

Te Kāhui
Whaihangā
New Zealand
Institute of
Architects



COVID-19 Info

COVID-19 – Guidance on returning to work under Alert Level 3

On Monday 20 April 2020 at 4pm, the Prime Minister made an announcement that New Zealand will be coming out of Alert Level 4 Lockdown on Monday 27 April at 11:59pm. The lowering of the alert level has allowed parts of the economy to reopen, including many 'non-essential' construction sector businesses (**Businesses**). This means, contractors' will be able to remobilise and return to site, provided the work can be carried out in accordance with all health and safety obligations, including the strict hygiene measures and social distancing rules put in place under Alert Level 3.

As Businesses remobilise, several important health and safety measures will need to be taken to provide confidence to workers that their exposure to COVID-19 is being minimised. Outlined below is an overview of how a Business can navigate its way through the restrictions set out by Government and Construction Health and Safety New Zealand (CHASNZ), who have developed a standard and protocols to secure the health and safety of workers on site, which Businesses are required to follow.

The following points should be considered or addressed by Businesses:

1. Businesses COVID-19 safety plan:

Under Alert Level 3, a Business is required to have a written COVID-19 safety plan in place to identify and mitigate the risks associated with carrying out the contract works.

- Has the Business read and understood the CHASNZ standard and protocols?²
- Has the Business developed a COVID-19 safety plan (Safety Plan)? The Business should have regard to the

1. The Government has recommended that during Alert Level 3, office employees who can work from home should do so.

2. A copy of the standard and the protocols is available here: <https://www.chasnz.org/covid19>

CHASNZ standard and protocols when developing a Safety Plan. This Safety Plan is to sit alongside any other health and safety plan the Business has in operation, rather than contradicting any existing Safety Plan, or affecting any existing system or process design to manage other risks within the Business.

- Have all employees read and understood the Businesses COVID-19 safety plan?³
- Do employees have access to the correct personal protective equipment (PPE).
- Operating under Alert Level 3 will be different for most Businesses and physical distancing, good hygiene and cleaning practices may not always go to plan. Most Businesses will likely have in place an effective system to consult with its workers to assess how well its current health and safety plans are operating. It is important that Businesses understand from workers, what is working well and what is not and how practices and procedures could be improved. Engaging with workers and assessing risks and developing responses is an important part of a Businesses health and safety practice. How is your practice evaluating the COVID-19 safety plan?
- A Business must gather information on the health of their workers to ensure they are safe and well to work. It is important that workers who are feeling unwell or suffering symptoms that are consistent with COVID-19 do not come into contact with other Workers until they are well or have been tested and cleared from having COVID-19. Does your Business have a system in place to track the health of its Workers?

3. Worksafe have provided a proforma to assist Businesses with preparing their COVID-19 safety plans. The proformas are available here: <https://worksafe.govt.nz/managing-health-and-safety/novel-coronavirus-covid-19-safety-plan-what-you-need-to-think-about/>

-
- During Alert Level 3, businesses must implement a plan to facilitate contact tracing in the event a worker is exposed to a person who is either suspected or confirmed of having COVID-19.⁴ In case the Ministry of Health or the District Health Board need to trace suspected cases of COVID-19, registers are required to be kept of all people that workers have contact with while conducting their work. Does your Business have a register in place and is it collecting the required information?⁵

2. Contractor's health and safety plan:

Under Alert Level 3, a Business is required to have a written COVID-19 safety plan in place to identify and mitigate the risks associated with carrying out the contract works.⁶ As part of the remobilisation plan, the Principal, Contractor and Architect or Engineer should be working together, with the input of subcontractors where required, to determine the most efficient way of remobilising and recommencing construction while achieving the Governments health objectives under Alert Level 3.

-
- Has the Contractor prepared a site specific COVID-19 safety plan (SSSP)?
-
- Has the Contractor submitted the SSSP to the Architect or the Engineer?

3. Architect or Engineer's responsibilities:

If the Architect or Engineer during Alert Level 4 had suspended the works, or the Principal and the Contractor agreed to suspend the works. It may be necessary for the Architect or the Engineer to lift the suspension.

-
- If the Architect or Engineer had suspended the works during Alert Level 4, has the suspension been lifted to allow the Contractor to remobilise?

Under the Health and Safety at Work Act 2015, the Architect or Engineer, the Principal and the Contractor share health and safety duties. One of those duties is for the Architect or Engineer to 'consult, cooperate and coordinate' with the Contractor to avoid any potential gaps in managing the spread of COVID-19 and to help prevent Businesses from failing to carry out their health and safety duties.⁷

4. Under Alert Level 3, it is unlikely businesses will be returning to their offices because of the Governments recommendation that office employees who can work from home should do so. Contact tracing will be applicable to all workers who are required to visit site during Alert Level 3.

5. Refer to NZIA COVID-19 Member Notice 005 ([COVID-19 – Community contact tracing and privacy concerns](#))

6. Refer to NZIA COVID-19 Member Notice 003 ([COVID-19 – The Architect's role in administering a construction contract under Alert Level 3](#)) and NZIA COVID-19 Member Notice 004 ([COVID-19 – the Engineer's role in administering a contract \(NZS 3910:2013\) under Alert Level 3](#)).

7. Refer to NZIA COVID-19 Member Notice 003 ([COVID-19 – The Architect's role in administering a construction contract under Alert Level 3](#)) and NZIA COVID-19 Member Notice 004 ([COVID-19 – the Engineer's role in administering a contract \(NZS 3910:2013\) under Alert Level 3](#)).

-
- Where to the reasonable extent of the Architect's or Engineer's expertise and experience, has the Architect or Engineer commented on the Contractor's SSSP?⁸

-
- Has the Principal reviewed the Contractor's health and safety plan?⁹

4. Assisting cashflow:

Cashflow is the lifeblood of the construction industry and to ensure Businesses survive the effects of COVID-19, it is necessary for cash to flow from Principals through to subcontractors. While the April payment cycle would have been largely unaffected, the May payment cycle will be heavily affected by the lockdown under Alert Level 4 which stopped most construction activity for 16 working days. Some Principal's may be able to assist the long-term viability of Contractors by agreeing to alternative cashflow arrangements. 'Guidance for public sector agencies dealing with the contractual implications for construction projects of the COVID-19 lockdown period' ([Public Sector Guidance](#)) provides alternatives for Principal's.

-
- Has the Architect or Engineer discussed with the Principal moving the monthly payment cycle to either weekly or fortnightly? This change would require additional work by the Architect and Engineer in processing the payment claim but would allow cash to flow more quickly to those in need, predominantly subcontractors.

Other options to help facilitate cashflow may be able to be considered by the Principal if alternative forms of protection can be provided to secure the Contractor's performance in the event of a default. Alternative forms of promoting cashflow include releasing retentions and suspending the collection of retentions.

-
- Consistent with the [Public Sector Guidance](#), the Ministry of Education has taken the step of releasing retentions and suspending the collection of retentions. Has the Architect or Engineer discussed with the Principal alternative steps to help facilitate cashflow? It is important that any such relief provided to the Contractor is passed to the subcontractors. To ensure this happens, a form of agreement with the Contractor may be required.

5. Visiting site:

Under the Health and Safety Act 2015, a PCBU must ensure, so far as is reasonably practicable, the health and safety of its employees are at work.¹⁰ This means when an Architect, Engineer or a consultant makes a site visit, the

8. Under NZS 3910:2013, the Contractor is unlikely to be able to recommence work on site until the Engineer has accepted the Contractor's SSSP. Clause 5.17.3 requires the Engineer to accept the SSSP within 5 working days and where the Engineer does not accept the SSSP, the Engineer must give reasons why. As discussed in the Member Notices 003 and 004, The Contractor should have regard to the CHASNZ standard and protocol when creating and implementing its SSSP and the Architect and Engineer should have regard to the CHASNZ standard and protocols when reviewing the Contractor's SSSP.

9. Depending on the project type, size and complexity, the Principal should consider whether they should be reviewing the Contractor's SSSP. The Principal should have regard to the CHASNZ standard and protocols when reviewing the Contractor's SSSP.

10. Health and Safety Act 2015 cl 36(1).

Worker is aware of their health and safety obligations under (i) Alert Level 3, (ii) the employer's and (iii) the Contractor's health and safety plans.

- In addition to the normal PPE an Architect or Engineer is required to wear on site, is any additional PPE required by the Contractor?

- Has the Architect or Engineer read and understood the Contractor's SSSP prior to visiting site?

- Does the Architect or Engineer understand the Contractor's social distancing requirements including when using the sites facilities and amenities?¹¹

- What system does the Contractor have in place to facilitate contact tracing by recording the identity of all Workers on site and who they come into contact with?

- Is the Architect or Engineer aware of the need to keep a register of all people that they have come into contact with while carrying out a site visit?

- Has the Architect, Engineer or their representative recorded what areas on site they have visited including taking photographs of any deterioration of the contract works that is readily visible.¹²

- Has the Architect, Engineer or their representative observed any health and safety issues and if so, have they been reported to the Contractor.¹³

11. In addition to the CHASNZ standard and protocols, Worksafe have suggested examples of how to increase physical space between people to avoid spreading COVID-19. These suggested measures are available here: <https://worksafe.govt.nz/managing-health-and-safety/novel-coronavirus-covid/covid-19-advice-for-businesses-operating-at-alert-level-3/> under 'physical distancing is crucial to managing the risk of COVID-19'.

12. It is important following Alert Level 4 Lockdown that careful records are taken of any areas of the building that may have suffered damage.

13. If the Architect, Engineer or their representative feels unsafe on site, then they are to leave immediately and report their concerns to both the Contractor and their Employer.

The information provided is intended general advice and guidance only. The NZIA cannot provide legal advice. No warranty or guarantee whatsoever is given as to the accuracy of any information contained in this NZIA Notice, nor is any liability accepted for any actions taken based on this information. You should seek professional advice on any specific matters relevant to you and/or your practice.