

NOTES OF MEETING
PEMUDAH Private Sector Meeting No. 4/2020
29 April 2020

1. OPENING REMARKS

- Chairman YBhg. Dato' Andy Seo Kian Haw welcomed the members to the **Fourth PEMUDAH Private Sector Meeting of 2020** held via Cisco Webex Video Conferencing.
- Chairman thanked YBhg. Dato' Latif and MPC for arranging the meeting. He also thanked the Secretariat for organising the first two PEMUDAH Webinar Series which were well-received by the public.
- Dato' Latif briefed on the recent meeting he had with the Minister (Economy), YB. Dato' Sri Mustapa Mohamed and YBhg. Prof. Tan Sri Dr. Noor Azlan Ghazali. The meeting explored inputs relating to RMK 12 and the Covid-19 Pandemic. The Minister requested PEMUDAH and MPC to submit a paper on how to address the immediate challenges relating to businesses such as finances, workforce, technology, etc. and how to have businesses returned to scale of operations and their resilience strengthened to face the new normal post-MCO. The paper has to be submitted in a week's time. PEMUDAH needs to summarise all the relevant reform and improvement initiatives that had been or were being undertaken for inclusion into the paper.

2. PAPER 1: ENABLING DEVELOPMENT PLAN DIGITAL APPLICATION AND PROCESSING

A. YBhg. Datuk Ar. Ezumi Harzani Ismail, Director, Architect MAA, presented as follows:

(1) Issues of Concern:

- Front desk service suspension during Movement Control Order (MCO). The One Stop Centre (OSC), local authorities, land administration and technical agencies do not accept new development applications, including through online, during MCO;
- Back-office operation is suspended. Local authorities and technical agencies do not process applications, although the applications were submitted before MCO;

- Public delivery system related to construction permits are processed off-line. The infra-structure, hardware and software are not available for officer to work online from home.
 - Off-line proof of payment is required. Hardcopy receipts are required at application and compliance stages; and
 - Missed opportunities for technological advantage to process development applications.
- (2) 9,675 or 25% of the total of 38,700 applications expected in 2020 for planning approval, building plan approval and CCC are affected by the MCO.
- (3) **Recommendations:**
- Online front desk service for submissions and delivery system;
 - Continuity in back office operation through the OSC Online System to process applications;
 - Off-site connection between the office server and officers to enable Work-From-Home;
 - Online payment system e.g. MyEG and FPX for permit applications; and
 - Digital technological advantage via available platforms to hold online OSC meetings and processing and coordinating applications.
- (4) Technologies are already available to enable and support all of the recommendations but internal policies in practise at the public service delivery are impeding technology adoption.

B. The meeting noted that:

- (1) Datuk Ar. Ezumi expressed concern that submitting the 9,675 applications delayed by the MCO would cause the processing system to crash once the MCO was lifted. Mitigation measures will be required.
- (2) YBhg. Tan Sri Teo (PEMUDAH Member) suggested that government agencies to allow at least half of their workforce to work in the office to process the applications, while another half to Work-From-Home.

- (3) Ar. Lillian Tay (President PAM) commented that local authorities needed to allow advance-stage-completion construction projects to re-start and public utilities providers such as BOMBA should also recommence operations to offer their services to the construction industry. IT systems could address the issue of information security. The backlog of applications would threaten the processing system.
- (4) Encik Ganesh (PEMUDAH Member) attributed the lack of progress on online submissions to users' mind-set. Encik Zahid called for internal policies to be improved to allow for greater technology adoption and the mind-set of users to be addressed.
- (5) Chairman called on TWGDGP to look into the recommendations as the World Bank Group Subnational Study revealed inconsistency of days taken in permit applications and approvals processing between different States. Digital process upgrades are also needed at the Land and Mines Department and the Valuation and Property Services Department.
- (6) Encik Jaya Singam Rajoo (MITI) suggested that the proposal paper to be directed to MITI Senior Minister as MITI was leading the economic cluster. Dato' Latif concurred to the suggestion and stated that PEMUDAH would prepare a proposal paper for the above issue and recommendations, and submitted to MITI.

C. The meeting agreed that:

- (1) PEMUDAH to prepare a proposal paper on the recommendations to address issue related to enabling digital application and processing of development plan, and to submit to MITI.

Action: Secretariat

3. PAPER 2: COUNTER MEASURES FOR BUSINESSES SURVIVABILITY: IMMEDIATE PAYMENT TO PROFESSIONAL SERVICES

A. YBrs. Ar. Mustapha Kamal Zulkarnain on behalf of Malaysian Service Provider Confederation (MSPC), presented as follows:

- (1) MSPC is requesting the Cabinet to issue a directive requiring all clients to make immediate payments to professional services providers by May 2020 for invoiced billings issued up to 29 February 2020. The clients include government ministries, agencies and departments, GLCs, local authorities, developers and private and public-listed companies.

- (2) Architects work 75% from their offices and 25% at site. Clients have to pay their dues to their architects so that architects can continue to work from home while also cooperating with the MCO. Without receiving payments from clients and due to insufficient reserves, service providers will have to shut down their consultancies and services and seek incomes elsewhere despite the MCO. On the average, between 70% and 80% of all types of professional service providers consist of sole-proprietorships.
- (3) Outstanding fee payments for architectural firms are estimated to account for between 6 and 12 months of their salary payrolls. Such payments are already budgeted for by clients.
- (4) The paying-up of invoice billings will ease cash flows, save jobs and ensures the survival of professional service firms.

B. The meeting noted that:

- (1) Datuk Ar. Ezumi informed that a survey done in early March 2020 revealed that architectural firms usually did not receive prompt client payments before and during the MCO.
- (2) Encik Jaya Singam informed that the 14-day turnaround time for government entities to process and make payments for services and goods supplied was still applicable. All the entities are required to monitor the status of projects and payment claims. Delays are held accountable.
- (3) Ar. Lillian Tay added that the professional services sectors did not benefit from the government wage subsidies and payments had to be forthcoming from the public as well as the private sectors in order for these services to tide over the difficult period.
- (4) YBhg. Tan Sri Soh (PEMUDAH Member) felt that government revenue collections had been reduced. He suggested that PEMUDAH should also focus on the issue of government funding.
- (5) Encik Zahid suggested emphasis be placed again on Construction Industry Payment and Adjudication (CIPA) Act and the existing policies governing the public sector to make prompt payments to services and goods providers. He suggested to Ar. Mustapha to identify which government entities were delaying payments to professional services providers and MOF would be informed accordingly.

C. The meeting agreed that:

- (1) Ar. Mustapha to identify which government entities were delaying payments to professional services providers and MOF would be informed accordingly. This information is also needed to verify the issues before the secretariat can proceed with the proposal paper to be forwarded to KSN and MITI.

Action: Ar. Mustapha Kamal

4. COVID-19: RIPPLE EFFECT IMPACTING THE MALAYSIAN ECONOMY

A. YBrs. Cik Munirah Maarof, Senior Associate, Messrs. Tan Norizan & Associates presented as follows:

- (1) The COVID-19 pandemic is impacting on various sectors in Malaysia and existing legislations have their limitations/ restrictions in mitigating the MCO consequences such as the inability to perform contractual obligations and the conduct of meetings.
- (2) **Problem Statement Based on Industry Feedback & Studies:**
 - Inconsistent measures across Ministries and Agencies due to a lack of centralised and cohesive legislations; and
 - Long-term severe socio-economic impacts will affect manufacturing segment, investments, liquidity and insolvency; etc. due to a lack of centralised legislation to address the economic downturn.
- (3) A comparative overview was shown of COVID-19 related new legislations enacted in Singapore, the United Kingdom, Australia and New Zealand, and the lead government authority as well as the socio-economic sectors covered in each of these countries.
- (4) **Proposed Malaysia COVID-19 Bill 2020 and Its Objectives:**
 - To provide competency and suspending, deferring or modifying existing legislations to allow for appropriate actions by Ministries; and
 - To provide legislation to address provisions in existing legislations that limit or restrict appropriate actions.

(5) **Options & Impacts:**

- Status Quo – Business failures especially among SMEs, slow economic recovery, lack of foreign investments and inconsistency of measures at the federal, state and local governments;
- Regulatory action taken to pass a COVID-19 Act – This temporary Act shall supersede existing Acts and cuts across sectors. A single Ministry shall monitor the situation with support from other Ministries; and
- Non-regulatory action taken through directives or incentives – Directives can overlap across sectors and industries, multiple-layered efforts are monitored, and multiple timelines can be set based on needs.

The strengths, weaknesses, threats and opportunities of the above 3 options were listed out based on a SWOT analysis.

B. The meeting noted that:

- (1) Tan Sri Soh was concerned whether the *force majeure* clause would be part of the proposed COVID-19 bill as Malaysian exporters could suffer penalties running into millions of US dollars imposed by their overseas buyers. The Attorney General's Chambers (AGC) should be consulted. Mr. David Jones informed he had discussed the clause with the Chief Registrar who then checked with Chief Justice who saw the issue as highly complex. Encik Lukman (Bar Council) agreed with the need to suspend contractual obligations for a while. Chairman informed that the House Buyers Association (HBA) wanted a "shield" to protect property purchasers as was also requested by other associations. Tan Sri Teo was concerned for bi-partite interests to be protected. Cik Munirah expected the drafting of a bill would consider feedback received from various industries on contractual obligations.
- (2) Encik Jaya Singam proposed the alternative that a Cabinet decision be sought for a directive to be issued instead of drafting a parliamentary bill which normally takes about 2 years. Tan Sri Soh enquired whether the 1-day parliamentary sitting in May 2020 could approve the bill. Cik Munirah was positive the bill could be drafted in time to be approved in May 2020 provided stakeholders' feedback was also timely.
- (3) Dato' Abdul Latif concurred with Encik Jaya Singam and suggested that before PEMUDAH seek Cabinet decision on this matter, a proper consultation through Regulator Impact Assessment (RIA) process should be undertaken, so that the best options can be recommended. RIA will enable to gather feedback from

various stakeholders, identify every available options and conduct cost-benefit analysis to the options. Findings from RIA will be proposed to MITI for consideration to be escalated to the Cabinet or the Economic Action Council (EAC) for further decisions.

- (4) Ar. Lillian Tay highlighted that many legislations empowered Ministers to suspend the provisions of Acts under unforeseen circumstances. She suggested that this option should be explored as a possible alternative to the drafting and enacting of a bill. Encik Lukman said the relevant Acts had to be examined for such ministerial powers but fresh legislation would seem to be necessary as countries such as Singapore had passed a COVID 19-related Act.

C. The meeting agreed that:

- (1) A proper consultation through Regulator Impact Assessment (RIA) process will be undertaken, so that the best options can be recommended. Findings from RIA will be proposed to MITI for consideration to be escalated to the Cabinet or the Economic Action Council (EAC) for further decisions.

Action: Secretariat/ RIA Team MPC

5. OTHER MATTERS

The following issues/ matters were raised to be addressed/ noted by the meeting:

(1) Government Entities' Payments to the Construction Industry

Chairman suggested that Encik Foo Chek Lee as the Co-Chair of TWG Contracting with the Government could liaise with the construction industry to obtain feedback on the conduct of payments by government entities and then to liaise with MOF and other relevant Ministries.

(i) The meeting agreed that:

- a. Encik Foo Chek Lee as the Co-Chair of TWG Contracting with the Government could liaise with the construction industry to obtain feedback on the conduct of payments by government entities and then to liaise with MOF and other relevant Ministries.

Action: Encik Foo Chek Lee

(2) Sales & Service Tax (SST)

Dato Chua informed that RMCD required SST returns to be submitted by 30 April 2020. He has contacted Dato' Ahmad Maher (Deputy Director General RMCD) to enquire about the near deadline. RMCD informed that they will issue a press

statement to extend the deadline for SST submissions and payments to 31 May 2020.

(3) Goods & Services Tax (GST) Refunds

Dato' Chua informed that he was still liaising with RMCD on the refunds issue. RMCD is agreeable with the approach of refund first audit later due to an insufficient number of auditors relative to the number of outstanding claims to be processed. RMCD is using the risk assessment approach to expedite refunds to zero-risk claimants. The 90%/10% formula of refunding requires a 2-year-validity bank guarantee to be provided to RMCD. The risk assessment criteria may have to be revised if the number of claimants eligible is too low. Dato' Chua will report again to the next meeting.

(i) The meeting noted that:

- a. Tan Sri Teo believed that banks did not provide 2-year bank guarantees. Bank guarantees are usually issued on a yearly renewable basis.

6. ADJOURNMENT OF MEETING

Chairman adjourned the meeting at 1.30 p.m. with a word of thanks to the members for their presence and contributions to the meeting.

The next meeting is scheduled to be held on 6 May 2020 (Wednesday) at 11.00 a.m.

SECRETARIAT

THE SPECIAL TASK FORCE TO FACILITATE BUSINESS (PEMUDAH)

2 MAY 2020

ATTENDANCE LIST

Chairman

YBhg. Dato Dr. Ir. Andy Seo Kian Haw
PEMUDAH Co-Chair / Vice President, Federation of Malaysian Manufacturers (FMM)

PEMUDAH Private Sector Members

- | | | |
|----|--------------------------------------|---|
| 1. | YBhg. Dato' Pardip Kumar Kukreja | Executive Chairman
Paradise Group of Company |
| 2. | YBhg. Dato' Seri Wong Siew Hai | Chairman
MAEI |
| 3. | YBhg. Tan Sri Teo Chiang Kok | The Associated Chinese Chambers
of Commerce and Industry of
Malaysia (ACCCIM) |
| 4. | Mr. David Anthony Jones | Managing Director APAC
Chartered Management Institute |
| 5. | Mr. Ganesh Kumar Bangah | Immediate Past Chairman, The
National Tech Association of
Malaysia (PIKOM) |
| 6. | YBhg. Tan Sri Soh Thian Lai | President, Federation of Malaysian
Manufacturers (FMM) |
| 7. | YBhg. Dato' Abdul Latif Hj Abu Seman | Director General, MPC |

ABSENT WITH APOLOGIES

- | | | |
|-----|---|---|
| 8. | YBhg. Tan Sri Azman Shah Dato' Seri Harun | President, Malaysian Employers
Federation (MEF) |
| 9. | YBhg. Tan Sri Abdul Rahman Mamat | Chairman
Asia Logistics Council |
| 10. | YBhg. Datuk Wira Jalilah Baba | Group Chairman, PKT Logistic
Groups Sdn. Bhd |
| 11. | Mr. Foo Chek Lee | President, Master Builders
Association Malaysia (MBAM) |

OTHER INVITED GUESTS

- | | | |
|-----|-------------------------|--|
| 12. | Mr. Jaya Singam Rajoo | Ministry of International Trade and
Industry (MITI) |
| 13. | Dr. Asmawi Noor Saarani | MITI |

14.	Ms. Munirah Maarof	Tan Norizan & Associates
15.	Mr. Safarudin Tambi	Tan Norizan & Associates
16.	YBhg. Datuk Ar. Ezumi Harzani Ismail	Arkitek MAA Sdn Bhd
17.	Ar. Mustapha Kamal Zulkarnain	Professional Architect
18.	Ar. Lillian Tay	President PAM
19.	Ts. Choo Kok Beng	Champion PSPN
20.	En. Lokman Sheriff	Focus Group Leader of Legal Fraternity PSPN
21.	Pn. Nor Halisa Mohamad Halil	Program Manager PSPN
22.	Pn. Azhani Ismail	Project Manager PSPN
23.	Mr. Leong Kin Choong	MPC Associate

SECRETARIAT

24.	Mr. Zahid Ismail	MPC
25.	Ms. Wan Fazlin Nadia Wan Osman	MPC
26.	Mr. Muhd Adha Abd Hamid	MPC
27.	Ms. Nurul Farahaton Najihan Jusoh	MPC
28.	Ms. Rabiatal Hana Ishak	MPC