

Victorian Government Response to the Commissioner for Better Regulation's Final Report on Addressing Supply Chain Challenges

The coronavirus (COVID-19) pandemic has significantly changed the environment in which many industries operate, including Victoria's building and construction sector. In particular, a shortage of critical building materials, such as timber, has posed significant challenges for builders and homeowners.

In June 2021, the Minister for Regulatory Reform requested that the Commissioner for Better Regulation identify any regulatory barriers in the supply chain for timber as Victorian building and construction businesses continue to experience significant delays. The Government received the Commissioner's final report in October 2021, which made 10 recommendations.

The Report's recommendations identified strategies to alleviate supply chain issues, manage market expectations in the short term and provide incentives to protect against future shocks in the long term. The Report did not identify any regulatory barriers in the supply chain for timber. Instead, it found that delays and shortages in sourcing timber were the result of unprecedented demand for construction in response to rebuilding our society post-bushfires, and the economic stimulus packages provided by governments around the world to boost post-COVID recovery. At the same time, there have been disruptions in global trade and maritime freight due to border closures and port congestion, hampering efforts to import additional timber. The Report highlighted that "the impacts of the current disruptions will ease as market conditions correct" (pp. iii).

The Victorian Government supports recommendations that reduce current supply pressures and increase opportunities into future development of alternative building materials, whilst protecting the rights of affected consumers.

As the market recovers from the initial timber price spike, the Report's recommendation for a cost escalation clause is not supported as it could potentially increase risks and costs to consumers. It will also be of limited benefit to the building and construction sector as it would not operate retrospectively.

The Government thanks the Commissioner for Better Regulation for her report.

A response to each of the recommendations follows:

Recommendations to alleviate supply issues in the short-term

Government response

Recommendation 1

That the Victorian Government use its international networks through Global Victoria to prioritise assistance to industry to:

- source building imports from new markets (for softwood timber these could include the Baltic States, Scandinavia and Eastern Europe); and
- access maritime freight for transport to Australia.

Such efforts would be significantly enhanced through collaboration with the Commonwealth Government’s international networks including Austrade offices and embassy officials.

Support in part

The Victorian Government’s international network does not have a remit to source imports on behalf of industry. DJPR will consult with industry to better understand the need for government assistance, and if required, work with the Commonwealth Government to explore options to help industry make better connections with international markets.

Recommendation 2

That DJPR examines opportunities for timber supply firms to source such surplus structural timber that may be available in Victoria. This could include:

- any structural timber held in storage; and
- any mature softwood timber that is currently due for harvest.

This recommendation is made noting that the overall amounts of structural timber available are likely to be small, but working on the premise that where possible, all potential sources of timber should be explored.

Support in principle

The Government notes that industry have made significant efforts in sourcing and supplying all surplus structural timber in these challenging times.

Recommendations to assist the industry and consumers to manage market conditions in the short term

Government response

Recommendation 3

That CAV and other Government agencies work together with industry stakeholders to prepare and disseminate communication materials:

- to improve consumer awareness of the current supply chain issues and their potential impacts on the cost and timing of construction projects; and
- to assist small and medium builders to manage supply shortages, price rises and their implications for contractual obligations.

The following agencies should be involved in this work:

- Domestic Building Dispute Resolution Victoria
- Victorian Building Authority
- Business Victoria

Support in principle

The Government supports the creation of communication materials to raise awareness for both consumers and builders and notes the important role that industry associations have in advising the sector.

Recommendation 4

CAV prioritises its consideration of proposals for the development of a cost escalation clause for domestic building contracts, giving due consideration to both builders' and consumers' interests by addressing the following:

- the potential impact on access to finance and consumers' financial obligations;
- cost-sharing arrangements, for example an agreement that only a certain percentage of any cost increases would be borne by the consumer, or a capped maximum total or percentage increase in a contract price that could be allowed;
- applying a cost escalation clause for a fixed period, for example 12 months, with the ability to extend that period if the supply disruptions continue for a longer period;

Do not support

The Government acknowledges that supply constraints have caused challenges for the building and construction industry. However, the Government does not support the development of a cost escalation clause for domestic building contracts (below \$500,000).

A cost escalation clause would unfairly increase uncertainty for consumers entering domestic building contracts, where it is unlikely that consumers would be in a financial position to absorb any cost escalation. The *Domestic Building Contracts Act 1995* is designed to protect consumers and including a cost escalation clause would fail to protect their interests.

Recommendations to assist the industry and consumers to manage market conditions in the short term

- allowing the clause to apply only where there is price increase for specified materials such as timber or steel;
- preventing the builder from charging a margin on top of any increase in the price of materials; and
- requiring the builder to provide the consumer with receipts confirming the actual cost of materials.

And, that CAV continues to monitor the impacts of supply chain disruptions on the cost of domestic building contracts.

Government response

The Government notes that any potential benefit to the building and construction sector would be limited as it would not apply retrospectively to existing domestic building contracts which have already been impacted by unexpected delays and supply chain issues due to the coronavirus pandemic. Further, the use of a cost escalation clause is already available under section 15 of the *Domestic Building Contracts Act 1995* to domestic building contracts where the contract price is more than \$500 000. This allows builders and developers involved in larger projects to appropriately allocate cost increases, reflecting both parties' familiarity with construction processes. Ensuring that projects under \$500 000 do not have cost escalation clauses protects consumers involved in smaller projects who are typically unfamiliar with such risks.

Considering that the current challenges are now well known to the sector, appropriate provision for price increases in materials can now be factored into the cost estimates for new domestic building contracts.

The Government will continue to monitor the impacts of supply chain disruptions on the cost of domestic building contracts.

Recommendations to assist the industry and consumers to manage market conditions in the short term

Government response

Recommendation 5

That Domestic Building Dispute Resolution Victoria (DBDRV) monitor consumer and builder concerns about the impacts of supply chain issues and that the Government makes available additional resources should there be a significant increase in demand for its dispute resolution services arising from the current supply challenges in the industry.

DBDRV would use triage processes to identify and prioritise these types of disputes as efficiently as possible.

Support in principle

The Domestic Building Dispute Resolution Victoria (DBDRV) already has a triaging process in place to identify and prioritise issues that are lodged. DBDRV will continue to monitor the types of disputes raised, and if supply chain disputes increase significantly, options to provide additional resources will be assessed.

Recommendations to provide incentives to protect against future shocks over the medium to long-term

Government response

Recommendation 6

That DJPR continues to engage with industry to consider opportunities to develop further softwood plantation projects and other relevant initiatives to support the construction industry in the future.

Support

DJPR will continue to engage with industry in developing future softwood plantation projects.

Recommendation 7

That the Victorian Government considers support for an increase in the use of steel for house framing, such as:

- facilitating training to enable builders to use steel in frame construction; and
- encouraging greater uptake of courses to train associated trades such as detailing and specialist engineering practitioners.

Support in principle

The Victorian Government has recently developed and accredited a course in Light Gauge Steel which will assist learners to develop their knowledge of using light gauge steel building components in the building industry. There are also existing courses to support steel frame construction. The Government will continue to work in collaboration with training providers and industry to ensure there are skilled workers to meet industry and consumer needs.

Recommendations to provide incentives to protect against future shocks over the medium to long-term

Government response

Recommendation 8

That the Victorian Government further supports research and development to identify and encourage the use of new building materials and approaches to support innovation and diversification of inputs in the construction industry. These R&D projects could also relate to recycled materials and support Victoria's transition to a circular economy.

Such projects could be delivered through existing construction industry research initiatives such as those undertaken by:

- the Australian Housing and Urban Research Institute;
- Building 4.0 CRC; and
- the Victorian Building Authority's research program.

Support in principle

The Government currently supports a number of research and development initiatives which identify and encourage the use of new building materials, including Building 4.0 CRC.

The Government is also actively supporting the development of new markets for recycled materials, including in the construction sector, as part of the Recycled Markets Acceleration program. This program supports the development of new uses for recycled materials through the development and promotion of standards, specifications, and guidance materials for using recycled materials in commercial, industrial and construction settings.

Further assessment of industry need, and the best way to support new products and approaches is required.

Recommendation 9

That the Victorian Government requests that the Commonwealth includes building materials as priority products under the Supply Chain Resilience Initiative and the Sovereign Manufacturing Capability Plan, thereby making grant funding available for projects to address vulnerabilities across the supply chain.

Support in principle

The Government acknowledges the importance of building materials in the building and construction supply chain. The Government also notes the importance of industry participation in the Commonwealth's consultation process on identifying priority supply chains that are critical to Australia's health and wellbeing and that may contain vulnerabilities.

Recommendations to provide incentives to protect against future shocks over the medium to long-term

Government response

Recommendation 10

That the Victorian Government continues to engage with the Commonwealth to encourage changes to the Emissions Reduction Fund that would improve the financial returns and incentives for plantation forestry, including the consideration of recommendations 7, 8 and 10 of the Aussie logs for Aussie jobs report.

Support

The Government will continue to engage with the Commonwealth to expand access to carbon funding for forestry projects under the Emissions Reduction Fund. The Government notes that in October 2021, Victoria's Gippsland and the Green Triangle regions were approved by the Commonwealth for simplified access to generate carbon credits under the Emissions Reduction Fund.