

# Protecting Your Projects

Projects under construction that may be stopped (or slowed down)

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# Statutory Considerations

Compliance will be required:

- There will be legal requirements, including consent conditions, relating to maintaining health & safety, environmental integrity and affecting site security, e.g. fencing, excavations, drainage, etc.
- Utilities, both for the completed development and temporary construction connections
- Validity periods for consents, both start and finish dates
- Any specific government directives given during emergency period that will impact contractual arrangements
- Challenges to compliance inspections related to exposed works

# Physical

## Securing the Works:

- Sites are the domain of contractors in the first instance. However it is in owners' interests to secure sites against:
  - Unauthorised visitors that may cause damage or injure themselves
  - Unauthorised removal of materials, plant, tools, etc., including by project participants who may have a grievance
  - Cessation of routine security patrols that may be happening
  - Damage and deterioration of exposed works\*
- Plant and materials on site deserve particular consideration as there are ownership, storage, insurance and other issues

\* In a recent case a site was closed for 8 months, resulting in approx. \$10m of remedial work required

# Contractual

- There are a range of potential contractual approaches to stopping the work (usually requiring e.g. 14 days notice), including suspension, termination, abandonment, frustration, “for convenience” or in current circumstances, a law change. Each of these impact your rights and obligations in different ways and require extreme care
- Shop drawings/contractor design, orders for components, including long-lead items, should be stopped or managed, with due consideration for possible remobilisation
- Valuing work at the time of cessation, including registering progress and off-site materials at a detailed level will facilitate, payment, damages and remobilisation arrangements
- Bonds, insurances, continuity guarantees and retentions will all need to be addressed
- Liquidated damages and bonuses for early completion may be involved, as well as assessment of extensions of time

# Some Commercial Considerations

- Owners' downstream agreements with tenants, etc. may be impacted
- Impacts on the benefits sought in investment business cases may be delayed or not realised, with consequent business impacts
- Cost of remobilisation, including possible need to go back to the market for some trade packages
- Many projects that are in various planning phases should continue without interruption as the participants work and collaborate from home
- Consider the pros and cons of procurement (e.g. P&G and Margin) during the period while physical construction is curtailed

# How can we help?

- If it will help, we will be happy to share our planning for working through the crisis with anyone who would like it, at no cost
- Understanding how fast-moving the current crisis is, recognise that the earlier the shutdown is considered, the more options are available to you
- We will be available to you throughout for ad hoc advice and for access to other industry experts if necessary
- If you suspect you have a significant issue confronting you, we will bring together an experienced team to provide the best outcome we are capable of (almost certainly in concert with your legal advisor)