



ACCESS CANBERRA

Statement of Expectations Report Construction Occupations Registrar

23 November 2022 to 23 November 2023

12 February 2024

INTRODUCTION

The [Construction Occupations \(Licensing\) Act 2004](#) (COLA) is the principal legislation governing the responsibilities of construction occupation licensees including builders, plumbers, electricians and building surveyors in the ACT. It also includes disciplinary and complaints processes for construction practitioners (including in relation to work undertaken under operational Acts such as the [Building Act 2004](#), the [Electricity Safety Act 1971](#) and the [Gas Safety Act 2000](#)).

The Construction Occupations Registrar (the Registrar) is appointed under section 103 of the COLA, with their functions specified under section 104. The Registrar sits within Access Canberra, part of the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) of the ACT Government.

The Registrar is empowered to make independent decisions under the COLA and other construction legislation. The Registrar may also appoint deputy registrars, inspectors, compliance auditors and may delegate functions to officers to perform duties under the COLA.

PURPOSE

The purpose of this report is to inform the Minister responsible for the functions of the Registrar consistent with the [Construction Occupations \(Licensing\) \(Registrar\) Statement of Expectations 2022 \(NI2022-571\)](#) (the Statement of Expectations).

Pursuant to section 104A of the COLA, the Registrar must give a report to the Minister, detailing any action taken or, where applicable, explaining why no or part action was taken by the Registrar in response to the Statement of Expectations during the reporting year. The COLA sets out the reporting period as the 12-month period after the day the Minister gives the Registrar the Statement of Expectations – that being 23 November 2022 to 23 November 2023 for this report. Unless otherwise specified, the data used to support this report is from the 2022–23 CMTEDD Annual Report.

As the Registrar, I have focused on the priority areas, as required under the Statement of Expectations, and have ensured that the standards and laws applicable to the construction sector are upheld in accordance with relevant legislation and priorities of the government.

In delivering against the Statement of Expectations, I have regularly reported to the Minister on matters of significance, including new and emerging issues.

The following report outlines the actions taken in response to the areas of focus in the Statement of Expectations. As Registrar, I have undertaken actions against all priority areas. The infographic on page 3 provides a summarised representation of the data in this report.

This report should be read in conjunction with the Construction Occupations Registrar's appendix to the CMTEDD Annual Report – which can be found [here](#).

Construction Occupations Registrar: Statistics and highlights



Priority areas of focus

Holding occupational licensees to account for poor building quality outcomes



Taking appropriate regulatory action to prevent and reduce future building-quality issues



Improving community confidence in the building and construction industry in the ACT



146
pathways
to
become
licensed



15,417 active licences
1,692 new licences issued



6
construction
notes issued

 **283** building complaints investigated

 **192** stop work notices served

 **449** demerit points issued



Audits & inspections

1,121 - Construction
35,541 - Electrical
20,195 - Plumbing
1,922 - Gas



11 rectification orders
and **one** emergency
rectification order issued
for defective buildings

*Report contains further context for these statistics



ACT
Government

**Access
Canberra.**

Priority 1: Holding occupations licensees (licensees) to account for poor building quality outcomes

Responding to building quality complaints promptly

To ensure prompt action, Access Canberra addressed different types and levels of complaints in accordance with the principles outlined in the Access Canberra [Accountability Commitment](#) framework and in line with customer service principles.

In the financial year 2022–23, the Registrar received 283 building complaints relating to 192 new or ongoing investigations, compared with 326 complaints relating to 252 new and ongoing investigations in 2021–22. While this reflects a decrease in complaints, it is not attributable to any specific factor and reflects an acceptable level of variation from year to year. All building complaints were responded to within 5 working days of receipt of the complaint.

Access Canberra aims to make regulatory decisions promptly and complete investigations in a timely manner. However, the time it takes to investigate a complaint can vary considerably due to a range of factors. Investigation times depend on matters such as the:

- complexity of the investigation
- discovery of new lines of inquiry
- number of investigated parties or investigated breaches
- need to obtain or access evidence and information.

In undertaking regulatory actions, including orders and directions under the relevant legalisation, advice will often be sought in the drafting of orders or directions and on interpretation of legislation, particularly where there are no precedent cases or actions. Access Canberra operates with 3 outposted officers from the Government Solicitors Office to support its regulatory functions.

Enforcing the rectification of construction defects by the responsible licensee

Under the COLA, the Registrar has the authority to enforce the rectification of defects at various stages of the building process.

For building works that have reached completion, the Registrar may issue a Rectification Order in relation to identified structural defects. Under the COLA, these orders may be directed to the licensed entities (for example, the company, directors or partners, or their nominee) who undertook the construction service.

In 2022–23, the Registrar issued 16 Notices of Intention to issue a Rectification Order, 11 Rectification Orders and one (1) Emergency Rectification Order. This compares to 9 Notices of Intention, 7 Rectification Orders and one (1) Emergency Rectification Order in 2021–22.

Out of the 16 Notices of Intention and one (1) Emergency Rectification Order issued in 2022–23, 6 related to Class-2 buildings (for example, apartments and multi-unit residential buildings) and all orders were directed to licenced, or previously licenced, builders.

For active sites, if construction audit teams find major non-compliant building work, they may issue a Stop Work Notice under the *Building Act 2004*. These notices remain in effect until compliance is verified. Stop Work Notices are a useful tool to ensure compliance, as defective work can be addressed when it is observed and not after completion of a building or property.

In 2022–23, Access Canberra issued 192 Stop Work Notices compared to 66 in 2021–22. It should be noted that in 2022–23, 105 notices were issued to one licensee after the corporation entered administration.

A regulatory function of the Registrar is the issue of a Certificate of Occupancy and Use under section 69 of the *Building Act 2004*. Certificate of Occupancy and Use are issued on completion of building works and only when the Registrar (or their delegate) is satisfied through proper certification and reports by a private building certifier that the building is fit for occupation and use. In 2022–23, there were 4,696 Certificates of Occupancy and Use issued.

The Registrar undertakes an assessment of documentation for all Class-2 buildings and may delay issuing a Certificate of Occupancy and Use until the necessary information is provided. For all building classes, inspections may also be required prior to issuing a Certificate of Occupancy and Use. This mechanism is effective, as a builder is not considered to have concluded the building work until compliance is confirmed.

A licensee has the right to apply to the ACT Civil and Administrative Tribunal (ACAT) for a review of a regulatory decisions including Rectification Orders, Stop Work Notices refusal to issue a Certificate of Occupancy and Use, or some licensing actions. In undertaking legal action, the Registrar applies the Model Litigant Guidelines established under the *Law Officers Legal Services Directions 2023*, Part 2: www.legislation.act.gov.au/View/ni/2023-60/current/html/2023-60.html.

Between 1 July 2022 and 30 June 2023, eight regulatory actions undertaken by the Registrar were reviewed by ACAT. Of these, 4 applications were for the review of decisions to issue Rectification Orders, with the other matters relating to licencing decisions and a refusal to issue a Certificate of Occupancy and Use. The Registrar's decision was upheld in all 8 matters, noting further applications to appeal may be possible in some matters.

Legal outcomes that support the decisions of the Registrar are effective in sending a strong message to the community that poor building work will not be tolerated and that licensees will be held accountable. Legal matters are often complex and consider a wide range of factors. Decisions of a Tribunal or Court are analysed and used to inform improvements to processes where required, which may include policy reforms to ensure better outcomes are achieved for the ACT community and the building industry.

Case Study 1 provides an example of the Registrar's response to a retaining wall collapse at a construction site in Dickson, and actions taken to prevent additional incidents in similar circumstances through engagement and enforcement.

CASE STUDY 1

The Registrar executed a comprehensive regulatory program, including a range of reactive and proactive responses and actions, when a site-cut retaining wall (a shotcrete wall with anchored piers) on the eastern side of a Dickson construction site collapsed on 11 October 2022, affecting several properties bordering the east boundary of the site.

The Registrar took immediate regulatory action to halt any further work on the site to prevent additional risks or incidents. The Registrar issued a Stop Work Notice at the site, prohibiting the carrying out of any building work except site stabilisation and site-cut retention work. The Registrar also issued an Emergency Rectification Order to ensure rectification of the identified defects.

The Registrar sent an information request to the licenced corporation, under section 80E of the COLA, to obtain copies of its policies and procedures relating to required supervision of building works and communication between the nominee/s and directors in order to identify a cause for the collapse and mitigate future risks.

The Registrar met with the builder and developer to discuss the necessary remediation processes and establish a clear course of action regarding the next steps and engagement with impacted residents. The Registrar's teams collaborated extensively with all relevant parties, including WorkSafe and other ACT Government agencies, builders, developers, media and the broader ACT community. The Registrar's teams also facilitated and supported the builder in maintaining open and regular communication with affected homeowners and tenants to address their concerns and provide situation updates.

At the site, inspectors and the Registrar's Senior Engineer maintained a regular presence to monitor the situation. The team guided, supported and technically assisted the builder and other key stakeholders throughout the rectification process to ensure compliance with standards. Rectification works were completed in December 2023 and the orders were lifted.

This collapse, and an earlier collapse in Phillip, highlighted potentially serious issues associated with deep excavations. The Registrar utilised the team's specialised resources to engage with the construction industry and identify potential risks of similar incidents on other sites.

As a first step, correspondence was sent out to all Class-A builders, reminding them of their responsibilities and the importance of undertaking relevant checks and monitoring of sites. To identify and mitigate any further high-risk activities, the teams then undertook desktop research and initially identified 44 specific sites in the Territory where similar works (deep excavations) were being undertaken.

Of the 44 sites, 21 received additional site inspections based on the current stage of work and the risks presented. The sites were categorised depending on the assessed risks, with considerations such as building methodology, design, depth of excavation and amount of alternative lateral support currently in place. Ten of these were identified as 'Priority One' sites. The Registrar sent the building companies and nominees responsible for these high-risk sites a Notice of Direction under s133A of the Building Act 2004. They were directed to not work close to excavations until the assessment and monitoring requirements had been met. All builders complied with these directions, and all deep excavation sites inspected demonstrated adequate processes to address the Registrar's concerns.

This case study demonstrates a prompt response along with wide-reaching and ongoing regulatory action directed to builders in response to a significant safety issue in the Territory.

Using data and intelligence to identify and investigate construction defects

The Registrar works closely with other areas of Access Canberra, including the Resolution and Support Team and the Data and Intelligence Team, to identify trends and areas for regulatory focus. Critical data sets to support this priority include:

- the Construction Occupations Register – this holds both public and internal information relating to licences, including occupational discipline action
- the Construction Occupations Licensing Management Systems (COLMS) – this database holds information relating to entities licensed under the COLA
- eDevelopment – this database, administered by the Environment, Planning and Sustainable Development Directorate (EPSDD) within the ACT Government, holds all information relating to building works in the ACT, including Development Applications, Building Approvals and Certificates of Occupancy and Use

- Salesforce – this case-management application is used by the Registrar’ teams for the management of complaints, and its recently improved data sets have helped ensure better categorisation of building and planning complaints to target and investigate areas of risk more effectively.

Where these data sets are not connected or linked, the Access Canberra data teams use common information in each platform (eg. an occupational licence number or block and section information) to cross reference data and identify trends and systemic issues in relation to potential areas of non-compliance and identification of the responsible entities.

The Registrar has established a Licence Compliance function to identify and monitor licensees with identified repeat and/or significant compliance issues and to build stronger risk profiles for construction licensees.

Priority 2: Taking appropriate regulatory action to prevent and reduce future building quality issues

Applying regulatory controls to those licensees, including corporations, who have repeated and/or significant compliance breaches

Under the COLA, the Registrar has specific regulatory actions – termed occupational discipline – that can be directed at licensees if they have contravened or are contravening the COLA or another operational Act (such as the *Building Act 2004*).

Occupational discipline can include warning letters or reprimands, directed training, imposition of conditions on a licence, or suspension or cancellation of a licence (noting that licence cancellation or suspension may require application to the ACAT).

Licensed practitioners who have incurred suspensions, cancellations, occupational discipline and disciplinary action in the past 10 years are recorded in the [Disciplinary Register](#). This register is required under Part 9 of the COLA.

Pursuant to section 92 of the COLA, demerit points can be recorded against a construction occupation licensee if a demerit ground for occupational discipline is incurred. Section 95 of the COLA outlines that if a licensee incurs 15 or more demerit points for a construction occupation within the previous three years, the Registrar is required to consider the relevant disciplinary incidents and may take:

- action to suspend the licensee’s licence
- action to disqualify the licensee’s licence
- any other action against the licensee that the ACAT could take, or direct the Registrar to take, or otherwise considers appropriate.

In addition to representing the grounds for occupational discipline, demerit points are also an effective tool the Registrar uses to engage with construction licensees to address practices in relation to non-compliant conduct.

Information about demerit points incurred by licensees is recorded in a demerit points register kept securely in line with section 102 of the COLA. Demerit points are not made publicly available in accordance with the COLA and may only be disclosed in accordance with the COLA or another law in force in the ACT.

In 2022–23, a total of 449 demerit points were issued to licensees. These consist of 188 instances of demerit points issued to 94 individual occupational licence holders, and were imposed upon electricians, builders and building surveyors (certifiers). Electricians accounted for almost 58% of instances and more than 70% of demerit points incurred.

The Licence Compliance function of the Registrar has focused on improving internal processes associated with occupational discipline to support the Registrar. Since its formation in 2023, the team has undertaken the following work:

- In accordance with section 91 of the COLA, the team established a new demerit points register that records demerit points issued to defaulting licensees. The register improves data integrity and allows for better intelligence from demerit points data. This system allows the Registrar to more readily identify construction licensees who show ongoing non-compliance risk.
- The team commenced development of a system to categorise construction licensees based on their risk profiles so planning of targeted compliance activities and resources can be more effectively managed.

Case Study 2 and the points below highlight some of the key actions taken, including occupational discipline applied to licenced entities:

- Cancellation of two electrical licensees' licenses for incurring 15 or more demerit points during a 3-year period.
- Separate to the above matter, two other electrical licensees were asked to successfully complete a skills assessment to renew their licence. This was due to the licensees' compliance history over a 12-month period, which led the Registrar to form the belief that the licensees did not have the skills reasonably necessary to satisfactorily exercise the functions they were licensed to complete.
- Warning letters were issued by the Registrar to two construction licensees who were identified as having repeated non-compliance. These letters were intended to engage early with identified licensees to prevent future non-compliance from occurring.
- Five information requests were issued to licensees who were identified as having repeat or serious compliance breaches. Each formal request for information was to provide the Registrar with a copy of the policies and procedures relating to communication between the director and nominee/s and ensuring adequate supervision of building services. Such information requests support the Registrar to confirm that licensees fully understand their regulatory obligations, including those relating to adequate supervision of their building services to support improved building-quality outcomes.

CASE STUDY 2

In 2022–23, the Registrar's teams conducted an initial random site audit of a Class-C builder and identified significant issues in relation to safety and supervision of the building site. This required further data investigations and a targeted response.

The teams reviewed COLMS and identified the licensed builder as well as associated entities. They also analysed data from eDevelopment and identified 3 active sites linked to the builder and associated entities.

The teams then performed a targeted audit of these sites and found issues that presented significant public-safety and building-quality risks, including:

- *cladding fixed directly to the steel frame without any fire protection or performance solution, as required by the National Construction Code and approved plans*
- *steel frame and masonry overhanging the concrete slab*
- *several sections around the slab edge with a significant amount of reinforcement that was exposed to the elements and showing signs of rusting.*

The Registrar's team identified that the licensed nominee was not on site at the time of construction of these elements. This lack of adequate supervision by the licensed nominee, along with their lack of skills and knowledge of legislative requirements, resulted in the major structural and fire-safety issues.

The Registrar took the following actions as a result of the team's findings:

- **Suspension of licence** – *The company's licence was suspended pursuant to section 52A of the COLA. Once satisfied that the company's projects would be adequately supervised by the nominee, the suspension was lifted and conditions applied to ensure ongoing compliance.*
- **Conditions imposed on Licence** – *Once the suspension was lifted, conditions were imposed on the licensee's licence requiring them to provide the Registrar with a copy of the nominee's weekly situation report, as outlined in the licensees' policies and procedures.*
- **Demerit points imposed** – *12 demerit points were issued for the breaches of the COLA and operational Acts.*
- **Publication on Public Register** – *The suspension has been noted on the public disciplinary register and will be available for the next 10 years.*

The Registrar continues to focus on this priority by ensuring that appropriate regulatory and governance procedures are developed and improved. For example, work has commenced on developing a licence compliance package, which will help ensure a consistent and proportionate risk-based approach to repeat and/or significant compliance issues.

Targeting proactive audit programs to identify potential building quality issues where the risk of harm to the community is greatest

In 2022–23, a total of 1,121 audits were conducted to support building quality outcomes. These are detailed in [Table 1](#).

Table 1. Audits conducted in 2022–23 and 2021–22

Type of audit	Number of audits in 2022–23	Number of audits in 2021–22
Onsite audits TOTAL	639	510
Onsite construction audits	639	478
Building Approval Onsite Energy audits		32
Administrative audits TOTAL	482	538
Single Dwelling Housing Code, General Audit and General Building Code of Australia (BCA) Audit	53	218
BCA Energy audits	177	36
Sale of Premises Energy	1	9
Cost of Work Application	3	2
Class 2–9 Min doc assessments	130	125
Class 2-9 Structural/architectural assessments		86
Class 2 Certificate of Occupancy and Use checks	86	17
Other audits (other specific audits, license audit, etc.)	32	45
Audits TOTAL (onsite and administrative)	1,121	1,048

The Registrar uses building and licencing data, as well as historical information, to identify areas of risk and undertakes targeted site inspections and documentation reviews to determine specific areas of concern and early identification of structural issues.

Auditing of building construction and construction-related occupational licensees has allowed the Registrar to identify and address non-compliance before issuing a Certificate of Occupancy and Use.

Proactive audit programs ensure appropriate compliance levels are met in builders' and building surveyors' work and protects the community by ensuring that licensees meet their legislative obligations.

In cases of minor non-compliance, the Registrar applied a face-to-face educational approach and also provided written correspondence to the relevant licensed builders and certifiers. This included sending audit reports to licensees that identify the issues and non-compliances.

The Registrar issued 53 Stop Work Notices for more significant instances of non-compliance. Most of these notices were subsequently lifted when the builder successfully rectified the issues and provided supporting verification, including amended plans if needed, from the certifier and/or engineer that the issues had been rectified.

Ensuring licensees have the necessary qualifications and experience to establish and hold a construction occupations licence in the ACT

The Registrar has implemented a series of changes to streamline and enhance existing robust processes to ensure licensees have the qualifications and experience required to obtain and hold a construction occupations licence in the ACT. Examples of these processes/changes include but are not limited to the following:

- Under the COLA, the Registrar can require an applicant or licensee to undertake a skills assessment if the Registrar is not satisfied that an applicant or licensee has the skills and knowledge necessary to exercise the functions of a construction occupation or class of construction occupation or endorsement.
- The Registrar worked with the partner policy directorate to update the [Mandatory Qualifications Declaration](#) to reflect new training packages that were released by Australian Skills Quality Authority;
- Development of requirements for registration of engineers registration;
- Introduction of new requirements for electrical apprenticeships leading to an unrestricted electrical licence. These changes aim to elevate the standards and proficiency levels within the construction industry, emphasizing practical experience and skill development;
- Significant enhancements to assessment forms and processes, bolstered by an increased internal rigor in the decision-making process for licence applications and renewals. This improvement includes requiring managers to approve recommendations; and
- An interview required for all applicants for an ACT Builder Licence to demonstrate their skills and knowledge as well as supply evidence of experience. Subject matter experts within Access Canberra are involved in more complex interviews.

In the ACT, there are 146 eligibility pathways to become licensed across 62 licence classes or endorsements of construction occupation licences through the COLA. The most common pathways to becoming licensed include formerly holding a licence, having a tertiary qualification, demonstrating work experience, and passing a written examination.

The assessment of licence applications for construction practitioners is undertaken against the requirements outlined in the [Construction Occupations \(Licensing\) \(Qualifications\) Declaration 2023](#) made under subsection 13(1) of the [Construction Occupations \(Licensing\) Regulation 2004](#).

Licence holders from other States and Territories within Australia or New Zealand also have the opportunity to apply for a licence in the ACT through the *Mutual Recognition Act 1992* (Commonwealth). Construction occupations is currently exempted from the automatic deemed registration provisions of the *Mutual Recognition Act 1992* until 1 July 2025.

Providing assurance of the capacity of licensees to adequately supervise construction activities

Licences are only issued to construction practitioners after a robust assessment of crucial requirements that are focused on ensuring applicants have the skills and knowledge necessary to exercise the functions of the construction occupation under the licence.

One key requirement for corporation and partnership licensees is that the licensed nominee is able to adequately supervise the building works, as outlined in section 31 of COLA. When considering the suitability of nominees of corporations and partnerships, the Registrar considers whether the proposed nominees are reasonably able to supervise the construction services provided by the corporation or partnership adequately as required by section 28 of the COLA. Considerations include but are not limited to:

- the nominee's location of residency;
- the amount of work currently being undertaken by the corporation or partnership;
- the complexity of the construction projects;
- whether the nominee is already a nominee for other corporations or partnerships; and
- whether the nominee has the appropriate individual licence to supervise the work on behalf of the corporation or partnership.

Sub-section 31(4) of COLA states that a licensed corporation or partnership commits an offence if the nominee fails to adequately supervise the relevant construction services, or to ensure that the relevant construction services comply with the legislative requirements.

Case Study 3 provides an example the Registrar's engagement with licensees to ensure they provide adequate evidence that they have skills and knowledge necessary to exercise the functions of the construction occupation under the licence.

CASE STUDY 3

Under section 28 of the COLA, to be eligible to hold a construction occupations licence, corporations and partnerships must have certain policies and procedures in place to ensure they can effectively manage and supervise their nominees and meet their obligations under their licence. These policies should include details of how the nominee and director will communicate on a regular basis and how the nominee will adequately supervise the building services.

At the time of application for a construction licence, corporations and partnerships are required to declare that they have the requisite policies and procedures. However, they do not have to submit copies of the documents.

In June 2023, the Registrar issued information requests to 459 corporations and partnerships holding a Class A builder licence under section 80E of the COLA, seeking copies of their policies and procedures. These information requests were part of the Registrar's proactive approach to compliance and aimed to ensure adequate supervision was occurring across building works in the ACT. As at October 2023:

- *345 licensees have provided their policies and procedures;*
- *95 licensees have not provided their policies and procedures; and*
- *6 licensees were identified as no longer trading or did not have an active nominee.*

A reminder notice was sent to all licensees who had not provided their policies and procedures by the due date. The Registrar's teams also conducted a risk assessment of the 95 licensees identified as non-compliant. In this assessment, the teams considered factors such as the primary location of the builders and whether they have any active building works in the ACT. The teams continue to pursue these matters on a case-by-case basis.

The teams assessed the policies and procedures of 139 licensees who had provided the documentation, chosen at random. They identified three different 'styles' of supervision, and found that:

- *10 licensees use Direct Supervision, with supervision of the relevant work on site by the builder or nominee, and the work is within visual and audible range of the builder or nominee; and*
- *61 licensees use General Supervision, with regular or recurrent supervision by the builder on site – which may include giving instructions and direction for specific tasks as required – or supplemented direct supervision by an on-site supervisor/s with suitable skills and qualifications; and*
- *22 licensees use General Direction and Control, with a level of supervision that includes regular contact with the people carrying out the building work on site, to provide advice, instruction and direction on the work to achieve compliance and check completion of task. Contact may be through verbal or electronic means, including viewing images of completed work.*

The teams continue working with builders and industry bodies to further improve these requirements through direct engagement and provision of construction notes.

In 2022–23, the Registrar issued 587 new builder licences compared to 548 in 2021-22; and 1,106 new other construction occupation licences (for example, electrician, gasfitter, plumber, or building assessor) compared to 1,184 in 2021-22. As of 30 June 2023, the ACT has 4,642 active builder licences and 10,775 active other construction occupation licenses.

Maintain mandatory inspection processes for electrical and plumbing and gas installations

The Registrar is supported by an Electrical, Plumbing and Gas Inspectorate to uphold relevant statutory functions and to provide skilled and specialist capabilities.

Electrical Inspectorate

The Electrical Inspectorate is responsible for auditing licensed electricians' work under the [Electricity Safety Act 1971](#). The inspectorate's responsibilities include inspecting new electrical installations, auditing certificates of electrical safety for compliance, ensuring electrical product safety, providing advice and assistance to other directorates, and investigating electric shock incidents.

In 2022–23, the Electrical Inspectorate conducted 35,541 audits of certificates of electrical safety, compared with 30,552 in 2021–22. The increase in the electrical inspections partly reflects a significant increase in the number of solar installations in the ACT.

Plumbing and Gas Inspectorate

The Plumbing and Gas Inspectorate is responsible for ensuring that installations comply with the [Water and Sewerage Act 2000](#), the [Gas Safety Act 2000](#), the associated Regulations and Instruments, and the Australian Standards.

In 2022–23, the Plumbing and Gas Inspectorate conducted 22,117 inspections comprising 20,195 plumbing and 1,922 gas inspections, compared with 20,190 and 2,823 respectively in 2021–22.

The inspections included assessing whether drainage systems, stacks, ties and sanitary and water systems meet compliance requirements. The slight variation between 2022–23 and 2021–22 reflects a reduction in gas inspections due to the ongoing implementation of the ACT Government's Carbon Neutral Policy.

Both inspectorates undertook educational activities to support the industry and the community to better understand the ACT's regulatory requirements and ensure installations are undertaken in accordance with the relevant legislation and industry standards.

Priority 3: Improving community confidence in the building and construction industry in the ACT

Informing the community, industry and key stakeholders of significant regulatory actions when they occur and the work of the Registrar in preventing building quality issues through compliance auditing and monitoring.

In 2022–2023, the Registrar built upon a strong foundation of proactive programs of industry engagement, audits and inspections, to maintain the timeliness and effectiveness of regulatory decisions.

Proactive engagement and audit programs improve the industry's understanding of regulatory requirements and operational policy. They also help prevent issues from arising and reduce the number of incidents of non-compliance. The Registrar continued to apply a risk-based approach to regulatory compliance in accordance with Access Canberra's Accountability Commitment. This approach recognises that voluntary compliance across the industry achieves better regulatory and building quality outcomes for the community.

Regularly engaging with the construction industry and peak industry bodies

The Registrar actively engage with the industry through a range of channels to promote positive outcomes and enhance the industry's compliance with legislation. This engagement included targeted and direct communications with key building and construction industry stakeholders as well as regulators across jurisdictions, including:

- Master Builders Australia;
- Housing Industry Association;
- National Electrical Contractors Association;
- Master Plumbers Association; and
- Plumbing Industry Leadership Alliance.

Representatives of teams supporting the Registrar also sit on committees of:

- Standards Australia;

- the Gas Technical Regulator Committee; and
- the Electrical Regulatory Authorities Council.

Following are examples of key engagement activities conducted during 2022–23:

- The Registrar participates in the Planning and Construction Industry Chief Executive Reference Group, which exists to discuss matters of importance to the development and construction industry with key representatives of the construction and planning industry.
- The Registrar and Access Canberra officers have regular meetings with key industry bodies and their members, including the Master Builders Association ACT and the Housing Industry Association of the ACT.
- In 2023, the Registrar established quarterly information workshops for ACT’s building certifiers. As key partners in regulation, these meetings were established to discuss emerging issues and areas of focus for the industry. These workshops will continue in 2023-24.
- The Plumbing and Gas Inspectorate, together with the Master Plumbers Association, co-chaired the bi-annual Plumbing Industry Leadership Alliance meetings. Access Canberra provides administrative and secretariat support to the Alliance’s meetings.
- Women inspectors from Access Canberra’s Construction and Planning Regulation Branch represented the Registrar at a 2023 International Women’s Day lunch hosted by the Housing Industry Association on 8 March 2023 to celebrate the achievements of women in the building industry.
- The Electrical Inspectorate presented on the ACT’s electrical compliance requirements at the annual industry event of the National Electrical Contractors Association on 17 November 2022.
- The Plumbing and Gas Inspectorate attended three Plumbing Code Committee meetings in 2022–23 to discuss the Plumbing Code of Australia.
- The Registrar attended the Molonglo Valley Community Forum on 23 March 2023 to inform community members about ACT’s building and construction compliance framework, the Statement of Expectations for the Registrar and Access Canberra’s complaint processes. The Registrar will further engage with the community through other such forums in 2024.

The Electrical, Plumbing and Gas Inspectorates within Access Canberra regularly engage with and assist various stakeholders to support regulatory compliance outcomes being achieved for critical and important events in the ACT. For example, in 2022–23, the Inspectorates:

- assisted in electrical compliance matters of the YMCA pool before its re-opening;
- assisted the National Museum of Australia with its 400-kilowatt solar installation initiatives to ensure these comply with Australian Standards; and
- assisted the Canberra Institute of Technology to re-establish compliance procedures to help demonstrate compliance with Registered Training Organisation standards in preparation for its re-registration audit in 2024.

Using data arising from compliance auditing and industry engagement to provide licensees with information to improve their practice.

Throughout 2022-23, the Registrar published and disseminated newsletters, construction notes, letters and other informative and educational written materials with the aim of assisting licensees to understand and meet their responsibilities, improve building quality in the ACT, and increase community confidence.

The Registrar's construction notes, targeted at licensed construction occupations, kept the industry up to date on critical issues. These included changes to the National Construction Code, compliance and safety standards, and construction audit activity annual wrap-ups. In 2022-23, the Registrar issued six construction notes.

The Registrar developed and disseminated these notes to raise awareness in the building and construction industry about common issues identified on building sites by building inspectors. Some examples are:

- The construction audit teams identified that some building certifiers were not inspecting permanent formwork installations and their associated steel reinforcing before the concrete was being poured. Due to the evolving nature of the BCA Class 1 and Class 10 construction practices, the Registrar determined that a construction note would assist in clarifying the mandatory Certifier's inspection stages under the *Building Act 2004*, as well as when occupational disciplinary action would be taken for failure to comply with the BCA requirements.
- To highlight issues surrounding the incorrect application of waterproofing and water resistance to wet areas in Class 1 single residential buildings, the Registrar issued a construction note to emphasise that correct waterproofing and water resistance of wet areas in residential buildings is crucial for maintaining people's health and the structural integrity of the building.
- Following a review of the process for issuing COUs for building work not completed in accordance with the prescribed requirements under section 69 of the *Building Act 2004*, the Registrar clarified through a note that, if building work has not been completed in accordance or substantially in accordance with the prescribed requirements, then a COU would need to be applied for under section 69(2B) of the Act.
- After the *Building and Construction Legislation Amendment Regulation 2023* came into effect, the Registrar issued a construction note on the changes to Certifiers stage inspection reporting requirements and additional planning requirements for Development Application-exempt assessments.

Copies of the Registrar's Construction notes can be found [here](#).

Working closely with policy directorates to ensure policy settings and legislative powers remain adequate and effective

The Registrar has worked closely with the Environment, Planning and Sustainable Development Directorate (EPSDD) to support policy development and reform and, where necessary, address opportunities for legislative amendments. This includes regular engagement at senior executive levels within Access Canberra to ensure policy and legislative reforms are prioritised and progressed.

To support opportunities for legislative reform, the Registrar provided comprehensive policy advice with relevant background including highlighting challenges or difficulties experienced in applying existing laws, along with proposed solutions for reform.

Following advice from the Registrar, EPSDD developed an Omnibus Bill – the *Building and Construction Legislation Amendment Bill 2023*. This Bill included several amendments to the building regulatory system aimed at improving its effectiveness and supporting high-quality design and building, compliance with building standards, and integrity and accountability in the ACT building and construction industry.

The Registrar and various areas within Access Canberra have also provided advice, including data and information to EPSDD for the development of policy initiatives such as Professional Engineers Registration, Development Regulation, Swimming Pool Safety Reform and appointment of government certifiers.

The Registrar and his team have also engaged with EPSDD to provide advice around the development of the new planning legislative framework which consists of the new Territory Plan 2023 and the *Planning Act 2023*.

CONCLUSION

My strategic priorities as Registrar for 2022-23 were public safety and improved building quality through effective regulatory response and industry engagement. These priorities reflect the key role Access Canberra plays in supporting its vision for a safe and liveable city.

As Registrar, I performed my functions in accordance with legislation and in a way that supported the priorities of government. My decision making as Registrar applied a risk-based compliance approach consistent with Access Canberra's Accountability Commitment and compliance frameworks to ensure resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest.

In summary, I have met the expectations as outlined in the Ministerial Statement of Expectations 2022. I will continue to apply my statutory powers as Registrar independently, without fear or favour, to protect homeowners from the significant financial, emotional and physical harm that can arise from poor building quality outcomes.

Nick Lhuede

Construction Occupations Registrar

30 January 2024

