



**Centroc  
submission to the  
Building Professionals Board**

**Draft Accreditation Scheme  
for Local Government**

**Chairman: Cr Neville Castle**  
**Mayor Lithgow City Council**

27 February, 2009

Building Professionals Board  
P O Box 3720  
PARRAMATTA NSW 2124

Dear Sir/Madam

### **RE Proposal to Accredit Council Building Surveyors**

Central NSW Councils (Centroc) represents over 236,000 people covering an area of more than 70,000sq kms comprising Bathurst Regional, Blayney, Boorowa, Cabonne, Cowra, Forbes, Harden, Lachlan, Lithgow City, Oberon, Orange City, Parkes, Upper Lachlan, Weddin, Wellington and Young Councils and Central Tablelands County Council.

Central NSW provides the following commentary where it has significant concerns particularly for the workability of the mooted changes in regional NSW.

The Board recommends the accreditation scheme be reworked with a view to meeting the realities of development at an operational level within Councils.

#### **1. Accreditation**

The 17 Member Councils have been surveyed regarding accreditation and advise that their Environmental Health and Building do not wish to be accredited under this scheme. Concerns expressed by staff are:

- the parallel accountability of the process where staff are answerable to both their employing Council and the Builder Professional Board (BPB). Staff also cited that the BPB has not had swift turnaround times and that this may have the effect of a sword hanging over their heads for long periods of time.
- that staff may be **privately** liable for disciplinary action by the Building Professionals Board for any breaches that may occur in relation to the issuing of a Construction Certificate, Occupation Certificate, documentation of inspections or any other issue. No other staff member employed by Council is subject to this action. Further, given the timing of how liability works in this sector where any insurance coverage from liability does not

kick in until after court order are made, staff are concerned that unless Councils make other arrangements for them in this circumstance, that they will have to bear the brunt of personal liability in the interim period.

- the training to get to accreditation is too challenging, especially at the higher levels

Significant numbers of Council staff are indicating that they will not be taking up accreditation.

At the same time member Councils may not refuse to be the Principal Certifying Authority. This gives Councils two options, seeking exemptions from the Minister with its corollary time impacts and outsourcing work to consultants.

## **2. Accreditation levels**

Member Councils have raised concerns regarding accreditation levels and the capacity and willingness of staff to meet these levels, the way these levels affect work flow, staff remuneration structures and the possible financial implications to member Councils.

Parkes Shire Council reports the following:

*“Three building surveyors would need to depend on their Ordinance 4 as Building Surveyors under the Local Government Act, 1919 which is a qualification recognized in the B1 category. Whilst we all have a minimum of three (3) years practical experience it could be argued that this is not recent practical experience with buildings over 2,000m<sup>2</sup> in size or some other buildings as listed in category B1. This is due to the fact that these buildings have not been built in Parkes over this period. Questions could then occur as to whether such officers are able to obtain a B1 accreditation. If they are not able to obtain a B1 accreditation and Council is appointed as the Principal Certifying Authority and therefore is required to issue a Construction Certificate, undertake inspections, issue an Occupation Certificate Council will need to utilize the services of either a private certifier or a Council Certifier working in another Council however accredited with Parkes Shire Council to undertake this work. Council presently has a number of projects approved which would require a B1 accreditation. If Council does not have an accredited certifier to undertake this work and Council cannot obtain an exemption for these jobs Council may have no other choice than to pay for a private certifier to undertake the work on Council's behalf.*

*Council has also been supporting a staff member undertaking the Diploma in Environmental Health & Building Surveying. This qualification and on the job experience will not be sufficient to obtain a B3 accreditation under the proposed accreditation system.”*

Outsourcing work to consultants, especially in the more technical areas such as fire control, may be significantly expensive where Orange City Council cited a quote of \$7000 as a plausible expense for the quantum of work and travel including site inspections to be undertaken. Considering that Councils must, under law, annually set fees and charges, concern has been expressed that Councils will have to find these costs from elsewhere in the budget at the expense of other

services. Given that Councils are very limited in ways they can raise monies, the net effect will be a lowering of service to our regional communities.

A further implication here is the impact over workflow inside Councils, especially our larger members. Where the consideration of consents is currently divided among staff based on their areas of expertise, under the new accreditation scheme with its liability of burden, assessment responsibility will devolve to one person having impacts over Council efficiencies.

Members have also raised concerns regarding the affect accreditation will have over pay structures where currently Council officers are banded in accordance with experience in a stepped structure where the new accreditation will create staff shortages forcing Councils into competitive arrangements for remuneration creating inequities within Council staff. This will ultimately lead to increased Council costs.

### **3. Accreditation Transitional Arrangements**

The proposed accreditation arrangements including category B are transitional only for a period of five years. After this time a Council certifier will need to convert to an A1, A2, or A3 accreditation unless the current staff member remains at the same Council.

Should an existing staff member wish to progress within the same Council they are unable to do so after the transitional period.

Further, concern has been expressed at both the expense and difficulty of accreditation.

Staff at member Councils provide advice that these transitional arrangements are unfair and require a rework.

### **4. Appointment of Principal Certifying Authority**

Unlike a private certifier, member Councils cannot refuse to be the Principal Certifying Authority. This means that private certifiers have their pick of experienced developers and builders on large projects who are familiar with the certification process. Council remains the certifying authority on all others. Where Council has concerns in relation to the person appointing them as the Principal Certifying Authority or the builder Council cannot refuse appointment as the PCA.

In addition to this where a private certifier has a dispute with their client which may be due to their non compliance with Development Application or conditions or the fact that they have not been called to undertake the mandatory inspections the private certifier can cancel their appointment as the PCA. The developer will need to appoint an alternate PCA. As Council cannot refuse this appointment this places Council staff that are individually liable in an awkward position given the non compliance with the existing development. For this and other reasons there can never be a level playing field to regulate private certifiers and council certifiers.

Further, it increases the likelihood of conflict between developers and Council staff as those less experienced developers will arrive at Council insisting on PCA with an already “broken” experience.

**5. Advice to Rate Payers**

In accordance with the regulations under the Building Professionals Board a certifier is unable to assist in the design of any building of which they would undertake certification or inspection work. In this regard where Council provides a pre lodgment meeting for a Development Application or any advice is provided in relation to the Building Code of Australia that staff member would need to disqualify themselves from having any part in assessment of the Construction Certificate, the inspection of any part of the building or the issue of an Occupation Certificate.

Advice by Council staff to developers in relation to the BCA and particularly pre lodgment meetings is a very important part of the development process and allows for streamlining of Development Applications. This service is currently available free to the rate payers in Central NSW Councils. Indeed it is part of a pro-development philosophy promulgated by all of our members.

This advice will now have to be obtained at a cost by the developer through either a private certifier or building consultant. Alternatively Council will need to have staff disqualify themselves from undertaking further action in relation to individual development applications. Due to the limited number of staff at many smaller Councils who make up the vast majority of our members, this may result in Councils being unable to provide advice or undertake inspections and therefore require the use of private certifiers at Council’s cost to undertake the various inspections on larger buildings where advice had been previously given.

Should Councils continue this practice or management direct that staff provide assistance in this manner and that staff member is involved in the issue of a Construction Certificate, inspection of building work or issue of an Occupation Certificate that staff member would be individually liable for disciplinary action by the Building Professionals Board.

Given that many developers in the region are not “savvy,” members foresee a raft of problems arising in this sector in our region.

**6. Costs**

Initially, annual accreditation for each Council certifier will be \$250. This will increase to \$1,500 per certifier after the five (5) year transitional period or where a current staff member obtains A1-A3 accreditation or Council appoints a new staff member with this type of accreditation.

Mandatory training will be required in addition to that already sought to keep up with the ever changing legislation which will again come at a cost.

Member Councils will also need to use private certifiers where it has no accredited staff, its staff are unable to meet accreditation levels or are disqualified from taking part in the assessment process. This will result in a huge increase in costs to the

applicant and Councils ability to pass on the higher costs of engaging a private PCA will need to be addressed.

DEPA in its 2004 submission to DIPNR on this issue estimated that this proposal would cost local government between \$6 million and \$10 million each year.

#### **7. Delegations**

To protect the individual officer, delegation will need to be provided to enable each individual officer to Issue Construction Certificates, undertake inspections and issue Occupation Certificates. Delegation would also need to be provided to issue orders where any breach is detected and subsequent authority to commence legal action and issue demolition orders. Should the individual officer be directed not to take the appropriate action by a Manager, Director, General Manager or by resolution of Council and complies with this direction, then that officer will still be liable for disciplinary action by the Building Professionals Board.

#### **8. Impact on individual staff members and council functions**

The job descriptions of Councils Environmental Health and Building Surveyors require them to undertake a wide variety of duties including the issue of Construction Certificates, undertake periodic building inspections and issue Occupation Certificates. Should a current staff member not wish to or is unable to be accredited or in the event that there are competing work priorities Council will need to consider how this impacts on the functions of Council. Further, the accreditation proposals do not recognise the fact that in regional areas the building Certification role is more often than not carried out by professionals with a variety of additional functions including Planning, Environmental and Health.

Should a current staff member not wish to or is unable to be accredited, Council will need to consider how this impacts on their employment. This may result in redundancies being provided to individual staff members.

#### **9. Skill Shortages**

A majority of our Councils have provided the advice that the overall affect of the above will lead to further skill shortages in an already strained sector. This in combination with the difficulties local government in the region experience in attracting and retaining staff means that this will affect our region more so than others.

Forbes Shire Council provides the following advice regarding skills shortages and the effects over the proposals on their efforts to attract and retain staff:

*“Council currently has four Health and Building Surveyors to undertake certification and inspections on Council’s behalf. Council has also recently appointed a Trainee Health and Building Surveyor. Two of Council’s Health and Building Surveyors were previously trainees of Forbes Council. These staff members are young men from the Forbes community who were provided a career opportunity both within Local Government and the building profession. Council has spent significant amounts of rate payer’s money on their education and eventual degrees in the belief that these employees will remain in the Forbes community and provide professional input into Councils activities. They are also*

*mentored by Council's other Health and Building Surveyors to enable them to be competent in building certification areas and provided with relevant onsite experience. Council has been very proactive in providing training and ongoing education for its Building Surveyors and understands the importance of keeping abreast with ever changing legislation.*

*Council considers that there has been an informal accreditation system within Forbes Council and most likely all other Councils in New South Wales where building certifying staff are not given the responsibility of undertaking certification or inspection of work on buildings for which they do not have the necessary skills or competencies. Continuing mentoring is provided by the more senior members of staff to pass on this knowledge. Further the governance and accountability frameworks within Local Government surpass those existing of many private certifiers.*

*Under the proposed scheme Councils current Trainee Building Surveyor even after many years of on the job training and mentoring will not be able to undertake the simplest of inspections such as the footings for a single carport. These basic inspections will need to be undertaken by accredited certifiers. Not only will this put additional workloads on Councils accredited Building Certifiers it will more importantly make Trainee Building Surveyors obsolete. With dwindling numbers of Building Surveyors the employment of Trainees particularly in rural NSW is the very thing that the State Government should be promoting.*

*Council believes that the proposed system for the accreditation of Council Building Surveyors is unworkable and will lead to the exit of Council Building Surveyors from Local Government to private enterprise resulting in a huge disruption for Council, the building industry and the community."*

### **One suggested solution from the Centroc Region: "The Parkes Proposal to Accredit Councils"**

Parkes Shire Council has suggested the following as an alternative the Accreditation of Councils.

Accreditation of individual Council officers will not provide any benefits in ensuring quality certification. In fact it will be an additional and parallel system which will operate independent of the checks and balances that operate in every Council.

Instead the accreditation of Councils would be a more positive proposal as demonstrated by the Food Regulation Partnership Arrangements between Councils and the NSW Food Authority. This was formed following collaboration between Local Government and the NSW Food Authority and is proving to be highly successful. The option to accredit individual Council officers was not pursued due to lack of support and for legal reasons.

Parkes Council would be happy to work cooperatively with the BPB in the implementation of a system to accredit Councils.

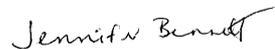
Consideration should also be given to investing in training of architects, drafts people and developers in compliant development rather than investing in an unworkable compliance system.

**Conclusion**

Centroc earnestly implores the reconsideration of this scheme, asserting that the proposed "one size fits all" approach is ill-considered with probable far reaching consequences on development activity within particularly regional NSW.

The Centroc Executive would be very pleased to represent this submission at the Hearings to be convened by the NSW Legislative Council's Standing Committee on State Development in March. Please do not hesitate to contact the undersigned should you wish to further discuss any aspect of this matter.

Yours sincerely,



Jennifer Bennett  
Executive Officer