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**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

TENTH ASSEMBLY

**Auditor-General Report No. 1
Construction Occupations Licensing**

Government Response

**Presented by
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Introduction

The Government thanks the Auditor-General for the Report No 1 of 2023 – Construction Occupation Licensing (the Report). This Report considers ACT Government agencies' management, administration and regulation of construction licensing in the ACT. The Report was presented to the Speaker of the Legislative Assembly for tabling on 16 March 2023.

The *Construction Occupations (Licensing) Act 2004* (the Act) and its regulations and instruments provide a regulatory guide to licensing occupational professionals in the construction industry in the ACT. The purpose of the Act is to ensure a level of competence is maintained for all who apply to hold a construction related licence in the ACT, to safeguard the construction industry and assist in making Canberra a safe and liveable city.

In addition to the Act, Access Canberra is guided by the *Mutual Recognition Act 1992 (Cth)* (the MR Act) which promotes freedom of movement across the nation, encouraging licence holders to apply for licences in various states and territories.

The Act currently encompasses nine (9) occupations with 62 occupation classes; the Report notes there are 146 methods of eligibility across all occupations and occupation classes. This includes occupations for individuals, companies, and partnerships as well as the addition of "Endorsements" allowing for expansion of the scope of work for a licence.

Access Canberra uses both Objective and the Construction Occupations Licensing Management System (COLMS) as the main information management systems to administer construction licensing. Objective is used as a repository for artifacts provided by applicants during the application process whereas COLMS is a bespoke database where licence records are created and stored.

In November 2021, the Auditor General commenced a performance audit of construction occupations licensing with the following three main conclusions:

- The management of the construction occupations licensing is hampered by the use of multiple information systems that are not integrated and are limited in their ability to monitor and report on licensing processes.
- Access Canberra has mature processes for the assessment of construction occupations licence applications, however improvements can be made through the development of practices to ensure consistency, clarifying minimum qualification requirements, and implementation of quality assurance processes.
- Applicants of the current Mutual Recognition scheme present a risk to the integrity of the licensing of construction professionals in the ACT through the practice of 'shopping and hopping'.

The Report has made thirteen recommendations. The Government:

- agrees with seven of the recommendations; and
- agrees with six of the recommendations in-principle.

Overarching Comments:

The Government welcomes the recommendations made in the Report and the intent of the recommendations to improve the construction occupations licensing regime in the ACT. The Government supports innovation and ways to continuously improve and strengthen the licensing of construction occupation professionals. Access Canberra remains committed to strengthening its regulatory framework to ensure the standard of construction professionals meets community expectations and consumer and industry standards.

Government responses to the Performance Audit Report's recommendations

Recommendation 1: Information systems for Construction Occupations Licensing

Access Canberra should develop a strategy for its information systems for construction occupations licensing. In doing so it should:

- a) determine the need and purpose of COLMS, and to what extent COLMS is expected to retain data; and*
- b) identify and articulate expectations for the interaction of COLMS and Objective.*

Government Response - Agreed-in-principle

Access Canberra is exploring a digital solution that aims to identify and implement a scalable fit for purpose ICT solution for licence functions administered by Access Canberra, including COLMS. A Discovery phase is currently underway and will be completed in July 2023.

A key objective of the discovery phase is to support the Access Canberra Digital Strategy 2023-2026 by defining a solution design and implementation plan for delivering a common licensing capability. Through the discovery phase the requirements for the construction occupations licensing ecosystem will be identified and existing systems including COLMS and Objective will be assessed for suitability. A solution options analysis will be completed, and a recommendation made for a technical solution that supports business processes. Full implementation of this recommendation will be subject to future budget consideration.

Recommendation 2: Policies and Procedures

Access Canberra should review, update and finalise its licensing policies and procedures. In doing so, the documents should have control features including:

- a) the date of approval (and effect) of the document;*
- b) the name of the person who had approved the document; and*
- c) the timeframe for the review of the document.*

Government Response - Agreed

All licensing policies and procedures pertaining to construction occupations will be reviewed, updated, and approved in accordance with this recommendation as well as Access Canberra's Quality Management Framework by March 2024. This recommendation will be implemented from within existing resources.

Recommendation 3: Self-Approval of Applications

Access Canberra should review the risks associated with officers assessing and approving licence applications. If the practice is to continue Access Canberra should:

- a) develop and implement policy guidance for the circumstances under which an officer may perform both functions; and*
- b) develop and implement a quality assurance or audit process to review licences granted under these circumstances.*

Government Response - Agreed

A policy will be developed addressing the risks associated with self-approval practices and guidance on circumstances where officers in the construction licensing area may perform self-approval functions. This policy will be developed to support existing documents provided in paragraphs 2.54 – 2.60 and finalised by March 2024. Implementation and review of this policy will be managed in accordance with Access Canberra's Quality Management Framework. This recommendation will be implemented from within existing resources.

Recommendation 4: COLMS Administration

As part of its implementation of Recommendation 1, and the development of a strategy for its information systems, Access Canberra should consider:

- a) establishing in-house knowledge of the ICT administration of COLMS; and*
- b) documenting the current processes used for administering COLMS.*

Government Response - Agreed-in-principle

The Environment Planning, Sustainable Development Directorate administers the legacy system used to manage construction occupations licenses. Noting the work currently underway and as described in Recommendation 1, Access Canberra does not propose to establish in house capability to support the existing system.

Access Canberra will develop a strategy that establishes in-house knowledge and document processes for the use of the digital solution identified by the discovery phase. As implementation of this recommendation is dependent on the full implementation of Recommendation 1, full implementation of this recommendation is also subject to future budget consideration.

Recommendation 5: Management Information Reports

Access Canberra should prepare management information reports that address:

- a) application outcomes; and*
- b) timeliness of assessing applications.*

Government Response - Agreed-in-principle

Access Canberra's ability to report on application outcomes and assessment timeliness is currently limited to the information that is contained and can be extracted from existing legacy systems. The discovery phase referenced in Recommendation 1 seeks to identify a digital solution that can link to other databases and have an internal interface allowing easy access to interrogate and run reports. As implementation of this recommendation is dependent on the full implementation of Recommendation 1, full implementation of this recommendation is also subject to future budget consideration.

Recommendation 6: Tertiary Qualification Requirements

Access Canberra should review and update, through an appropriate Ministerial declaration, the minimum tertiary qualifications required for all of the occupation classes for which it issues licences.

Government Response - Agreed

The ACT Government agrees with this recommendation. The ACT Government is delivering a continuous reform program that ensures a building regulatory system that supports, drives and delivers high quality design and building, compliance with building standards, and integrity and accountability in the ACT building and construction industry.

We continue to do this in partnership with other jurisdictions and in line with recommendations of reviews including the Shergold-Weir Building Confidence Report which made recommendations in relation to certain building practitioners. These recommendations led to the development of a National Registration Framework that provides guidance to jurisdictions around licensing and registration of a range of building and construction industry occupations.

Improvement of our registration and licensing schemes is an area in which the ACT Government is continually progressing work and responding to stakeholder feedback.

The ACT Government notes that not all construction occupations require tertiary qualifications to be eligible for a licence.

In collaboration with Environment, Planning and Sustainable Development Directorate the Ministerial Declaration was reviewed and updated in early 2023 to reflect the minimum formal qualifications required for each construction occupation class. The Construction Occupations (Licensing) Delegation 2022 (No 1) was declared on 16 January 2023, and was enacted on 17 January 2023.

Noting that the Minister for Sustainable Building and Construction has responsibility for making the Ministerial Declaration, a further review of the Ministerial Declaration will be undertaken to identify where improvements can be made. This review will be led by the Environment, Planning and Sustainable Development Directorate, with support from Access Canberra and will be completed in line with operational priorities. This recommendation will be implemented from within existing resources.

Recommendation 7: Documentation of Skills Assessment

Access Canberra should develop a policy, and associated procedures, for the documentation of skills assessments of licensees through interviews.

Government Response - Agreed

A policy and procedure for skills assessments will be developed and finalised in accordance with this recommendation as well as Access Canberra's Quality Management Framework by March 2024. This recommendation will be implemented from within existing resources.

Recommendation 8: Proof of Identity

Access Canberra should develop a policy, and associated procedures, across all application types for applicants to prove their identity.

Government Response - Agreed

Access Canberra is currently drafting an identity proofing policy. This policy is being drafted to align with the National Identity Proofing Guidelines pending the introduction of a broader ACT Government identity proofing policy. Access Canberra's policy will be finalised in accordance with this recommendation as well as their Quality Management Framework by March 2024. This recommendation will be implemented from within existing resources.

Recommendation 9: Applicant Declarations

Access Canberra should develop and implement a quality assurance process over applications for licences. The quality assurance process should seek to:

- a) provide assurance with respect to the validity of applicants' declarations; and*
- b) improve overall compliance with respect to the validity of applicants' declarations.*

Government Response - Agreed

Access Canberra has developed a Quality Management Framework that outlines the quality processes at Access Canberra, how they operate and who has responsibility for them. As referenced in Recommendation 2, all licensing policies and procedures pertaining to construction occupations will be reviewed, updated, and approved by March 2024. These will consider how officers confirm the validity of applicant declarations and will be reviewed routinely in line with the Quality Management Framework. This recommendation will be implemented from within existing resources.

Recommendation 10: Demerit Action Register

As part of its implementation of Recommendation 1, and the development of a strategy for its information systems, Access Canberra should consider consolidating its records of demerit actions into a single database, with a view to informing the occupational discipline of licensees.

Government Response - Agreed-in-principle

The discovery phase referenced in Recommendation 1 seeks to identify a digital solution that can integrate with other databases to access demerit and occupational disciplinary action information. Integration with other ACT Government systems and data migration is subject to an assessment on technical feasibility, solution design and subsequent funding of an implementation phase. As implementation of this recommendation is dependent on the full implementation of Recommendation 1, full implementation of this recommendation is also subject to future budget consideration.

Recommendation 11: Quality Assurance of Assessment Outcomes

As part of its implementation of Recommendation 9, and the development of a quality assurance process over applications for licences, Access Canberra should use quality assurance methods to measure the performance of assessment procedures, with a view to reducing the number of assessment errors through continuous improvement of the assessment process.

Government Response - Agreed

Access Canberra has developed a Quality Management Framework that outlines the quality processes at Access Canberra, how they operate and who has responsibility for them. As referenced in Recommendation 2, all licensing policies and procedures pertaining to construction occupations will be reviewed, updated, and approved by March 2024. These will be reviewed routinely in line with the Quality Management Framework. This recommendation will be implemented from within existing resources.

Recommendation 12: Mutual Recognitional Declarations

Access Canberra should seek to implement, with the assistance of other States:

- a) a regular review of the accuracy of the equivalence with other States of ACT construction occupations within the Mutual Recognition Declarations; and*
- b) a process to ensure that the Declarations used to assess applications are those that are currently in-force on the Federal Register of Legislation.*

Government Response - Agreed-in-principle

There are limitations in ACT Government ability to implement recommendation 12(a) noting equivalency agreements for mutual recognition are made under the Mutual Recognition Act 1992 (Cth) and are coordinated at a Federal level. The ACT Government, led by the Environment, Planning and Sustainable Development Directorate will continue to work with our jurisdictional colleagues to make sure that jurisdiction shopping is minimised.

The ACT Government is undertaking work to support implementation of Automatic Mutual Recognition for construction occupations in the ACT to support a mobile labour workforce. This work is linked to the ACT Government's commitment to improvement of our registration and licensing schemes and improving regulation of building practitioners in response to the Building Confidence Report. National consistency balanced with the specific requirements of the ACT market is important to support the building and construction industry and provide consumer protections.

In relation to recommendation 12(b), policies and procedures referencing mutual recognition declarations have been reviewed to ensure officers assess applications using current Federal equivalency matrixes.

This recommendation will be implemented from within existing resources.

Recommendation 13: Mutual Recognition

Access Canberra should engage with its State counterparts to address the practice of 'shopping and hopping' via the mutual recognition scheme.

Government Response – Agreed-in-principle

There are limitations in ACT Government ability to effect any change with the practice of 'shopping and hopping' noting equivalency agreements are coordinated at the Federal level, as discussed in Recommendation 12. The ACT Government, led by the Environment, Planning and Sustainable Development Directorate will continue to work with our jurisdictional colleagues to make sure that jurisdiction shopping is minimised through nationally consistent regulatory frameworks and the use of Automatic Mutual Recognition where appropriate. This recommendation will be implemented through existing resources.