

Topic Summary – Accountability as a CBD Accredited Assessor

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This topic summary provides a concise record of what was covered in Topic 4 of 'Accountability as a CBD Accredited Assessor' in the Commercial Building Disclosure program module, as well as some legislative references for the requirements of the CBD program. The information and references are provided in this summary to assist assessors but are not intended to constitute a comprehensive resource as to an assessor's obligations under legislation. The assessor is solely responsible for ensuring that they are familiar with, and comply with, those obligations.

Assessment audits

Applying the rules

The methods and standards required for building energy efficiency assessments are the NABERS Rules ('NABERS Energy and Water for offices – Rules for collecting and using data'). For Tenancy Lighting Assessments, the relevant methods and standards are the CBD Tenancy Lighting Assessment for Offices Rules. As an assessor, you will need to apply the latest versions of these rules properly in carrying out assessments for Building Energy Efficiency Certificates (BEECs).

You may contact the NSW Department of Planning, Industry and Environment (DPIE), the NABERS Administrator, for information on how to apply the NABERS Rules and the CBD Team in the Department of Industry, Science, Energy and Resources for information on how to apply the lighting rules. You should keep a record of any advice that you rely on to validate your decisions.

Auditing process

An auditing process is in place to ensure that assessors are properly applying the methods and standards set out in the legislation, and that assessments are not influenced by any conflict of interest. There are two options under the audit process:

1. **Desktop audits** – In a desktop audit, the auditor may request source documentation, assess the extent to which it provides adequate support for the assessment, and review the assessment to ensure that the rules have been applied properly based on the documentation.
2. **Physical reviews of assessments** – The CBD legislation gives auditors powers to enter a building to carry out an audit by consent or under warrant¹. Where necessary, the auditing authority may also use these powers to enter a building in order to determine whether an assessor has properly applied the relevant methods and standards in carrying out an assessment for a BEEC.

¹ Building Energy Efficiency Disclosure (BEED) Act 2010, Part 4

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If you apply the NABERS Rules and Tenancy Lighting Assessment Rules correctly, you can be confident of passing any audits of your assessments. However, if you fail to apply the rules properly, your accreditation may be revoked or suspended.

While assessors are protected from mistakes of fact, there are penalties for failing to provide accurate rating advice through a fraudulent or negligent act. Damages can also be payable in those cases.

Your responsibilities

General responsibilities of an assessor

Through your work as a CBD Accredited Assessor, you ensure that the CBD legislation is executed properly. When you conduct your work well, you help to achieve the goals of the CBD program – increasing the energy efficiency of commercial buildings, and promoting the market value of energy efficiency.

With your CBD qualifications, you also have specific responsibilities in the way you conduct your business:

- 1. High standards of professionalism in applying the rules** – You must properly apply the NABERS Rules and the Tenancy Lighting Assessment Rules at all times and act in accordance with the NABERS and CBD processes and procedures.
You uphold the values of the CBD program by carrying out your work in a proper, professional manner. This means exercising due skill, care and diligence, acting fairly and honestly at all times, and ensuring that your work is carried out to a high standard.
- 2. Complying with conditions of accreditation** – As you saw earlier, all CBD Accredited Assessors have a responsibility to maintain standards and comply with the conditions of accreditation². This includes aspects of how you conduct yourself on the job, as well as meeting training requirements and maintaining the relevant certifications. If you do not comply with these conditions, your accreditation may be suspended or revoked.
- 3. Record-keeping** – It is critical that, for each assessment, your work is accurate and you retain records showing how you arrived at your decisions. Each TLA assessment you perform is valid for up to 5 years. Your clients will be relying on you to keep good records of your assessments, especially as they may rely on this information for re-rating. Under your conditions of accreditation, you must keep records of each assessment for at least 7 years after the initial assessment.
- 4. Legal obligations and penalties** – There are legal obligations associated with the delivery of an assessment under CBD legislation and failure to meet these obligations may attract penalties.

² BEED Act 2010, section 24–27; Building Energy Efficiency Disclosure (BEED) Regulations 2010, regulations 7–9.

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5. **Assessors must apply the rules properly** – The legislation provides the right for a client to recover damages from CBD Accredited Assessors if they have suffered loss as a result of the assessor's failure to properly carry out assessments³. This is in addition to existing rights under common law, whether in contract or negligence, but it should be noted that the BEED Act is unlikely to expand the existing circumstances in which an assessor may be sued.
6. **Maintain confidentiality of information** – Assessors have a responsibility to maintain the confidentiality of the information they acquire from clients. If you obtain or generate information in order to obtain a BEEC, it is an offence to copy, use, or disclose that information for any purpose not covered by the BEED Act⁴. Failure to maintain confidentiality may incur a penalty of up to 2 years' imprisonment.
7. **Presenting as an accredited assessor** – CBD accreditation relies on you to also hold a valid NABERS accreditation. It is an offence for a person to represent themselves as an accredited assessor when they are not⁵. Civil penalties of up to \$13,320 per offence may apply.

Additional resources

Additional information on the CBD program and the above topics is available on the [CBD website](#).

[Forms and templates](#) are available from the website's Resources area. An [FAQ page](#) is also available and provides answers to specific questions about different areas of the CBD program.

The BEED Act and instruments made under the BEED Act can be viewed in the [legal framework](#) section.

³ BEED Act 2010, section 20

⁴ BEED Act 2010, section 19

⁵ BEED Act 2010, section 32