



10 October 2008

Ref: P-08-094

Protocol for Assessor Accrediting Organisations
National Administrator
Department of the Environment, Water, Heritage & the Arts
PO Box 787
Canberra Business Centre ACT 2610

Attention: Mr Paul Riordan

Protocol for Assessor Accrediting Organisations

Dear Sir

Master Builders Queensland thanks the Department of the Environment, Water, Heritage and the Arts for the opportunity to comment on the protocol for assessor accrediting organisations. We ask that this submission be accepted as our contribution to this important topic and the associated issues.

Master Builders Queensland (MBQ) is Queensland's premier building and construction representative organisation. MBQ represent over 11,000 businesses within the Industry, including builders, subcontractors, supplier / manufacturers, certifiers, consultants and students.

Due to the depth and scope of MBQ members spanning the spectrum of the building and construction industry we are able to offer a unique perspective on all facets of the housing industry and in particular the thermal performance of houses throughout Australia.

MBQ broadly endorses the proposed national framework for the approval and operation of organisations that accredit users of NatHERS software for regulatory purposes. Master Builders Queensland also supports the protocols proposal to promote a number of Accrediting Organisations to operate across State and Territory jurisdictions.

That said, we offer the following comments and recommendations in relation to relevant legislation pertinent to Accrediting Organisations, the Protocol; Part 9 – Application to become an Accredited Organisation and Part 7 – Buildings that cannot be accurately modelled by NatHERS Software. We raise the issue of there being no mention of national accreditation fees.

The Protocol

While MBQ understands that the National Administrator of the scheme is the Department of the Environment, Water, Heritage and the Arts and furthermore that the Building Code of Australia requirements are used for complying with the energy provision for houses; nevertheless, there is no legislation, for example, Act or Regulation, being prescribed that directly refers to or covers in some way Accrediting Organisations. The fact government is supportive and indeed is applying resources is not a sufficient bases upon which to administrate such a scheme. The scheme should be covered by legislation.

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For example, in Queensland where a building development approval is needed for building work the Integrated Planning Act 1997 authorises a Building Certifier (private or local authority) to issue the development approval. A building certifier is responsible for assessing whether the proposed building work complies with all relevant provisions of the Building Act and by extension the Building Code of Australia, relevant Australian Standards and the Queensland Development Code. The certifiers must be licensed with the Queensland Building Services Authority (BSA) a statutory authority established under the Queensland Building Services Authority Act 1991 to regulate the building industry. The BSA carries out audits of building certifiers work, investigates complaints and can take disciplinary action against certifiers found guilty of professional misconduct. Furthermore, any person can lodge a complaint with the BSA against the action of a building certifier.

In addition, the BSA through its Building Construction Industry Payment Agency administers the Building Construction Industry Payment Act 2004 (BCIPA) under which Authorised Nominated Authorities (ANA) function and through them by virtue of BCIPA the operation of adjudicators and adjudications. BCIPA amongst other things governs the manner in which ANA and adjudicators interact with each other. The industry stakeholders, ANA's and adjudicators through this piece of legislation are informed in a transparent manner of the processes and procedures covering payment disputes resulting from construction contracts.

The two pieces legislation described above give certainty to industry that the content covered by the respective Acts have undergone the rigors of parliamentary scrutiny and public and industry consultation. Therefore, MBQ argues that this scheme should have been covered by its own relevant legislation being the cornerstone upon which this Protocol was developed.

Part 9 Application to become an Accrediting Organisation

Only organisations can apply to become Accrediting Organisations. Applications must be submitted to the National Administrator (Department of the Environment, Water, Heritage and the Arts) in writing and include each of the following details:

- a. The Jurisdiction in which it is proposed to offer accreditation services.
- b. Experience in relation to the building industry.
- c. Experience in providing member services to the building industry.
- d. Experience in relation to the overarching competencies in 4.4.
- e. How the organization will address each of the requirements outlined in this Protocol.

To the above list of items MBQ recommends the following details also be included:

- f. Financial Information – applicant's most recent Balance Sheet, and the most recent Profit and Loss Accounts.
- g. For the purpose of the proposed operation as a Accrediting Organisation, details of persons who are either a director, secretary, shareholder or individual employed/engaged by the applicant involved in the day to day running of this business.
- h. Insurance Information – details relating to the applicant's insurance policies at the time of application, which clearly shows type, scope of policy and period of coverage. In particular to Professional Indemnity Insurance and Public Liability Insurance.
- i. Corporation Details (if relevant) – details of certificate of incorporation or registration; Australian Securities and Investment Commission Historical Extract; Memorandum and articles of association or constitution; certificate of registration of any business name; seal of corporation.

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Part 7 Buildings that cannot be accurately modelled by NatHERS Software

Buildings that cannot be accurately or correctly modelled by NatHERS software must be processed in accordance with Expert Referral System (BASIX only). They must also receive compliance with the Building Code of Australia (BCA) as an Alternative Solution.

In addressing the modelling and alternative solution issues for Class 1 buildings in Queensland a Peer Review process has been developed by Building Codes Queensland as an option of compliance for energy efficiency for new housing design in Queensland under the structure of the BCA' Part 2.6, Volume 2. It can be used to assess house designs in accordance with the 'Expert Judgement' assessment method under the BCA 2008 s1.0.9, Volume 2. Class 2 and 4 buildings are not covered under this process.

The Peer Review process includes an Expert Panel comprising of members who are both a specialist in energy efficiency and a member of an accredited professional association. The expert panel members are selected by a Peer Review Committee comprising of industry representatives.

Therefore, in regards to Class 1 buildings, MBQ recommends that Accrediting Organisations accept in Queensland and any other state or territory jurisdictions, having set up an expert panel on energy efficiency, that these expert panels be deemed the appropriate body for dealing with the BCA's alternative building solutions for energy efficient modelling matters.

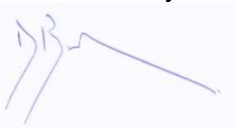
Furthermore, unless a state or territory has legislative provisions for dealing with Class 2 and 4 buildings deemed to be beyond the capability of NatHERS software then these projects must be referred to an expert or experts appointed by the Accrediting Organisation.

National Accreditation Fees

The Protocol is silent on the issue of annual fees to be charged by the National Administrator on the Accrediting Organisations. Master Builders suggests that if there is to be a fee charged then we recommend that this issue together with the proposed methodology be put out to industry for further consultation.

We encourage the National Administrator to engage in further and more detailed consultation with Master Builders Queensland. Please feel free to contact Mr Phil Breeze on (07) 3404 6409 to discuss any aspect of this submission. Master Builders Queensland looks forward to participating further in this process.

Yours faithfully



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