Explanatory Statement

Proposed amendments to the .au Domain Administration Rules: Licensing

1. Purpose of this explanatory statement

The purpose of this explanatory statement is to explain:

- The principles and process that apply when auDA amends an auDA published policy;
- The proposed amendments to the .au Domain Administration Rules: Licensing (.au Licensing Rules) that give effect to the recommendations of the .au Licensing Rules Review 2025 (the Review); and
- The timeline for this consultation.

This explanatory statement should be read together with the marked-up copy of the .au Licensing Rules, which sets out every proposed amendment in full, and the proposed Implementation Plan. Where there is any inconsistency between this statement, the Implementation Plan, and the marked-up Rules, the marked-up Rules prevail.

2. auDA's multi-stakeholder approach to policy review

This is a major review of the .au Licensing Rules, by an external, independent Policy Advisory Panel (the Panel) appointed by the auDA Board in September 2025 (Licensing Rules Review (2025) | auDA). The Terms of Reference for the Review were developed taking into account problems or issues that have been raised from a range of sources, including stakeholder feedback, compliance data, and government or advisory body reports.

The Terms of Reference required the Panel to examine issues relating to the effective and fair operation of the .au Licensing Rules, including:

1. Allocation rules for the com.au and net.au namespaces.

2. Domain name monetisation in the com.au and net.au namespaces (currently prohibited in the org.au, asn.au, id.au, edu.au and the State and Territory Namespaces).

3. Contested .au direct domain names (auDA will provide the Panel with the outcome of a survey of contested .au direct domain name holders for consideration as a submission to the review).

4. Fraudulent and bad faith registrations and reserved names.

5. Complaint process for domain name audits.

6. Alignment of selected rules in .au with equivalent rules in generic Top Level Domains (gTLDs) (such as .com).

The Panel consulted widely through papers, submissions, online town halls at various times of the day to accommodate different time-zones, and in-person events in Adelaide, Melbourne, Canberra, Brisbane, and Sydney, before delivering its Final Report and recommendations to the auDA Board.

Public consultation plays an important role in ensuring the best outcome for this review. Please note that all submissions will be published on our website following a final decision on the proposed amendments, unless you ask us to keep your submission private.

auDA reserves the right to redact or decline to publish a submission where it includes inappropriate content such as potentially defamatory material (see auDA Engagement Charter). We will advise you if such a decision is made.

The auDA Board is advised of the subject matter of submissions and will review any changes to the Rules and the Implementation Plan, as a result of submissions.

auDA is required to administer and manage the .au ccTLD in the public interest. The auDA Board will adopt the policy option that provides the greatest net benefit to the Australian community. The net benefit may be intangible, such as increased consumer confidence in transacting with entities using a .au domain name.

3. Background

As set out in section 1.3 of the .au Licensing Rules itself, the objects of the .au Licensing Rules are to ensure a Licensing system that:

(1) is transparent, responsive, accountable, accessible, and efficient;

(2) improves the utility of the .au ccTLD for all Australians;

(3) promotes consumer protection, fair trading and competition;

(4) provides those protections necessary to maintain the integrity, stability, utility and public confidence in, the .au ccTLD;

(5) expresses Licence terms and conditions in objective and not subjective terms;

(6) implements clear, predictable and reliable complaint processes; and

(7) preserves the fundamental principles of No Proprietary Rights in a Domain Name, First Come, First Served, and No Hierarchy of Rights.

Amongst other provisions, to achieve the above, the .au Licensing Rules specify the eligibility and allocation criteria a person must satisfy to hold a .au domain name licence, and govern the licence lifecycle, complaints, audits and reviews. The current version of the Rules commenced on 12 April 2021.

Eligibility criteria determine who may hold a domain name licence in a particular namespace. Allocation criteria determine what domain name an eligible registrant can register.

For com.au and net.au, the eligibility requirements are that the registrant has an Australian Presence and is a Commercial Entity, as those terms are defined in the .au Licensing Rules. The allocation requirements for com.au and net.au require the domain name to be derived from a registrant's legal name, or registered business name or trade mark.

Allocation rules for com.au and net.au seek to maintain a traceable connection between a domain name and its licence holder, which supports accountability for the use of domain names, and supports the integrity of, and trust in, the domain name system. They are consistent with Australian law (*Business Names Registration Act 2011 (Cth)*), where a legal entity must register a business name if the legal entity is carrying on a business in Australia and is not trading under the name of that legal entity (e.g. sole trader, incorporated association or company name), and a legal entity must include the business name in written communications with customers. Consumers can look up the legal entity responsible for a registered business name or trademark through authoritative Government registers (e.g. ABN lookup, ASIC Connect, or IP Australia Trade Mark Search), and can look up the identity of the legal holder of a domain name licence via the .au WHOIS service.

The auDA Board established the Policy Advisory Panel in September 2025 to examine issues relating to the effective and fair operation of the .au Licensing Rules. Under its Terms of Reference, the Panel was tasked with demonstrating a genuine multi-stakeholder approach, providing regular updates to the Board, and delivering a final

report setting out recommendations for change supported by information, evidence and submissions.

The Panel's Final Report (available on our website) makes ten recommendations. The amendments proposed in this consultation give effect to the recommendations.

4. Overview of the proposed changes

The proposed changes are summarised below by reference to the Panel's recommendations, grouped by the nature of the response required. All changes are set out in-full in the marked-up .au Licensing Rules.

- **Recommendation 1 — Monetisation of domain names:** Retain the current position; no rule amendment is proposed.

- **Recommendation 2 — Allocation rules for com.au and net.au:** As recommended by the Panel, remove section 2.4.4(2)(f), with delayed commencement and transitional arrangements for affected licences (section 4.3).
    - com.au and net.au have always had both eligibility and allocation rules. These rules help create trust in the .au domain. The proposed changes create stronger alignment between com.au and net.au domain names and the names of businesses they represent, reinforcing their role as dedicated spaces for Australian commercial entities and high-trust commercial transactions.
    - The original com.au and net.au allocation rule was that the domain name must be derived from the commercial name of the registrant.
    - Paragraphs 2.4.4 (2)(a) to (e) of the .au Licensing Rules list how a com.au or net.au domain name is derived from a registrant's Registered name (including the personal name for a sole trader). An exact match is not required. *Match* is a defined term in the .au Licensing Rules and means that the Domain Name being applied for is identical to one, some or all of words or numbers used in the Person's Legal Name, Business Name or Australian Trade Mark.
    - The current rules also include subparagraph 2.4.4 (2) (f), which has allowed names that were not derived from a registered name, but could be a name of a service, goods, event, activity or premises.
    - A majority of Panel members considered that the current allocation rules create two distinct pathways. Registrants relying on sub-paragraphs (a) to (e) must provide documentary evidence of a connection to the domain

name, while those relying on subparagraph (f) can establish a referral service with minimal administrative barriers. This duality was seen as unfair to small businesses, sole traders, start-ups and entrepreneurs competing with investors able to register multiple names for resale or defensive purposes. On balance, the majority of the panel considered that removing subparagraph (f) would place applicants on a more consistent allocation footing while retaining the objective and verifiable pathways in sub-paragraphs (a) to (e). Clearer and more transparent allocation rules would support trust and confidence in com.au and net.au for the benefit of the Australian community

  - Removing subparagraph (f) effectively anchors all com.au and net.au domain name licence allocation criteria to a legal entity via an authoritative source (ASIC Connect, Australian Business Register or IP Australia Trade Mark Search) that the public can trust to 'see who's behind a name'. This is in addition to the existing .au WHOIS service, which serves a similar function but is not widely known to non-IT professionals.
  - Removing subparagraph (f) also creates a 'level playing field' for accessing an application for a com.au and net.au domain name licence, where all registrants need to meet similar objective criteria. The name of a service, goods, event, activity or premises can be incorporated into company names, business names or trademarks.
  - The proposed change is consistent with Australian law (*Business Names Registration Act 2011 (Cth)*), under which a business in Australia that is not trading under its own personal or company name is required to register a business name.
  - The proposed change helps increase accountability and trust in the .com.au and net.au domain space given the rising community concern for scams, accelerated by emerging technologies such as potential AI misuse.

- **Recommendation 3 — Contested .au direct domain names:** Retain the current allocation process; no rule amendment was proposed by the Panel.

- **Recommendation 4 — Reserved Names transparency:** Publish reservation criteria and regular aggregate reporting instead of high-risk Reserved Names. Sections 2.6.7 and 2.6.8 contain the changes that reflect this recommendation.

- **Recommendation 5 — Complaints, audits and reviews:** Make audit decisions reviewable, broaden review standing, and extend the cancellation review period from 48 hours to 7 days. These three changes are given effect in Part 3 of the proposed amended .au Licensing Rules.

- **Recommendation 6 — Domain lifecycle:** Remove the 90-day renewal window, extend cooling-off to five days, and standardise Redemption and Pending Delete periods. These changes are given effect in sections 2.5, 2.14 and 2.15 of the proposed amended .au Licensing Rules.

- **Recommendation 7 — Scams:** Retain the current approach and continue engagement with the ACCC National Anti-Scam Centre; no rule amendment is proposed.

- **Recommendation 8 — Registrar communications:** Clarify registrar notice requirements for expiry, suspension, proposed cancellation and cancellation. A new section 2.17 entitled Registrar Communications has been added to the marked-up .au Licensing Rules to give effect to this recommendation.

- **Recommendation 9 — Retaining com.au after retirement:** Address through compliance flexibility and plain-language guidance; no rule amendment is proposed.

- **Recommendation 10 — Privacy in WHOIS:** Allow role-based descriptions for published contact details. This change is reflected in section 2.9 of the proposed amended .au Licensing Rules.

Additional minor policy amendments

The following changes are not among the Panel's recommendations. These changes are proposed in accordance with section 44 of the Process for the Development and Review of auDA Published Policies Policy. This process is for managing minor policy amendments, where the change is required for administrative, technical or legal reasons. These amendments either:

- Support the implementation of Recommendation 2 by refining the rules for deriving a domain name from a registrant's name or Australian trade mark that meet the allocation requirements for com.au and net.au;
- Remove provisions which have not otherwise been utilised, namely section 2.8; or
- Clarify or improve existing processes relating to corrections of Registrant Information, timeframes for external reviews and records administration.

These changes are included in the marked-up Rules so they can be expressly consulted on. auDA welcomes submissions on each of these proposed minor policy amendments.

- **Related Australian body corporate:** Expand the com.au and net.au allocation criterion in paragraph 2.4.4(2)(d) to cover a match to, or an acronym or abbreviation of, or a synonym of, a related body corporate's company, business or statutory name, or a match to its Australian trade mark.
- **Abbreviations of names:** Expand paragraph 2.4.4(2)(b) to permit a domain name that is an abbreviation, common misspelling or alternate spelling of a registrant's name
- **Contractual capacity:** Remove the requirement for auDA to approve every change following the deregistration of a company. This would allow registrar processes to scale while eligibility information is updated at renewal**.**
- **Correction of registrant information:** Clarify that registrant information may be updated at any time.

5. Commencement & Transitional Arrangements

The amendments will commence on a date to be fixed.

The removal of subparagraph (f) from the com.au and net.au allocation rules (Recommendation 2) will be supported by transitional arrangements. It is proposed that the amended section 2.4.4 will not apply in respect of any domain name licence which has already been registered (or the renewals of these domain name licences). These changes will only apply to new domain name licences which are applied for, on or after the proposed commencement date of the changes or where are a domain name licence is transferred to an unrelated third party after that date. This means existing licence holders will not lose a domain name licence if it was allocated under existing subparagraph (f).

6. Timeline and how to make a submission

Public consultation on the proposed amendments to the .au Licensing Rules will close on 5.00pm Friday 15 January 2027 AEDT. Information about the proposed changes and the process for making a submission is available on the auDA website.

Submissions can be made through the auDA website. All public submissions will be published on the auDA website. If you would like your submission, or any part of it, to be treated as confidential, please indicate this clearly when you make your submission.

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