

MEMORANDUM OF UNDERSTANDING

November 2011

between

AUSTRALIAN BUILDING CODES BOARD

and

DEPARTMENT OF CLIMATE CHANGE AND ENERGY EFFICIENCY

for the

NATIONWIDE HOUSE ENERGY RATING SCHEME

MEMORANDUM OF UNDERSTANDING

between

AUSTRALIAN BUILDING CODES BOARD

and

DEPARTMENT OF CLIMATE CHANGE AND ENERGY EFFICIENCY

The **PARTIES** to this Memorandum are:

the **DEPARTMENT OF INNOVATION, INDUSTRY, SCIENCE AND RESEARCH**, a Department of the Commonwealth of Australia (the “**Commonwealth**”) represented by the **AUSTRALIAN BUILDING CODES BOARD** (the “**ABCB**”) ABN 74 599 608 295, and having its offices at 20 Allara Street, Canberra, Australian Capital Territory

and

the **BUILDING ENERGY EFFICIENCY BRANCH, DEPARTMENT OF CLIMATE CHANGE AND ENERGY EFFICIENCY** (“**DCCEE**”), a Department of the Commonwealth of Australia, ABN 50 182 626 845, and having its offices at 5 Farrell Place, City West, Australian Capital Territory.

IT IS AGREED as follows:

1 DEFINITIONS

1.1 In this Memorandum:

- 1.1.1 **Australian Building Codes Board (ABCB)** means the standards-writing body that is responsible for the National Construction Code Series. The Board is made up of an independent Chairman, representatives of all three levels of government and Ministerially-appointed members from the building, construction and plumbing industries. The ABCB's mission is to address issues of health, safety, amenity and sustainability in the design, construction and performance of buildings.
- 1.1.2 **Building Code of Australia (BCA)** means Volume One and Two of the National Construction Code Series. The BCA is a uniform set of technical provisions for the design and construction of buildings and other structures throughout Australia whilst allowing for variations in climate and geological or geographical conditions. It is produced and maintained by the ABCB on behalf of the Australian Government and each State and Territory Government.
- 1.1.3 **Council of Australian Governments (COAG)** means the peak intergovernmental forum in Australia comprising of the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association (ALGA). The role of COAG is to initiate, develop and monitor the implementation of policy

reforms that are of national significance and which require cooperative action by Australian governments.

- 1.1.4 **COAG Best Practice Regulation Guide** means the document “COAG – Best Practice Regulation – A Guide for Ministerial Councils and National Standard Setting Bodies (October 2007).
 - 1.1.5 **Energy Efficiency Working Group (E2WG)** means the group responsible for providing strategic advice on energy efficiency policy and program delivery through the Senior Committee of Officials to the Standing Council on Energy and Resources.
 - 1.1.6 **NatHERS** means the Nationwide House Energy Rating Scheme which is the government scheme in Australia that facilitates consistent energy ratings from software tools used to assess the potential thermal efficiency of Australian dwelling envelopes.
 - 1.1.7 **NatHERS National Administrator** means the body that administers NatHERS by consultation and agreement with governments represented on the Standing Council on Energy and Resources as necessary on policy and technical matters. This role is currently fulfilled by DCCEE.
 - 1.1.8 **NatHERS Steering Committee** means the body responsible for oversight, strategic direction, policy and decision-making for NatHERS. The E2WG is the NatHERS Steering Committee
 - 1.1.9 **NatHERS Software Accreditation Protocol** means the software protocol prescribed in the Procedure for Accrediting Software under the Nationwide House Energy Rating Scheme, published on the NatHERS website.
 - 1.1.10 **NatHERS website** means the website maintained by DCCEE, as the NatHERS National Administrator, at the address www.nathers.gov.au.
 - 1.1.11 **National Construction Code Series (NCC)** means the NCC Series which comprises the Building Code of Australia (BCA) as Volume One and Two and the Plumbing Code of Australia (PCA) as Volume Three. The NCC is an initiative of COAG to incorporate all on-site construction requirements into a single code.
 - 1.1.12 **Residential Buildings Implementation Committee (BIC)** means the committee reporting to the E2WG that is responsible for the implementation of certain residential building energy efficiency measures in the National Framework for Energy Efficiency, including NatHERS.
- 1.2 The terms in clause 1.1 include any successor entities, committees, codes, protocols, schemes or websites.

2 PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING

- 2.1 The purpose of this Memorandum is to outline the working relationship between ABCB and DCCEE in relation to software accredited under NatHERS and references to it for the purposes of providing a Deemed-to-Satisfy solution in the BCA (excluding any State and Territory variations).
- 2.2 The parties acknowledge that the NatHERS Steering Committee may accredit software for purposes other than for compliance with the BCA. The parties also acknowledge that software accredited under NatHERS may be authorised by governments for use in building regulations other than the BCA. This Memorandum relates only to NatHERS software accreditation as applied under the BCA.
- 2.3 While parties will work towards national consistency, the parties acknowledge that the administration and application of building regulations is a matter for individual jurisdictions. It is not the intention of either party to set administrative requirements for the BCA or the use of software accredited under NatHERS.
- 2.4 The consultation principles outlined in this Memorandum are not intended to replace consultation between members of the E2WG, BIC, State and Territory Governments, building regulatory authorities and industry on matters including, but not limited to, the regulatory use, administration and application of NatHERS and software accredited under NatHERS.

3 BACKGROUND

- 3.1 NatHERS provides a standardised approach for rating the potential thermal efficiency of the envelopes of dwellings throughout Australia. It was developed by State and Territory energy agencies and the Commonwealth.
- 3.2 The aim of the NatHERS Software Accreditation Protocol is to enable software accredited under NatHERS, that is applied for regulatory purposes, to consistently assess the potential thermal efficiency of Australian dwelling envelopes, using a star rating system from 0 to 10 stars. NatHERS software can be used to rate dwellings in accordance with the energy efficiency provisions for the thermal envelope in the BCA or used to promote better practice. To ensure the appropriate level of accuracy, any accredited software must satisfy the process of validation outlined in the NatHERS Software Accreditation Protocol.
- 3.3 DCCEE, as National Administrator of NatHERS, develops and administers the NatHERS Software Accreditation Protocol in consultation with the NatHERS Steering Committee.
- 3.4 On behalf of the NatHERS Steering Committee, DCCEE engages and directs the Commonwealth Scientific and Industrial Research Organisation (CSIRO) in the development and maintenance of the underlying calculation engine (Chenath) and benchmark software (AccuRate) that are used in the accreditation of NatHERS software tools.
- 3.5 The ABCB produces and maintains the NCC, including the BCA, on behalf of the Australian Government and each State and Territory Government. The State and Territory Governments give the BCA legal effect through their respective building legislation.

4 RESPONSIBILITIES OF THE PARTIES

- 4.1 DCCEE's responsibilities under this Memorandum, subject to the direction given to it by the NatHERS Steering Committee, are to:
- 4.1.1 ensure that software accredited under NatHERS for building regulatory purposes is suitable for use under the BCA;
 - 4.1.2 develop a procedure for administering the NatHERS Software Accreditation Protocol, which takes into account the timelines for BCA publication, including an agreed version control system;
 - 4.1.3 consult with the ABCB, and address all reasonable concerns raised by the ABCB, on proposed changes to NatHERS software accreditation processes to enable an assessment of the impact on relevant State and Territory building regulations;
 - 4.1.4 conduct a preliminary impact assessment on proposed changes to NatHERS and, if required, conduct a full assessment in accordance with the COAG Best Practice Regulation Guide;
 - 4.1.5 invite a government representative of the ABCB to E2WG and BIC meetings as an observer when issues regarding the use of NatHERS in the BCA are being discussed; and
 - 4.1.6 publish and maintain a current list of software accredited under NatHERS on the NatHERS website.
- 4.2 ABCB responsibilities under this Memorandum are to:
- 4.2.1 provide input into amendments to the NatHERS Software Accreditation Protocol relating to software accreditation for building regulatory purposes;
 - 4.2.2 liaise with DCCEE as necessary on BCA energy efficiency technical issues that may impact NatHERS;
 - 4.2.3 assist DCCEE in assessing the impact of proposed changes to NatHERS on building regulations in accordance with subclause 4.1.4;
 - 4.2.4 advise DCCEE of timelines associated with annual publication of the NCC and future BCA amendments relating to energy efficiency; and
 - 4.2.5 provide a government representative as an observer at E2WG and BIC meetings when issues regarding relevant NatHERS issues are being discussed.
- 5 FUNDING**
- 5.1 Neither Party will provide funding to the other Party for undertaking the respective roles and responsibilities described in this Memorandum, unless agreed by the Parties.

6 VARYING THE MEMORANDUM

- 6.1 The Memorandum may be varied at any time with the joint written agreement of the signatories.

7 DURATION OF MEMORANDUM AND TERMINATION

- 7.1 This Memorandum comes into force on the date it is signed by both parties.
- 7.2 The Memorandum shall remain in force until 30 April 2015.
- 7.3 ABCB or DCCEE may terminate this Memorandum at any time upon giving the other Party two (2) calendar months' notice in writing of its intention to do so.
- 7.4 The Parties agree to review this Memorandum by 31 December 2014 with a view to extending the Memorandum.

8 NOTICES AND LIAISON

- 8.1 The ABCB and DCCEE shall meet yearly, and additionally as requested by either party, to discuss any proposals for change and issues raised by State and Territory bodies.
- 8.2 Notices or communications by the ABCB to DCCEE about this Memorandum shall be addressed to the Assistant Secretary, Building and Government Energy Efficiency Branch, or the equivalent branch performing this function, Department of Climate Change and Energy Efficiency.
- 8.3 Notices or communications by DCCEE to the ABCB about this Memorandum shall be addressed to the General Manager, Australian Building Codes Board.
- 8.4 The DCCEE Director responsible for implementing this Memorandum is the Director responsible for NatHERS software accreditation. This role is currently fulfilled by:

Name: Mr David Smith

Title: Director, Residential Buildings Team,
Building Energy Efficiency Branch
Department of Climate Change & Energy Efficiency

Street address: 5 Farrell Place
City West
CANBERRA ACT 2600

Postal address GPO Box 854
CANBERRA ACT 2601

8.5 The ABCB Manager responsible for implementing this Memorandum is the Manager of the Major Projects and Research Team. This role is currently fulfilled by:

Name: Mr Matthew McDonald
Title: Manager, Major Projects & Research
Australian Building Codes Board
Street address: 20 Allara Street
CIVIC ACT 2600
Postal address: GPO Box 9839
CANBERRA ACT 2601

This Memorandum is executed on the day of 2011.

SIGNED for and on behalf of the
DEPARTMENT OF CLIMATE CHANGE
AND ENERGY EFFICIENCY by Gene
McGlynn, Assistant Secretary,
Building and Government Energy
Efficiency Branch

SIGNED for and on behalf of the
AUSTRALIAN BUILDING CODES
BOARD by Ivan Donaldson, General
Manager

In the presence of :

In the presence of:
