



Building and Construction Industry COVID-19

1. Purpose

- 1.1. To inform the State Government regarding the working party's (Industry Associations and Trade Unions) approach to the building and construction industry challenge of COVID-19 (C-19) and ensure it has relevant information that may assist decision making on building and construction industry issues.

- 1.2. To seek special consideration and/or consultation on potential containment measures, which will have long-term and short-term impacts on the building and construction industry.

2. Background

There are huge efforts being made nationally and across Victoria regarding the containment of C-19. Our industry is committed to responding in a way that supports this containment as well as minimising long and short-term economic and community implications for the industry. The working party has actively co-operated to gain a better understanding of the issues being faced regarding C-19, primarily relating to workforce management.

It is becoming increasingly evident that the building and construction industry in Victoria is likely to be hit by a significant downturn, the potential for which cannot be underestimated. While stimulus packages announced have been a start, a much larger stimulus will be required to minimise the depth and duration of an economic downturn. As C-19 becomes a massive organisational, economic and political challenge, the working party is committed to not only protecting community health but also limiting the massive community impacts if the industry is brought to a standstill.

The working party has collaborated to develop an industry response, which is proportionate and takes care of building and construction workers while doing everything it can to avoid going into lock down. Closing a site, or many sites, will cost many businesses more than some of them can bear. The flow on effects of insolvency will cause unprecedented economic hardship for business, workers and their families. It will also result in massive delays to project completion dates and have flow on effects to public and private developers, investors and clients. Recovering from this scenario is likely to be slow and difficult due to the economic dependencies and systemic impacts.

The working party considers that ongoing confidence and certainty in the building and construction industry is vital during these unprecedented times. It is essential that there is a focus on ensuring a pipeline of work is in place for the building and construction industry to ensure jobs are kept, as far as is reasonably practicable, and businesses remain solvent. The option to work from home is not feasible for most building and construction roles. It is therefore essential that decisions made in relation to building and construction sites are made in the



context of a rigorous understanding of both the environment in which people work and the controls that are currently in place or being implemented.

3. Proactive action

Given all the above, the working party is hopeful that the State Government will consider measures to protect the building and construction industry, which accounts for over 45% of our state's tax revenue. Most companies in the building and construction industry are sub-contractors and many are exceptionally vulnerable.

Accordingly, the working party is seeking special consideration for the building and construction industry, specifically related to potential site closures. A proportionate response needs to be considered by the State Government based on the exceptional controls being actively encouraged and implemented by the working part. The strong and joint commitment between employers and the union will continue to maximise protection. Further to this, the building and construction environment is significantly different from others, with the ability to socially distance on sites and isolate groups. In addition, exposure to fresh air and light is very high for much of the time and on a large amount of the site.

Mitigating Controls include:

Social Distancing

- On any particular site, working spaces are clearly delineated in both time and space to particular trades and activities. Much of the space is large and open air until the final state of project construction.
- The working party is implementing measures to ensure even tighter mobility restrictions on site.
- Particular emphasis has been given to the ability for workers to socially distance within these designated areas.
- The only common areas are the amenities on sites. The risk posed by common areas have been reduced by a number of measures (1) the time spent in those areas have been limited (2) separation of meal breaks and work groups has been introduced to achieve maximum personal space and reduce the number of people accessing those areas at any one time (3) increased the frequency of industrial grade cleaning in those areas and (4) workers electing to minimise amenity access.
- Agreed practices are being implemented to detect and minimise risks.
- Industrial grade cleaning/additional cleaning/decontamination has also been introduced on sites across all areas, with specific emphasis on cleaning after each meal breaks
- Staggered working hours is being considered on sites (however, consideration must be given to Construction Management Plans, and workers must be given notice of a change in hours – but many are amenable due to the present circumstances).



Behavioural controls and hygiene

- The process for identifying and respond to confirmed or suspected cases has been shared, agreed and implemented by the parties in line with Government health directives and advice.
- Toolbox talks are being utilised to highlight personal and site hygiene measures and ensure workers and contractors have access to, and adhere to, the medical guidelines and directives of Government.
- Providing suitable gloves where workers are in close proximity for work or site access purposes.
- An established employer and union communication structure is in place.
- Site inductions have been modified to both ascertain potential risks such as recent travel and current health status, as well as educating new-starts in the environmental and behavioural controls of the site.
- WorkSafe engagement has commenced regarding C-19 planning suitability.

Finally, the Chief Medical Officer or their representative has an open invitation to inspect sites for compliance with hygiene standards.

4. Our request to State Government

The working party requests that special consideration be given to no blanket closures related to C-19 are implemented for the building and construction industry. However, if there is a requirement to do this for community health reasons, that Industry Associations and Trade Unions are jointly consulted to enable planning, and duration is minimised to whatever extent possible.

5. A way forward - potential options for employers and workers

It must be made clear that no site or workforce be shut down or workers sent home unless instructed by the Victorian Chief Health Officer or their Representative. If this occurs, it is unclear how long the shut-down will last. In the event of such a decision, it is unclear who pays the workers.

As the law stands now, either the employer pays for the time the workforce is absent or the employer seeks to enact the stand down provision in the Fair Work Act, unless otherwise provided for under an applicable Enterprise Agreement. There is no middle ground unless there is agreement between the employer and their workforce. Given the unprecedented circumstances, neither of the two extremes are acceptable, both would create extreme hardship if a workplace was shut for two weeks. Employers and unions can agree to deal with hardship in several ways. One example to follow is the way in which the car industry developed innovative ways to deal with short term closures.

As a start, the working party has activated the following measure:



5.1. Involvement of the Victorian Building Industry Disputes Panel (VBIDP)

In these unprecedented times, the VBIDP will establish guidelines for the building and construction industry, giving a sense of direction to employers and workers. The involvement of the VBIDP is entirely appropriate and available to the building and construction industry.

The most efficient means will be for industry participants, through the Industry Associations, to request the VBIDP, without delay, to facilitate discussions with relevant industry participants pursuant to subclause 2.3 of the Disputes Panel Charter.

The Terms of Reference can be as simple as "The Disputes Panel is requested to prepare a set of guidelines setting out the approach and options recommended to be taken by participants in responding to the potential for interruption to building and construction works as a result of the Covid-19 pandemic. In doing so, the Panel will seek to be informed by the relevant industry participants, relevant authorities and State Government."

Guidelines could include, for example:

- Before employers activate retrenchment, they must consider introducing staggered work hours
- Employers can legitimately request that workers use annual leave, personal leave and accrued RDO's
- Employees may be able to access a hardship payment from their redundancy funds.
- Employees may be able to access Long Service Leave via CoINVEST
- Employees may be able to apply to CBus for hardship grant

All matters of dispute can be brought to the VBIDP for resolution where necessary.