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AT

**OFFSITE
EXPO**

17-18 SEP 2024

18.09.2024

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18.09.2024 11:40 – 12:25 | Session 2

**BOS intellectual
property guidance**



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Nigel Fraser

Industry Advisor
BUILD OFFSITE

**BOS intellectual property
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#IntellectualProperty | #IP | #MMC

Celebrating 20 years of BUILDOFFSITE

Set up in 2004 as the voice of the industry, BUILDOFFSITE has sought to promote, support and increase the adoption of offsite and pre-manufactured solutions for the built environment.

“To be the trusted independent voice of the construction industry with respect to offsite and pre-manufacturing, and to provide all relevant support to our members and other stakeholders.”

Join BUILDOFFSITE



Networking | Events

Exhibition Seminars

Site visits | Advice & Guidance

Knowledge Sharing | Publications

Marketing & Promoting Members

Influencing

BUILD OFFSITE members



APPLY



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ASDA



C-PROBE



BUILD OFFSITE guidance 2022 – 2024

C-PROBE

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Achieving sustainable resilience in new precast concrete structures

Taking precast concrete to a new level

A collaborative research report from Buildoffsite and CIRIA

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Offsite construction – concept design and delivery

A collaborative research report from Buildoffsite and CIRIA

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The management of IP specifically relating to MMC/offsite

CIRIA and BOS guidance 'The management of intellectual property (IP) specifically relating to MMC/offsite' which will be published later this year.



Funded by

 Department for Transport

Supported by
BEALE&CO



Nigel Fraser
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Client Group proposal approved for 2023 – 2024

Performance specifications guidance

Upcoming BUILDOFFSITE events

2-4 October

Structural Timber Awards
2024

13 November

DfMA for net zero carbon

20-21 November

London Build Expo

28 November

BOPAS Forum

4 December*

BOS Christmas members'
meeting

Spring 2025*

Using performance
specifications to facilitate
the adoption of MMC –
new BOS/CIRIA guidance

*Provisional date



18.09.2024
—AT—
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Andrew Croft
Beale & Co



Nigel Fraser
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Partner

Beale & Co

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The project

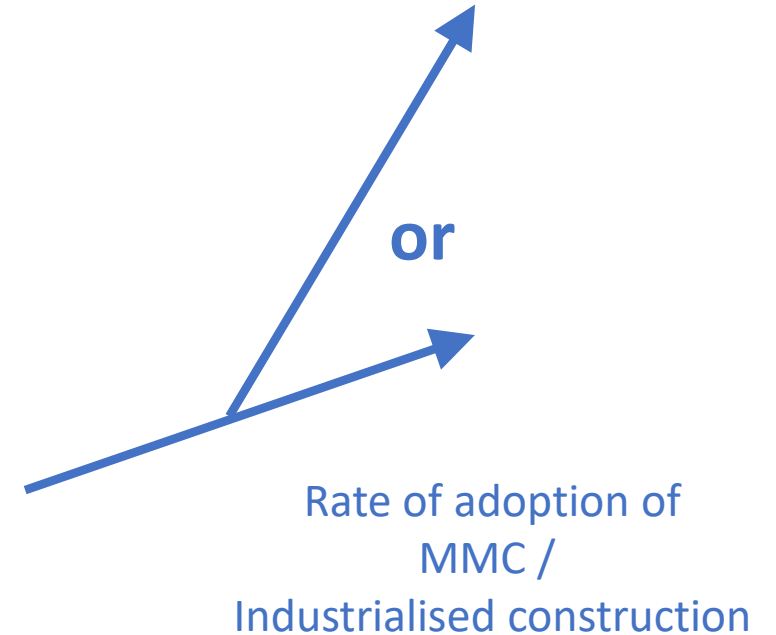
- A collaboration between BOS and Beale & Co, lawyers specialising in the construction sector.
- Sponsored by The Department for Transport, which leads the Government's cross departmental MMC group.
- With an Advisory Group including both public and private sector organisations, including The Intellectual Property Office.

BEALE&CO

INTERNATIONAL CONSTRUCTION
AND INSURANCE LAW SPECIALISTS

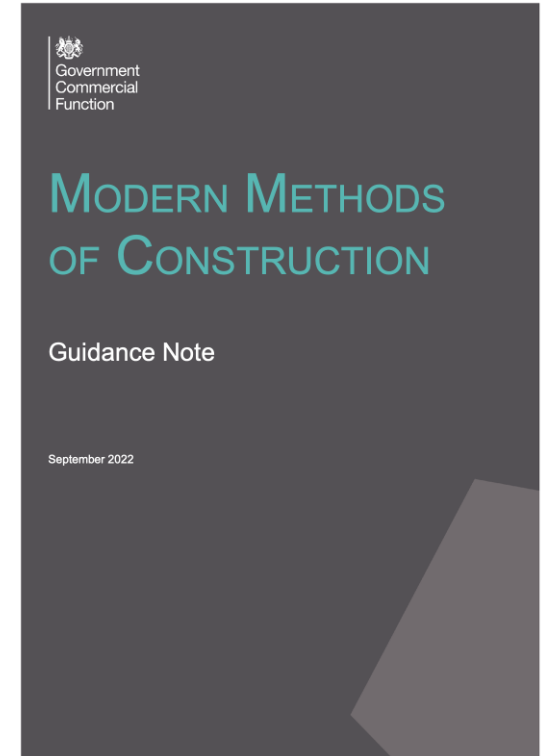
It aims to

- Help people manage intellectual property (IP) so as to accelerate the adoption of MMC / industrialised construction.
- Identify challenges in the sector.
- Identify actions that will help maximise the benefits of adopting new methods of construction, at scale.



Background

- MMC been discussed and encouraged in for some time.
- Use often not structured/ad hoc.
- Challenges to use.
- Benefits not being obtained.



Challenges identified

- Reducing impact of company failures on projects.
- Increasing probability that R&D projects will achieve a high level of market readiness.
- Creating an environment that is more attractive for grant awards or early-stage equity investment.
- Encouraging a more disciplined use of intellectual property (IP) in tendering processes.
- Providing more understanding of the needs of different stakeholders when negotiating contract terms.
- More appropriate contract terms being proposed and adopted.



Why is IP management fundamental to these challenges?

- Co. failures: proprietary IP may become unavailable to the contractor/client.
- Market readiness: developing products is different to designing a one-off project, with the IP needing to address a wider range of uses.
- Attractiveness for investment: protectable IP is generally needed for investment and grant award business cases.
- Ownership of IP needs to be respected in the tendering process, whilst early stage advice may need to leave options open.
- Understanding the value and needs relating to “background” IP is complex.
- Current standard contract templates are limited in how they deal with IP aspects.

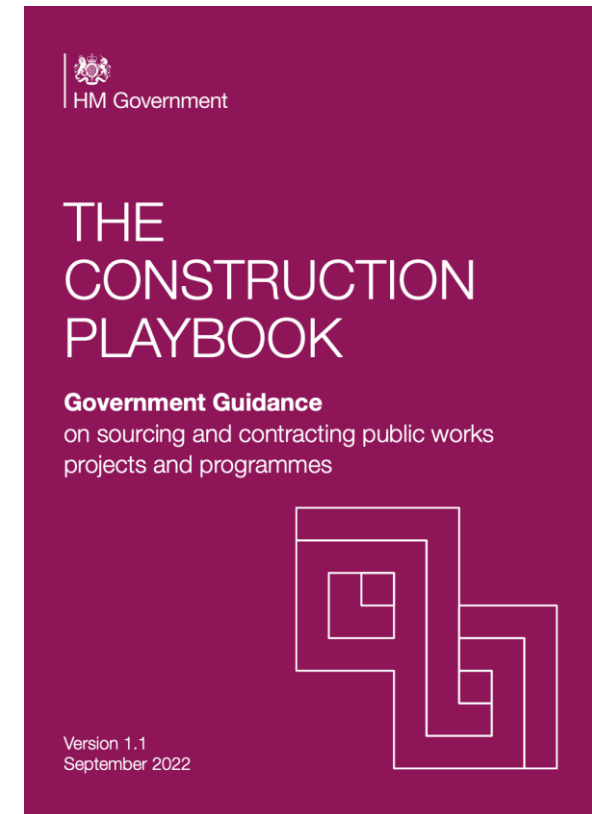
Proprietary IP
Open IP
Freedom-to-operate
Background
Foreground
Sideground
Copyright
Patent
Know how
MRL / TRL
Early advice
Contracts
Escrow
Open product platform

What are your concerns and challenges
regarding IP



Why is the Government backing this?

- Numerous policies and strategies promote the use of MMC to address:
 - Productivity / cost
 - Safety
 - Trade
 - Net Zero.
- Departments and ALBs acknowledge gaps in understanding
- It is recognized that:
 - Processes
 - Systems
 - BehavioursNeed to evolve to achieve them, including those relating to IP management.



IP and MMC

- MMC involves creation of more IP in different forms
- Requires more innovation/new IP development
- Industry still using traditional approach to MMC projects
- Rights not being granted as expected
- Value not being given and lack of incentivisation



Key negotiation points

- Scope of rights – beyond just one project
- Increased collaboration – different forms of contract?
- Early involvement – may not be valued/rights obtained
- Much IP vests in supply chain - risks and how to manage
- Risk management – with innovation comes additional risk



How will the guidance help?

- It will build upon existing, generic guidance, such as that published by the IPO.
- It shall suggest actionable ideas for different stakeholders at typical project stages:
 - Preparation and Planning
 - Publication
 - Selection
 - Evaluation and Award
 - Contract Implementation (including hand-over).



Intellectual
Property
Office



**Interactive
discussion and
Q&A**



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Beale & Co



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