



**Submission to the Australian Building Codes Board**

# Building Manuals- A response to the Building Confidence Report Discussion paper

Prepared by:

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# Introduction

The Building Products Industry Council (**BPIC**) makes the following response to *the Building Manuals - A response to the Building Confidence Report* consultation.

## Questions about terms and definitions

1. Do you agree that the terms listed above should have nationally consistent definitions?

(a) Why?

**BPIC Response:**

**1. Yes - Ensuring national consistency of definitions will assist all parties in the building supply chain to understand their obligations and how to comply effectively and efficiently with them, as well as for regulators to effectively manage enforcement while reducing any overlap of functions and responsibilities.**

2. Do you agree with the draft definitions for the terms?

(a) If you do not agree, please provide details of why and how the definitions can be improved.

Note the definition of 'essential building services' is taken from the Building Regulations 2016 (Tasmania).

**BPIC Response:**

**2. No - Building Data - Proposed Definition - Should include the following sentence: "Building data includes Evidence of Suitability information related to the use of materials, products, forms of construction or design."**

## Questions about the draft dataset

3. Do you agree that the draft dataset could give building owners the information they need to maintain and operate their buildings safely?

(a) Why?

**BPIC Response:**

**3. Yes - The dataset provides a minimum, nationally consistent format that is totally lacking in the market where building owners currently have nothing to help or guide them. However improvement is required to 'prove' key life safety (high risk) building materials meet the performance requirements as specified in the design to Australian Standards and NCC.**

4. What changes can you suggest to improve the dataset (e.g. removing items that would not be helpful to building owners and other potential users of building manuals)?

***BPIC Response:***

**The following items should be added to the current list of As-Built - Data Point requirements:**

- Third party building product certification used.
- List of energy efficiency reports (NatHERS, BASIX, etc) or modelling done for each SOU and tenancy within the building.
- Rising damp / above-ground damp proofing protection systems.
- Below-ground / basement damp proofing protection systems.
- HVAC / exhaust systems.
- Final defects list and when statutory limits expire for rectification of each defect.

**The following items should be added to the current list of Site Details - Data Point requirements:**

- Geotechnical and ground condition reports.
- Surveying, boundary and easement reports.
- Utility location and / or relocations made during construction (minimum requirements include locations of - mains power, sewerage, mains water, mains gas, fire hydrant, stormwater, telecomms).

**The following items should be added to the current list of Compliance - Data Point requirements:**

- Completion certificates for all building elements.
- Exemptions granted.

## Questions about building manual processes

5. Do you believe building surveyors should have a role in verifying the content of building manuals?

(a) Why?

***BPIC Response:***

**5 (a) Yes, but only to the extent of ensuring that the normal compliance documentation they require is present. It would seem to be outside of their scope as a certifying agent to ensure that the Building Manual as a whole is complete and compliant. It is the responsibility of developers/builders in each jurisdiction to demonstrate that they have complied with the NCC and that jurisdiction's Building Code. The Manual is a form of, or extension of, that demonstration.**

(b) If you don't believe building surveyors should verify the content of building manuals, who should perform this role instead (e.g. a developer, site manager or a contracted third party)?

***BPIC Response:***

**5 (b) It is BPIC's opinion that the verification of the content of building manuals should be done by a contracted third party of the developer or builder. While a reliable and competent Building Manual consultant ecosystem would lead to greater consistency within and across jurisdictions, there are concerns that conflicts of interest could arise if the people compiling the Manual are also the same people that verify its compliance.**

6. Should people who create or verify the content of building manuals be subject to requirements, such as holding certain qualifications or having completed certain training?

(a) Why?

***BPIC Response:***

**6 (a) Yes. The Building Manual will be an important repository of building documents (to which there are attached statutory and legal obligations) not simply for ongoing maintenance of the building but to confirm compliance with the NCC and the various state/territory Building Codes. Therefore it needs to be compiled and managed by someone who has recognised building and design qualifications, and not simply handed to an administrative assistant to deal with.**

(b) What requirements would you suggest?

***BPIC Response:***

**6 (b) Since the Manual covers all aspects of a building the person compiling and managing it needs to hold a builders licence as a minimum, but ideally would be an engineer, building**

designer or project manager with the necessary experience and qualification to compile such an important document.

7. If you work in the building industry, what guidance, training and/or assistance is needed to ensure building manuals given to building owners, following construction of new buildings, are accurate and complete?

***BPIC Response:***

**7. Firstly there needs to be a nationally consistent content, template and allowed data format established for Building Manuals including appropriate handbooks and guides. Secondly there needs to be training provided to those required to compile and maintain Building Manuals, including training in any relevant software packages that are developed to facilitate the development and management of Manuals.**

8. Do you agree occupation approvals should only be issued if there is an accurate and complete building manual?

(a) Why?

***BPIC Response:***

**8 (a) Yes - It is BPIC's opinion that occupation approvals should only be issued if there is an accurate and complete building manual. Otherwise there is no incentive for developers and builders to complete one. Also it is unlikely that jurisdictions will invest funding and resources into policing the creation and verification of Building Manuals.**

(b) If you agree, how would you address issues that may be caused by construction models that permit progressive occupation?

***BPIC Response:***

**8 (b) The Builder should be the creator and manager of the Manual until such time as an Owners Corporation comes into existence and the Manual can be successfully passed on to them. The builder/developer as the initial owner, must maintain the manual for however long it takes until the first Annual General Meeting (AGM) of the Owners Corporation, which may be for months or years after the completion of the building if the builders/developers have retained ownership of units in their projects, or there is progressive occupation of the building.**

**Until the Owners Corporation takes control of the Manual any lot owner or prospective lot owner (prospective purchaser) must be able to access it with at least read-only access.**

9. It has been suggested that for strata buildings, developers should have to provide a bond of one per cent, which is released once the building manual is accepted by the new owners corporation. Do you agree with this incentive?

***BPIC Response:***

**9. Yes - It is BPIC's opinion that developers/builders should have to provide a bond of one per cent, which is released once the building manual is accepted at the first Annual General Meeting (AGM) of the Owners Corporation. This would provide the necessary encouragement/incentive to actually create and manage the Manual.**

10. Other than withholding occupation approvals and bonds, what other incentives or penalties should be considered to ensure developers and builders fulfil the requirements of a building manual?

(a) If you agree with incentives or penalties, what conditions, if any, should states and territories consider in implementing them?

***BPIC Response:***

**10 (a) No Comment**

(b) What exemptions from incentives or penalties, if any, should be considered?

***BPIC Response:***

**10 (b) No Comment**

(c) How could the issues around progressive occupation be addressed?

***BPIC Response:***

**10 (c) The withholding of occupation approvals, bonds or any other incentives or penalties may help to reduce the incidence of progressive occupation. It is BPIC's opinion that this is a good outcome as it may put a break on instances of developers/builders building purely for speculative purposes, or other instances where developers/builders retain ownership of units in their projects purely to delay the formation of an Owners Corporation.**

11. This paper proposes that information about a building should continue to be recorded during its life. Do you agree that, provided older versions of the building manual are accessible to building owners and it is clear which version of the building manual a person is accessing, new information should continue to be added to the building manual during the life of a building?

***BPIC Response:***

**11 Yes - Once the Owners Corporation has taken control of the manual, it should be required to maintain it indefinitely and to the same or better standards required of the original builder/developer. This is because there are often critical or expansive building upkeep issues over the life of the building where it is imperative to know the original condition (and subsequent upgrades/modifications) of the building. These manuals should be registered and stored on a database system in a similar way to the way that strata plans and documents are registered and stored.**

12. What guidance, training and/or assistance is needed to ensure building owners can understand, use and maintain the information in building manuals?

***BPIC Response:***

**12 At least one person on the Owners Corporation Executive Committee should be trained to the same or similar standard as the original developer/builder. Alternatively the Owners Corporation should be able to engage a suitably qualified and expert third party to manage the Manual on their behalf.**

13. If a building owner gives responsibility for maintenance decisions to another person, such as a building manager, should the building manager also have legal responsibility for ensuring the building manual is updated?

***BPIC Response:***

**13 Yes. Unless legal responsibility attaches to any party that is expected to update or maintain the Manual, it will simply be ignored and/or fall out of use.**

14. Should there be incentives and penalties for building owners and building managers to ensure they continue to record information about buildings they own or manage?

(a) Why?



***BPIC Response:***

**14 (a) Yes. Unless legal responsibility attaches to any party that is expected to update or maintain the Manual, it will simply be ignored and/or fall out of use.**

(b) What types of incentives and penalties do you believe would be effective?

***BPIC Response:***

**14 (b) Updating or maintenance of the Manual should be required as a distinct and separate Sinking Fund cost allocation with the Owners Corporation Executive Committee required to report on it at each AGM. Building managers should be able to report instances of poor or negligent Building Manual upkeep to the relevant Jurisdiction department responsible for strata schemes and that department should be required to intervene or penalise the associated Owners Corporation.**

15. Do you believe the building manual should be stored by government(s), individual building owners, and/or by a service provider?

***BPIC Response:***

**15. No comment on where these manuals should be stored, but they should be registered and maintained on a database system.**

16. Do you believe governments need to play a role in delivering building manuals or should this be left to the market?

***BPIC Response:***

**16 (a) Yes - It is BPIC's opinion that governments need to play a role in delivering consistent building manuals and it should definitely not be left to the market. A free market approach has the high likelihood of fragmented formats and storage outcomes, as well as potential gaming of the system and inaccessibility by jurisdictions.**

17. Stakeholders have commented that digital storage formats can become obsolete in a shorter time than the life of a building. Do you have any comments about the digital format of building manuals and how this issue can be addressed?

***BPIC Response:***

**17. Many commonly used formats (JPG, PNG, etc) use lossy compression algorithms to create inexact approximations and partial data discarding to represent the content in order to reduce data size. For long term storage of data it is recommended to use lossless compression (e.g. PDF) or no compression at all (RAW or TIFF for images, noting that "images" can also capture or be taken of individual pages of documents or whole drawings). The technology to capture and indefinitely store 'lossless compression' and 'no compression' files is very mature and this can be evidenced by being able to access old bank statements, utility bills and insurance policy documents.**

18. Under existing state and territory disclosure legislation, certain building information must be provided to potential owners prior to a contract of sale. If it is not provided or is provided late and materially impacts the potential owners, they have the right to cancel the contract. Do you agree that legislation for a building manual should contain similar provisions?

***BPIC Response:***

**18 Yes, the Building Manual will be the primary evidence (outside of the files kept by Building Surveyors) of the developer/builder's compliance with the NCC and Building Code. As such, it will play a fundamental role in any 'disclosure' or 'discovery' activity undertaken by subsequent owners.**

19. Do you have any concerns about building information being available to potential buyers?

***BPIC Response:***

**19 No**

20. Some stakeholders have suggested accurate and complete building manuals should be a condition of signing large leases e.g. for office buildings. Do you agree?

***BPIC Response:***

**20 No Comment**

21. Apart from privacy, security and intellectual property, what issues do you believe should be carefully considered prior to introducing building manuals?

***BPIC Response:***

21 BPIC is of the opinion that anti-gaming mechanisms should be a fundamental consideration. Since so much is potentially riding on the accuracy, truthfulness, completeness and integrity of the Building Manual, the stakes are high and it stands to reason that some unscrupulous or incompetent parties may try to game the system. So there should be processes in place to a) discourage this activity and b) heavily penalise anyone who engages in it.

22. Who should be considered the legal owner of information about a building?

***BPIC Response:***

22. It is BPIC's opinion that developers/builders should have legal ownership of the Building manual up until the first Annual General Meeting (AGM) of the Owners Corporation. This would provide the necessary encouragement/incentive to actually create and manage the Manual. After that the Owners Corporation Executive Committee should then become the legal owner of the Manual.

## Questions about types of buildings requiring a building manual

23. Do you agree the most appropriate option is all new Class 2 – 9 buildings (Option 3)?

***BPIC Response:***

23 Yes, BPIC would be in favour of Option 3 (New Class 2 – 9 buildings) initially for a 3 year period to establish all of the regulatory and market mechanisms needed to collate, manage, store and update Building Manuals. Immediately following that period BPIC would encourage an Option 1 rollout (New Class 1 – 9 buildings). BPIC does not favour Option 2 as it includes existing buildings where there has proven to be very little historical information available. We do not endorse Option 4 because many of the buildings in these classes can be quite large but still low-rise and we do not favour Option 5 as it excludes most buildings in most classes.

24. Do you agree the same dataset could be used for all new Class 2 – 9 buildings?

***BPIC Response:***

24. Yes, as the dataset is broadly encompassing of all elements of Class 2-9 buildings.

## General Questions

25. Do you agree this discussion paper explains the problems caused by building owners not having access to information about their buildings?

(a) If you are aware of any problems that are not explained in this paper, please provide details.

***BPIC Response:***

**25 Yes, without comment.**

26. Do you agree with the benefits of building manuals, as identified in this paper?

***BPIC Response:***

**26 Yes, without comment.**

27. Who do you believe will benefit from building manuals and to what extent?

***BPIC Response:***

**27 All building owners and occupiers as well as building managers and maintenance contractors, as well as those involved in any future renovations or extensions.**

28. If you are aware of any extra benefits not covered in the discussion paper, please provide details.

***BPIC Response:***

**28 No comment.**

29. Do you believe there are drawbacks to building manuals?

***BPIC Response:***

**29 BPIC does not see any drawbacks to the creation, management and storage of Building Manuals, or their usefulness to subsequent building owners and occupiers. We do have concerns as we have mentioned regarding adequate anti-gaming mechanisms, clarity around who is responsible for creating the Manual as opposed to who is responsible for verifying it, as well as designing a robust system architecture and adequate legislative and regulatory mechanisms to ensure the success of the concept.**

30. Who do you believe will be negatively impacted by building manuals and to what extent?

***BPIC Response:***

**30 BPIC believes that developers/builders may initially be negatively impacted (because of having to implement new procedures and processes that should already be occurring) but as has been observed with other technological and regulatory changes, they also demonstrate a remarkable ability to quickly adapt to change.**

31. Are there any other comments you would like to make about building manuals?

***BPIC Response:***

**31 No further comment**

# The Role of BPIC

The Building Products Industry Council (BPIC) is a national peak body representing Australia’s leading building products industries and related services (listed in the footer of this document) in:

Steel	Gypsum Board	Concrete	
Insulation	Timber Products	Roof Tiles	Glass
Windows	Clay Bricks	Concrete Masonry	
Cement	Tiles	Insulated Sandwich Panels	

BPIC’s members and associated companies directly employ over 200,000 Australians with more than 470,000 employed indirectly. Their collective industries are worth over \$54B in annual production to the Australian economy. BPIC is a not for profit organisation governed by a Board of Directors comprised of representatives from its member organisations.

BPIC’s primary objective is to provide coordinated representation of the building products industry to interested parties including Government, the construction industry, and the general public to help improve building and construction standards. We also provide a forum for discussion, information sharing and policy formulation among major product categories in the building industry. BPIC’s mission is to:

- Promote regulatory reform to ensure that products meet minimum standards, code compliance, and are used in the manner for which they are intended.
- Promote public and regulatory confidence, growth and innovation in the building product sector.
- Promote and support improved, robust and nationally consistent building and construction product legislation, regulation, codes and standards.

BPIC works to fulfill these aims by gathering and supplying practical and current industry information on behalf of BPIC member organisations and other organisations and companies that are not members but follow BPIC through various means. This industry-wide approach to responding to regulatory issues, helps to ensure that Governments are informed of possible problems in the building industry and are provided with appropriate industry-considered responses. BPIC also encourages investment in skills formation, product development and industry research by helping to identify and remove regulatory impediments to innovation.