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Chamber of Commerce
and Industry WA

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Ms Jennifer Wilson
KPMG Review Team
235 St. Georges Terrace,
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Via online submission portal

Dear Ms Wilson

Independent Review of the *Construction Industry Portable Paid Long Service Leave Act 1985 (WA)*

The Chamber of Commerce and Industry of Western Australia (CCIWA) is the peak body advancing trade and commerce in Western Australia. We are fundamentally committed to using our insights to develop and advocate for public policies that will help realise our vision to make WA the best place to live and do business.

CCIWA welcomes the opportunity to comment on matters relevant to Western Australia's Independent Review of the *Construction Industry Portable Paid Long Service Leave Act 1985 (WA)* (the Act) being conducted by KPMG.

The areas of possible concern about the operation of the Act, including possible legislative reform, relate to whether it reflects the changing and contemporary nature of industrial relations in WA, the practices and needs of the contemporary construction industry, and how it may impact the State's economy.

Our comments in this submission are high-level and structured to address some of the key aspects of the Review's Terms of Reference, which are as follows:

1. **Monetary entitlements:** We contend that any legislative reform around employee's monetary entitlements should carefully consider the impact these changes have on the cost of doing business pressures in WA and the State's economy. A substantial increase to the contribution rate employers are required to pay in the long service leave scheme for example, would place additional cost pressures on business, especially small and medium sized enterprises (SMEs), which are already under increased financial strain.

Our most recent Business Confidence (June Quarter) found that 88 percent of businesses within the construction sector faced increased cost of doing business pressures, and these costs were considered a barrier to their growth. In addition, the latest insolvency data (June 2023) found there has been a 41 per cent increase in the number of insolvencies reported from last financial year, and 26 per cent of these businesses were within the construction sector. With this as context, any legislative reform around monetary entitlements must have adequate regard for the capacity of businesses to pay for an increased levy and the broader economic impact.

2. **Reflecting contemporary workforce models and practices:** We oppose legislative reform which, however well intended, makes it harder for businesses operating in WA to succeed and prosper. Any legislative reform relating to the Act should carefully balance the objective of modernising legislation, to ensure it reflects contemporary labour practices, with the imperative of facilitating construction and infrastructure project development, which contributes to WA's economy. Any reform of the Act should not impede construction and infrastructure projects that are vitally important to WA's economy.
3. **Flexibility in the Act:** Flexibility in the Act may deliver a positive outcome for employees but is challenging for businesses if it creates uncertainty and complexity. Regulatory reform should not make it harder to do business. Good regulation is a necessity, but red tape problems arise when excessive and poorly administered requirements are placed on businesses. The intent of the Act should be consistently achieved and the regulatory burden on participants, especially SMEs, should be limited.
4. **Deficiencies and anomalies in the Act:** We contend the Act is not deficient or flawed. Any perceived deficiencies and anomalies in the operation of the Act should, if necessary, be addressed by carefully considered and well drafted legislative reform which allows for the efficient and effective administration of portable long service leave. We also contend that the exclusion of an employee from eligibility for long service leave under the Act does not constitute a deficiency in the operation of the Act or an anomaly reflected by the Act.
5. **Arrangements in other states and territories:** We contend that the Act, and any reform concerning it, should reflect the nature of construction industry practices and businesses' operating requirements in WA.
6. **Statutory compliance and enforcement mechanisms:** We advocate for legislative reform that makes it easier for businesses to operate and prosper in WA. Simplicity, rather than complexity, in legislative reform should be a factor that is considered when examining statutory compliance and enforcement

mechanisms. Complexity in legislation, including those relating to compliance and enforcement mechanisms, can increase the burden on business and may unintentionally contribute to issues about compliance and enforcement. Legislative reform should also be practical and drafted with precision to ensure people know what they need to do to comply with it and how it impacts their business.

Once again, thank you for the opportunity to comment.

If you have any queries, please contact Kate Bretherton, Workplace Relations Adviser, on (08) 9365 7469 or via email at Kate.Bretherton@cciwa.com.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'CR', with a horizontal line extending from the end of the signature.

Chris Rodwell
Chief Executive Officer