

The construction sector: Life after COVID-19

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17 December 2020

At the start of the year, I looked at issues associated with the use of the NZS Conditions of Contract and pondered whether the construction and infrastructure sector would make the recommended changes in order to improve the sector. [See article here](#). I could not have predicted the events to come and the extent of the changes that have occurred (and continue to). COVID-19 has created new, and has amplified existing, challenges but has also created significant new opportunities which I will briefly examine.

The COVID-19 level 4 restrictions brought out sector participants' true colours as they grappled with the contractual implications of the lockdown. They were forced to choose how they wished to manage their relationships; work together to find a middle ground or take a hard line approach. Under the pressure and uncertainty of the 'lockdown', sector participants either strengthened their relationships or damaged them. On the whole, after coming out of lockdown, the sector showed its resilience and an eagerness to collaborate to deal with challenges. Most parties agreed on what contractors were contractually entitled to as a result of the lockdown.

Helpfully the Government took a lead on some key contractual issues arising out of the level 4 restrictions as they relate to the standard NZS Conditions of Contract releasing a set of guidelines for the public sector. This leadership has resonated well and has encouraged the industry to develop provisions that deal with some of the ongoing uncertainty. Of course, there are differing approaches reflecting the uniqueness of each project and the commercial drivers of each participant.

Moving away from the contractual issues, COVID-19 initially added to the pipeline uncertainty and project funding issues that already existed. However, the Government stepped in to inject significant amounts of money through its 'shovel ready' projects initiative. This is in addition to the previously allocated programme of infrastructure funding. While some of these projects were already financially well developed, many have received a much needed financial boost which will ensure they are viable and speed up their implementation. This has created some sense of certainty and security around work pipeline for the short term. Further, the enactment of the Infrastructure Funding and Financing Act 2020 will help local government address the shortfall in infrastructure spending in the longer term and maintain the initial momentum in the sector.

The combination of closing of our borders to tourists and the Government's focus on infrastructure (and, in particular, three waters infrastructure) now means that New Zealand has time to catch up to the demand that tourism and urban growth has placed on its aging infrastructure. We will need to maintain this initial momentum if we are to deliver on the Government's 30 year infrastructure strategy (to be released in 2021).

However, there is a significant hurdle to delivering on this strategy in the ever-present shortage of skilled workers, exaggerated with the tightening of immigration restrictions due to COVID-19 and the impact of these restrictions on the availability of overseas specialist labour. These restrictions call into question how exactly the pipeline of infrastructure projects that the Government is supporting will be constructed. It is a problem that warrants attention and requires a multi-agency approach. There is an opportunity for industry, academia and Government to collaborate to help increase the skills of our workforce and improve on New Zealand's dismal productivity levels in the construction sector (and the economy generally) to help achieve our infrastructure development targets.

Overall, COVID-19 seems to have given the industry a shake-up to address some of the entrenched contractual positions that have historically been adopted by sector participants. Now though there are bigger challenges facing the industry in trying to deliver on the significant project pipeline. Investment alone is not enough. The Government needs to tackle the skills shortage, improve the skills of our workforce and increase the construction sector's productivity levels. So, to answer my own question, not only have things changed, but there are plenty of opportunities for transformation and revitalisation in the sector, if the right decisions are made and the right actions taken.

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