

In the first COVID-19 newsletter we focused on the bigger strategic matters and so we now start to gradually look at more of the tactical responses to or effects of this pandemic.

Workforce - how the industry is responding

The dramatic change to our business as usual has been profound as businesses across the board were required to send their staff home to work, just two weeks ago. However, there are a lot of businesses and projects that our industry is involved with that aren't able to continue from home and we have seen an immediate decline in work, as projects are paused and our clients consider their options. For the majority of businesses, moves have already been made as an immediate response to the shut down and the impact that has on our individual teams, that only 3 weeks ago were running near to capacity. Suddenly there is significant capacity within the industry and those teams that relied on fieldwork to fill in their days prior to Covid-19 are struggling to be engaged.

There is no playbook to managing this unprecedented period in our lives and many businesses are struggling to manage the abrupt changes and the impact it is having on their workforce. While businesses are scrambling to shuffle their personnel and are probably considering redundancies it is still important to note that there are still employment laws in place dictating how we manage our people. It is not the time to be making arbitrary decisions about employment contracts and communicating your decisions to staff without any consultation. Good faith consultation and negotiation with your staff is still entirely appropriate. Constant communication with your staff is also critically important, even with the fast-changing working environment we are currently in. Be very careful how you make decisions in relation to your employment contracts, because if not managed well, you may become liable for unpaid wages and potential personal grievance claims on the other side of this crisis. Seek legal advice where you are not sure.

Redundancy may be a legitimate option, but other options being discussed by business leaders are following these themes:

- Moving to 4 day working weeks with a resulting 20% reduction in salaries/wages.
- Temporary reduction in executive salaries.
- Deferred annual remuneration and bonus rounds.
- Voluntary leave and in some cases enforced leave where leave balances are significant.
- Holds on recruitment activities.

If your business is genuinely struggling and the act of paying the wages is problematic, then discuss this with your staff and engage with them in determining a solution. All businesses are aware of the demand that existed prior to the virus and the government is looking to put a significant cash injection into infrastructure projects to get the economy moving again. There will be work to be undertaken on the other side of the virus and it is critical that our industry has a strong and capable workforce to undertake this work. The approach you take with your staff in these trying times will determine how your business will be able to respond when the workload picks up again. Managing your most valuable asset, your staff, is fundamental during this uncertain period.

Working from home

Are your staff currently working from home during the lockdown? If so, their home is considered a workplace. That means employers have responsibilities under the Health and Safety at Work Act 2015. Here are some of the things you should consider when managing health and safety risks and supporting staff wellbeing.

The New Zealand Government have produced a guide which helps agencies to eliminate or minimise any health and safety risks. You can find the guide here - [Practical guidance](#)

Working from home may become a more popular business strategy in the future, and businesses may wish to consider getting a '**Working from Home Policy**' (WFH) document prepared.

5 Tips to Make Your Work-From-Home Policy Successful

1. Make communication a priority.
2. Educate all employees about the policy.
3. Ask employees for their input.
4. Evaluate your policy regularly.
5. Lead with trust.

A guideline for a work from home policy would be to ensure that employees get their work done, are available, and overcommunicate. Specific topics which may need to be covered in a WFH policy include:

- Establishing a clear purpose.
- Employee responsibilities:
 - Time that an employee is expected to work and be available.
 - Communications protocols.
 - The WFH approval process.
 - Remote or onsite meeting attendance.
 - Costs of electricity, internet, heating, water, smoke detectors.
- How other policies apply to working from home.
- Office supplies, tools and equipment, including maintenance of those tools and equipment.
- Sick leave and care of dependants while working from home.
- Their workspace, health and safety at home.
- Mental wellbeing.
- Insurance.

What work can be done in COVID-19 Alert Levels 1-4?

At the time of writing this newsletter we are at Alert Level 4 and are likely to stay at this level for a number of weeks. Only businesses that are 'Essential Services' can remain open.

Essential Services

Surveying and spatial services are currently not listed as essential services however S+SNZ are working with other organisations to raise the importance of data capture to either continue works or as an enabler of future design works.

In the meantime, we are directing queries to the www.COVID19.govt.nz website which provides up-to-date and relevant information for individuals and businesses.

Essential businesses during Alert Level 4 are those that provide the necessities of life for everyone in New Zealand during Alert Level 4.

Alert Level 4 means New Zealanders not working in essential services must stay at home and stop all physical interactions with others outside of your household.

List of essential businesses (A full list of what qualifies as an essential business is on the Ministry of Business, Innovation and Employment (MBIE): click link to their [website](#)).

Building and construction

Lead agency: Ministry of Business, Innovation and Employment

- Any entity involved in building and construction related to essential services and critical infrastructure, including those in the supply and support chain.
- Any entity involved in any work required to address immediate health or life safety risks, or to prevent serious environmental harm, and relevant essential supply chain elements.
- Any entity with statutory responsibilities or that is involved in building and resource consenting necessary for the above purposes.

If your business is considered essential, you must operate in a way that minimises the risk of COVID-19 transmission. Businesses should:

- Minimise, or eliminate if possible, physical interactions among staff and with and between customers.
- Ensure appropriate health, hygiene and safety measures are in place.
- Restrict activity to only what is essential during the Alert Level 4 period.

If you have any queries about what an essential service is and if it applies to your business sector, you can call 0800 22 66 57 or email essential@mbie.govt.nz for advice regarding your specific business.

In the future, the alert level may not be uniform across the country and may bounce from one level to the next. We would expect some regions may have their level downgraded before others so think about how this may impact your operations and your people.

While we may downgrade from level 4 at some point, don't expect things to go back to normal anytime soon.

We will need to get used to operating at levels 2 and 3 for an extended period – and even if things at home return to relative normality, international travel will be all but gone for many months, and possibly even a couple of years.

We also need to prepare for coming out of Level 4 for a period but then going back.

We recommend contacting as many of your clients as you are able and tell them what you can offer while in Level 4 and what you can offer under Levels 1 to 3.

Encourage your clients to use this time to progress planning and design so that physical works can proceed once lock down is over.

Under Levels 1 to 3 – Prepare – Reduce - Restrict

The government website www.covid19.govt.nz/government-actions/covid-19-alert-system sets out the range of measures that can be applied locally or nationally under each Alert Level.

Although the way we work will need to change many of our businesses will be able to continue to operate and provide the same level of service to our clients under Level 1 to 3 as we did prior to this crisis. However, there will be additional Health and Safety requirements to comply with the measures set out in the official alert system documentation on the governments website. Social distancing, using video conferencing for meetings, travel in separate vehicles are some obvious measures. The key message is to use common sense to limit community transmission of the disease.

Have a strategy to get as much field work done as possible once the Level 4 lock down is off because it is likely it will go back on.

The Prime Minister was very deliberate in her language that it was a minimum of four weeks – so we should plan in the expectation that this time-frame will be extended.

Commercial Contracts

Just like the recommendation to stay close to your staff you need to stay close to your clients. Check in with key clients to see how they are faring, letting them know they are top of your mind and priorities. This is a good opportunity to let them know what services you can provide during the various Alert Levels and in particular during the Alert Level 4 lock down.

We would suggest you encourage your clients to use this time to progress planning and design so that physical works can proceed once the lock down is over.

ACENZ issued a nice concise precis about contract status:

- Contractual relief may be available through a force majeure provision if present in a contract.
- If not present, there is the possibility of the general law principle of frustration applying in a particular case. But it will depend greatly on the situation, as the bar is high.
- Our recommendation is to communicate proactively with clients and seek a mutually acceptable negotiated solution via a contract variation.
- If in doubt, get competent legal advice.

Commercial Leases

Cashflow is or will likely be tight for most companies. Therefore, any prudent Company Executive or Director will be keeping an eye on cashflow and looking for ways to minimise any expenses. For consultancy firms the biggest expenses after wages/salaries are usually rent and insurance.

Therefore, you should carefully review your lease agreement for any sources of rental relief as a result of COVID-19 whether it be lock down or other restriction.

The most used form of commercial lease is based on the Auckland District Law Society Deed of Lease and Clause 27.5 relates to 'no access in emergency' or equally used terms in other forms is 'Force Majeure'. This clause typically provides for a fair proportion of rent and outgoings to abate or cease for the period where a tenant cannot access the premises as a result of an emergency.

Note however that 'use' can include access or storage. Access would also include accessing a server that is located in the offices.

If the restriction on access continues for a specified time period (usually nine months), both the tenant and landlord have a right to terminate the lease.

So, start this discussion with your landlord now, in many cases, rent reductions might be in the order of 50 per cent.

Financial Matters

- Cashflow needs to be front of mind – keep invoicing up to date. It's the life blood of your business.
- Encourage staff to keep timesheet entry immediate to avoid lost time through household interruptions.
- Follow up debtors and enforce your terms of trade – don't be slow or lenient on debt collection and don't allow people not to pay – cash is the oxygen of your business and the New Zealand economy.
- Review all overhead expenses and identify areas where you can reduce your spend such as telecommunication plans, insurance, power and other suppliers rates
- Increase overdraft facilities
- Contact your bank or financier to discuss debt consolidation, interest only period, revolving credit, better repayment terms, hardship loans, mortgage holidays, credit card options and terms
- Apply for the Governments 12-week wage subsidiary package even if you are a sole practitioner – it's easy and on-line
- 8 week re-occurring subsidy package available for employees who are sick with Covid 19 or are caring for dependents who are sick with Covid 19 or isolated.
- IRD allowed to remit use-of-money interest on scheduled payments.
- Communicate with key clients.
- Develop a business continuity plan.

In the next issues we plan to look at:

- PPE
- LINZ
- Councils
- Remote working tips
- Lockout vs lockdown