over excess learning hours above the total number required between renewal periods. <p>Where a holder has a practising certificate for multiple statutory function(s), the holder must:</p> <ul style="list-style-type: none"> • satisfy each function with the highest requirements for total hours in each engineering discipline at one class of mine for which they hold a certificate of competence or the gazetted qualifications required to hold a practising certificate for that function. • The holder may claim learning completed against one or more functions, provided the learning completed is relevant to the topics to the areas of competence required for each function. <p>Requirements for the specified number of hours are set out in Table 2</p>
<p>Record keeping and auditing</p>	<p>The holder of a practising certificate:</p> <ul style="list-style-type: none"> • must record all learning and hours in a logbook, either electronically or in hardcopy. • must retain evidence of all maintenance of competency scheme activities undertaken during the current five year renewal period and the previous renewal period. • must maintain evidence of all maintenance of competency scheme activities until such time as the practising certificate expires. • is required to provide a logbook(s) and evidence to the regulator for auditing purposes when requested.

Table 2: Summary of requirements for hours by statutory function

Statutory function	Total hours of learning over five years	Areas of competence				Minimum formal learning requirements	Maximum informal learning requirements
		Mining & WHS systems	Legislation	Emergency management	Leadership & management		
		Minimum of 33% of total hours of learning	Minimum of 33% of total hours of learning		Maximum of 33% of total hours of learning (as a minimum, must complete Regulator's <i>Learning from disasters</i> one-day program OR minimum 7 hours of other formal learning on disasters)	Minimum percentage varies according to function and is expressed as hours	Maximum percentage varies according to function and is expressed as hours
Mining Engineering Manager	120	40		40	40	80	40
Undermanager	90	30		30	30	45	45
Deputy	60	20		20	20	20	40
Ventilation officer	90	30		30	30	45	45
Ventilation auditor	90	30		30	30	45	45
Dust control measures auditor	90	30		30	30	45	45
Electrical engineering manager	120	40		40	40	80	40

Statutory function	Total hours of learning over five years	Areas of competence				Minimum formal learning requirements	Maximum informal learning requirements
		Mining & WHS systems	Legislation	Emergency management	Leadership & management		
		Minimum of 33% of total hours of learning	Minimum of 33% of total hours of learning		Maximum of 33% of total hours of learning (as a minimum, must complete Regulator's <i>Learning from disasters</i> one-day program OR minimum 7 hours of other formal learning on disasters)	Minimum percentage varies according to function and is expressed as hours	Maximum percentage varies according to function and is expressed as hours
Mechanical engineering manager	120	40		40	40	80	40
Mining engineering manager	120	40		40	40	80	40
Electrical engineer	90*	30		30	30	45	45
Mechanical engineer	90*	30		30	30	45	45
Open cut examiner	60	20		20	20	20	40
Mining engineering manager	120	40		40	40	80	40
Underground mine supervisor	60	20		20	20	20	40
Electrical engineer	90	30		30	30	45	45

Statutory function	Total hours of learning over five years	Areas of competence				Minimum formal learning requirements	Maximum informal learning requirements
		Mining & WHS systems	Legislation	Emergency management	Leadership & management		
		Minimum of 33% of total hours of learning	Minimum of 33% of total hours of learning		Maximum of 33% of total hours of learning (as a minimum, must complete Regulator's <i>Learning from disasters</i> one-day program OR minimum 7 hours of other formal learning on disasters)	Minimum percentage varies according to function and is expressed as hours	Maximum percentage varies according to function and is expressed as hours
Quarry manager	90	30		30	30	45	45
Electrical engineer	90	30		30	30	45	45

8.2. Recognised learning types

Formal and informal learning types that are recognised learning types and claimable as learning hours towards the maintenance of competency requirements are set out in Table 3.

Formal training courses must satisfy the criteria for types of learning in order to be claimable as learning hours towards maintenance of competency requirements.

Table 3: Recognised types of formal and informal learning

Recognised types of formal learning	Claimable hours for formal learning
Attending industry seminars/ webinars / workshops/ conferences with health and safety content, such as those run by industry or related organisations. These must be relevant to your practising certificate.	Actual hours per seminar/workshop (excluding any hours not relating to safety and health of your statutory function). Rule: this type of learning cannot account for more than half (50%) of the total formal hours required over the five years or of the total formal hours claimed to satisfy the total hours required.
Successfully completing formal training courses delivered externally by an organisation.	Actual hours.
Completing study or training towards tertiary qualifications including degrees and industry training qualifications that are prerequisites for NSW certificates of competence examinations.	Rule: this type of learning cannot account for more than half (50%) of the total formal hours required over the five years or of the total formal hours you claim to satisfy the total hours required.
Attending in-house formal training courses conducted within an organisation. Note: excludes meeting time for non-training content.	Actual hours. Rule: this type of learning cannot account for more than half (50%) of the total formal learning hours required over the five years or of the total formal hours claimed to satisfy the total hours required.
Attending equipment manufacturer's formal training courses.	Actual hours up to a maximum of four hours per year.
Attending Mines Rescue Brigades person formal training courses or similar.	Actual hours up to a maximum of four hours per year.
Recognised types of informal learning	Claimable hours for informal learning
Reading publications such as (but not limited to): <ul style="list-style-type: none"> • technical articles • technical publications • conference papers • presentations 	Actual hours up to a maximum of four hours per year.
Relevant field trips to maintain competency for your statutory function, e.g. visiting other mines to see alternative mining methods.	Actual hours up to a maximum of two hours per field trip. Up to a maximum of two field trips (four hours total) per year.

Recognised types of formal learning	Claimable hours for formal learning
Delivering, or participating in, workplace mentoring related to health and safety topics that is recorded in training records for the worker(s) involved or reports.	Actual hours up to a maximum of four hours per year.
Participation in emergency response exercises or drills.	Actual hours up to a maximum of four hours per year.
Organised meetings / sessions between mines/mine operators to share learnings, e.g. incidents.	Actual hours up to a maximum of four hours per year for participating in or delivering.
Attending industry expos, relevant to health and safety for the maintenance of competence.	Actual hours up to a maximum of four hours per year.
Mines Rescue Brigades person exercises.	Actual hours up to a maximum of four hours per year.
Participation in high level risk assessments (does not include day to day activities involving task focused risk assessment such as Take 5, JSA).	Actual hours up to a maximum of four hours per year.
Development or review of principal mining hazard management plans, or principal control plans.	Actual hours up to a maximum of four hours per year.
Participation in conducting investigation/s into incidents reportable under WHS legislation.	Actual hours up to a maximum of four hours per year.
Attending industry representative meetings, such as (but not limited to): <ul style="list-style-type: none"> • advisory groups • industry or specialist boards • panels of examiners membership • technical committees 	Actual hours (excluding administration and travel time).
Delivering industry seminars / workshops.	Actual hours per seminar / workshop (excluding travelling time and any other non-related activity).
Delivering in-house formal training courses	Actual hours up to a maximum of four hours per year.
Interactions between regulator staff and individuals for information and education programs. For example: attendance at meetings or information sessions.	Actual hours up to a maximum of four hours per year.

Criteria for types of learning

Formal training courses

In order to be eligible to claim formal learning hours from undertaking a formal training course, the holder must obtain from the training provider evidence that the course meets the following criteria:

- The course content, with or without learning objectives are documented, current and relevant to the holder's statutory function,
- The length of the course, including start and finish times are documented.
- The person(s) delivering or designing the course (including face to face, online or correspondence courses) has appropriate technical and/or educational ability, experience and qualifications relevant to the course.

The above evidence obtained by the holder should be retained in either in the holder's logbook or in separate documentation.

Tertiary qualifications

Tertiary qualifications refer to any post school qualification recognised under the Australian Qualifications Framework (AQF).

If the holder is completing a tertiary qualification, they can claim study from a course that is relevant to WHS and the statutory function(s) on their practising certificate, such as:

- face to face, electronic or other form of direct interaction between the holder and the training institution
- completing required assessments either individually or as a group that involve studying and application of learning
- required reading of information or attending field excursions for the qualification.

Mutual recognition practising certificates

If a holder has a NSW practising certificate in recognition of their interstate or New Zealand certificate of competence, the holder must comply with the requirements for the maintenance of competency scheme as part of the condition on their NSW Practising certificate.

8.3. Appendix B: Outsourced auditing process

An extract from the Statement of requirements from the request to quote forwarded to selected suitable organisations is provided:

Services to carry out audits of practising certificate holders for maintaining their competence in accordance with their condition to maintain competence according to the gazetted scheme notice 'Maintenance of competency' dated 28 July 2020 with the methodology of:

Contractor:

1. From list of contact details of certificate holders to be audited from the Resources Regulator that will be for a class of mine and/or statutory functions that may minimize conflicts of interest:
 - a. Review and declare any conflicts of interest with a holder in writing on the supplied lists so they are not audited by them such as:
 - i. If they have provided or will provide specific direct assistance to the holder to comply, or
 - ii. have a commercial or other arrangement with the holder to provide assistance
 - b. Send an email to each certificate holder to request their log of learning claims within 14 days (attachment A - Standard wordings for external auditors – RDOC22/24610). If no response received, send a reminder email giving a further 7 days to provide.
 - c. Where holder does not provide log by reminder date, are not contactable at the email address, or they request a time extension beyond this date to supply, then this is to be recorded and referred in writing to the Resources Regulator with details so they can follow up.
2. An audit is initiated after a log is provided by holder to supplier using the audit assessment (attachment B – MEG/DOC21/927162). After a preliminary assessment, a request of evidence for a minimum of 4 different activities claimed in the log is to be made to the holder to provide within 7 days applying the following criteria:
 - a. appropriate standard wording from attachment A
 - b. where possible of 4 different learning types
 - c. where a claimed activity is insufficient in detail or suspected to be non-compliant
3. Upon receipt of the requested evidence of learning, or if not supplied by the required date, the audit is to be completed with the following templates populated and emailed to the practising certificate holder and Resources Regulator within 14 days:
 - a. letter of notification of audit findings, including the level of conformance found (attachment C – MEG/DOC21/927230)
 - b. attached to above letter - audit assessment (attachment B – MEG/DOC21/927162)
4. Holder may seek clarification of audit documentation with supplier with initial request and then one more request to further clarify. If holder then disputes auditing findings, then they are to be referred to Resources Regulator to resolve or have the option of appealing. If their appeal is successful because the Resources Regulator identifies the audit findings were deficient or in error against the prescribed documentation, then supplier is to correct audit documentation at own cost.

Resources Regulator

The Resources Regulator will:

1. provision of lists of practising certificate holders to contact for copy of log
2. Provide clarification on quotation requirements where requested in week one of period given to provide quotation
3. Facilitate a meeting with one or more of the organisations requested to quote in week 2 so as to support quoting and ensure all have been given any clarifying information
4. Organise and provide meeting venue at Maitland offices or online, followed by recording of meetings and actions to inform and support suppliers
5. Respond in writing (and verbally where appropriate) to requests from a supplier within 7 days from receipt for clarification or confirmation of whether a claim(s) by a holder are compliant or not
6. Resources Regulator will review a cross sample of audits to ensure compliance to contract and audit findings are correct to gazetted requirements, including but not limited to:
 - a. reviewing the first five audits of the supplier to provide feedback on compliance and rectify any deficiencies, within 7 days of receipt
 - b. randomly across remaining audits or where particular issues may be identified by the Resources Regulator.