

ACT AUDITOR-GENERAL'S
PERFORMANCE AUDIT REPORT
CONSTRUCTION OCCUPATIONS LICENSING

REPORT NO. 1 / 2023

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The Office also conducts performance audits, to examine whether a Government agency is carrying out its activities effectively and efficiently and in compliance with relevant legislation.

The Office acts independently of the Government and reports the results of its audits directly to the ACT Legislative Assembly.

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The Speaker
ACT Legislative Assembly
Civic Square, London Circuit
CANBERRA ACT 2601

Dear Madam Speaker

I am pleased to forward to you a Performance Audit Report titled 'Construction occupations licensing' for tabling in the Legislative Assembly pursuant to Subsection 17(5) of the *Auditor-General Act 1996*.

The audit has been conducted in accordance with the requirements of the *Auditor-General Act 1996* and relevant professional standards including *ASAE 3500 – Performance Engagements*.

Yours sincerely



Michael Harris
Auditor-General
16 March 2023

The ACT Audit Office acknowledges the traditional custodians of the Canberra region. The Office wishes to acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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SUMMARY

The *Construction Occupations (Licensing) Act 2004* provides the regulatory framework for the licensing of construction practitioners in the building and construction industry. Construction occupation licences are issued by the Construction Occupations Registrar, a statutory position within Access Canberra.

The licensing of construction practitioners is an important component of mandating a minimum standard of competence in the ACT construction industry. There are currently 62 classes of construction occupation licences in the ACT. There are specific requirements relevant to each category that a licensee must hold and maintain.

The audit considered the effectiveness of the Territory's construction occupation licensing arrangements as administered by Access Canberra.

Conclusions

ADMINISTRATIVE ARRANGEMENTS

Access Canberra's management of the licensing of construction practitioners is hampered by its use of multiple information systems:

- Objective is used as a repository for artifacts provided by applicants during the application process; and
- COLMS is a bespoke database software program that has been used since 2005. It includes extensive information on the licensing history of each licensee.

The systems are not integrated. The use of the two systems, and the age and limitations of COLMS, means that the monitoring and reporting of licensing processes is also hampered. As a matter of priority Access Canberra needs to determine a strategy for its information systems for construction occupations licensing.

LICENCE APPLICATION PROCESSING

There are 146 methods of eligibility across 62 classes or endorsements of construction occupation licences. Along with formerly holding a licence, having a tertiary qualification, demonstrating work experience and passing a written examination are key licensing requirements that feature most prominently across the 146 methods of eligibility.

Access Canberra has mature processes for the assessment of applications for licences and, for the most part, these were evident from a review of licence applications undertaken by the Audit Office. There is, however, an opportunity to improve the processing of licence applications by:

- providing clarity on the minimum tertiary qualification requirement for a class A builder's licence;
- demonstrating consistency in the assessment of applicants' work experience;
- developing a consistent practice for the documentation of online interviews for builder's licences; and
- implementing an assurance process with respect to the personal declarations and assertions applicants make as part of the licensing process.

LICENCE APPLICATIONS THROUGH MUTUAL RECOGNITION

The *Mutual Recognition Act 1992* (Cth) seeks to 'promote the goal of freedom of movement of goods and service providers in a national market in Australia'. By virtue of the mutual recognition scheme Access Canberra must grant an ACT licence to a construction practitioner that is 'equivalent' to a licence that they have been granted in another jurisdiction.

There is confusion with respect to the currency and status of Ministerial Declarations made in relation to builders' and electricians' licences, which seek to recognise the equivalence of qualifications across states and territories for the purpose of licensing. The Ministerial Declarations are also not updated on a regular basis.

There are a number of instances where direct equivalences of qualifications cannot be made across states and territories. An opportunity exists for licensees to take advantage of the mutual recognition scheme to be issued with a licence in their home state or territory, without the qualifications and work experience that would otherwise be required; 'shopping and hopping'. This represents a risk to the integrity of the licensing of construction practitioners in the ACT.

Key findings

ADMINISTRATIVE ARRANGEMENTS

Paragraph

Access Canberra's licensing of construction occupations is primarily administered through two information systems: Objective and COLMS. Objective is used as a repository for all artifacts provided by applicants during the application process. COLMS is a bespoke database software program that has been used since 2005. A COLMS record is created for each individual (or company) licensee and includes information on disciplinary actions including demerits issued against a licensee. Access Canberra users extract data from artifacts that are supplied and generated in the application process, to populate data fields in a licensee's COLMS record. This is a manual process, as there is no functionality within COLMS to import, export or validate data between COLMS and Objective. While Access Canberra uses SmartForms for the purpose of licence applications, in their current form they do not have the capability of populating a licensee's information directly to COLMS. The use of two information systems to manage the construction occupations licensing

2.31

process is inefficient and leads to risks in the accuracy of data available for decision-making.

Access Canberra has generated a comprehensive suite of policies and procedures for the licensing of construction occupations; 31 policies for specific features of the licensing arrangements and 36 SOPs for the administration of licensing processes. The value of the policies and procedures is diminished by their lack of completeness, absence of regular reviews and inconsistencies between similar processes. The absence of approvals for policies and procedures also leads to a lack of authority. Without agreed mature processes for high volume tasks undertaken by multiple staff, there is a risk that assessment procedures are not repeatable for all assessors, and this may lead to incorrect assessment of applications. Access Canberra's development of a Quality Management Framework (QMF), the development of which commenced in June 2022, offers an opportunity to improve the value of policies and procedures for the licensing of construction occupations. 2.49

The demarcation of responsibilities for the assessment and approval of licence applications is important because it: provides assurance that decision making is accurate; provides an opportunity to identify any mistakes or inconsistencies in the recommended decision; and mitigates any real or perceived conflict of interest. Access Canberra has sought efficiencies in the assessment and approval of licence applications by allowing officers to assess and approve licence applications under certain situations. This represents a risk to the integrity of decision-making, albeit a risk that may be reduced with appropriate managerial oversight and safeguards. At present there is no documented policy guidance for the circumstances under which an officer may assess and approve a licence application or quality assurance or audit process to review licences granted under these circumstances. 2.60

Access Canberra relies on CMTEDD's *Conflict of Interest Policy* to manage circumstances in which a staff member might have a potential or actual conflict of interest. The policy is mature and comprehensive. When recruited to the licensing team, employees are expected to declare any potential conflicts of interest. On an ongoing basis, employees are also required to declare any new conflicts of interest that may arise as applications are received from new licensees. 2.68

Monitoring and reporting of Access Canberra's construction occupations licensing arrangements is primarily achieved by reporting of data that is contained in COLMS. Access Canberra does not have direct access to the report preparation functions; the reports are manually processed by a member of the ICT team in EPSDD. The data in COLMS is transposed from files in Objective to COLMS by assessors during the assessment process. The extent of the data received by COLMS is limited by the data fields that it can receive. The accuracy of the transposed data is not assured by virtue of it being manually processed and there were instances where data had been incorrectly transposed. 2.85

Guidance on Access Canberra's website advises applicants that the minimum expected timeframe for assessment of their application is four weeks. By virtue of the *Mutual Recognition Act 1992 (Cth)* applications for new licences through mutual recognition of licences in another state or territory must be processed within one 2.96

month or they are automatically granted. A review of applications shows the average time for assessing new non-mutual recognition applications was 59 calendar days and the average time for assessing applications for mutual recognition was 14 calendar days. It is apparent that Access Canberra assessors seek to actively manage mutual recognition applications that are assigned to them to ensure assessment is within the timeframe required by the *Mutual Recognition Act 1992* (Cth).

LICENCE APPLICATION PROCESSING

Paragraph

The assessment of licence applications for construction practitioners is undertaken against the requirements provided for in declarations made under subsection 13(1) of the *Construction Occupations (Licensing) Regulation 2004*. There are 146 methods of eligibility across the 62 classes or endorsements of licences. Along with formerly holding a licence, having a tertiary qualification, demonstrating work experience and passing a written examination are key licensing requirements that feature most prominently across the 146 methods of eligibility.

3.11

Construction practitioners generally apply for a new licence or seek a renewal for an existing licence. There are two distinct streams for construction practitioners applying for a new licence. The primary focus for new licence applications is that the applicant satisfies Access Canberra that they have the relevant skills and experience to hold a licence. The focus for applications made through mutual recognition of a licence in another State is the currency of the other licence and consideration of any occupational discipline of the applicant. By virtue of the applicant being licensed in another State, Access Canberra relies on the decision-making processes implemented by that State in granting a licence.

3.25

There are different tertiary requirements for the licensing of different occupations. The minimum tertiary qualification requirement for a class A builder's licence is 'a tertiary qualification in building' that is a bachelor's degree or above. In this instance, Access Canberra is required to use its judgement in assessing whether a tertiary qualification meets its requirement. In doing so, Access Canberra is exposed to the risk of its decision being challenged by applicants that may have completed a qualification, with an expectation that they could be licensed in an occupation. This has occurred. Challenges to Access Canberra's decision making are costly, labour intensive and may damage Access Canberra's reputation.

3.50

Access Canberra has a comprehensively documented process for assessing that an applicant's work experience meets the relevant requirement and validation that the work experience actually took place. However, there is variability in the quality and extent of the materials that are provided to Access Canberra for its assessment. For those that are completed by hand, the information may be ineligible or have the potential to be modified after being signed by the referee. A completed form that is not electronic also limits the ability for future processing efficiencies and errors, as the data cannot be readily and reliably extracted. For the purpose of the desktop review, 16 licence applications were required to demonstrate evidence of work experience. Fifteen of the applications met the requirements of the declaration. For the application that did not meet the requirement, there was no record in the applicant's Objective file that shows how Access Canberra was satisfied that the

3.67

applicant had the physical ability, skill and knowledge to competently undertake the work.

Since 2019 applicants for new builder's licences have been required to pass a skills assessment examination; this was previously a written examination, but since the Covid-19 pandemic this has been achieved through an online questionnaire and a subsequent online interview. When an online interview has taken place, Access Canberra makes an assessment of the interview. In the applications that were reviewed for the purpose of the audit, there were different approaches to the assessment and documentation of the assessment. Access Canberra's *Builder Assessment Policy* and *Operational Procedures for Builder Application Assessments* provide guidance for the administrative arrangements for interviews, but they are silent regarding the requirements for the documentation of interview assessments. 3.79

Applications for a licence through mutual recognition are legislatively required to prove their identity. In the review of applications for the purpose of audit fieldwork, it was apparent that applicants commonly provided incorrect and inconsistent evidence to prove their identity. This was not challenged by Access Canberra. With proof of identify being required for the first application from an individual, and not in subsequent applications, there is limited assurance with respect to an individual's identity. 3.85

All licensees are legislatively required to notify Access Canberra when their personal details change. Access Canberra's guidance clearly communicates this requirement. However, licensees rarely notify Access Canberra of changes within the required timeframe. Rather, it is apparent that licensees submit new details during the renewal process. This means that Access Canberra may not have the correct personal details for a licensee for up to three years, by virtue of the maximum licence term. This may limit the ability of Access Canberra to contact licensees, and in some cases lead to unintended unlicensed work, if a licensee does not renew their license because they did not receive notification that their licence had expired. 3.90

Access Canberra relies on applicants to make personal declarations on a wide range of personal and integrity-related matters such as their financial resources and capacity, previously held licences and whether they have been subject to any complaints or disciplinary processes. There is no process for validating the declarations made by the applicant. Some of the matters declared could lead to a refusal of an application. The desktop review of licence applications found that, on occasion, the declarations made by the applicants were not correct and applications were approved by Access Canberra without apparent consideration or acknowledgment of the incorrect declaration. Without a process to validate the declarations made by applicants', decision-makers may be missing key information that is required for well informed decision making; in some cases this information may change the outcome of an application. 3.95

Access Canberra considers an applicant's occupational disciplinary history in the ACT and other States when making licensing decisions. Access Canberra uses its own data to inform its decision. Access Canberra's occupational discipline data is stored in three discrete locations, which contain significant duplication of information; any 3.107

cross referencing is by a manual process with no opportunity to automate. This presents an opportunity for data to not be a true representation of the status of an applicant’s occupational discipline and may lead Access Canberra to overlook the occupational disciplinary history of an applicant.

In assessing applications where applicants have held, or do hold, licences in other States, public databases provide limited data regarding the licensee’s occupational discipline in those States. Access Canberra also has relationships with other State licensing authorities, which can provide additional data on request. Whilst Access Canberra seeks information from an applicant’s first State licensing authority in the case of mutual recognition applications, information is not sought in the case of new applications or for renewals of licences. 3.108

LICENCE APPLICATIONS THROUGH MUTUAL RECOGNITION Paragraph

The *Mutual Recognition Act 1992* (Cth) is the overarching legislation for the mutual recognition of occupations in Australia. It allows for Ministerial Declarations to be made to recognise the equivalence of occupations for the purpose of licensing. Ministerial Declarations that have been made are comprehensive documents that are used extensively by Access Canberra when assessing applications through mutual recognition of a licence held in another state or territory. Nevertheless, there is confusion with respect to the currency and status of Ministerial Declarations made in relation to builders’ and electricians’ licences. A 2014 *Progress Report On Responses To The Productivity Commission’s 2009 Review Of Mutual Recognition Schemes* from the Cross Jurisdictional Review Forum recommended annual updating of the Ministerial Declarations of occupational equivalence. This has not occurred. 4.25

Because of the large numbers of equivalences required across classes of occupations, there are occasions where direct equivalences cannot be drawn. In the absence of direct equivalences for some occupation classes, an opportunity exists for licensees to take advantage of the mutual recognition scheme to be issued with a licence in their home state or territory, without the qualifications and work experience that would otherwise be required. This is known as ‘shopping and hopping’. Access Canberra has gathered data which shows that some applicants who apply for an ACT licence through mutual recognition of their licence held in another state or territory do so with the intent of taking advantage of the scheme, i.e. to be issued with a licence in another State without meeting the requirements of that state or territory. 4.39

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.

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.

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.

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.

RECOMMENDATION 5 MANAGEMENT INFORMATION REPORTS

Access Canberra should prepare management information reports that address:

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

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.

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.

RECOMMENDATION 8 PROOF OF IDENTITY

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

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.

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.

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.

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.

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.

Response from entities

In accordance with subsection 18(2) of the *Auditor-General Act 1996* the Chief Minister, Treasury and Economic Development Directorate was provided with a draft proposed report for comment. All comments were considered and required changes were reflected in a final proposed report. A final proposed report was provided for further comment. No comments were provided for inclusion in the Summary chapter.

1 INTRODUCTION

Construction occupations licensing

- 1.1 The *Construction Occupations (Licensing) Act 2004* provides the regulatory framework for the licensing of construction practitioners in the building and construction industry. Construction occupation licences are issued by the Construction Occupations Registrar.
- 1.2 There are currently 62 classes of construction occupation licences in the ACT. There are specific requirements relevant to each category that a licensee must hold and maintain.

Objective of licensing

- 1.3 The licensing of construction practitioners is a component of maintaining a minimum standard of competence in the ACT building and construction industry. Licensing seeks to improve the assurance of quality and of compliance with relevant standards for consumers who hire construction practitioners in the ACT.

Construction occupation licences

- 1.4 Under the Act, construction practitioners in specific construction occupations are required to apply for, be granted and maintain a licence to practise within the ACT building and construction industry. Subsection 84(1) of the Act states:

A person commits an offence if the person:

- a) provides a service (whether as an employee or otherwise) in a construction occupation or occupation class; and
- b) either –
 - i. is not licensed in the occupation or class; or
 - ii. if an endorsement on the licence is required for the person to be authorised to provide the service provided and the licence does not have that endorsement.

- 1.5 Subsection 85(1) of the Act also states:

A person commits an offence if—

- (a) the person engages someone else (the **worker**), or allows an employee (also the **worker**), to provide a construction service for the person; and
- (b) the worker is not licensed to provide the service; and
- (c) the person is reckless about whether the worker is licensed to provide the service.

- 1.6 Section 7 of the Act provides for the construction occupations to be licensed under the Act:

- builder;
- building assessor;
- building surveyor;

- drainer;
- electrician;
- gasfitter;
- plumber;
- plumbing plan certifier; and
- works assessor.

1.7 Section 17 of the Act provides for an individual, corporation or partnership to apply for a construction occupation licence. Section 19 of the Act provides for an individual, corporation or partnership to be granted a construction occupation licence. Section 18 of the Act provides for eligibility requirements to be identified for licences and refers to regulations that:

... may prescribe when an entity is eligible, or not eligible, to be licensed in a construction occupation or occupation class, including the qualifications the entity must have to be eligible to be licensed in the occupation or class.

Mutual recognition

1.8 Licences may also be granted due to the mutual recognition of occupations in Australia, i.e. a holder of a licence in another State may be granted an equivalent licence in the ACT.¹ The *Mutual Recognition Act 1992* (Cth) is the overarching legislation for mutual recognition. The purpose of the legislation is:

... to promote the goal of freedom of movement of goods and service providers in a national market in Australia.

1.9 Part 3 of the *Mutual Recognition Act 1992* (Cth):

... deals with the ability of a person who is registered for an occupation in a State ... to carry on an equivalent occupation in another State.

1.10 In 2021-22, 1425 of the 7905 active licences maintained by Access Canberra (18 percent) were issued through mutual recognition of a licence issued by another State.

Endorsements on licences

1.11 To increase the scope of the works that can be undertaken on an existing licence, a licensee can apply to have an endorsement added to their licence. Division 5.2 of the *Construction Occupations (Licensing) Regulation 2004* (the Regulation), provides guidance for the general requirements and conditions where Access Canberra may issue an endorsement to a licence. Examples of works that require an endorsement are:

- demolition work;

¹ For the purposes of the *Mutual Recognition Act 1992* (Cth), a State includes the ACT and the Northern Territory.

- swimming pool construction; and
- interval metering work.

1.12 Specific requirements for endorsements are contained within a series of endorsement-specific policy documents that are maintained by Access Canberra.

Corporation and partnership licensing

1.13 While an individual construction practitioner is required to hold a licence to undertake work within the scope of their licence, a corporation or partnership licence is also required for corporations or partnerships that want to provide, or advertise to provide, certain construction services.

1.14 Corporations and partnerships must nominate at least one construction practitioner that holds a current licence in the same occupation and class as the licence that the corporation or partnership seeks to be licensed for. A nominee for a corporation must be a current director or employee of the company that they apply to be a nominee of, and a nominee of a partnership must be a partner or the nominee of a corporation that is a partner in the partnership.

1.15 A nominee's role is to supervise the construction services that the corporation or partnership has been engaged for and ensure that that work complies with relevant legislation and codes of practice.

Suspensions and disqualifications of licences

1.16 Access Canberra Electrical and Plumbing inspectors may undertake site inspections of work undertaken by licensees. If the work is found to be defective, Access Canberra may issue the licensee with a Defects Report. The report provides a timeframe for the defects to be rectified. Defects may be assessed as a minor or major defect.

1.17 If the licensee does not rectify the identified defects within the required timeframe, Access Canberra may issue a reminder to the licensee with a further period of time to rectify the identified defects. If no action is taken to rectify the identified defects in the period of time stated in the reminder, Access Canberra may consider this to be a disciplinary incident and may issue a final defect notice to the licensee.

1.18 Demerit points are incurred on a licence when Access Canberra becomes aware of a disciplinary incident. The number of demerit points for an incident is prescribed in section 43 and schedules 2 and 3 of the Regulation. These incidents are largely for non-compliance with specific sections of legislation and codes, such as the *Electricity Safety Act 1971* and the *Building Act 2004*, but there is also a provision for incurring demerit points for giving false or misleading information.

1.19 When a licensee has incurred 15 or more demerit points in a construction occupation in the previous three years, Access Canberra may take disciplinary action in the form of suspending or disqualifying a licensee’s licence, or:

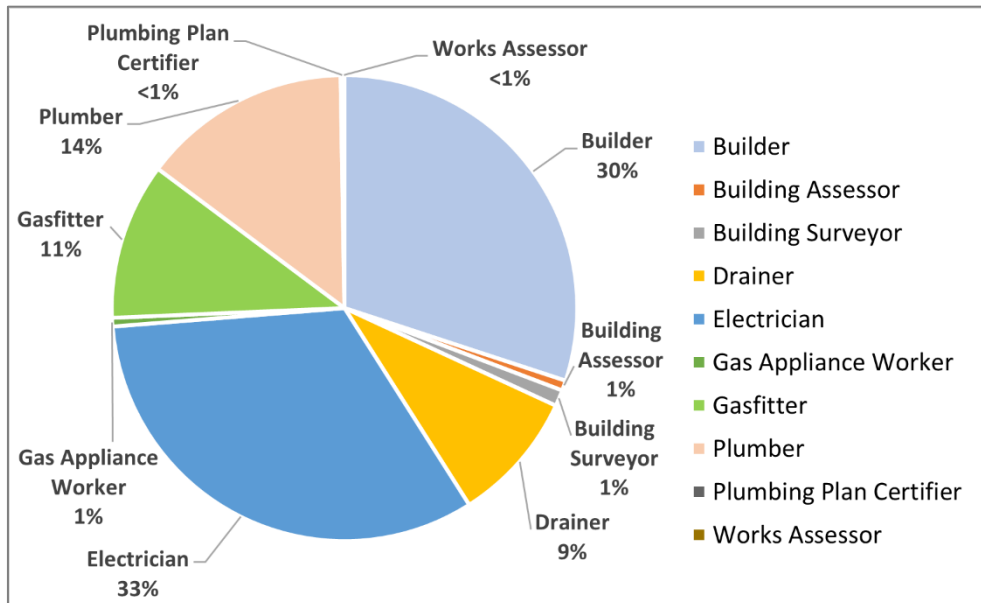
... take any other action against the licensee that: the ACAT could take or direct the registrar to take; and the registrar considers appropriate.

1.20 In 2021-22 Access Canberra suspended one gasfitter licence and cancelled one builder licence.

Numbers of licences (2021-22)

1.21 In 2021-22 the total number of active licences maintained by Access Canberra was 7905. Figure 1-1 shows the breakdown of licences by occupation.

Figure 1-1 Active licences by occupation (2021-22) (percentage of total)

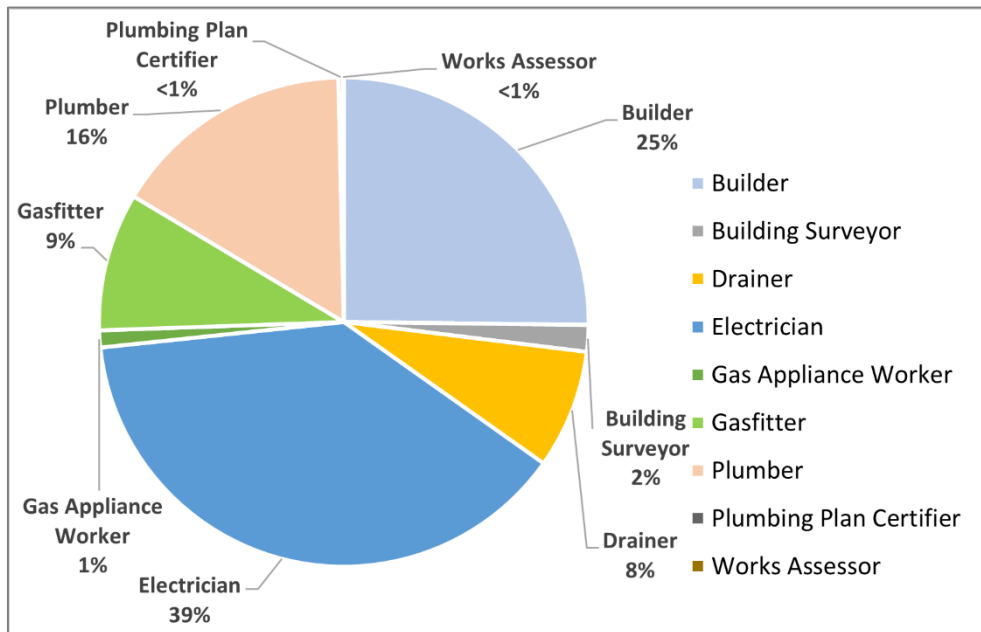


Source: Audit Office based on data provided by Access Canberra

1.22 The largest number of active licences are electrician licences (33 percent) followed by builder licences (30 percent).

1.23 Of the total number of licences issued in 2021-22, 1425 (18 percent) were issued through mutual recognition of a licence issued by another State. Figure 1-2 shows the breakdown of these licences by occupation.

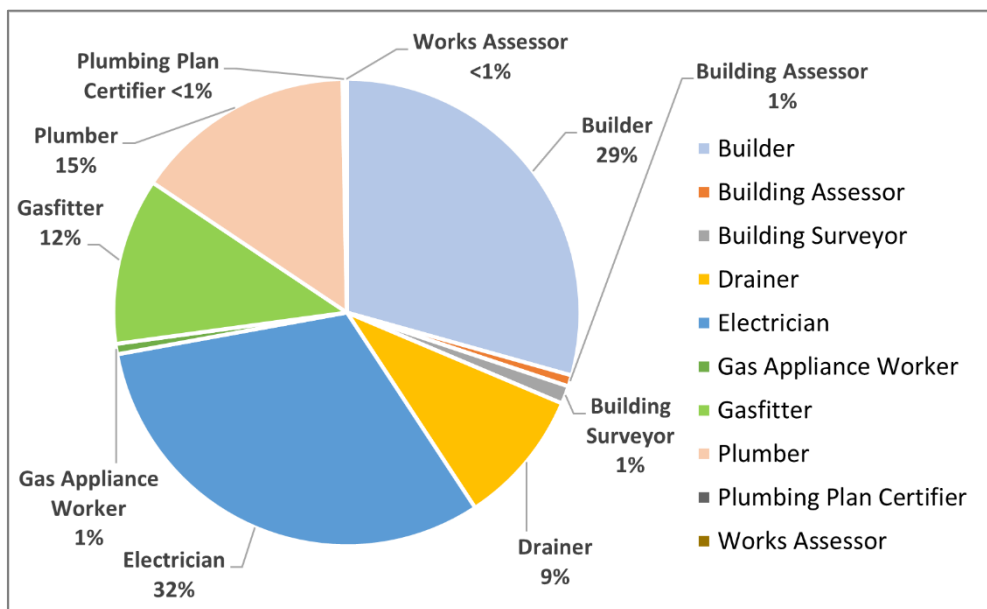
Figure 1-2 New licences issued via mutual recognition by occupation (2021-22) (percentage of total issued via mutual recognition)



Source: Audit Office based on data provided by Access Canberra

1.24 Access Canberra renewed 6288 licences in 2021-22. Figure 1-3 shows the breakdown of renewals by occupation.

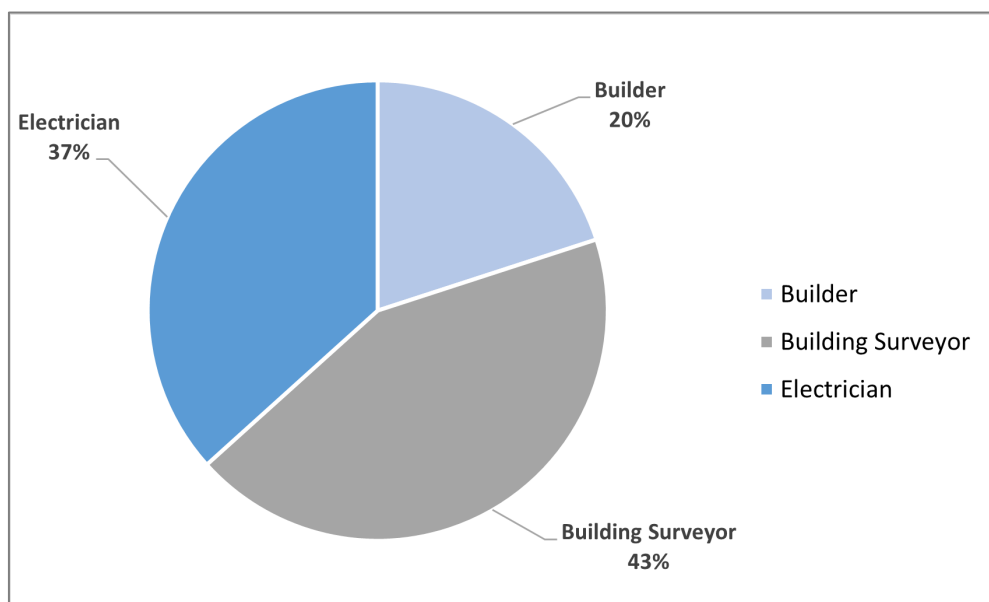
Figure 1-3 Renewed licences by occupation (2021-22) (percentage of total renewals)



Source: Audit Office based on data provided by Access Canberra

1.25 Access Canberra issued demerits to licensees on 30 occasions. Figure 1-4 shows the breakdown of demerits by occupation.

Figure 1-4 Licensees issued demerits by occupation (2021-22) (percentage of total demerits issued)



Source: Audit Office based on data provided by Access Canberra

Public information

1.26 By virtue of section 107 of the Act, Access Canberra must keep a register of licensees and provide public access to certain licensee information:

The registrar must keep a register of licensees ... the registrar must make available to the public information that is - included in the register.

1.27 Access Canberra provides and maintains a public Register of Construction Practitioners who are currently licensed, registered or accredited to undertake work in the ACT. The register is required to be updated at least once a week on a website and is divided into parts for each occupation. The following details are included in the register for each licensee:

- licensee name;
- licence number;
- licence expiry date;
- occupation and class; and
- licence conditions and endorsements.²

1.28 A Disciplinary Register is also maintained by Access Canberra, which provides details of licensees that have been, or are currently subject to suspension, cancellation or

² <https://www.accesscanberra.act.gov.au/s/construction-professionals>

disqualification.³ Actions are retained on the register for at least ten years. For each licensee on the register, a range of details are provided, including:

- action type;
- action start and end date; and
- the reason for the action.

1.29 The Disciplinary Register does not include information regarding individual demerit actions or Defect Reports and entries are not hyperlinked to the Register of Construction Professionals.

1.30 By virtue of section 83 of the Act, it is an offence to not display pertinent details on the licensee's advertising materials, including:

- the person's name as recorded on the person's licence;
- the person's licence number; and
- if the person is a corporation, the person's ACN.⁴

1.31 Access Canberra issues licensees with a physical licence card, which is similar in format to a driver's licence. In practice, the card may be used by licensees to show clients that they are licensed.

Audit objective and scope

Audit objective

1.32 The objective of the audit was to assess the effectiveness of the Territory's construction occupation licensing arrangements.

Audit scope

1.33 The audit focused on the Territory's arrangements for the issuing of licences to construction industry professionals, in accordance with the Act. The audit is focused on construction occupations as described in the Act.

1.34 The audit focused on the activities of the Construction Occupations Registrar, a business function within Access Canberra.

³ <https://www.accesscanberra.act.gov.au/s/public-registers/construction-licences?registerid=m014a00000000ByEAI>

⁴ Advertising may include, business cards, vehicle signage or clothing with a construction occupation stated on it.

- 1.35 The audit sought to determine whether the Construction Occupations Registrar had established effective practices for the issuing and ongoing oversight of construction occupation licences. This included consideration of:
- practices for the assessment of new licence applications; and
 - practices to prevent licences from being renewed or re-issued to ineligible applicants.
- 1.36 In reviewing practices for the issuing and ongoing oversight of construction occupation licences, the audit also considered practices for the issuing of licences to construction industry professionals from other jurisdictions seeking to provide services in the Territory, i.e. through mutual recognition.
- 1.37 The audit also considered the Construction Occupations Registrar's practices for the collection and management of licensee information to enable informed decision-making. This includes processes for:
- the management of licensee information for ongoing decision-making, monitoring and reporting; and
 - access to, and sharing of, information with other jurisdictions, for those construction industry professionals from other jurisdictions seeking to provide services in the Territory.

Out of scope

- 1.38 The audit scope did not consider:
- licensing arrangements for construction service occupations that are not described as occupations in the Act;
 - compliance and enforcement practices with respect to existing licensees; or
 - matters related to the harmonisation of the regulation of construction service occupations, including any current or planned reciprocal arrangements for licensed participants in other jurisdictions.

Audit criteria, approach and method

Audit criteria

- 1.39 To form a conclusion against the objective, the following criteria were used:
- Has the Construction Occupations Registrar established effective practices for the issuing and ongoing oversight of construction licences?
 - Are there effective processes and procedures for the assessment of new licence applications?
 - Is there effective and timely communication of licensing decisions to applicants?

- Are there effective practices to identify when incorrect information is provided to intentionally mislead the Registrar during the application process?
- Are there effective practices to prevent licences from being issued to applicants subject to licence cancellation?
- Are there standards, processes, and procedures in place to monitor and manage the ongoing performance of licensees?
- Has the Construction Occupations Registrar established effective data collection, monitoring, and reporting practices to enable informed decision making?
 - Is the data provided by licensees stored and maintained appropriately to allow for ongoing monitoring and reporting?
 - Is the data easily accessible and able to be appropriately shared with other jurisdictions when required?
 - Are there effective practices for the review of licences issued by other jurisdictions, when presented for mutual recognition?
 - Are there effective practices for the validation of data that is provided by licensees for mutual recognition?
 - Are licences issued by other jurisdictions assessed using these practices, when being presented for mutual recognition?

Audit approach and method

1.40 The audit involved:

- a review of ACT and Commonwealth legislation relevant to occupational licensing;
- identification and review of Access Canberra governance and administrative arrangements;
- identification and review of Access Canberra policies and procedures relevant to the assessment of applications;
- process walk-throughs with Access Canberra staff;
- a desktop review of a selection of applications; and
- analysis and reporting of data associated with the processing of licence applications.

1.41 Further information on the conduct of the process walk-throughs and desktop review is shown in Appendix A.

1.42 The audit was performed in accordance with *ASAE 3500 – Performance Engagements*. The audit adopted the policy and practice statements outlined in the Audit Office’s Performance Audit Methods and Practices (PAMPr) which is designed to comply with the requirements of the *Auditor-General Act 1996* and *ASAE 3500 – Performance Engagements*.

1.43 In the conduct of this performance audit the ACT Audit Office complied with the independence and other relevant ethical requirements related to assurance engagements.

2 ADMINISTRATIVE ARRANGEMENTS

- 2.1 This chapter discusses the governance and administrative arrangements that have been established by Access Canberra for the licensing of construction practitioners. The chapter discusses roles and responsibilities, policy and procedural guidance, information management systems, the management of fraud and integrity-related risks and monitoring and reporting of licensing processes.

Summary

Conclusions

Access Canberra's management of the licensing of construction practitioners is hampered by its use of multiple information systems:

- Objective is used as a repository for artifacts provided by applicants during the application process; and
- COLMS is a bespoke database software program that has been used since 2005. It includes extensive information on the licensing history of each licensee.

The systems are not integrated. The use of the two systems, and the age and limitations of COLMS, means that the monitoring and reporting of licensing processes is also hampered. As a matter of priority Access Canberra needs to determine a strategy for its information systems for construction occupations licensing.

Key findings

Access Canberra's licensing of construction occupations is primarily administered through two information systems: Objective and COLMS. Objective is used as a repository for all artifacts provided by applicants during the application process. COLMS is a bespoke database software program that has been used since 2005. A COLMS record is created for each individual (or company) licensee and includes information on disciplinary actions including demerits issued against a licensee. Access Canberra users extract data from artifacts that are supplied and generated in the application process, to populate data fields in a licensee's COLMS record. This is a manual process, as there is no functionality within COLMS to import, export or validate data between COLMS and Objective. While Access Canberra uses SmartForms for the purpose of licence applications, in their current form they do not have the capability of populating a licensee's information directly to COLMS. The use of two information systems to manage the construction occupations licensing process is inefficient and leads to risks in the accuracy of data available for decision-making.

Paragraph

2.31

<p>Access Canberra has generated a comprehensive suite of policies and procedures for the licensing of construction occupations; 31 policies for specific features of the licensing arrangements and 36 SOPs for the administration of licensing processes. The value of the policies and procedures is diminished by their lack of completeness, absence of regular reviews and inconsistencies between similar processes. The absence of approvals for policies and procedures also leads to a lack of authority. Without agreed mature processes for high volume tasks undertaken by multiple staff, there is a risk that assessment procedures are not repeatable for all assessors, and this may lead to incorrect assessment of applications. Access Canberra's development of a Quality Management Framework (QMF), the development of which commenced in June 2022, offers an opportunity to improve the value of policies and procedures for the licensing of construction occupations.</p>	2.49
<p>The demarcation of responsibilities for the assessment and approval of licence applications is important because it: provides assurance that decision making is accurate; provides an opportunity to identify any mistakes or inconsistencies in the recommended decision; and mitigates any real or perceived conflict of interest. Access Canberra has sought efficiencies in the assessment and approval of licence applications by allowing officers to assess and approve licence applications under certain situations. This represents a risk to the integrity of decision-making, albeit a risk that may be reduced with appropriate managerial oversight and safeguards. At present there is no documented policy guidance for the circumstances under which an officer may assess and approve a licence application or quality assurance or audit process to review licences granted under these circumstances.</p>	2.60
<p>Access Canberra relies on CMTEDD's <i>Conflict of Interest Policy</i> to manage circumstances in which a staff member might have a potential or actual conflict of interest. The policy is mature and comprehensive. When recruited to the licensing team, employees are expected to declare any potential conflicts of interest. On an ongoing basis, employees are also required to declare any new conflicts of interest that may arise as applications are received from new licensees.</p>	2.68
<p>Monitoring and reporting of Access Canberra's construction occupations licensing arrangements is primarily achieved by reporting of data that is contained in COLMS. Access Canberra does not have direct access to the report preparation functions; the reports are manually processed by a member of the ICT team in EPSDD. The data in COLMS is transposed from files in Objective to COLMS by assessors during the assessment process. The extent of the data received by COLMS is limited by the data fields that it can receive. The accuracy of the transposed data is not assured by virtue of it being manually processed and there were instances where data had been incorrectly transposed.</p>	2.85
<p>Guidance on Access Canberra's website advises applicants that the minimum expected timeframe for assessment of their application is four weeks. By virtue of the <i>Mutual Recognition Act 1992</i> (Cth) applications for new licences through mutual recognition of licences in another state or territory must be processed within one month or they are automatically granted. A review of applications shows the average time for assessing new non-mutual recognition applications was 59 calendar days and the average time for assessing applications for mutual recognition was 14</p>	2.96

calendar days. It is apparent that Access Canberra assessors seek to actively manage mutual recognition applications that are assigned to them to ensure assessment is within the timeframe required by the *Mutual Recognition Act 1992* (Cth).

Roles and responsibilities

- 2.2 By virtue of section 103 of the *Construction Occupations (Licensing) Act 2004*, the Director-General of the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) may appoint a Construction Occupations Registrar (the Registrar).
- 2.3 In practice, the Registrar is a public servant in Access Canberra at the Executive Branch Manager level.
- 2.4 Subsection 104(1) of the Act provides that the Registrar's functions are:
- (a) to keep the registers under this Act;
 - (b) to administer operational Acts;
 - (c) to decide applications in relation to licences;
 - (d) to maintain the standard of construction occupations by—
 - (i) acting on complaints made about construction practitioners, including by applying to the ACAT for occupational discipline if appropriate; and
 - (ii) providing construction practitioners with information about developments in the construction industry.
- 2.5 By virtue of section 105 of the Act the Registrar may delegate their functions. In practice, the Registrar has appointed administrative staff as:
- assessors, to manage the licensing process;
 - compliance auditors, to audit the forms and other paperwork required to be provided by licensees for the Act; and
 - inspectors, to inspect the work that licensees undertake, for compliance with the Act.

Assessors

- 2.6 Assessors are responsible for reviewing and assessing applications for construction occupations licenses.

Compliance auditors

- 2.7 Compliance auditors are responsible for auditing the forms and other paperwork required to be provided by licensees for the purpose of the Act. They may enter premises used by a licensee to inspect, extract or copy documentation that relates to a licensee's operational activities. Compliance auditors may also require that anyone on a licensee's premises provide them information about a document that relates to the licensee's activities.

Inspectors

- 2.8 Inspectors are responsible for inspecting work undertaken by licensees. Inspectors from the trade inspectorates within Access Canberra may inspect work for which an approval has been issued, to decide whether the work is being, or has been, carried out in accordance with the relevant legislation and/or standards.
- 2.9 Inspectors may also carry out an inspection of building work for which there is no approval in certain circumstances.

Licence application administration

- 2.10 Applications for different licence types are managed by dedicated licensing teams within Access Canberra. Each team includes assessors, compliance auditors and delegates, that are responsible for reviewing and approving application assessments and renewals. The team members are delegated to perform their duties by virtue of the *Construction Occupations (Licensing) Delegation 2022 (No 1)*.
- 2.11 Position descriptions show:
- Licensing Officers (ASO 4) are responsible for assessing applications for licences and making recommendations; and
 - Senior Licencing Officers (ASO 6) are responsible for reviewing and approving licence assessments and recommendations made by Licensing Officers.
- 2.12 Teams that are responsible for inspection of work undertaken by licensees may provide information regarding compliance and enforcement activities for consideration by assessors and compliance auditors during licence application assessments.

Information management systems

- 2.13 Access Canberra's licensing of construction occupations is primarily administered through two information systems:
- Objective; and
 - COLMS.

Objective

- 2.14 Objective is an enterprise content management system used by ACT Government directorates to securely collaborate on documentation within and between directorates.
- 2.15 Access Canberra uses Objective as a repository for artifacts provided by applicants during the application process. This includes:
- application forms;

- certified copies of identification;
- certified copies of qualification evidence;
- change of contact detail forms;
- work experience verification statements;
- acceptance of offers; and
- application statement of work experience.

2.16 Artifacts that are generated by Access Canberra for the purpose of processing applications are also stored in Objective. This includes:

- communications from Access Canberra to the licensee and other external entities;
- communications within Access Canberra;
- file notes documenting records of conversation;
- results from searches of external databases;
- assessment checklists, and
- recordings of skills assessment interviews.

2.17 Artifacts from other external entities, such as communications from other State regulators that provide information requested by Access Canberra, are also stored in Objective.

Standardised file structure

2.18 Access Canberra generates a standardised file structure for each licensee where all artifacts related to a licensee are filed. This includes various sub folders for applications and licence enforcement. Sub folders are generally arranged in chronological order for each application a licensee makes to Access Canberra.

2.19 Every interaction within Objective ECM is captured, thereby providing the ability to produce audit reports, showing when and which user has generated, accessed and modified files.

Construction Occupation Licensing Management System (COLMS)

2.20 COLMS is a bespoke database software program that has been used since 2005 to manage construction occupation licensee data. The Environment, Planning and Sustainable Development Directorate (EPSDD) administers the ICT aspects of COLMS for Access Canberra under a legacy arrangement, which dates from when occupational licensing was the responsibility of the ACT Planning and Land Authority within EPSDD.

2.21 A COLMS record is created for each individual (or company) licensee. Access Canberra users extract certain data from artifacts that are supplied and generated in the application process, to populate data fields in a licensee's COLMS record. This is a manual process, as there is no functionality within COLMS to import, export or validate data between COLMS

and Objective. While Access Canberra uses SmartForms for the purpose of licence applications, in their current form they do not have the capability of populating a licensee's information directly to COLMS.

COLMS record

2.22 In a COLMS record for an individual licensee, there is provision for the licensing team to record:

- licensee personal details
 - name, telephone numbers, email address, postal addresses, photograph and signature;
- licence details
 - occupational licence, occupation class and class conditions and endorsements;
- nomination and permits
 - permit limits, licence comments and company nominations; and
- complaints and rectifications relating to the licensee.

2.23 Similarly, for company and partnership licences, there is provision for the licensing team to record:

- organisation details
 - partner name, date of birth, telephone numbers, postal addresses, email address and Australian Company Number;
- licence details
 - occupational licence, occupation class and class conditions and endorsements;
- nomination and permits
 - permit limits, licence comments and nominations; and
- complaints and rectifications relating to the licensee.

Disciplinary information

2.24 Disciplinary actions can also be recorded in COLMS. COLMS is used to record demerits issued against a licensee, i.e. by Access Canberra staff outside the licensing team, such as compliance auditors and inspectors. Where a licensee holds a licence in more than one occupation, there is provision to indicate which occupational class the demerit has been issued against. When a demerit action is recorded in COLMS, the number of demerit points is recorded in the licensee's COLMS record automatically. If a demerit is related to a disciplinary action or a complaint, there is a provision to provide a reference to it.

2.25 Historical data with regards to past disciplinary actions is also available in COLMS for each licensee. When disciplinary actions exist for a licensee, users of COLMS can place a 'compliance flag' on the licensee's COLMS record. Once a flag has been applied, any user of COLMS that opens the record is provided with a prominent visual warning prompt states

that 'a compliance activity exists for this licensee' and requests that the user contacts the relevant team immediately.

- 2.26 COLMS functionality provides for cross referencing between its different databases, by virtue of the relationships between the data. For example, by using an individual's licence number, a user can navigate from the individual's record to a company record that the individual is a nominee for. Similarly, from within a company record, a user can navigate to any of the individual's records that are nominees for the company.
- 2.27 To the extent that COLMS was introduced in 2005, it can hold data on a licensee dating back to 2005, including their licensing history and disciplinary information.

Licence cards

- 2.28 An output from COLMS is the function to print 'licence cards'. These are similar in appearance to driver's licence cards issued in the ACT. Cards are printed in-house at Access Canberra by users of COLMS and are posted to the applicant once they have accepted a licence offer.
- 2.29 Consumers are encouraged to sight a licensee's licence or registration when engaging a licensee to undertake a service for them. As such, subsection 23(1) of the *Construction Occupations (Licensing) Act 2004* requires that each licence must include:
- the Registrar's signature;
 - the licensee's full name;
 - each construction occupation;
 - the occupation class (if any); and
 - a licence number for each construction occupation and occupation class.
- 2.30 Additionally, subsection 6(1) of the Regulation requires that each licence must include:
- any endorsements on the licence;
 - the period for which the license is issued for each of the occupations and classes;
 - the name of each partner (for partnership licenses);
 - the partner's Australian Company Number (if the partner is a corporation, and has an Australian Company Number);
 - the licensee's Australian Company Number (if the licensee is a corporation and has an Australian Company Number); and
 - whether any of the occupations and classes are subject to conditions.⁵

⁵ By virtue of subsection 6(2) of the *Construction Occupations (Licensing) Regulation 2004*, a licence condition may, but need not, be included on a licence.

2.31 Access Canberra's licensing of construction occupations is primarily administered through two information systems: Objective and COLMS. Objective is used as a repository for all artifacts provided by applicants during the application process. COLMS is a bespoke database software program that has been used since 2005. A COLMS record is created for each individual (or company) licensee and includes information on disciplinary actions including demerits issued against a licensee. Access Canberra users extract data from artifacts that are supplied and generated in the application process, to populate data fields in a licensee's COLMS record. This is a manual process, as there is no functionality within COLMS to import, export or validate data between COLMS and Objective. While Access Canberra uses SmartForms for the purpose of licence applications, in their current form they do not have the capability of populating a licensee's information directly to COLMS. The use of two information systems to manage the construction occupations licensing process is inefficient and leads to risks in the accuracy of data available for decision-making.

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.

Policy and procedural guidance

2.32 In order to manage the licensing process, Access Canberra has developed a series of policy and procedural guidance documents. These include:

- policies for specific features of the licensing arrangements; and
- standard operating procedures for various aspects of the license administration process.

Policies

2.33 Thirty-one policies have been developed by Access Canberra for specific features of the licensing arrangements. Examples include:

- *Mutual Recognition Assessment Policy*;
- *Demolition Endorsement Policy*; and
- *Builder Assessment Policy*.

2.34 The Audit Office accessed 13 policies of particular relevance to the construction occupations licensing process. A review of the 13 policies shows that only one of the documents was

dated, with nine still in draft form. Although most of the policies had an 'Approval' section at the end of the document, none of the policies had information entered with respect to:

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

2.35 There was no evidence of the formal approval of policies with an 'Approval' section.

2.36 Seven of the policies contained review comments within the documents, discussing potential changes, amendments and queries, which suggests that the documents had not been completed and finalised. Having review comments in these documents may also lead to ambiguity if referred to when assessing applications for building licences.

Standard Operating Procedures

2.37 Procedural guidance for the administration of licenses is primarily embodied in a series of standard operating procedures (SOPs).

2.38 Thirty-six SOPs have been developed by Access Canberra for the purpose of the administration of licensing processes. SOPs covered the full life cycle of licensing activities from *Operational Procedures for Builder application assessments* through to *Operational procedures for acceptance of offers*.

2.39 The Audit Office accessed 14 SOPs of particular relevance to the construction occupations licensing process. A review of the 14 SOPs shows that the current version of the documents were undated, uncontrolled and, in a number of instances, still in draft form. Although the SOPs had a 'Document Information' section at the start of the document, none of the SOPs had information entered with respect to:

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

2.40 In eight of the SOPs, despite the lack of approval details, there was information entered in the version control of the 'Document Information' that indicated revisions to the document had been made. The information included:

- date of document version;
- author of document version; and
- reason for document version.

Inconsistency in SOPs

2.41 For assessment processes, separate SOPs exist for different occupation types. For example, processes for builder's and electrician's licences require different assessment steps by

virtue of the different requirements that are required for each licence type. When the Audit Office made a comparison of these SOPs, it was found that while some sub processes within the SOPs sought to achieve the same outcome across different occupation types, there was variation in the process steps to achieve this.

- 2.42 For example, the 'Send a Letter of Offer/Notice of Decision' section within the *Operational Procedures For Builder Application Assessments* consists of 11 steps and includes guidance for refused applications. The equivalent section within the *Operational Procedures for Electrician Application Assessments* contains just seven steps.
- 2.43 Conversely, neither SOP contained any guidance for processing a refused application, despite this being a possible decision for an application for an electrician's licence under subsection 19(3) of the *Construction Occupations (Licensing) Act 2004*.

Use of policies and SOPs

- 2.44 In practice, licensing officers do not refer to the relevant SOPs on a regular basis, but rather rely on their experience and knowledge of licensing procedures when assessing applications. Whilst licensing officers do not have SOPs on hand when undertaking assessments, they are able to locate the SOPs when required.
- 2.45 Additionally, key information from SOPs is reflected in the templated companion forms; this prompts licensing officers to otherwise complete the steps detailed in the relevant SOPs.

Quality Management Framework

- 2.46 In June 2022 Access Canberra commenced the development of a Quality Management Framework (QMF). The Framework seeks to:
- ... achieve the goal of catalysing organisational change by prioritising governance and quality assurance throughout the organisation by standardising the way in which policy and procedural documents are managed.
- 2.47 To achieve this goal, a Central Repository (CR) is intended to be used to store foundational and guiding documents, including policy and SOP documentation. Objective software is expected to be used to store documents in the CR, and at later stages of the implementation of the QMF documents are expected to be available on the Access Canberra intranet. Documents in the CR will be:
- ... approved and provide a central source of truth.
- 2.48 During the course of this audit, Access Canberra advised that all policy and SOP documentation related to occupational licensing is expected to be captured within the QMF. As such, the documentation was subject to an initial review, which included highlighting of gaps in the documentation. This was completed in January 2023 and licensing policies and SOPs are expected to be updated by mid-2023.
- 2.49 Access Canberra has generated a comprehensive suite of policies and procedures for the licensing of construction occupations; 31 policies for specific features of the licensing

arrangements and 36 SOPs for the administration of licensing processes. The value of the policies and procedures is diminished by their lack of completeness, absence of regular reviews and inconsistencies between similar processes. The absence of approvals for policies and procedures also leads to a lack of authority. Without agreed mature processes for high volume tasks undertaken by multiple staff, there is a risk that assessment procedures are not repeatable for all assessors, and this may lead to incorrect assessment of applications. Access Canberra's development of a Quality Management Framework (QMF), the development of which commenced in June 2022, offers an opportunity to improve the value of policies and procedures for the licensing of construction occupations.

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.

Integrity of decision-making

2.50 The audit considered the arrangements Access Canberra had put in place to safeguard the integrity of decision-making for the licensing of construction occupations.

Approval management

2.51 When the assessment of a licence application is complete, a decision recommendation is made by a Licensing Officer. This is described in the SOPs that guide the assessment processes:

Decision: If applicant was deemed eligible for the licence, delete refused recommendation and enter Assessment Officer details.

2.52 Assessment-related SOPs describe a process for communicating the recommendation to a delegated Team Leader for approval:

Send recommendation through to team inbox for delegate approval from Team Leader.

2.53 In the assessment SOPs, there are no explicit requirements for what level the officer responsible for the approval of recommended decisions is, although assessment SOPs provide the following guidance:

Assessment Officer does have delegate approval too, once deemed competent.

Use of Licensing Assessment Form

- 2.54 In practice, assessment officers complete a Licensing Assessment Form, which provides a summary of the information that has been provided for an application. The forms also provide assurance that an application has been assessed *and* approved, by requiring completion of the details of officers who have undertaken these tasks.
- 2.55 Licensing Assessment Forms were required for all new applications considered by the Audit Office as part of the desktop review of applications. Of the 160 applications that were considered as part of the desktop review, two were assessed and approved by the same officer.
- 2.56 Access Canberra advised that new applications require approval by a separate delegated approving officer unless authorisation has been granted for self-approval. Self-approval is granted to officers who:
- ... demonstrate sound understanding of the specific licence requirements they are assessing and for low risk applications.
- 2.57 There is no documented policy guidance for which officers may be identified as having specific competencies for self-approval. Access Canberra advised that:
- ... officers are granted self-approving privileges for limited licence types and in circumstances where it has been determined from an approving officer that they are suitably trained and capable of approving their own recommendations.
- 2.58 Access Canberra maintains a *Staff Capability Table* that shows which officers are:
- not yet competent;
 - competent (cannot self-approve); and
 - competent (can self-approve).
- 2.59 The *Staff Capability Table* details the capability of officers for a range of tasks and occupation-based assessments. It shows the following percentage of officers can also self-approve:
- 25 percent for electricians' applications;
 - 33 percent for builders' applications; and
 - 44 percent for mutual recognition applications.
- 2.60 The demarcation of responsibilities for the assessment and approval of licence applications is important because it: provides assurance that decision making is accurate; provides an opportunity to identify any mistakes or inconsistencies in the recommended decision; and mitigates any real or perceived conflict of interest. Access Canberra has sought efficiencies in the assessment and approval of licence applications by allowing officers to assess and approve licence applications under certain situations. This represents a risk to the integrity of decision-making, albeit a risk that may be reduced with appropriate managerial oversight and safeguards. At present there is no documented policy guidance for the circumstances

under which an officer may assess and approve a licence application or quality assurance or audit process to review licences granted under these circumstances.

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.

Conflict of interest management

2.61 Access Canberra does not have any licensing-specific conflict of interest management policy or procedural guidance. In the absence of any licensing-specific conflict of interest policy or procedural guidance, the risks presented by actual or potential conflicts of interest are expected to be managed in accordance with CMTEDD's *Conflict of Interest Policy*. The policy defines a conflict of interest as:

A conflict between the public duty and private interests of public officials, in which public officials have private-capacity interests which could improperly influence the performance of their official duties and responsibilities.

2.62 As a minimum requirement, the policy requires CMTEDD employees to declare all conflicts of interests to their supervisor in writing, and to take reasonable action to avoid the conflict. An example of a conflict of interest provided in the policy is related to private/personal interests:

Private interests are those interests that can bring benefits or disadvantages to public officials as individuals, or to others whom public officials may wish to benefit or disadvantage...

2.63 CMTEDD provides a *Conflict of Interest Disclosure form* for its employees to detail conflicts of interest in writing. The form requires the recording of various details including:

- the declared conflict of interest;
- the duties affected by the conflict; and
- restrictions and strategies implemented to manage the conflict.

2.64 As circumstances change, declared conflicts of interest are required to be reviewed and recorded by supervisors and staff; when a change requires a new management strategy, a new disclosure form is required to be submitted.

2.65 When employees are onboarded with CMTEDD, employees are expected to undertake mandatory conflict of interest training. When recruited to the licensing team, employees are expected to declare any potential conflicts of interest. On an ongoing basis, employees

are also required to declare any new conflicts of interest that may arise as applications are received from new licensees. At the time of the audit no current staff members had identified a potential or actual conflict of interest with external entities.

- 2.66 When a conflict of interest related to a licensee is declared, the declaration is expected to be stored in the licensee's Objective file. Once the conflict of interest is declared, the employee's permission to access the relevant Objective files is expected to be removed. This is managed by the employee's manager and administered by Access Canberra's Records Management team. Each time the licensing team has a need to access an Objective file with limited permissions, the file's restrictions are expected to be reviewed for their currency. As noted previously, at the time of the audit no staff members had identified a potential or actual conflict of interest, such that their access to Objective files had been restricted.
- 2.67 Access Canberra provided the Audit Office with evidence of a recent example, where an employee gave notice of a conflict of interest with a potential applicant. The conflict of interest was identified during an email exchange discussing an inquiry from the potential applicant. The employee gave notice of the conflict of interest via an email, with the intention of submitting a conflict of interest form, if and when an Objective file was created as a result of progression of the inquiry. At the time of the audit, the potential applicant had not progressed the inquiry, and as such a conflict of interest form had not been submitted. As a result of the notice, the employee had been removed from any further correspondence regarding the inquiry.
- 2.68 Access Canberra relies on CMTEDD's *Conflict of Interest Policy* to manage circumstances in which a staff member might have a potential or actual conflict of interest. The policy is mature and comprehensive. When recruited to the licensing team, employees are expected to declare any potential conflicts of interest. On an ongoing basis, employees are also required to declare any new conflicts of interest that may arise as applications are received from new licensees.

Data access control

COLMS

- 2.69 Employee access to COLMS is managed by the licensing team's supervisors. Access levels are administered by EPSDD based on information provided by supervisors. Access levels are determined by mirroring the access level of an equivalent level employee performing the same duties.

Objective

- 2.70 Employee access to Objective is administered by the Access Canberra Records Management team. In practice, for new users the team is advised of the employee's reporting line and position number, and an equivalent employee's profile is provided as an example of the access that is to be provided to the employee. The Access Canberra Records Management

team also undertakes reviews of employee access to Objective, and the licensing team regularly notifies the Access Canberra Records Management team of any changes to access.

- 2.71 Objective has version control functionality. This provides Access Canberra with the ability to review which employees have accessed and edited files and also provides the ability to track changes to documents and recover old versions of documents if required.

Quality assurance of data integrity

- 2.72 Data from documentation provided by the applicant during the application process is entered manually into COLMS by licensing officers, whilst the source files that contain data, such as proof of identification and application forms, are stored within the licensee's Objective file.

- 2.73 In practice, when there is a change in the data that is stored in COLMS, such as a change of contact details, there must be a document stored within the licensee's Objective file that corresponds with this change. The consistency of the two sources of information is meant to be assured by the delegate review discussed.

- 2.74 The scope of the delegate review is described by Access Canberra as:

The amount of information that is verified will vary on a number of different factors such as the applications potential risk, the assessing officers experience and previous performance, the type of information presented in an assessment document, and whether there were any 'red flags' in the assessment document.

- 2.75 In the licence files that were reviewed by the Audit Office as part of the desktop review of applications there were five instances of delegate reviewed applications where the data in COLMS was not consistent with the documentation in the licensee's Objective file:

- an application to endorse a licence with additional Building Codes of Australia classes;
- an application to upgrade from a class C to class B builder's licence; and
- three applications, where the application dates were incorrect.

- 2.76 This highlights the risks associated with using two information systems for the management of construction occupations licensing. Recommendation 1 seeks to address this risk.

Monitoring and reporting

- 2.77 Monitoring and reporting of Access Canberra's construction occupations licensing activities is primarily achieved by reporting of data that is contained in COLMS. Access Canberra does not have direct access to the report preparation functions; the reports are manually processed by a member of the ICT team in EPSDD.

- 2.78 Whilst the majority of licensee data is retained in Objective, it is largely embedded within documents generated in Word, emails and PDFs. This prevents Access Canberra from using

this data to prepare management information reports. The following section describes the extent to which Access Canberra report using data from COLMS.

Annual reporting

2.79 Reporting of construction occupations licensing activities is undertaken for the purpose of annual reporting. Information that is reported in CMTEDD annual reports shows:

- total new licenses by occupation and class;
- total active licenses by occupation and class; and
- number of regulatory enforcement notices.

2.80 Through COLMS a report can also be produced that shows the following information for each licensee:

- personal details;
- contact details;
- if issued using mutual recognition;
- demerit types and dates;
- licence occupation and class; and
- dates of licence issue, grant and expiry.

Expiring licences

2.81 When licences approach their expiry date, Access Canberra sends out a reminder to the licensee to renew their licence. To enable this, reports are generated that show which licences are due for renewal.

Decision outcomes

2.82 Reporting limitations within COLMS means Access Canberra cannot prepare reports on the number of decision outcomes for a given period, i.e. whether licence applications were approved or refused. COLMS has provision to capture the date a licence is issued but cannot report on what type of decision was made by Access Canberra.

2.83 In the absence of functionality to report on the number of refused applications, Access Canberra can report on the number of inactive licences. Whilst this would capture refused applications, it would also capture:

- licenses that have not been renewed;
- applications that are waiting for payment from the licensee; and
- applications that have not responded to a letter of offer.

- 2.84 Access Canberra provides an applicant with a 'Notice of Decision' when a licensee does not satisfy the eligibility requirements for a licence. Notices are stored in the licensee's Objective file. Searching for notices by name in Objective provides an indication of how many licenses have been refused and can be filtered in Objective for date ranges.
- 2.85 Monitoring and reporting of Access Canberra's construction occupations licensing arrangements is primarily achieved by reporting of data that is contained in COLMS. Access Canberra does not have direct access to the report preparation functions; the reports are manually processed by a member of the ICT team in EPSDD. The data in COLMS is transposed from files in Objective to COLMS by assessors during the assessment process. The extent of the data received by COLMS is limited by the data fields that it can receive. The accuracy of the transposed data is not assured by virtue of it being manually processed and there were instances where data had been incorrectly transposed.

Processing timeframes

New and renewed licence applications

- 2.86 Guidance on Access Canberra's website advises applicants that the minimum expected timeframe for assessment of their application is four weeks, but that more time will be required if their application is not complete or if Access Canberra requires further information to assess the application.
- 2.87 Reports are not generated for Access Canberra's processing times of applications, due to limitations in COLMS and Objective.
- 2.88 Whilst COLMS captures a record of the *date of application* and the *date of acceptance of offer/payment of licence fee* for each licence application, this duration includes the time taken between the offer being made to the applicant by Access Canberra and the applicant's acceptance of the offer. As such, this information cannot be reliably used to determine the duration of application processing by Access Canberra.
- 2.89 Licensee Objective files contain the intervening communications to licensees when an offer is made to the licensee. Embedded within these communications is the date of the offer, which essentially marks the assessment completion by Access Canberra. However, Objective does not provide a method for extracting this data.
- 2.90 From the desktop review of applications it was apparent:
- the average time for assessing new non-mutual recognition applications was 59 calendar days; and
 - the average time for assessing all renewals was five calendar days.⁶

⁶ This excludes an application which was subject to a review by the ACT Civil and Administrative Tribunal that took 574 days to complete. This is considered to be a statistical outlier.

Mutual recognition licence applications

2.91 Timeframes for the assessment of applications for new licences through mutual recognition of licences in another state or territory are provided for by subsection 21(1) of the *Mutual Recognition Act 1992* (Cth):

Registration ... must be granted within one month after the notice is lodged with the local registration authority...

2.92 Additionally, by virtue of subsection 21(4) of the *Mutual Recognition Act 1992* (Cth), if a registration authority does not grant the licence within one month or postpone the decision to grant the licence within one month, the applicant is entitled to receive the licence that they have applied for immediately.

2.93 In the absence of any tools to report processing timeframes, assessors self-manage mutual recognition applications that are assigned to them, with a view to actively managing applications to ensure assessment is within the timeframe required by the *Mutual Recognition Act 1992* (Cth).

2.94 Access Canberra indicated to the Audit Office that, on occasion, mutual recognition applications are not assessed within one month, and gave the Audit Office an example where this had happened. In this instance the applicant was automatically issued with a licence that they would have been entitled to had the application been assessed.

2.95 From the desktop review of applications it was apparent that the average time for assessing applications for mutual recognition was 14 calendar days. One of the applications took longer than the timeframe required by the *Mutual Recognition Act 1992* (Cth), at one month and two days to assess.

2.96 Guidance on Access Canberra's website advises applicants that the minimum expected timeframe for assessment of their application is four weeks. By virtue of the *Mutual Recognition Act 1992* (Cth) applications for new licences through mutual recognition of licences in another state or territory must be processed within one month or they are automatically granted. A review of applications shows the average time for assessing new non-mutual recognition applications was 59 calendar days and the average time for assessing applications for mutual recognition was 14 calendar days. It is apparent that Access Canberra assessors seek to actively manage mutual recognition applications that are assigned to them to ensure assessment is within the timeframe required by the *Mutual Recognition Act 1992* (Cth).

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.

RECOMMENDATION 5

MANAGEMENT INFORMATION REPORTS

Access Canberra should prepare management information reports that address:

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

3 LICENCE APPLICATION PROCESSING

3.1 This chapter discusses Access Canberra's activities for the processing of licence applications. It shows the results of the desktop review of applications for licences for two key construction occupations (builders and electricians). The chapter focuses on the administration of key requirements that are routinely considered for a range of licences:

- having a tertiary qualification;
- demonstrating work experience; and
- passing a written examination.

Summary

Conclusion

There are 146 methods of eligibility across 62 classes or endorsements of construction occupation licences. Along with formerly holding a licence, having a tertiary qualification, demonstrating work experience and passing a written examination are key licensing requirements that feature most prominently across the 146 methods of eligibility.

Access Canberra has mature processes for the assessment of applications for licences and, for the most part, these were evident from a review of licence applications undertaken by the Audit Office. There is, however, an opportunity to improve the processing of licence applications by:

- providing clarity on the minimum tertiary qualification requirement for a class A builder's licence;
- demonstrating consistency in the assessment of applicants' work experience;
- developing a consistent practice for the documentation of online interviews for builder's licences; and
- implementing an assurance process with respect to the personal declarations and assertions applicants make as part of the licensing process.

Key findings

The assessment of licence applications for construction practitioners is undertaken against the requirements provided for in declarations made under subsection 13(1) of the *Construction Occupations (Licensing) Regulation 2004*. There are 146 methods of eligibility across the 62 classes or endorsements of licences. Along with formerly holding a licence, having a tertiary qualification, demonstrating work experience and

Paragraph

3.11

passing a written examination are key licensing requirements that feature most prominently across the 146 methods of eligibility.

Construction practitioners generally apply for a new licence or seek a renewal for an existing licence. There are two distinct streams for construction practitioners applying for a new licence. The primary focus for new licence applications is that the applicant satisfies Access Canberra that they have the relevant skills and experience to hold a licence. The focus for applications made through mutual recognition of a licence in another State is the currency of the other licence and consideration of any occupational discipline of the applicant. By virtue of the applicant being licensed in another State, Access Canberra relies on the decision-making processes implemented by that State in granting a licence. 3.25

There are different tertiary requirements for the licensing of different occupations. The minimum tertiary qualification requirement for a class A builder's licence is 'a tertiary qualification in building' that is a bachelor's degree or above. In this instance, Access Canberra is required to use its judgement in assessing whether a tertiary qualification meets its requirement. In doing so, Access Canberra is exposed to the risk of its decision being challenged by applicants that may have completed a qualification, with an expectation that they could be licensed in an occupation. This has occurred. Challenges to Access Canberra's decision making are costly, labour intensive and may damage Access Canberra's reputation. 3.50

Access Canberra has a comprehensively documented process for assessing that an applicant's work experience meets the relevant requirement and validation that the work experience actually took place. However, there is variability in the quality and extent of the materials that are provided to Access Canberra for its assessment. For those that are completed by hand, the information may be ineligible or have the potential to be modified after being signed by the referee. A completed form that is not electronic also limits the ability for future processing efficiencies and errors, as the data cannot be readily and reliably extracted. For the purpose of the desktop review, 16 licence applications were required to demonstrate evidence of work experience. Fifteen of the applications met the requirements of the declaration. For the application that did not meet the requirement, there was no record in the applicant's Objective file that shows how Access Canberra was satisfied that the applicant had the physical ability, skill and knowledge to competently undertake the work. 3.67

Since 2019 applicants for new builder's licences have been required to pass a skills assessment examination; this was previously a written examination, but since the Covid-19 pandemic this has been achieved through an online questionnaire and a subsequent online interview. When an online interview has taken place, Access Canberra makes an assessment of the interview. In the applications that were reviewed for the purpose of the audit, there were different approaches to the assessment and documentation of the assessment. Access Canberra's *Builder Assessment Policy* and *Operational Procedures for Builder Application Assessments* provide guidance for the administrative arrangements for interviews, but they are silent regarding the requirements for the documentation of interview assessments. 3.79

<p>Applications for a licence through mutual recognition are legislatively required to prove their identity. In the review of applications for the purpose of audit fieldwork, it was apparent that applicants commonly provided incorrect and inconsistent evidence to prove their identity. This was not challenged by Access Canberra. With proof of identify being required for the first application from an individual, and not in subsequent applications, there is limited assurance with respect to an individual's identity.</p>	3.85
<p>All licensees are legislatively required to notify Access Canberra when their personal details change. Access Canberra's guidance clearly communicates this requirement. However, licensees rarely notify Access Canberra of changes within the required timeframe. Rather, it is apparent that licensees submit new details during the renewal process. This means that Access Canberra may not have the correct personal details for a licensee for up to three years, by virtue of the maximum licence term. This may limit the ability of Access Canberra to contact licensees, and in some cases lead to unintended unlicensed work, if a licensee does not renew their license because they did not receive notification that their licence had expired.</p>	3.90
<p>Access Canberra relies on applicants to make personal declarations on a wide range of personal and integrity-related matters such as their financial resources and capacity, previously held licences and whether they have been subject to any complaints or disciplinary processes. There is no process for validating the declarations made by the applicant. Some of the matters declared could lead to a refusal of an application. The desktop review of licence applications found that, on occasion, the declarations made by the applicants were not correct and applications were approved by Access Canberra without apparent consideration or acknowledgment of the incorrect declaration. Without a process to validate the declarations made by applicants', decision-makers may be missing key information that is required for well informed decision making; in some cases this information may change the outcome of an application.</p>	3.95
<p>Access Canberra considers an applicant's occupational disciplinary history in the ACT and other States when making licensing decisions. Access Canberra uses its own data to inform its decision. Access Canberra's occupational discipline data is stored in three discrete locations, which contain significant duplication of information; any cross referencing is by a manual process with no opportunity to automate. This presents an opportunity for data to not be a true representation of the status of an applicant's occupational discipline and may lead Access Canberra to overlook the occupational disciplinary history of an applicant.</p>	3.107
<p>In assessing applications where applicants have held, or do hold, licences in other States, public databases provide limited data regarding the licensee's occupational discipline in those States. Access Canberra also has relationships with other State licensing authorities, which can provide additional data on request. Whilst Access Canberra seeks information from an applicant's first State licensing authority in the case of mutual recognition applications, information is not sought in the case of new applications or for renewals of licences.</p>	3.108

Application processing

Assessment overview

3.2 The assessment of licence applications for construction practitioners is undertaken against the requirements provided for in declarations made under subsection 13(1) of the *Construction Occupations (Licensing) Regulation 2004*. Subsection 13(1) states:

The Minister may declare the qualifications and financial requirements necessary for an entity to be eligible to be licensed in a construction occupation or occupation class.

3.3 Subsection 13(1) of the Regulation provides examples of possible qualifications for eligibility:

- a formal academic qualification;
- a stated period or type of experience; and
- that the applicant has not been refused a licence under the Act within a stated period.

3.4 At the time of audit fieldwork, two declarations were in force to define the eligibility requirements for the nine construction occupations covered by the Act:

- *Construction Occupations (Licensing) (Qualifications) Declaration 2019; and*
- *Construction Occupations (Licensing) (Qualifications — Builder and Building Surveyor Licences) Declaration 2019 (No 2).*

3.5 At the time of audit reporting the relevant delegation was *Construction Occupations (Licensing) (Qualifications) Declaration 2023*.

3.6 The declarations detail the eligibility requirements for the classes or endorsements of construction occupations. The declarations also provide for more than one method of eligibility for some classes or endorsements. For example, an applicant may be eligible for a licence because they:

- hold certification with a specified institute;
- are accredited under a national accreditation scheme in a specified category; or
- have previously held the same licence they are applying for, within one year of the date of the application, that has not been, or is not subject to, specified regulatory action.

3.7 This results in 146 methods of eligibility across the 62 classes or endorsements of licences.

3.8 Table 3-1 shows analysis undertaken by the Audit Office of the types of requirements featured across the 146 methods of eligibility across the 62 classes or endorsements of licences.

Table 3-1 Licensing requirements as a feature of the different methods for processing

Requirement	Methods with requirement (%)
Tertiary qualifications	54
Work experience	25
Pass written examination	21
Formerly held a licence	45
Hold another licence	3
Work under supervision	1
Training course enrolment	1
Professional registration	1
Professional certification	1
Professional accreditation	1
Professional membership	4

Source: ACT Audit Office analysis based on a review of *Construction Occupations (Licensing) (Qualifications) Declaration 2019* and *Construction Occupations (Licensing) (Qualifications — Builder and Building Surveyor Licences) Declaration 2019 (No 2)*

3.9 Table 3-1 shows that, along with formerly holding a licence, having a tertiary qualification, demonstrating work experience and passing a written examination are key licensing requirements that feature most prominently across the 146 methods of eligibility across the 62 classes or endorsements of licences.

3.10 Table 3-2 shows analysis undertaken by the Audit Office of all construction occupations applications processed by Access Canberra in 2021 and the percentage of licences that were subject to the key requirements of:

- having a tertiary qualification;
- demonstrating work experience; and
- passing a written examination.⁷

Table 3-2 Licence requirements for licenses processed in 2021

Requirement	Percentage of licences with requirement
Having a tertiary qualification	93
Demonstrating work experience	50
Passing a written examination	24

Source: ACT Audit Office analysis of Access Canberra data.

⁷ This is a *minimum percentage* figure. Data for which eligibility method is used for each licence is collected by Access Canberra, but it is not readily available for reporting. This restricts the ability to calculate a precise figure.

3.11 The assessment of licence applications for construction practitioners is undertaken against the requirements provided for in declarations made under subsection 13(1) of the *Construction Occupations (Licensing) Regulation 2004*. There are 146 methods of eligibility across the 62 classes or endorsements of licences. Along with formerly holding a licence, having a tertiary qualification, demonstrating work experience and passing a written examination are key licensing requirements that feature most prominently across the 146 methods of eligibility.

Application types

3.12 Section 7 of the *Construction Occupations (Licensing) Act 2004* requires licences for the following construction practitioners in the ACT:

- builder;
- building assessor;
- building surveyor;
- drainer;
- electrician;
- gasfitter;
- plumber;
- plumbing plan certifier; and
- works assessor.

3.13 Administratively, there are different application pathways that the applicant may take when seeking a licence including:

- new licence applications;
- new applications through mutual recognition of a current licence;
- renewal of a licence; and
- re-issue of a licence.

New licence applications

3.14 Applicants that have not previously held a licence in the occupation class they are applying for (or have previously held a licence in the occupation class, but are not currently licensed) apply for a new licence. This includes applicants that currently hold a licence in an occupation class but are applying for a higher occupation class.

New applications through mutual recognition of a current licence

3.15 The *Mutual Recognition Act 1992* (Cth) provides an entitlement for a person to receive an equivalent licence to a licence that that person holds in another State:

... a person who is registered in the first State for an occupation is, by this Act, entitled after notifying the local registration authority of the second State for the equivalent occupation:

- (a) to be registered in the second State for the equivalent occupation; and
- (b) pending such registration, to carry on the equivalent occupation in the second State.

3.16 Applicants may choose to apply for an ACT occupational licence through the mutual recognition process. This is assessed by Access Canberra using the *Mutual Recognition Equivalent Occupations (automotive gas installers, air-conditioning and refrigeration mechanics, bricklayers, cable jointers, carpenters, electricians, electrical fitters, plumbing & gas-fitting, joiners, lineworkers) Declaration 2017* (the Declaration).

3.17 The Declaration was made by ministers under section 32 of the *Mutual Recognition Act 1992* (Cth):

A Minister from each of 2 or more States may jointly declare, by notice in the Gazette, that specified occupations are equivalent, and may specify or describe conditions that will achieve equivalence.

3.18 In practice, the Declaration is a matrix, that seeks to provide an equivalent licence for 346 occupation classes across States. There are occupations captured in the Declaration which require a licence in some States, but do not require a licence in the ACT:

- carpenters;
- joiners;
- bricklayers;
- air-conditioning and refrigeration mechanics;
- electrical fitters;
- cable jointers; and
- lineworkers.

Renewals of licences

3.19 The maximum term of a licence is generally three years. Licensees can generally select a licence renewal term of one year or three years, although the maximum licence term is one year for the following occupations:

- building assessor;
- building surveyor;
- plumbing plan certifier; and
- works assessor.

3.20 A licensee can make an application for their licence to be renewed before the term of their licence ends. Subsection 25(2) of the Act provides the following guidance:

The registrar must renew a licence on application if satisfied that the applicant—

(a) would be eligible to be licensed if the application were for a new licence of the same kind; or

(b) is eligible for renewal of the licence.

3.21 Subsection 25(3) of the Act also provides circumstances where the Registrar may choose to refuse the renewal of a licence. They include circumstances where the applicant:

... has contravened, or is contravening, this Act or a condition of the applicant's licence or a condition of a licence or a related licence ...

... has contravened, or is contravening, a rectification undertaking (however described) under this Act or a corresponding law ...

3.22 In practice, when Access Canberra receives an application for a licence renewal it does not require or review any additional documentation, unless the renewal includes an application for a different licence.

Reissue of licences

3.23 When a licence has expired, a licensee may apply for the licence to be reissued providing:

- it is less than a specified period⁸ since the licence has expired;
- the licence is not subject to any disciplinary action; and
- the licence was not cancelled.

3.24 The eligibility requirements for the reissuing of licences are detailed as methods in the Declarations discussed in paragraph 3.4. Generally, the requirements mirror those for a new licence in the occupational class, with additional requirements to satisfy the provisos in paragraph 3.22. As such, Access Canberra assesses the documentation supplied by the applicant to inform its decision-making.

3.25 Construction practitioners generally apply for a new licence or seek a renewal for an existing licence. There are two distinct streams for construction practitioners applying for a new licence. The primary focus for new licence applications is that the applicant satisfies Access Canberra that they have the relevant skills and experience to hold a licence. The focus for applications made through mutual recognition of a licence in another State is the currency of the other licence and consideration of any occupational discipline of the applicant. By virtue of the applicant being licensed in another State, Access Canberra relies on the decision-making processes implemented by that State in granting a licence.

⁸ The specified period varies from between 12 months to 5 years dependant on the licence type.

Licence eligibility requirements

3.26 This section of the report discusses the key licence eligibility requirements of:

- having a tertiary qualification;
- demonstrating work experience; and
- passing a written examination.

Tertiary qualifications

3.27 The requirements for qualifications differ for the different scopes of work between occupation licence classes. For example, the requirements for qualifications differ between a class A builder's licence and a class B builder's licence as shown in the following section of the report. For the purpose of audit analysis, licences were reviewed for a class in each occupation that had the widest scope within the occupation, being a class A builder's licence and an unrestricted electrician's licence.

Class A builder's licence

3.28 The requirement for a class A builder's licence in the *Construction Occupations (Licensing) (Qualifications) Declaration 2023* is:

... a tertiary qualification in building that the Australian Qualifications Framework Advisory Board has determined is a bachelor degree, graduate certificate, graduate diploma, masters degree or doctoral degree in the Australian Qualifications Framework System.

3.29 The scope of work for a class A builder's licence is:

- class A builder (unlimited)
 - Building work other than specialist building work.

3.30 This permits a class A builder to undertake building work other than specialist building work of unlimited height on any Building Code of Australia (BCA) class of work.

Class B builder's license

3.31 The requirement for a class B builder's licence in the *Construction Occupations (Licensing) (Qualifications) Declaration 2023* is:

- i) a Diploma of Building and Construction (Building); or
- ii) a tertiary qualification in building that the Australian Qualifications Framework Advisory Board has determined is a bachelor degree, graduate certificate, graduate diploma, masters degree or doctoral degree in the Australian Qualifications Framework System.

3.32 The scope of work for a class B builder's licence is:

- class B builder (medium rise)
 - building work (other than specialist building work in relation to a building that is three storeys or lower; and
 - basic building work.

3.33 This permits a Class B builder to undertake building work other than specialist building work in relation to a building that is three storeys or lower and basic building work.

3.34 As the scope of the licence classes increases the qualification requirement is higher. Table 3-3 summarises the difference between a class A builder's licence and a class B builder's licence.

Table 3-3 Key differences between a class A builder's licence and a class B builder's licence

Occupational licence class	Scope	Qualification Level ⁹
Class A	Unlimited height	Level 7 and above (Bachelor degree minimum)
Class B	Three stories or lower	Level 5 and above (Diploma minimum)

Source: *Construction Occupations (Licensing) (Qualifications) Declaration 2023*.

Unrestricted electrician's licence

3.35 The scope of an unrestricted electrician's licence is:

- electrical wiring work without supervision;
- supervision of electrical wiring work; and
- contract only in circumstances where the licence is not conditioned to exclude this service.

3.36 The qualification requirement for an unrestricted electrician's licence in the *Construction Occupations (Licensing) (Qualifications) Declaration 2023* is:

- a) one of the following *Certificate III in Electrotechnology Electrician* qualifications as described on the national training register, obtained through a nationally recognised contract of training as an electrical apprentice, and issued within five (5) years prior to making the application:

- i. UEE30811; or
- ii. UEE30820

And

- b) one of the following units of competency not obtained through recognition of prior learning (RPL):
 - i. UEENEEG105A *Verify compliance and functionality of low voltage general electrical installations*.

⁹ Australian Qualifications Framework level

- ii. UEEEL0039 *Design, Install and Verify compliance and functionality of general electrical installations.*

3.37 This requirement for an unrestricted electrician is a level four qualification on the Australian Qualifications Framework. This is three levels lower than the qualification required for a class A builder's licence. A qualification that is suitable for obtaining a class A builder's licence requires 3.5 years of full-time study, whereas a qualification suitable for an unrestricted electrician's licence is four years of part-time study.¹⁰

Exercise of judgment

3.38 In the absence of explicit courses being declared as a requirement for a class A builder's licence, Access Canberra's assessors and approvers are required to exercise their judgement to determine if the course the applicant holds is considered a building and construction-related tertiary qualification.

3.39 The *Construction Occupations (Licensing) (Qualifications) Declaration 2023* provides the following definition to assist with this determination by officers:

... is a qualification primarily related to the undertaking, management and supervision of building work of the type regulated under the ACT *Building Act 2004*, and does not include qualifications primarily related to other building industry matters such as planning and development, economics, industrial relations, construction law, regulatory theory and the like.

Case Study example

3.40 The difficulty in applying this definition is illustrated by an application received by Access Canberra for a class A builder's licence, from an applicant that held a Bachelor of Engineering in Civil Engineering and a Master of Engineering Management.

3.41 The applicant was advised that an initial assessment determined that their qualification did not meet the current requirements of the Declaration. Access Canberra then requested further information and the applicant supplied transcripts of the units that were undertaken for their Bachelor and Master degrees.

3.42 The final assessment refused the application, based on a review of the content of the units the applicant completed for their qualifications, which were identified as being related to the engineering discipline, and not related to the undertaking, management or supervision of building work.

3.43 The applicant made an application for the ACT Civil and Administrative Tribunal (ACAT) to review the decision made by Access Canberra. The applicant sought a determination from Access Canberra that their qualifications satisfied the criteria in the Declaration and an approval of their application for a class A builder's licence.

¹⁰ Approximately eight hours per week for the three years, and a single unit of study in year four.

- 3.44 During the course of the ACAT review, Access Canberra sought advice from the Australian Institute of Building (AIB).¹¹ The AIB assessed that the applicant's qualifications did not meet the AIB's standard to be accredited as a building degree program. The AIB made the distinction that a civil engineering degree is aimed at the construction of road and bridge infrastructure, rather than the construction of buildings, and whilst there were some common units of study, it would not be sufficient to meet the AIB's accreditation standard.
- 3.45 During an ACAT hearing, the applicant argued that if they did not have the requisite tertiary qualifications as declared by the Minister, then they did have the 'skills and knowledge' required by subsection 13(3) of the Regulation for licence eligibility:
- ... the entity does not have a qualification declared by the Minister...; but
the entity has the skills and knowledge reasonably necessary to satisfactorily exercise the functions of the construction occupation or occupation class ...
- 3.46 During the hearing, Access Canberra conceded that the application had not been assessed under section 13(3) of the Regulation and that it should have.
- 3.47 The conclusion of the ACAT review was that the applicant and Access Canberra agreed for Access Canberra to set aside the decision to refuse the application for a class A builder's licence and to substitute it with a decision to grant the applicant with the licence.
- 3.48 After the ACAT review the ACT Government Solicitor provided advice for what it saw as the two key issues to be addressed by Access Canberra:
- ... the Registrar could seek legislative change and address what it perceives to be deficiencies in Declaration 2019 and the definition of "tertiary qualification" in building. Perhaps a schedule could be included which explicitly lists the qualifications the AIB currently considers appropriate which could be updated periodically
- ... the Register should consider what the legislative intent of s 13(3) is and develop policy and processes which supports its legislative exercise.
- 3.49 Access Canberra advised the Audit Office that because of the ACAT review, it is:
- reviewing tertiary qualifications with a view to identifying more suitable qualifications for builder licences; and
 - undertaking a review of a draft policy to support its application of section 13 of the Act.¹²
- 3.50 There are different tertiary requirements for the licensing of different occupations. The minimum tertiary qualification requirement for a class A builder's licence is 'a tertiary qualification in building' that is a bachelor's degree or above. In this instance, Access Canberra is required to use its judgement in assessing whether a tertiary qualification meets its requirement. In doing so, Access Canberra is exposed to the risk of its decision being challenged by applicants that may have completed a qualification, with an expectation that

¹¹ AIB provides accreditation for university courses in building and construction management programs.

¹² Review by Access Canberra's Regulatory Advisory Committee.

they could be licensed in an occupation. This has occurred. Challenges to Access Canberra's decision making are costly, labour intensive and may damage Access Canberra's reputation.

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.

Work experience

- 3.51 As described in Table 3-1, 25 percent of all methods of eligibility for occupation classes require the applicant to demonstrate evidence of relevant work experience. For methods that do not explicitly require this, work experience is assured by virtue of the required qualification requiring a component of work experience. For example, the required superseding qualification for an unrestricted electrician's licence is an apprenticeship, which by its very nature requires work experience under the supervision of a licensed electrician.
- 3.52 Where work experience requirements do exist, there is variation for the different scopes of work between occupation licence classes. For example, class A, B and C building licences require that the applicant:
- ... has undertaken and documented not less than 2 years full time building work experience where 1 year full time building work experience was undertaken after the date the qualification ... was issued
- 3.53 A class D building licence requires that the applicant has:
- ... undertaken and documented 3 years full time building work experience.
- 3.54 For the purpose of the desktop review, 16 licence applications were required to demonstrate evidence of work experience; 15 as per the requirements in the Declarations and one as per the requirements stated in an endorsement policy. Fifteen of the applications met the requirements of the declaration, whilst the application for an endorsement did not meet the requirement of the relevant policy.
- 3.55 The application that did not meet the requirements required the applicant to have three years of experience for a demolition endorsement (5,472 hours). The applicant initially provided details of 2,170 hours of experience. Subsequently, at the request of Access Canberra, the applicant provided details of additional experience, bringing the total to 3,180 hours.
- 3.56 Access Canberra approved the application and stated:
- The Registrar can be satisfied that the applicant has the physical ability, skill and knowledge to competently undertake demolition work.

The applicant provided a statement indicating his knowledge about the building approval process in relation to demolition work under the Building Act 2004.

3.57 There is no record in the applicant's Objective file that shows how, despite being 2,292 hours short of work experience, Access Canberra was satisfied that the applicant had the physical ability, skill and knowledge to competently undertake demolition work.

Validation of work experience

3.58 When providing details of work experience, it is a requirement of Access Canberra for the work experience to be validated by a referee. Verification statements are required for all work experience completed by an appropriately licenced construction practitioner.

3.59 In the verification statement, the referee is asked to make a series of statements, including:

- the status of the referee's occupational licence;
- the referee being available to take a telephone call from Access Canberra to verify information in the statement;
- any history of occupational discipline, or cancellation of the referee's licence; and
- that work undertaken by the applicant under the referee's supervision complied with relevant legislation.

3.60 In practice, Access Canberra:

- reviews the licence status of referees for each application;
- contacts referees to verbally verify detail in their verification statements; and
- reviews the number of hours claimed per project to ensure that the hours are reasonable for the length of the project and that cumulative hours are not excessive where projects overlap or run concurrently.

3.61 Fifteen of the 16 licence applications that were required to demonstrate evidence of work experience, as described in paragraph 3.54, were assessed in accordance with the process described in paragraph 3.60. One assessment contained inconsistencies.

3.62 In the inconsistent assessment, one of the three referees that provided verification statements for the applicant was unable to take a call from Access Canberra to provide a verbal confirmation of the applicant's experience. The referee was, however, able to confirm that the referee worked with the applicant on the project. Whilst there was a documented intention for Access Canberra to return the call, this did not occur.

3.63 The work experience that was not verbally confirmed by the referee represented 45 percent of the total work experience that the applicant had provided for their application, and as such was the largest of the three projects that was provided for the application.

- 3.64 Additionally, the application statement provided by the licensee for this work experience was not signed by the referee, although a date for the signature had been recorded on the statement.
- 3.65 The three application statements that were provided by the applicant all appeared to have had the handwritten hours for each project modified by varying degrees. There is no explanation on the statement for this, or any marking of the applicant's or verifier's initials to show the intent or date of the change.
- 3.66 Access Canberra approved the application for this licence stating that:
- The applicant has supplied statements of building work experience in support of their application. The statements sufficiently demonstrate the experience required under the Schedule.
- 3.67 Access Canberra has a comprehensively documented process for assessing that an applicant's work experience meets the relevant requirement and validation that the work experience actually took place. However, there is variability in the quality and extent of the materials that are provided to Access Canberra for its assessment. For those that are completed by hand, the information may be ineligible or have the potential to be modified after being signed by the referee. A completed form that is not electronic also limits the ability for future processing efficiencies and errors, as the data cannot be readily and reliably extracted. For the purpose of the desktop review, 16 licence applications were required to demonstrate evidence of work experience. Fifteen of the applications met the requirements of the declaration. For the application that did not meet the requirement, there was no record in the applicant's Objective file that shows how Access Canberra was satisfied that the applicant had the physical ability, skill and knowledge to competently undertake the work.

Written examination

Introduction of written examination

- 3.68 Published in November 2015, the ACT Government's *Improving the ACT Building Regulatory System* contained reform options to address common issues relating to building quality. The paper contained an option for Access Canberra to introduce an assessment of:
- a building licensee's obligations and rights under their licence;
 - building and related standards and practices appropriate to the licence category being applied for; and
 - quality management and supervision processes.
- 3.69 Access Canberra introduced a pilot written examination in 2016, which applicants for new class C builder's licences were required to sit and pass. It was declared as a requirement by the Minister under subsection 13(1) of the Regulation. In 2019 the requirement to sit and pass a written examination was also identified for new class A and class B builder's licences.

- 3.70 The pass mark for the written examination is 80 percent; applicants are offered two opportunities to pass the examination.

Skills assessments

- 3.71 Subsection 14(1) of the Regulation outlines circumstances when Access Canberra can request that an individual undertake a skills assessment for an application for any construction occupation under the scope of the Act:

... the registrar is not satisfied that an applicant has a qualification required to be eligible for the licence applied for; or

is satisfied that an applicant has a qualification required to be eligible for the licence applied for; and

is not satisfied on reasonable grounds that the applicant has a skill reasonably necessary to satisfactorily exercise the functions of a construction occupation or class of construction occupation under the licence applied for

Skills assessment in place of written examination

- 3.72 When the written examination was introduced, applicants would attend an Access Canberra office and undertake the examination in person. During the COVID-19 pandemic, this presented a health risk. To mitigate this risk the written examination was replaced with an online questionnaire and a subsequent online interview with a panel of Access Canberra staff and one industry expert. An online interview typically lasts for 30 minutes.
- 3.73 Once the questionnaire is received by Access Canberra, the results are used to inform which questions are selected from a bank of standard questions for the online interview. If applicants have answered all questions correctly in the questionnaire, the assessing officer for the interview will select questions randomly from the bank of questions.
- 3.74 In practice, the skills assessment is scheduled once the assessment of artifacts is complete and a decision by the appropriate delegate has been approved.

Outcomes from skills assessment

- 3.75 Access Canberra retains a record of the skills assessment in the applicant's Objective file. As the arrangements changed during the COVID-19 pandemic, this varied between a test paper marked by Access Canberra, a completed online questionnaire and a video of an online interview.
- 3.76 When an online interview has taken place, Access Canberra makes an assessment of the interview. In the applications that were reviewed for the purpose of the audit, there were different approaches to the assessment. For example:
- an email chain between the panel members, supporting each other in a simple positive assessment of the interview;

- an *Interview Assessment* document that included the outcomes from each of the questions in the interview, with limited additional commentary regarding the applicant's responses; and
- an *Interview Assessment* document that did not provide any detail of the recommended outcome of the interview.

3.77 Access Canberra's *Builder Assessment Policy and Operational Procedures for Builder Application Assessments* provide guidance for the administrative arrangements for interviews. However, they are silent regarding the requirements for the documentation of interview assessments. In having interview outcomes embedded in documentation such as the *Licensing Assessment Form* and the *Interview Assessment*, and having no database of interview outcomes, Access Canberra is unable to report on the outcomes of interviews.

3.78 Nevertheless, a summary of the interview is provided in the *Licensing Assessment Form* by including the interview panel's recommendations from the outcome of the interview.

3.79 Since 2019 applicants for new builder's licences have been required to pass a skills assessment examination; this was previously a written examination, but since the Covid-19 pandemic this has been achieved through an online questionnaire and a subsequent online interview. When an online interview has taken place, Access Canberra makes an assessment of the interview. In the applications that were reviewed for the purpose of the audit, there were different approaches to the assessment and documentation of the assessment. Access Canberra's *Builder Assessment Policy and Operational Procedures for Builder Application Assessments* provide guidance for the administrative arrangements for interviews, but they are silent regarding the requirements for the documentation of interview assessments.

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.

Proof of identification

Applications without proof of identification

- 3.80 Applicants are not required to prove their identity for the following:
- new licences not using mutual recognition of an existing licence from another State;
 - renewals of any licence; and
 - changes of postal address.

3.81 In 2021-22, 77 percent of all new applications and 100 percent of renewals were not required to prove their identification.¹³

Mutual recognition applications

3.82 When an application is made for a new licence through mutual recognition of an existing licence in another State, the applicant is required to provide evidence of their licence, or evidence of their licence registration and evidence of their identity:

The notice must be accompanied by a document that is either the original or a copy of the instrument evidencing the person's existing registration (or, if there is no such instrument, by sufficient information to identify the person and the person's registration).

As regards the instrument evidencing the person's existing registration, the person must certify in the notice that the accompanying document is the original or a complete and accurate copy of the original.

3.83 During the application process the applicant must provide a certified copy of their proof of identity. The applicant is notified of this on the application form, which also provides guidance for the type of identity required:

Attach photographic ID issued by a Government institution.

3.84 In the review of applications for the purpose of audit fieldwork, 21 of the applicants were required to prove their identity for a new application. All 21 were accepted by Access Canberra as having proved their identity although:

- nine of the applicants' supporting documents were not certified as true copies;
- Access Canberra requested a certified copy from one of the applicants twice to no avail;
- addresses on the identification documents in four of the applications did not match the address provided in the licence application; and
- the name on one of the identification documents was spelt differently to the name of the applicant.

3.85 Applications for a licence through mutual recognition are legislatively required to prove their identity. In the review of applications for the purpose of audit fieldwork, it was apparent that applicants commonly provided incorrect and inconsistent evidence to prove their identity. This was not challenged by Access Canberra. With proof of identify being required for the first application from an individual, and not in subsequent applications, there is limited assurance with respect to an individual's identity.

¹³ Data for changes of postal addresses is not available.

RECOMMENDATION 8 PROOF OF IDENTITY

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

Change of contact details

3.86 It is a requirement under section 21 of the Regulation that licensees notify Access Canberra when their details change:

The licensee must tell the registrar in writing of any change in a detail relating to the licensee that is recorded in the register.

The notice must be given within 2 weeks after—

- (a) the day of the change to which it relates happened; or
- (b) the day the licensee became aware of the change.

3.87 Applicants are made aware of this requirement during the application process. Access Canberra's *Application for Construction Occupation Licence Individual Builder* form includes the following statement, which the applicant is required to acknowledge as understood:

I understand that it is a requirement under law that should my licence be issued I must notify the Construction Occupations Registrar of any changes to my details within two weeks of the change.

3.88 Access Canberra provides a form for licensees to update their details. The *Updating Licence or Registration Details* form requires licensees to provide evidence of a change of name:

If a name change occurs for an individual or a company/partnership then evidence must be attached to this form.

3.89 In the review of applications for the purpose of audit fieldwork, there were 36 licence applications or renewals where an applicant's details had changed from their preceding application. Only four of these applications had previously submitted an *Updating Licence or Registration Details* form to Access Canberra.

3.90 All licensees are legislatively required to notify Access Canberra when their personal details change. Access Canberra's guidance clearly communicates this requirement. However, licensees rarely notify Access Canberra of changes within the required timeframe. Rather, it is apparent that licensees submit new details during the renewal process. This means that Access Canberra may not have the correct personal details for a licensee for up to three years, by virtue of the maximum licence term. This may limit the ability of Access Canberra to contact licensees, and in some cases lead to unintended unlicensed work, if a licensee does not renew their license because they did not receive notification that their licence had expired.

Personal declarations

3.91 Other than the requirements that the Declarations require that a licence holder should meet, Access Canberra requires the applicant to make a series of declarations during the application process. Application forms provide a series of questions for these declarations:

Do you have access to financial resources adequate to complete works performed under the licence applied for?

Are you currently, or previously have been, deemed bankrupt or personally insolvent?

Have you previously held a builder licence elsewhere in Australia or overseas?

Is your licence as a builder, in Australia or overseas, currently suspended or cancelled?

Have you previously had a builder licence cancelled, refused or suspended in Australia or overseas?

Have you ever been, or are you currently, the subject of complaints, occupational discipline, demerit activity or rectification orders whilst licensed under the Construction Occupations (Licensing) Act 2004, a corresponding prior Act, or the law of another jurisdiction in Australia or overseas, where those proceedings were not finalised?

Have you been convicted or found guilty of a criminal offence that involves fraud, dishonesty or violence and is punishable by imprisonment of 1 year or more?

3.92 When a form does not require the applicant to provide any evidence, Access Canberra makes no additional checks to verify the responses to these questions. For example, when an applicant declares not being currently or having previously been bankrupt or personally insolvent, no further material is sought by Access Canberra, despite this information being publicly available from the Australian Financial Security Authority.

3.93 Similarly, when an applicant declares that they have not had a licence elsewhere in Australia or overseas, and that they do not have, or have not had a licence cancelled or suspended, Access Canberra does not check the public occupational licence registers in other States to verify this.

3.94 As part of the desktop review of licence applications, it was found that applications were approved by Access Canberra without apparent consideration of the following irregularities:¹⁴

- an applicant whose New South Wales licence had been previously cancelled, though they declared that their licence had not been subject to conditions, undertakings, limitations or restrictions in Australia;
- an applicant who did not declare one licence from another State, and in a subsequent application, did not declare the same licence and an additional licence in another State; and
- an applicant that did not declare a licence from another State.

¹⁴Irregularities were determined by comparing data supplied to Access Canberra by the licensees with applicant data available on public registers in other States.

3.95 Access Canberra relies on applicants to make personal declarations on a wide range of personal and integrity-related matters such as their financial resources and capacity, previously held licences and whether they have been subject to any complaints or disciplinary processes. There is no process for validating the declarations made by the applicant. Some of the matters declared could lead to a refusal of an application. The desktop review of licence applications found that, on occasion, the declarations made by the applicants were not correct and applications were approved by Access Canberra without apparent consideration or acknowledgment of the incorrect declaration. Without a process to validate the declarations made by applicants', decision-makers may be missing key information that is required for well informed decision making; in some cases this information may change the outcome of an application.

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.

Other assessment considerations

Consideration of occupational discipline

3.96 When assessing an application for a licence, Access Canberra considers the licensee's history of occupational discipline. Consideration is informed by:

- a declaration made by the applicant regarding their occupational discipline on their application form;
- Access Canberra's records of the licensee's occupational discipline in the ACT;
- a review of the public registers of other State licencing authorities (for mutual recognition applications); and
- information provided on request of Access Canberra by other State licencing authorities (for mutual recognition applications).

3.97 When occupational discipline is in the form of a demerit action, Access Canberra retains all records related to the demerit action on the licensee's Objective file. Once issued, a summary of the demerit action is entered into the licensee's file in COLMS; this serves as an overview of the licensee's demerit history. Additionally, Access Canberra retains a register of demerit actions against all licensees. When reviewing the occupational discipline of a licensee in the ACT, Access Canberra refers to these records of the licensee.

3.98 Subsection 91(1) of the Act outlines the requirements of a demerit point register:

If a demerit ground for occupational discipline exists in relation to a licensee, the registrar must record, in the demerit points register, against the licensee or former licensee, and for the relevant construction occupation, the number of demerit points prescribed under the regulations for the demerit ground for occupational discipline.

3.99 As part of the desktop review of licence applications, it was apparent that 27 demerit actions were recorded in the Objective files of the licensees. The following was found with respect to these demerit actions:

- all demerit notices were approved by the delegate;
- 11 of the demerit actions were not recorded on the demerit register;
- nine of the demerit actions were not recorded on COLMS; and
- eight of the demerit actions could not be retrieved from COLMS due to a software error.

3.100 Additionally:

- two demerit actions were recorded in COLMS that were not recorded in the demerit register; and
- a 'compliance action' for one licensee in COLMS had no demerit action recorded in COLMS, the demerit register or in the licensee's Objective file.

Consideration of interstate occupational discipline

3.101 When assessing applications through mutual recognition of a licence in another State, Access Canberra considers the occupational discipline of applicants in States where they hold licences. This takes the form of a review of the State's public register and, if this is not sufficient, by requesting information from the State licensing authority.

3.102 The desktop review of applications included 20 applications through mutual recognition of a licence held in another State. To assess the State occupational discipline of the applicants, Access Canberra:

- reviewed registers of the first State for two applications; and
- sought information from the relevant State licensing authorities for the remaining 18 applications.

3.103 Consideration of interstate occupational discipline is based on the applicant's declaration of licences in other States. There have been occurrences where a licence held by an applicant in another State was not declared. For two of the applications reviewed the applicant did not declare their licences in other States and the applicant's occupational discipline was not checked by Access Canberra in those States.

- 3.104 Additionally, six of the 20 applications declared licences in more than one other State. When considering these applications Access Canberra:
- sought information from all the State licensing authorities for three applications; and
 - sought information from only one State licensing authority for three applications.
- 3.105 For new applications that are not through the mutual recognition of a licence from another State, and for renewals of any licence, Access Canberra does not review or seek information regarding the State occupational discipline of the applicant and relies on the declaration made by the applicant on their application form.
- 3.106 As part of the desktop review of applications the Audit Office found that:
- one new applicant held a licence in a different occupation in another State;¹⁵ and
 - four licence renewals held additional State licences in the same occupation;¹⁶
 - two of which held licences in three States; and
 - one held licences in four States.
- 3.107 Access Canberra considers an applicant's occupational disciplinary history in the ACT and other States when making licensing decisions. Access Canberra uses its own data to inform its decision. Access Canberra's occupational discipline data is stored in three discrete locations, which contain significant duplication of information; any cross referencing is by a manual process with no opportunity to automate. This presents an opportunity for data to not be a true representation of the status of an applicant's occupational discipline and may lead Access Canberra to overlook the occupational disciplinary history of an applicant.
- 3.108 In assessing applications where applicants have held, or do hold, licences in other States, public databases provide limited data regarding the licensee's occupational discipline in those States. Access Canberra also has relationships with other State licensing authorities, which can provide additional data on request. Whilst Access Canberra seeks information from an applicant's first State licensing authority in the case of mutual recognition applications, information is not sought in the case of new applications or for renewals of licences.

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.

¹⁵ This licence was not required to be declared by the applicant.

¹⁶ Two of these licences were issued through mutual recognition.

Case Study

3.109 As part of the desktop review of applications, the Audit Office reviewed the licensing history of an individual. The licensing history involved a series of applications from a licensee, which included: new applications; upgrades; and an endorsement. The applications are shown in chronological order.

Class C application

3.110 The applicant initially applied for a new class C builder's licence in November 2009. The applicant provided an address that was different from the address on the identification that was provided and the applicant's name was spelt differently. There is no evidence that Access Canberra sought to clarify the differences.

3.111 In a subsequent application to renew their class C licence in April 2014, the applicant responded 'yes' to the following question, but did not provide further details as required by the application form:

Have you been convicted or found guilty of an offence involving fraud, violence or dishonesty punishable by imprisonment for 1 year or more?

3.112 There is no evidence that Access Canberra followed this up with any further correspondence. In the Audit Office's review of licence applications, this was the only application for which this question had been answered in the affirmative.

Class B upgrade

3.113 The applicant applied twice for an upgrade to a class B builder's licence. In the first application in September 2016, the applicant applied nine months after receiving the qualification required for a class B builder's licence. One year's work experience is required post qualification, and the applicant could not demonstrate that they had undertaken one year of work experience post qualification. The applicant was advised by Access Canberra that they would not be eligible for a class B builder's licence until one year after the date of their qualification. The applicant subsequently withdrew their application.

3.114 The applicant made a second class B application in January 2017, one year and four days after being qualified. There were inconsistencies related to the evidence provided in support of the applicant's work experience:

- an application statement by a verifier had not been signed;
- the same verifier was unable to provide a reference when contacted by Access Canberra;¹⁷ and
- two applicant statements appear to have been modified to increase the number of hours.

¹⁷ The verifier was able to verbally confirm that the applicant had worked with the verifier on the project.

- 3.115 Additionally, a requirement for a class B builder's licence is that the applicant:
- ... has undertaken and documented not less than 2 years full time building work experience where 1 year full time building work experience was undertaken after the date the qualification ... was issued.
- 3.116 The applicant did not detail which work experience was pre and post qualification.
- 3.117 Nevertheless, based on an assessment of this information, the applicant was issued a class B builder's licence.

Class A upgrade through mutual recognition

- 3.118 The applicant applied for and was issued a class A builder's licence in December 2020, through mutual recognition of their Queensland open builder's licence.

Demolition endorsement

- 3.119 Seven days after applying for a class A builder's licence, the applicant applied for an endorsement on their licence to undertake demolition work. In their application, the applicant stated that they held a class A builder's licence. At the time, the application for a class A builder's licence was not complete; Access Canberra provided the applicant with a letter of offer for a class A builder's licence four days after the application for a demolition endorsement.
- 3.120 A demolition endorsement requires the applicant to provide evidence of three years of work experience in demolition. One year of full-time experience is defined as 1825 hours in the *Construction Occupations (Licensing) (Qualifications—Builder and Building Surveyor Licences) Declaration 2019 (No 2)*. Initially the applicant provided evidence for 2170 hours (just over one year's experience). After Access Canberra requested further information from the applicant, the applicant provided evidence of 3180 hours of work experience; this was still 2292 hours short of the three years required.
- 3.121 Whilst the number of hours claimed by the applicant was detailed in Access Canberra's licensing assessment form, the shortfall in hours was not noted in the decision-making rationale.
- 3.122 Access Canberra's policy that details the requirements for a demolition endorsement, states that the:
- Applicant must complete and supply evidence of completion of one of the following courses:
 - BCG30403 Certificate III in Demolition (General Construction); or
 - CPC30408 Certificate III in Demolition; or
 - CPC30411 Certificate III in Demolition; or
 - CPC30413 Certificate III in Demolition; or
 - CPC41013 Certificate IV in Demolition;

- 3.123 Access Canberra's licensing assessment form for this application makes no mention of the completion of any of the listed courses and the application does not contain any evidence that any of the courses has been completed.
- 3.124 Notwithstanding these inconsistencies the applicant was granted a demolition endorsement on their licence.

Applicant Declarations

- 3.125 When making a decision for a licence application, Access Canberra considers the occupational discipline of the applicant in the ACT and other jurisdictions. Subparagraph 19(4)(a)(ii) of the Act contains the following provision:

The registrar may refuse to issue a licence for a construction occupation, or occupation class, to an applicant if –

the applicant, or a director or nominee of an applicant that is a corporation, or a partner or nominee of an applicant that is a partnership, is a licensee, a related licensee, or a former licensee (however described) under this Act or a corresponding law who-

is, or has been, subject to occupational discipline (however described) under this Act or a corresponding law.

- 3.126 In practice, the applicant is required to make a series of declarations in their application, the responses to these declarations may be used to inform Access Canberra's decision-making processes with respect to occupational discipline. Access Canberra may also choose to refer to its own records or seek information from other jurisdictions where the applicant may have held a licence.
- 3.127 In reviewing the declarations made in the series of applications made by the licensee, the following inconsistencies were found:
- the applicant's NSW licence was not declared in three applications;
 - the applicant's QLD licence was not declared in one application; and
 - demerit activity was not declared in two applications.

Summary

- 3.128 In a case study of nine applications from a licensee that the Audit Office reviewed in the period from 2009 to 2020, multiple administrative errors were found. Whilst many of these errors were minor in their nature, if considered as a whole, the sum of errors may be considered material.
- 3.129 In three of the applications, the applicant did not meet the requirements of the licence that they had applied for. Whilst one was withdrawn by the applicant, for the remaining applications, additional information was provided by the applicant based on the advice that was provided by Access Canberra with respect to the deficiencies in the applications. In one application it appeared that three artifacts were hand modified to meet the requirement, and in one application additional information was provided which still failed to satisfy the

requirement. Both applications were approved based on information provided by the applicant, without any commentary from Access Canberra to indicate that these issues had been identified.

- 3.130 In an application for an endorsement on the licensee's yet to be approved class A builder's licence, the applicant did not provide evidence of a tertiary qualification required by Access Canberra to be eligible for the endorsement. Access Canberra approved the endorsement to the licence without any reference to the missing evidence, or the rationale for providing the endorsement without the required evidence.
- 3.131 During application processes, the licensee is required to make a series of declarations. Evidence of the declarations is required only by exception in most cases, this may influence the applicant to intentionally provide an incorrect declaration to avoid providing evidence, or to avoid highlighting a circumstance that may prevent a licence being offered to a licensee by Access Canberra. In the review of the declarations made by this applicant, there were multiple declarations that were made by the applicant that were incorrect, relating to the applicant's occupational discipline.
- 3.132 The case study highlights systemic deficiencies in the information provided across multiple applications from a single licensee.

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.

4 LICENCE APPLICATIONS THROUGH MUTUAL RECOGNITION

4.1 This chapter discusses Access Canberra's management of applications received through mutual recognition processes.

Summary

Conclusion

The *Mutual Recognition Act 1992* (Cth) seeks to 'promote the goal of freedom of movement of goods and service providers in a national market in Australia'. By virtue of the mutual recognition scheme Access Canberra must grant an ACT licence to a construction practitioner that is 'equivalent' to a licence that they have been granted in another jurisdiction.

There is confusion with respect to the currency and status of Ministerial Declarations made in relation to builders' and electricians' licences, which seek to recognise the equivalence of qualifications across states and territories for the purpose of licensing. The Ministerial Declarations are also not updated on a regular basis.

There are a number of instances where direct equivalences of qualifications cannot be made across states and territories. An opportunity exists for licensees to take advantage of the mutual recognition scheme to be issued with a licence in their home state or territory, without the qualifications and work experience that would otherwise be required; 'shopping and hopping'. This represents a risk to the integrity of the licensing of construction practitioners in the ACT.

Key findings

The *Mutual Recognition Act 1992* (Cth) is the overarching legislation for the mutual recognition of occupations in Australia. It allows for Ministerial Declarations to be made to recognise the equivalence of occupations for the purpose of licensing. Ministerial Declarations that have been made are comprehensive documents that are used extensively by Access Canberra when assessing applications through mutual recognition of a licence held in another state or territory. Nevertheless, there is confusion with respect to the currency and status of Ministerial Declarations made in relation to builders' and electricians' licences. A 2014 *Progress Report On Responses To The Productivity Commission's 2009 Review Of Mutual Recognition Schemes* from the Cross Jurisdictional Review Forum recommended annual updating of the Ministerial Declarations of occupational equivalence. This has not occurred.

Paragraph

4.25

Because of the large numbers of equivalences required across classes of occupations, there are occasions where direct equivalences cannot be drawn. In the absence of direct equivalences for some occupation classes, an opportunity exists for licensees to take advantage of the mutual recognition scheme to be issued with a licence in their home state or territory, without the qualifications and work experience that would otherwise be required. This is known as ‘shopping and hopping’. Access Canberra has gathered data which shows that some applicants who apply for an ACT licence through mutual recognition of their licence held in another state or territory do so with the intent of taking advantage of the scheme, i.e. to be issued with a licence in another State without meeting the requirements of that state or territory.

4.39

Mutual recognition declarations

Authority

4.2 The *Mutual Recognition Act 1992* (Cth) is the overarching legislation for the mutual recognition of occupations in Australia. The purpose of the legislation is:

... to promote the goal of freedom of movement of goods and service providers in a national market in Australia.

Automatic mutual recognition

4.3 Part 3A of the *Mutual Recognition Act 1992* (Cth):

... deals with the ability of a person who is registered for an occupation in the person’s home State to carry on an activity covered by an occupation in another State ...

4.4 Part 3A of the *Mutual Recognition Act 1992* (Cth), which introduces a scheme of automatic deemed registration for individuals, has commenced in the Territory as the ACT and NT are regarded as participating jurisdictions under the Act.

4.5 However, construction occupations are currently subject to a *significant risk exemption* from Automatic Mutual Recognition, on the grounds of risks to consumer protection and risks to the health and safety of workers or the public. This exemption is in place until 1 July 2025.

4.6 In the absence of Automatic Mutual Recognition, construction practitioners wishing to work in another jurisdiction must apply for a licence in that jurisdiction, by virtue of Part 3 of the *Mutual Recognition Act 1992* (Cth).

Applications for licences via mutual recognition

4.7 Part 3 of the *Mutual Recognition Act 1992* (Cth):

... deals with the ability of a person who is registered for an occupation in a State ... to carry on an equivalent occupation in another State ...

4.8 Subsection 32(1) of the *Mutual Recognition Act 1992* (Cth) describes the circumstances for Ministers to declare when occupations are equivalent:

A Minister from each of 2 or more States may jointly declare, by notice in the Gazette, that specified occupations are equivalent, and may specify or describe conditions that will achieve equivalence.

4.9 Equivalence of the different classes of construction occupations is detailed in the *Mutual Recognition (Equivalence of Gaming and Other Occupations) Declaration 2009* (Cth). This also covers a range of other occupations that are not in the Act. Schedule 25 of this Declaration includes the *Builders (update 2006 matrix)*, which details equivalence of the different classes of building occupations.

4.10 The equivalent occupational classes of drainers, electricians, gasfitters and plumbers are detailed in the *Mutual Recognition Equivalent Occupations (automotive gas installers, air-conditioning and refrigeration mechanics, bricklayers, cable jointers, carpenters, electricians, electrical fitters, plumbing & gas-fitting, joiners, lineworkers) Declaration 2017* (Cth).

4.11 The occupations in the Act that do not have equivalents detailed in the two Declarations are:

- building assessor;
- building surveyor;
- plumbing plan certifier; and
- works assessor.

Declaration review

4.12 The Explanatory Statement for the *Mutual Recognition Equivalent Occupations (automotive gas installers, air-conditioning and refrigeration mechanics, bricklayers, cable jointers, carpenters, electricians, electrical fitters, plumbing & gas-fitting, joiners, lineworkers) Declaration 2017* states:

The Declaration will be reviewed periodically after it commences ...

4.13 The Explanatory Statement also describes the arrangements for the maintenance of the declarations:

In October 2006 the Council of Australian Governments (COAG) agreed to an update process for existing declarations made under subsection 32(1) of the Act to ensure the declarations are current. The Cross Jurisdictional Review Forum (the Forum), which has members from each State, serves to oversee mutual recognition arrangements including the maintenance of declarations ...

4.14 In 2014 a *Progress Report On Responses To The Productivity Commission's 2009 Review Of Mutual Recognition Schemes* was prepared by the Cross Jurisdictional Review Forum. The 2014 Progress Report includes a recommendation for strengthening the Council of Australian Governments' (COAG) oversight of mutual recognition schemes, and that units

be established to monitor and provide advice on the operation of the schemes. The Progress Report recommended:

... for the occupations unit, facilitate regulators' annual updating of the Ministerial Declarations of occupational equivalence.

4.15 The Cross Jurisdictional Review Forum did not agree to the general recommendation of establishing new units, on the basis that new units represented an additional regulatory burden when Government had a deregulation agenda. The Forum did not specifically address annual reporting in its response.

4.16 In 2015 the Productivity Commission's *Research Report on Mutual Recognition Schemes*, proposed that to improve the operation of the schemes:

Governments should update all Ministerial Declarations which prescribe the equivalence of occupations across Australia, and consider extending them to New Zealand.

Declaration history

Builders' licences

4.17 The Ministerial Declaration made in 2007, as a result of the COAG request in February 2006 to implement mutual recognition, included schedules for the occupational equivalence for builder and electrician licences. At the time of the audit the Declaration was listed as 'in force' on the Federal Register of Legislation.

4.18 However, the *Mutual Recognition (Equivalence of Gaming and Other Occupations) Declaration 2009 (Cth)* also contains a schedule for the occupational equivalence of builder licences in the form of a *Builders (update 2006 matrix)*. This declaration had been superseded by a 2015 update which was in force at the time of the audit. This contains the same *Builders (update 2006 matrix)* as the 2009 declaration.

4.19 A comparison of the builder licence class equivalencies, between the 2007 declaration and the 2015 update of the 2009 declaration, shows that there are differences between the two. It is not clear which of these declarations prevails as they are both in force, although it is apparent that the equivalent occupations for building licence classes were updated in 2009 at the latest.

4.20 At the time of the audit, Access Canberra was using the 2015 update of the 2009 declaration to assess applications for builders' licences through mutual recognition.

Electricians' licenses

4.21 Similarly, the *Mutual Recognition Equivalent Occupations (automotive gas installers, airconditioning and refrigeration mechanics, bricklayers, cable jointers, carpenters, electricians, electrical fitters, plumbing & gas-fitting, joiners, lineworkers) Declaration 2017* includes a schedule for the occupational equivalence of electrician's licences.

- 4.22 The 2017 declaration states that it rescinds and replaces the 2007 declaration. However, the 2007 declaration is still in force and the 2017 declaration could not be found on the Federal Register of Legislation. The 2017 declaration was provided to the Audit Office by Access Canberra which, during this audit, reverted back to using the 2007 declaration until advice was obtained regarding the currency of the 2017 declaration.
- 4.23 A comparison between the electrician's licence classes in the 2007 and 2017 declarations, shows that there are some differences. During the audit Access Canberra undertook a review of the key differences between the two declarations and concluded that the differences did not have equivalent licence occupation classes in the ACT, or are existing occupation classes that have been split into discrete classes.
- 4.24 Similar to the builder's licence equivalence, it is not clear which prevails, as the 2007 declaration is still in force and the 2017 declaration is not on the Federal Register of Legislation.
- 4.25 The *Mutual Recognition Act 1992 (Cth)* is the overarching legislation for the mutual recognition of occupations in Australia. It allows for Ministerial Declarations to be made to recognise the equivalence of occupations for the purpose of licensing. Ministerial Declarations that have been made are comprehensive documents that are used extensively by Access Canberra when assessing applications through mutual recognition of a licence held in another state or territory. Nevertheless, there is confusion with respect to the currency and status of Ministerial Declarations made in relation to builders' and electricians' licences. A 2014 *Progress Report On Responses To The Productivity Commission's 2009 Review Of Mutual Recognition Schemes* from the Cross Jurisdictional Review Forum recommended annual updating of the Ministerial Declarations of occupational equivalence. This has not occurred.

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.

Equivalency of occupations

- 4.26 The Ministerial Declarations contain a matrix for each of the licence occupations. Within each occupation, a breakdown is provided of each equivalent occupation class against other State requirements.

- 4.27 Declarations may acknowledge occupations are licensed in some States, and not licensed in others. For example, carpenters are identified in the *Mutual Recognition Equivalent Occupations (automotive gas installers, air-conditioning and refrigeration mechanics, bricklayers, cable jointers, carpenters, electricians, electrical fitters, plumbing & gas-fitting, joiners, lineworkers) Declaration 2017*, with the ACT equivalence stated as 'Registration is not required in this State'.
- 4.28 Within the matrix, once all variations of classes are considered across all States, it is apparent there are:
- eight first State licence equivalences for unrestricted electrician's licences;
 - 66 first State licence equivalences for restricted electrician's licences; and
 - 56 first State licence equivalents for builder's licences.

Incongruity in equivalences

- 4.29 Because of the large numbers of equivalences required across classes of occupations, there are occasions where direct equivalences based on an occupation's requirements cannot be drawn. For example, the equivalent of a Builder Open Licence Contractor Grade in Queensland is a builder's class A licence in the ACT.
- 4.30 To obtain this licence in Queensland, the applicant has the option to apply under one of four requirements:
- successful completion of Advanced Diploma of Building and Construction (Management) CPC60220; or
 - successful completion of a course the commission considers is at least equivalent to the course... ; or
 - a recognition certificate as a qualified builder to carry out the scope of work for the licence class; or
 - a qualification or statement of attainment of required competency for the class of licence.
- 4.31 To obtain a builder's class A licence in the ACT, at least the following is required:
- holds a *tertiary qualification in building* that the Australian Qualifications Framework Advisory Board has determined is a bachelor degree, graduate certificate, graduate diploma, masters degree or doctoral degree in the Australian Qualifications Framework System; and
 - has undertaken and documented not less than 2 years full time building work experience where 1 year full time building work experience was undertaken after the date the qualification ... was issued.
- 4.32 Whilst the two licences are declared as equivalents, the educational requirements are not equivalent, with the requirement for a Queensland licence being level 6 on the Australian Qualifications Framework (AQF), and the requirement for an ACT licence being level 7 on the AQF.

- 4.33 In practice, this equates to two years of study for a Queensland licence and four years of study for an ACT licence, in addition to a less stringent requirement in Queensland for work experience.

‘Shopping and hopping’

- 4.34 In the absence of direct equivalences for some occupation classes, an opportunity exists for licensees to take advantage of the mutual recognition scheme to be issued with a licence in their home State, without the qualifications and work experience that would otherwise be required.

- 4.35 This is described as ‘shopping and hopping’ in the Productivity Commission’s *Research Report into Mutual Recognition Schemes* in 2015:

... the practice of registering in a jurisdiction with less stringent requirements in order to obtain registration through mutual recognition in a more stringent jurisdiction.

- 4.36 In the report’s key points ‘shopping and hopping’ is described as one of a number of issues that:

... have the potential to weaken the community’s and regulators’ trust in the schemes and undermine their legitimacy.

- 4.37 Access Canberra indicated during the audit that this is a known problem for construction licensing in the ACT. Access Canberra provided the Audit Office with data that it had previously gathered to demonstrate this. With respect to applications for unrestricted electricians’ licences from July 2020 to October 2021, Access Canberra’s data showed for the 507 applications were made in this period, 323 (64 percent) were from applicants with a postal address not within the ACT.

- 4.38 Through analysis of the submission of Certificates of Electrical Safety¹⁸ in the ACT from these applicants, Access Canberra concluded that 180 (56 percent) of the applicants with a postal address not within the ACT had not undertaken any electrical work that they are licensed for in the ACT and that these applicants:

... used their ACT licence to be mutually recognised for an equivalent licence in other jurisdictions including their home jurisdiction.

- 4.39 Because of the large numbers of equivalences required across classes of occupations, there are occasions where direct equivalences cannot be drawn. In the absence of direct equivalences for some occupation classes, an opportunity exists for licensees to take advantage of the mutual recognition scheme to be issued with a licence in their home state or territory, without the qualifications and work experience that would otherwise be required. This is known as ‘shopping and hopping’. Access Canberra has gathered data which shows that some applicants who apply for an ACT licence through mutual recognition of their licence held in another state or territory do so with the intent of taking advantage

¹⁸ Certificates of Electrical safety are required to be submitted to Access Canberra by the licensee within 14 days of completing new electrical work.

of the scheme, i.e. to be issued with a licence in another State without meeting the requirements of that state or territory.

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.

Case Study (continued)

- 4.40 As part of the desktop review of applications, the Audit Office reviewed the licensing history of an individual. The licensing history involved a series of applications from a licensee, which included: new applications; upgrades; and an endorsement. The case study was previously discussed in paragraphs 3.110 to 3.133. The mutual application components of the applicant's licensing history are discussed in this section.
- 4.41 As previously discussed, the applicant's first class C builder's licence was issued in November 2009, the applicant proceeded to apply and receive a class B builder's licence in January 2017, and applied for a class A builder's licence through mutual recognition in December 2020.

Class A upgrade through mutual recognition

- 4.42 Access Canberra issued the applicant a class A builder's licence through mutual recognition of their Queensland open builder's licence.
- 4.43 The applicant's Queensland licence was approved on the same day that the applicant applied for mutual recognition using the Queensland licence in the ACT. The applicant's Queensland licence:
- used the same postal address in the ACT as their ACT licence; and
 - was cancelled after one year, when the licence fee was unpaid.
- 4.44 By virtue of the applicant using an ACT postal address for their Queensland licence, it is assumed that the applicant was resident in the ACT. By applying for an ACT class A builder's licence on the same day as being issued a Queensland licence, it is also assumed that the applicant was practising in the ACT at this time and, by extension, resident in the ACT.
- 4.45 Whilst the applicant may have been practising in Queensland by virtue of holding a Queensland licence in December 2020, by December 2021 the applicant was not licensed in Queensland. It is probable that the applicant was never practising in Queensland.
- 4.46 In a subsequent application, the applicant provided evidence of holding an Advanced Diploma. (In being supplied as evidence in an application it is assumed that this is the highest level of qualification that the applicant had received). This qualification is required for a Queensland open builder's licence, but is insufficient in the ACT for a non-mutual

recognition licensing process. It is probable that this is an example of an applicant 'shopping and hopping', where they have undertaken tertiary education that meets the requirement of another state or territory, but fall below the tertiary education requirement of an equivalent licence in the ACT. Through the mutual recognition process, however, they are able to obtain the licence in the ACT. Access Canberra must issue a class A builder's licence by virtue of the requirements of the *Mutual Recognition Act 1992* (Cth) and the *Mutual Recognition (Equivalence of Gaming and Other Occupations) Declaration 2009* (Cth).

Summary

- 4.47 In the licensee's application to upgrade from a class B builder's licence to a class A builder's licence, it is likely that the applicant was 'shopping and hopping'. They had sought a Queensland licence which was equivalent to a class A builder's licence in the ACT in order to claim mutual recognition of the Queensland licence in the ACT. Whilst Access Canberra was required to approve the application because of the *Mutual Recognition Act 1992* (Cth) and the *Mutual Recognition (Equivalence of Gaming and Other Occupations) Declaration 2009* (Cth), the licensee would otherwise not have met the requirement for a class A builder's licence in the ACT.

APPENDIX A: PROCESS WALK-THROUGHS AND DESKTOP REVIEW

Process walk-throughs

Process walk-throughs were undertaken with the assistance of Access Canberra staff. Through the process walk-throughs the Audit Office sought to understand how applications were processed in practice and how Access Canberra's software tools were used in the processing of applications. The walk-throughs informed which areas which would benefit from a more detailed desktop review.

Access Canberra provided the Audit Office with data for all licence applications and renewals for 2021. Completed applications were selected from this data for the purpose of the walk-throughs to cover a range of Access Canberra processes. The criteria for the selection was:

- a new licence application using mutual recognition;
- a new licence application (not through mutual recognition);
- a licence with demerit points issued; and
- a suspended licence.

Two examples of each were selected to allow for a comparison of the process. The examples were selected from builder and electrician licences, being the two largest cohorts of occupations in the data provided. This also served to provide coverage across the different licensing teams in Access Canberra.

During the process walk-throughs, Access Canberra assessors provided an overview of how each of the applications had been assessed against Access Canberra procedures. Staff rotation through Access Canberra provided a differential between the original assessor and the walk-through assessor in most instances; this provided additional opportunities to compare the process and the judgement of assessors.

Two walk-throughs were undertaken; one with the team that assesses builders' licence applications and one with the team that assesses electricians' licence applications. The walk-throughs were undertaken using Microsoft Teams from which recordings were retained and key points were documented.

At the conclusion of the walk-throughs, a series of follow up requests for information were sent to Access Canberra to clarify inconsistencies encountered during the walk-through, and to provide further information for processes that the Audit Office were previously not aware of.

Desktop review of licence applications

A selection of licence applications were reviewed as part of a desktop review. These were selected from the same data that was used to inform the process walk-throughs. The desktop review considered:

- 20 class A building licensees; and
- 20 Unrestricted electrical licensees.

For each of these 20 licensees the review considered:

- ten whose new licence was through mutual recognition of a licence in another State; and
- ten whose new licence was not through mutual recognition.

Additionally, ten licensees who had received demerit actions were also sought in each of the groups of 20 licensees.

All licensees that were selected were individuals. Processes used for assessing individual applications cover the range of Standard Operating Procedures (SOPs) more comprehensively than applications for a company or partnership, as these largely consist of ensuring the eligibility of a nominee, which is a licence held by an individual.

Licensees were selected at random within the criteria, until the required number was satisfied. It was found that there were not enough to satisfy the requirements of ten builder class A licences with demerits in the dataset. Therefore, the total number of licensees selected with demerits was 13, although across the selection of licensees there were 27 demerit actions for review.

In selecting licensees rather than applications, a wider range of processes were captured. For example, a new licence that was issued more than three years ago to a licensee¹⁹ would have a history of renewals and may have a history of upgrades, mutual recognition requests, demerit action, suspensions, changes of details and endorsements. Across the 40 licensees, there were 160 instances where Access Canberra was required to process information for the licensee.²⁰

For each instance where Access Canberra was required to process information, the following data was captured from documentation retained on the licensee's Objective file:

- application date;
- date of decision by Access Canberra;
- first state where licensee held a licence (for mutual recognition);
- identification:
 - was certified evidence supplied;
 - was there a change of contact details; and
 - did personal details match the application.
- educational qualifications:
 - was certified evidence supplied;

¹⁹ Maximum renewal for licences under the Act is three years.

²⁰ This includes applications from the licensee, requests from State regulators and issuing notices regarding occupational discipline.

- were qualification requirements met;
- were qualifications assessed against requirements; and
- did the name match the application.
- work experience:
 - was evidence supplied;
 - did work experience meet the requirements; and
 - Were work experience hours reasonable for the period claimed.²¹
- Access Canberra interview or test:
 - was it undertaken; and
 - was it assessed.
- which other state or territory licences have been declared by the licensee;
- licensing assessment summaries:
 - were completed summaries retained;
 - were summaries completed;
 - were completed summaries correct;
 - was the assessor officer recorded;
 - was the approving officer recorded;
 - was assessor and approver the same officer; and
 - was the decision recorded.²²
- were records of communications with licensee retained;
- demerit actions:
 - were notices of demerit sent to the licensee;
 - were notices approved by an appropriate delegate; and
 - were demerits recorded on Access Canberra’s demerit register²³.
- mutual recognition:
 - was information requested from the first State regulator;
 - was information requested from other State regulators when licences are held in more than one State;
 - was information from State regulators reviewed;
 - were checks made on State public registers; and
 - were requests from other State regulators responded to.

The following data was captured from COLMS for each licensee:

- demerit actions;
- application date; and

²¹ For example, did hours claimed within a working year appear excessive against an average working week.

²² For renewals, an electronic note is added to the Objective file.

²³ Access Canberra’s internal register in Objective.

- licence type.

Additionally, a search was performed on each of the state and territory regulators public registers for all licensees, and the following data was captured:

- state or territory licence number;
- licence date validity; and
- details of occupational discipline.

Where a Standard Operating Procedure (SOP) existed the extent and completeness of data was compared against it. Consideration was also given to the chronological order of events against the SOP using the dates of documentation and the dates entered in COLMS. Where SOPs did not exist, observations from the walkthrough with assessors were used as a reference.

Assessment summaries were reviewed to ensure that information was complete, and that the correct decision-making process was followed, recorded and approved by an appropriate officer.

A comparison of data for continuity was made between the data that is captured in COLMS and data that was recorded in the licensee’s Objective file. Where data was also held in a third location, this was compared with the data in COLMS and Objective.

Data gathered from State regulator public registers was reviewed against the declarations made by licensees during the application process, to compare the declaration of other state licences and occupational discipline in other States.

Licence requirements by occupation (assurance in testing)

The dataset used for the reviews contained 8491 licence applications. To provide assurance that the licensees that were selected for review were subject to the maximum number of processes for a given selection size, the Audit Office undertook analysis of the licence requirements for the 146 methods across the 62 licence classes. This is summarised in Table A-1.

Table A-1 Percentage of all methods with a requirement

Requirement	Methods with requirement
Educational qualification	54%
Formerly held licence	45%
Work experience	25%
Exam or test	21%
Eligible for a higher licence	4%
Other licence	3%
Supervision	1%
Enrolment	1%
Registration	1%

Requirement	Methods with requirement
Certification	1%
Accreditation	1%
Membership of professional body	1%

Source: Audit Office analysis

Where a licensee has let their licence expire without renewal, a range of methods are provided for the licensee to receive a new licence, with or without providing evidence of the other requirements that are normally expected for a new licence. The particular method is dependent on the licensee's circumstances; this requirement is referred to here as a 'formerly held licence'.

Where a method requires a formerly held licence, it is assumed that the licensee has had their educational qualifications and work experience assessed by Access Canberra at an earlier date when their new licence application was assessed. To this end, an adjustment was made for methods that require a formerly held licence, that they also require an educational qualification and work experience, although this is not always explicit in the requirement.

Additionally, there is no way to run a report on applications that have been assessed using a 'formerly held licence' method, because when a method is recorded the record is embedded within a licensing assessment summary, which is recorded in a word document. By adjusting the requirements as described in the previous paragraph, they are captured in the analysis.

To provide the maximum coverage across the different requirements, the requirements used in less than five percent of the methods were excluded, as was the formerly held licence requirement. This resulted in the requirements in Table A-2.

The percentage of licensees in the dataset that were required to meet each of the three requirements was determined by using the licence class recorded of the applications in the dataset.

Table A-2 All licensees in dataset with requirement

Requirement	Yes	No	Unknown
Educational qualification	93%	0%	7%
Work Experience	50%	4%	46%
Exam or Test	24%	76%	0%

Source: Audit Office analysis of Access Canberra data

Data is also provided for licensees where a licence class has a mix of requirements within its methods and is hence unknown. The restrictions for collecting data on which methods have been used, prevent further resolution of this data to determine if the requirement was used. However, for the purpose of testing, those licensees that have been assessed using the requirement, can be read as 'at least' this number of licensees.

Audit reports

Reports Published in 2022-23	
Report No. 10 – 2022	2021-22 Financial Audits Financial Results and Audit Findings
Report No. 09 – 2022	ACT Emergency Services Agency cleaning services arrangement
Report No. 08 – 2022	2021-22 Financial Audits – Overview
Report No. 07 – 2022	ACT Childhood Healthy Eating and Active Living Programs
Report No. 06 – 2022	Annual Report 2021-22
Report No. 05 – 2022	Procurement and contracting activities for the Acton Waterfront Project
Reports Published in 2021-22	
Report No. 04 – 2022	Governance arrangements for the planning of services for Parkwood, Ginninderry
Report No. 03 – 2022	Taxi Subsidy Scheme
Report No. 02 – 2022	Fraud Prevention
Report No. 01 – 2022	Management of Detainee mental health services in the AMC
Report No. 13 – 2021	Campbell Primary School Modernisation Project Procurement
Report No. 12 – 2021	2020-21 Financial Audits – Financial Results and Audit Findings
Report No. 11 – 2021	Digital Records Management
Report No. 10 – 2021	2020-21 Financial Audits Overview
Report No. 09 – 2021	Annual Report 2020-21
Report No. 08 – 2021	Canberra Light Rail Stage 2a: Economic Analysis
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