

MEDIA RELEASE**16 March 2023****Construction occupations licensing**

Auditor-General, Mr Michael Harris, today presented a report on **Construction occupations licensing** to the Speaker for tabling in the ACT Legislative Assembly. The audit considered the effectiveness of the Territory's construction occupation licensing arrangements as administered by Access Canberra.

Mr Harris says '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'. The audit report does, however, identify a number of opportunities to improve the processing of licence applications.

The audit found Access Canberra's management of the licensing of construction practitioners is hampered by its use of multiple information systems, which are not integrated. Mr Harris says 'as a matter of priority Access Canberra needs to determine a strategy for its information systems for construction occupations licensing'.

The audit report also noted that, by virtue of the *Mutual Recognition Act 1992* (Cth), 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 are a number of instances where direct equivalences of qualifications cannot be made across states and territories. Mr Harris says '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'.

The report makes 13 recommendations for improvement.

Construction occupations licensing: Report No 1/2023 is available to download from the ACT Audit Office's website www.audit.act.gov.au. If you need assistance accessing the report please phone 6207 0833.

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.