

NatHERS Governance and Operational Review 2016

Energy Efficiency Advisory Team (EEAT) Final Response

Introduction

In 2016, as per the NatHERS Strategic Plan 2015-2018 and in its role as the Nationwide House Energy Rating Scheme (NatHERS) Administrator, the Commonwealth engaged ACIL Allen Consulting to undertake an independent governance and operational review of NatHERS (the Governance Review).

The Governance Review did not seek to assess the outcomes or impacts of NatHERS, simply noting it provides a flexible, outcomes-based approach to meeting minimum requirements or higher for the thermal performance of new homes.

Rather, it assessed the effectiveness of the current NatHERS governance framework and operating model in delivering the Scheme's objectives. It also identified opportunities to simplify and optimise NatHERS governance and operation within existing Council of Australian Governments (COAG) and jurisdictional administration and regulatory frameworks.

The Governance Review and *EEAT's Preliminary Response to the NatHERS Governance and Operational Review* were published on the NatHERS website on 15 August 2016 and stakeholders were invited to provide comments on these documents by Friday 2 September 2016. Five submissions were received from stakeholders.

EEAT's Final Response to the Review's recommendations, outlined in this paper, has taken into consideration the comments received from stakeholders and the views of jurisdictions who are responsible for the Scheme.

Note: Stakeholder comments regarding software accreditation processes will be considered in detail as part of the review of the Software Accreditation Protocol during 2016-17.

EEAT response to the Review's recommendations

Recommendation 1 - Clarify NatHERS Objectives:

The Governance Review proposed that NatHERS should develop a two part objective, along the following lines:

The objectives of NatHERS are to:

- Facilitate the development of scientifically valid, consistent, reliable and cost effective "standards" that support continued improvement in the thermal performance of Australian residential dwellings
- Develop and maintain scientifically valid, consistent, reliable, cost effective "standards" that support the assessment of the thermal performance of Australian residential dwellings in accordance with the performance requirements in the NCC.

EEAT Final Response to Recommendation 1:

- It is important to note that the key aim of this Review was to strengthen the *current* NatHERS governance and operational arrangements.
- The current NatHERS vision as stated in the NatHERS Strategic Plan is:
 - To support the improvement of the energy efficiency of Australian residential buildings through the availability of scientifically valid, cost effective and, reliable thermal performance rating tools. NatHERS can be integrated across the building design, compliance, construction and renovation cycle.
- The original NatHERS objective as stated at the inception of NatHERS and noted in the NatHERS Administrative and Governance Arrangement document is:
 - To assist the public and the building industry to identify the extent to which a new or existing house has the potential, through its design and construction, to be of high efficiency in its use of space heating and cooling energy; and
 - To facilitate rating of the thermal efficiency of dwelling design and construction, in a manner that is nationally coordinated and consistent, and is regionally sensitive to variations in climate, housing design and other factors.
- The current vision and objectives of NatHERS reflect the role of NatHERS as a rating scheme, noting it is not a regulatory scheme, but may be used to demonstrate regulatory compliance.

The EEAT will:

1. Update the NatHERS website to include the existing NatHERS vision and original objectives (stated in the EEAT Response above) to ensure the intentions of the Scheme are clearly communicated to all stakeholders.
2. Review the vision and objectives of NatHERS as part of the new Strategic Plan post 2018.

Recommendation 2 - Separate NatHERS' regulatory and policy functions

The Governance Review proposed deferring assessor accreditation requirements to state and territory governments and separating the NatHERS Administrator into an independent body. It considered that while it will take some time to transfer NatHERS' regulatory functions to an independent regulator, the regulatory and policy functions could be retained within the Commonwealth Department of Industry, Innovation and Science (DIIS) in the meantime, but with clear separation.

EEAT Final Response to Recommendation 2:

- Policy for the NatHERS scheme is the responsibility of the Energy Council and its committees. At present the Energy Efficiency Advisory Team is the steering committee for NatHERS. The EEAT comprises officials from the state, territory and Commonwealth governments.
- The NatHERS Administrator currently sits within the Residential Buildings Team in the Department of the Environment and Energy (formally in DIIS). To improve transparency and delineation of responsibilities within the Commonwealth, the team has now formed distinct sub-teams with separate responsibilities for NatHERS administration and Commonwealth input into NatHERS policy. The key responsibilities for the NatHERS Administration Team include administering protocols for accrediting software tools and Assessor Accrediting Organisations, and coordinating updates to the Chenath Engine and stakeholder engagement on behalf of the Steering Committee.
- The NatHERS Administrator and the Steering Committee will continue to report through the existing Energy Council committee structure.
- References to the NatHERS Administrator as a 'regulator' and NatHERS' regulatory functions will continue to be considered and greater clarity provided to stakeholders. While NatHERS has regulatory implications (by virtue of NatHERS being referenced in the NCC) the term regulator is normally applied to an entity who enforces a regulation. Typically, the power of a regulator is provided through legislation, which for building legislation, is through jurisdictions. As such the NatHERS Administrator is not a regulator.
- To ensure greater transparency, existing NatHERS processes and procedures have been documented and will be included in an updated NatHERS Administrative and Governance Arrangements document.
- EEAT does not support the transfer of the existing assessor accreditation requirements to jurisdictions at this stage. EEAT acknowledges that some jurisdictions do have their own regulatory schemes for residential energy efficiency assessors, and there is a benefit to national collaboration on important elements of any system such as qualifications for assessors. It is also important to note that NatHERS is not only used for regulatory purposes. The national accreditation system is voluntary and applies even if an assessment is not made to meet a regulatory requirement. .

The EEAT will:

3. Finalise documentation of updated governance structures, processes and accompanying templates in an updated NatHERS Administrative and Governance Arrangements document and publish them on the NatHERS website by the end of 2016. This includes providing greater clarity around the policy framework and regulatory/administrative functions that NatHERS provides, without the NatHERS Administrator being a regulator, and how stakeholders can be engaged with the Scheme

Recommendation 3 - Develop a NatHERS “Standard”

The Governance Review proposed developing a NatHERS “standard” that publicly documents the principles and functional specification that underpin NatHERS software tools and the assessment of the thermal performance of buildings. It considered work could commence on documenting a “standard” almost immediately, with parallel consideration as to the most appropriate approach to be taken to formalise it, and any consequential changes that may be required to the National Construction Code (NCC).

EEAT Final Response to Recommendation 3:

- Care should be taken in referring to “standards” in NatHERS, as this term may imply that it is regulatory (which may not necessarily be the case).
- EEAT does not propose developing a “standard” in the form of an Australian Standard, but rather will better document the principles and functional specifications for the NatHERS software tools.
- There is already much information available that publicly documents NatHERS software tools, however it may not be sufficiently clear and accessible and it would be beneficial to consolidate and communicate this information more effectively.
- Some of the information identified as needing to be included in a “standard” might be best incorporated into a revised Software Accreditation Protocol, which improves clarity and certainty of software tool modelling requirements.
- Developing other public documents would also better inform software users as to how NatHERS modelling works and how changes in design and specification impact on modelling outputs.

The EEAT will:

4. Review the Software Accreditation Protocol and supporting documentation for software providers to clearly outline software tool requirements. This will include considering international processes the potential for moving away from a benchmark tool, regulatory obligations (administered by the Office of Best Practice Regulation) applying to changes to the software tools and other information required to better assist stakeholders.
5. Finalise the software user manual, revise Technical Notes and other existing documents, and develop other appropriate public documents, that better communicate the principles and functional specifications that underpin NatHERS software tools, to assist stakeholder understanding and ability to maximize performance.

Recommendation 4 - Enhance stakeholder engagement

The Governance Review proposed the strong criticism of the current engagement of stakeholders by NatHERS emphasises the need to enhance stakeholder engagement on an urgent basis.

EEAT Final Response to Recommendation 4:

- EEAT will develop a NatHERS stakeholder communication and engagement plan in consultation with stakeholders. The need for a clearer and more consultative approach to NatHERS administration was a key theme from the Governance Review and although the NatHERS Administrator commenced this process through the development of the *NatHERS Strategic Plan 2015-2018*, it is clear that improved communication and engagement would support greater industry and community understanding of how NatHERS can be used to promote energy efficient housing.
- A service standard for administrative functions will be developed and published on the NatHERS website.
- The NatHERS Administrator has now established regular meetings with software tool providers and Assessor Accrediting Organisations to strengthen engagement and improve communications on software tool issues as they arise.
- EEAT will establish a Stakeholder Advisory Committee (SAC), to complement the role of the Technical Advisory Committee (TAC). SAC's advice may be sought on a range of broad NatHERS issues, including views on the future strategic direction of NatHERS, the impacts from technical software tool changes, or other NatHERS issues being faced by stakeholders.
- Stakeholders sought greater engagement in software tool change processes, noting the regulatory implications from software tool changes that potentially impact on the star rating results. In response, the NatHERS Administrator has now signed a Memorandum of Understanding (MoU) with the Australian Building Codes Board. This provides high level agreement to the software tool change process and outlines consultation processes between the Administrator and the ABCB for proposed changes to the software tools. EEAT may also consult with stakeholders not represented on the ABCB or its advisory committees through other processes.

The EEAT will:

6. Develop a NatHERS stakeholder communication and engagement plan in consultation with stakeholders and publish it on the NatHERS website.
7. Establish a NatHERS Service Standard to detail the level of service that can be expected from the NatHERS Administrator.
8. Continue to regularly engage and communicate with stakeholders through the mechanisms identified in the communication and engagement plan.
9. Establish a Stakeholder Advisory Committee and outline the details and role of the Committee in a Terms of Reference, and publish it on the NatHERS website.

Recommendation 5 - Funding models

The Governance Review proposed the regulatory functions need to transition to a sustainable funding model as quickly as possible to reduce reliance on governments' budgetary processes and ensure that the regulatory functions are resourced appropriately. It proposed that, in parallel with separating the policy and regulatory functions, a budget for the regulatory functions can be developed and a cost recovery mechanism developed.

Final EEAT response to address Recommendation 5:

- EEAT does not propose to seek greater cost recovery of administrative functions at this time, but a review of scheme costs and potential recovery will be considered as part of a future NatHERS Strategic Plan post 2018.
- States and Territories have previously considered establishing a cost recovery scheme for NatHERS. They found a major barrier to cost recovery is that NatHERS is not a legislated scheme which would provide the Commonwealth a legal authority to institute a cost-recovery mechanism.
- EEAT will also consider the cost-recovery options in the context of new certificate pricing mechanisms implemented by software providers.

The EEAT will:

10. Review NatHERS cost recovery options as part of the new Strategic Plan post 2018.