
Space, re-imagined

Real estate in an era of social distancing

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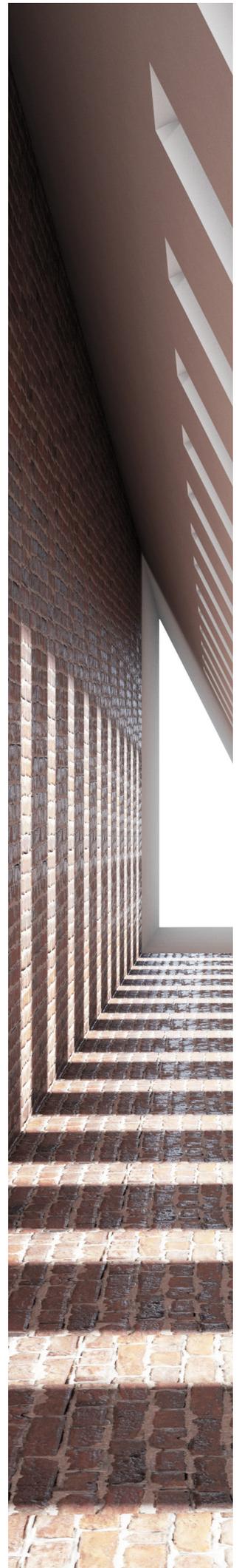
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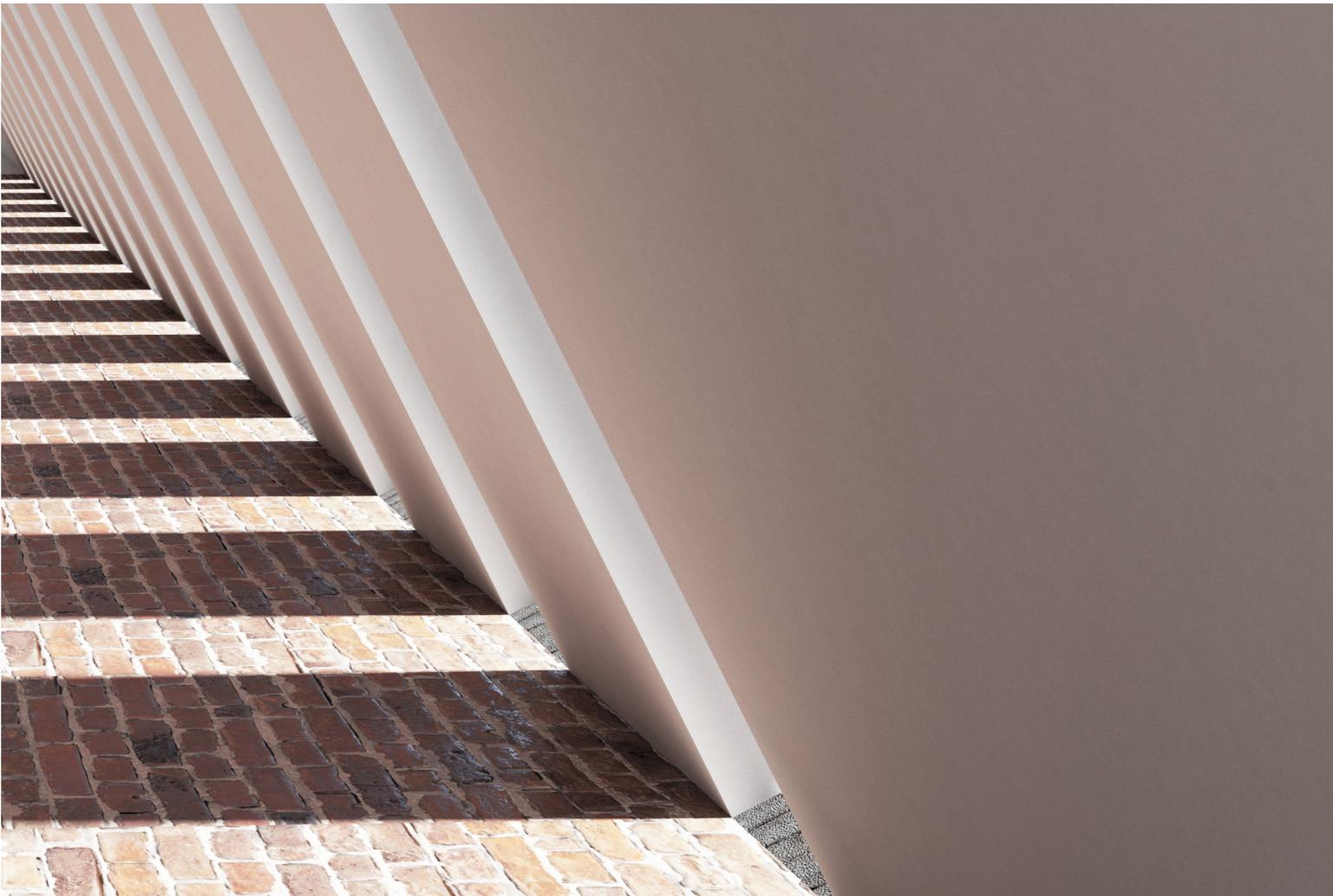
It is trite to say that COVID-19 has impacted on real estate – from building design, to building use, to the very way we transact. For some asset classes, this has merely accelerated writing that was already on the wall. For others, however, it has had and will have a profound impact that few could predict.

The re-imagining of space will raise myriad legal issues (including technology, privacy, competition and planning issues). As is always the case, legal issues should not be a barrier to meeting a clear public need, but will need to be carefully navigated.

Building 20 at the Massachusetts Institute of Technology (MIT) has an almost mythical status as a hastily constructed, unregulated workspace where some of the greatest minds

met (both formally and accidentally) and cross-pollinated ideas which fundamentally changed the world. The Dean of the MIT School of Architecture and Planning William J. Mitchell said “What we learned from Building 20’s success was that we would need to provide modern services and technology without being rigid or constraining.”

While many lessons will be learned from COVID-19, the question remains: will we forget lessons from the past?



Changes to building design

The need for social distancing has changed the way people inhabit and interact with existing buildings. Building design will need to change to enable continued social distancing and the changed ways we work and live.

Lobbies will be the first line of defence – designed to increase access to fresh air to allow for greater natural ventilation. Landscape features such as living walls will provide both organic air filtration and a means of enforcing social distancing.

These natural features will be combined with technology and increased monitoring systems (such as Infrared Fever Screening Systems) to check people's temperatures and optical sensors, and keep track of the number of people entering and exiting the building.

But will these measures really work, or will they give rise to so many 'false positives' they become meaningless?

Designers are already working on 'contactless pathways' to minimise surface touch as a person navigates through the building. Lifts, blinds, lighting, ventilation and even ordering a coffee will be controlled from users' mobile phones, and doors will open automatically using motion sensors and facial recognition.

Further, the use of antimicrobial fabrics and finishes will be more prevalent, hallways are likely to be wider, elevators larger, and stairways may see a comeback.

Communal spaces will also need to be easily and quickly sanitised, so we may see negative pressure rooms employed in conference rooms to help contain germs and UV light cleaning technology used to clean the room overnight.

At street level, we may see an increase in parklets or temporary parking spaces to allow customers and food delivery services to collect orders from cafes, restaurants and food courts as well as dedicated collection hubs for online 'click and collect' purchases.

The 'working from home' mandate has blurred the separation of the office and home. While working from home has provided many benefits (including reduction in commute times and increased family time) there is also a desire for a distinction of where home and work begin and end (particularly in open plan living). This suggests a move to more formal studies and communal office facilities and meeting rooms in apartment complexes. Read more in our article [*Dystopia to utopia: key predictions for the future of multifamily post COVID-19.*](#)

Face-to-face interaction

How far are workers, employers and building owners prepared to wind back the clock on modern office and shopping centre design to facilitate social distancing? After even such a (relatively) short period of enforced social distancing, many people are missing face-to-face interaction – will they be happy to return to work separated by Perspex? Does their desire for community outweigh their privacy concerns with new health monitoring and tracking technologies?

Office spaces

The physical office space will also need to support high levels of digital collaboration to support an increase in flexible working arrangements. This may result in smaller working spaces but larger meeting rooms and communal spaces to allow socially distanced interactions to occur.

With the increase in co-working, open plan spaces and hot-desking, office desks have shrunk over the years to approximately 1.4m per person. There will likely be a reversal in this trend as the increased need for physical distancing necessitates a move away from open-plan layouts and an increase in physical dividers between teams, as well as individual employees.



Post-COVID-19 readiness checklist

1. Changes to the Apartment Design Guidelines?
2. Certification schemes for environmental ratings?
3. Redesigning to respond to work, health and safety guidelines?

Changes to how buildings are managed

The hygiene hyper-vigilance borne from COVID-19 will have a lasting impact on how buildings are managed.

Beyond the increased availability of hand sanitiser dispensers, cleaning practices will increase in frequency and intensity. There has already been a global surge of interest in automated disinfection solutions, particularly the use of UV light solutions. Cleaning practices are an important part of providing and maintaining reasonably safe spaces. The coming months will bring clarity around how the risk associated with safeguarding against infection will be distributed amongst landlords, property managers, cleaning service providers and tenants / employers.

Control over fresh air flow will also be a focus. Demand-based ventilation control will enable the smarter use of 'clean' air in buildings and control of airborne contamination. An added bonus is that this is also an opportunity to both reduce operational expenditure and improve sustainability.

COVID-19 has fundamentally shifted the way we think about population density. While social distancing will continue to be promoted to varying degrees, the discussion about how occupancy restrictions balance public health priorities and practical considerations will be ongoing.

Imposing occupancy limits and using occupancy data to ensure only so many people are populating specific sections of a floor, building, campus or other facility may become the new normal.

Building and space analytics is an evolving space, with technologies including depth data and machine learning, optical sensors and facial recognition, Wi-Fi tracking, seat sensors and thermal imaging. Use of these technologies must continue to be mindful of protecting privacy, data storage, the scalability of technology, and data accuracy.



Parcel lockers

We will see more 24/7 click and collect lockers at supermarkets, offices, residential complexes. Parcel pick up points will be designed to improve the shopping experience by eliminating missed deliveries and increasing foot traffic for local businesses who opt in to delivery networks.

Proptech as a line of defence

Consider how proptech can be used to prevent, detect and manage the spread of infection. For example, the re-programming or expansion of Building Management Systems to monitor and moderate indoor air quality parameters.

End of trip facilities

End of trip facilities (EOTF) are likely to be closed in the short term, but buildings and public spaces will need to accommodate the increasing number of commuters favouring walking and cycling instead of taking public transport.



Post-COVID-19 readiness checklist

1. Consider how office density will change with working arrangements.
2. Consider how occupancy limits can be adhered to while encouraging social cohesion.

Changes to how we use space

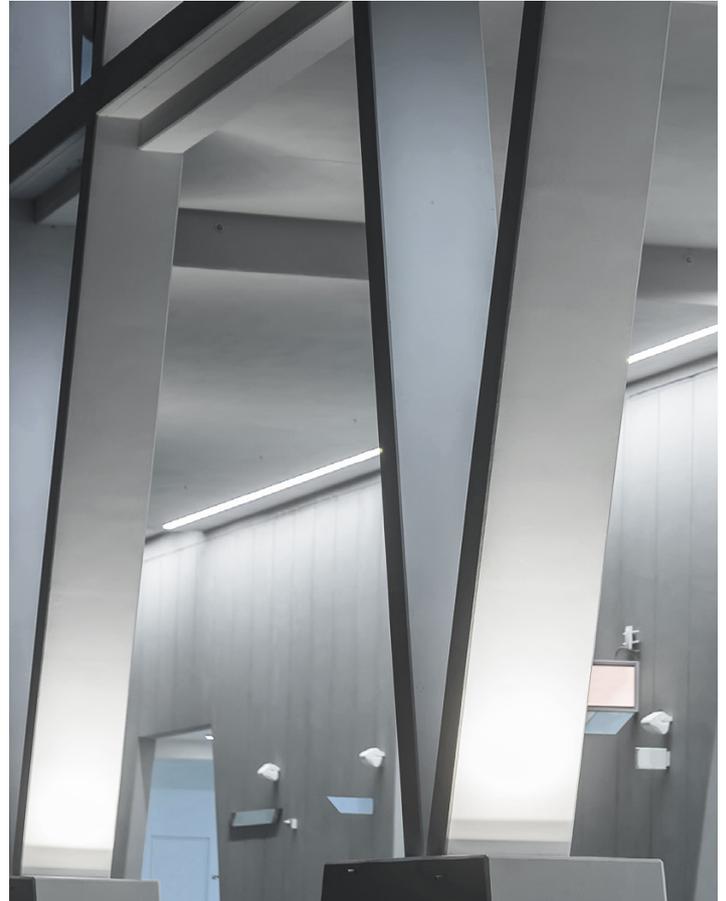
During the COVID-19 crisis, best use has been fundamentally challenged, impacting on all asset classes.

For example, COVID-19 has accelerated the shift to omni-channel retail, with a continued emphasis on digital transformation where customers will demand a smooth online purchasing experience coupled with speedy deliveries. Bricks and mortar stores will remain part of retailers' core business, but more consideration will be given to feasibility of using stores as micro-fulfilment centres for e-commerce orders.

'Last mile' storage areas will become increasingly attractive to retailers to support their online presence. Coupled with the increasing pressure on industrial land prices and rent, this may result in growing interest in 'on-demand warehousing' and 'co-warehousing.'

The focus on last mile delivery may create opportunities for distressed real estate assets such as car parks to be transformed into dark kitchens to cater for the growing online meal delivery market.

Rather than (underutilised) communal gyms in apartment complexes, there may be a shift to communal office facilities and meeting rooms. Dedicated cold rooms and secure parcel drop facilities will allow for contactless deliveries of groceries and other items.



Dispersion of offices

Rather than have one central hub, businesses will look to spread their office footprint across a city.

Businesses with joint offices and manufacturing factories will be looking to implement these arrangements to avoid the office team halting manufacturing operations.

Could flexible workspace providers step into this space to fill that gap if they can implement effective social distancing measures?

Retail delivery hubs

Expect retailers to demand spaces where they can store goods with the necessary facilities to ensure delivery services can pick up and go quickly.

Rise of the dark kitchens

Dark kitchens to be located within residential complexes and strategic logistics positions.



Post-COVID-19 readiness checklist

1. Consider how the strategic planning framework and/or planning controls will re-prioritise industrial or build to rent development.
2. Monitor consumer trends to evaluate attractiveness of retail spaces used as retailtainment vs e-commerce storage space.

Changes to how we transact

COVID-19 and the related regulatory response will likely have lasting impacts on key aspects of how real estate is transacted.

The previous unhurried move to online platforms for real estate transactions has already hastened due to constraints on real world auctions, execution of paper documents, physical settlements and face-to-face meetings.

This trend is likely to continue, given its successful use during the COVID-19 pandemic. We expect there will be a further adoption of compulsory electronic settlement platforms (e.g. PEXA) across more jurisdictions and a broader range of transactions, pressure for the temporary regulatory reforms allowing electronic execution of documents to be made permanent, and increased use of online auctions and virtual building tours.

COVID-19 necessarily gave rise to new lines of enquiry during the due diligence process. We expect these changes will remain for some time, as buyers assess the risk to income flow of a future health emergency. That will particularly be the case in respect of major tenancies to ensure an understanding of any express abatement or termination regimes for pandemic events or the imposition of lockdown legislation. The focus will also be on how leases deal with online sales so that a tenant trading well online should not benefit from a rent abatement.

Buyers will continue to focus on tenancy mix (with non-discretionary spending even more critical in the aftermath of COVID-19).

COVID-19 related concession deeds will have rent deferral and similar provisions continuing for many years, so this will also be a focus and will inform buyer risk assessments and contractual price adjustment mechanisms to deal with the deferred rent.

Key terms of Sale Agreements will be re-examined in light of risks highlighted by COVID-19. For example, clauses obliging sellers to conduct leasing or business activities in the ordinary course should allow a seller to respond to public health emergencies. Sale Agreements (particularly in jurisdictions where time is of the essence) may increasingly include provisions allowing extension of settlement if required due to direct impacts from a public health emergency. Buyers are likely to press for a public health emergency to be considered a material adverse change, triggering a termination right.

When negotiating new leases, particular attention will be paid to new provisions responding to the presence of infectious illness on premises. Heightened focus on landlords' liability for duty of care in the event of managing health and safety risks may also result in landlords playing a more active role in monitoring the performance of property managers.

Electronic transactions

Electronic settlement platforms will improve, become more cost effective, and be mandated across more transactions and jurisdictions

Temporary regulatory changes allowing efficient electronic execution will be a catalyst for future permanent regulatory change.

Online auctions and virtual building tours will gain traction for early stage inspections for buyer's seeking short-listing in the EOI campaign.

New focus for due diligence

Rent abatement provisions for major tenancy agreements will be scrutinised to determine triggers due to future pandemics.

Clauses allowing termination of major tenancies due to pandemic or similar circumstances will be a continued focus to purchasers and financiers.

COVID-19 concession arrangements and rent deferrals will be considered for their value impacts.

Sale and Purchase Agreements

Interim conduct provisions should address seller actions due to public health emergencies.

Provisions allowing settlement delays due to direct impact of public health emergency.

Buyers may seek material adverse change termination rights arising from a public health emergency.

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