



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PUBLIC ACCOUNTS

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PUBLIC ACCOUNTS COMMITTEE REPORT No. 9
REVIEW OF AUDITOR-GENERAL'S REPORT No. 3 OF 2014:
SINGLE DWELLING DEVELOPMENT ASSESSMENTS
(tabled 24 March 2015)

In connection with the above report, the Public Accounts Committee (PAC) made one recommendation:

RECOMMENDATION 1

The Committee recommends that the ACT Government report to the ACT Legislative Assembly, by the last sitting day in October 2015, on the progress and effectiveness of the Government's implementation of the recommendations, made in Auditor-General's Report No. 3 of 2014: *Single Dwelling Development Assessments*, that have been accepted either in-whole or in-part.

The Government tabled its response to PAC Report No. 9 on 27 October 2015. The update on implementation of the Auditor-General's recommendations, as per recommendation 1, and tabled by the responsible Minister on 27 October 2015, is attached.

Management Action Plan - Auditor-General's Single Dwelling Development Assessments May 2014 – Update as of August 2015

No	Recommendation	Risk Rating	Management Response	Progress on Actions Please Note: a) Actions can only be reported as completed if they have been fully implemented. b) If you require an extension to the completion date, please indicate a <u>revised completion date</u> below and <u>reason</u> for the delay.	Effectiveness of the Government's implementation of the recommendations in the A-G's Report that have been accepted either in-whole or in-part. NB: (All recommendations have been agreed.)
1	The Environment and Sustainable Development Directorate should modify its eDevelopment application form so that applicants indicate if their development has been assessed under the Development Application exemption process.	Not specified	Agreed The eDA form will be reviewed to include a provision highlighting whether a DA is being submitted to address a situation where an exemption was granted but not in accordance with the exemption provisions. The current eDevelopment upgrade project will look at how these notifications can be flagged throughout the relevant parts of the process.	A new question (check box) has been included on the DA form. These DAs will be entered onto a spreadsheet to monitor progress. The field in the DA form will be fully automated in the next release of eDevelopment in 2015	Effective Development Applications now have to provide this information, otherwise a review is triggered, and is therefore effective in terms of providing a completeness check.
2	The Environment and Sustainable Development Directorate should improve its ability to meet statutory timeframes by not accepting the lodgement of a Development Application whose material is unsuitable for conducting an assessment.	Not specified	Agreed ESDD will continue to refuse the lodgement of development applications if the plans and associated material accompanying the application are not suitable for assessment.	This practice is currently in place through the completeness check process.	Effective
3	The Environment and Sustainable Development Directorate should implement a process for assessing officers to communicate breaches of legislation to the Investigations Team for investigation.	Not specified	Agreed The current arrangement for the exchange of information between assessing officers and the investigations team will be formalised into a standard operating procedure for both areas of the Directorate.	A Work Instruction for the communication process has been created for assessing officers to communicate potential breaches of legislation to the Investigations Team for their attention.	Too early to determine Expected this will take 2-3 years to establish effectiveness.
4	The Environment and Sustainable Development Directorate should identify and promote ways to improve the training of certifiers, particularly when changes occur in planning	Not specified	Agreed The Construction Occupations Registrar has a new power to direct training for individual or classes of licensed entities in specific areas. The ability to direct Certifiers to undertake	Access Canberra has established a Building Regulation Advisory Committee to look at proposed changes to building laws. A further review of the effectiveness of the	Too early to determine.

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	legislation and building codes, as now allowed for under Section 104B(1) of the <i>Construction Occupations (Licensing) Act 2004</i> .		training in respect to changes or updates in the Single Dwelling Housing Code has been one of the examples used in the discussions during the development of the amending bill in 2013. The recommendation is consistent with its intended use and is acceptable.	Please Note: a) Actions can only be reported as completed if they have been fully implemented. b) If you require an extension to the completion date, please indicate a <u>revised completion date</u> below and <u>reason</u> for the delay.	NB: (All recommendations have been agreed.)
5	The Environment and Sustainable Development Directorate should require building surveyors and works assessors (certifiers) to submit a minimum level of documentation, such as a checklist, in relation to Development Application exemption assessments.	Not specified	Agreed ESDD will update and provide a greater level of guidance to Building Certifiers and works assessors. This is in addition to the significant amount of guidance currently provided on an individual basis by the construction audit team to Building Certifiers.	The Planning, Building and Environment Legislation Amendment Bill 2014 (No 2) includes provisions to reinforce documentation and decision responsibility requirements for building certifiers, building surveyors and works assessors. The bill was passed by the Legislative Assembly on 21 October 2014. The Act came into effect on 7 November 2014.	Effective The requirement to submit a minimum level of documentation has assisted in the Development Application process.
6	The Environment and Sustainable Development Directorate should improve its publicly available information on certifiers and the Development Application exemption assessment process by: a) including on its website, information that explicitly defines the role and responsibilities of a certifier and states when a homeowner needs to engage a certifier; and b) providing certifiers with standard information to be included on their websites defining the role of certifiers.	Not specified	Agreed ESDD will review existing information available on the ESDD website to make the roles and responsibility of Building Certifiers more visible. Forms have changed over time to make the appointment of Building Certifiers and their role more prominent. This has been and will continue to be a challenging piece of communication given the way that homeowners engage in the building process is generally with a builder first and a Certifier at a later stage. ESDD will prepare and circulate standard information regarding the role of a Building Certifier for publication on the licensed	A new publication entitled 'Building in the ACT' A consumer guide to the building process (October 2014) has been published on the Directorate's website. The guide provides information about: • The Construction Occupations Registrar • Development Applications • Exempt Development • Building Approvals • Building Certifier's role, fees, inspections etc • Choosing a builder • Building contracts, payment	Effective Management has noted a reduction in all complaints since release of the consumer guide.

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			Building Certifiers websites. ESDD will also provide the same information to banks and financial institutions to ensure that the Building Certifier's role is understood by those institutions as well.	arrangements, statutory warranties and residential building insurance • Building disputes • Completion processes	
7	The Environment and Sustainable Development Directorate should improve its auditing of Development Application exemption assessments by: a) continuing to develop and implement a system for targeting audits; and b) including audits to determine if a certifier's decision to assess a development as exempt is correct.	High Priority	Agreed The auditing tools used by the construction audit team are the subject of ongoing review and adaptation so the recommendation in part a) is a reflection of existing and ongoing practice. The recommendation in part b) is agreed in principle. It will require both and additional deployment of resources and an involvement of the knowledge and expertise of the Planning Delivery Division to be implemented.	Commencing 1 July 2014, audits are now being undertaken of exempt development for class 1(a) and associated class 10 buildings that were determined to be exempt from requiring development approval. The number of audits to be undertaken in the 2014/15 program was 75. The audit program for exempt development beyond this period will take into account the initial programmed audit findings	Effective The targeted audit program addresses various areas including the Building code and Development Application code. Targeted audits for exempt audits scheduled for the 2 nd half of 2015.
8	The Environment and Sustainable Development Directorate should assess the effectiveness of its new enforcement policy for managing complaints to determine if it has reduced the Directorate's workload. The Minister should be consulted to determine whether complaints made to him should also be subjected to the enforcement policy.	Not specified	Agreed After an appropriate period, the enforcement policy will be reviewed for its effectiveness. The Minister's office will be consulted on the second part of the recommendation.	With the Machinery of Government changes associated with the creation of Access Canberra, all regulatory agencies now under Access Canberra will be reviewing their enforcement policies to achieved one enforcement policy.	Too early to determine.
9	The Environment and Sustainable Development Directorate should develop an investigations monitoring system, which is guided by policies and	Not specified	Agreed Since the auditors have been on site, the COMTRAC investigations management system has been deployed within the Construction	The COMTRAC system is operational and was evaluated in December 2014.	Effective The COMTRAC system is very good at managing investigations and is a highly efficient

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	procedures, and includes a regular review of the progress and results of investigations and complaints.		Services Branch investigations team. COMTRAC has review, progress and oversight functions built into the system and should enable ESDD to meet the intent of this recommendation in full. This is part of the ongoing process of the professionalisation of the investigations team to meet the Australian Government investigations standards.		investigation tool.
10	The Environment and Sustainable Development Directorate should review and report to the Minister on the merits of: a) increasing penalties for a certifier's non-compliance with relevant Acts and codes; and b) publicly reporting the demerit points of certifiers.	Not specified	Agreed Both aspects of Recommendation 10 are consistent with the discussions around the review of the Building Act and associated construction legislation. The Government's recent amendments to the Building Act significantly increased some penalties from 200 to 2000 penalty units. A full review of the penalty regime within the suite of construction legislation will be part of the above mentioned review of the Building Act and associated construction legislation. Amendment to the Construction Occupations (Licensing) Act also increased the information which can be published by the Construction Occupations Registrar to make clear and more contemporaneous to the public disciplinary and other formal actions taken against licensed entities by the Construction Occupations Registrar.	a) Increased penalties were implemented as part of the recent interim legislative amendments to the Building Act. This will also be included for assessment in the Building Act review changes proposed for 2015. b) Demerit points were not intended for public disclosure or for use as formal disciplinary action. Advice on the merits of and legal issues with changing the demerit point system to accommodate public disclosure has been provided and is being considered.	Too early to determine.

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11	The Environment and Sustainable Development Directorate should develop and implement a peer review quality control process for Development Application Merit Track assessments to help achieve correct decisions.	Not specified	Agreed	A peer review checklist has been created and is required by the Standard Operating Procedures to be completed in circumstances where the decision maker is the same as the assessing officer.	Effective Effective for the bulk of Development Applications. For the more complex Development Applications it does slow down the process as these require senior officer approval which will be less of a problem as officers get used to the system.
12	The Environment and Sustainable Development Directorate should improve the transparency of its decision-making, by requiring that assessing officers document their considerations against key mandatory rules that a single dwelling Development Application is assessed against.	High Priority	Agreed	Key mandatory rules have been identified in a single dwelling assessment report template for assessing officers.	Effective The recommendation has led to some decision makers over documenting their decision to make clear the basis of their decision, unnecessarily slowing down the process in limited cases (ie from a few days up to one week). Team leaders are working one-on-one with staff to improve decision makers confidence.
13	The Environment and Sustainable Development Directorate should redesign their 'Controlled Activity' notification letter, which advises of a breach of the <i>Planning and Development Act 2007</i> , so that it is customer focused and acknowledges preceding events.	Not specified	Agreed in principle The Controlled Activity notification letter is a formal legal document which forms part of the investigations and enforcement process. A more customer focused form of wording can be developed.	Current template letters have been reviewed and amended in June 2014, and the letter that was the subject of the AG's recommendation (directed to lessees) has been substantially redrafted.	Too early to determine.

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14	The Environment and Sustainable Development Directorate should include risks relating to improper influence as part of its current review of its Risk Management Plan, and develop a timetable to expedite implementation of this plan.	Not specified	Agreed The management of the risk of ESDD officers being subject to improper influence is included in ESDD's Risk Management Plan.	Risks relating to improper influence have been included in the draft Risk Management Plan along with a timetable for implementation.	Effective Strategic Risk No. 5 of the EPD Risk Management Plan provides: "The reputation of EPD is damaged by a significant corruption incident involving improper influence of EPD staff." In terms of timeframe "emerging" risks are a standing item for Executive Management Board (EMB) meetings, while Divisions risks which are required to take into account the Strategic Risks are considered by EMB on a quarterly basis.