

11 October 2023

Hon. Rita Saffioti MLA  
Deputy Premier; Treasurer; Minister for Transport; Tourism  
13<sup>th</sup> Floor, Dumas House  
2 Havelock Street  
WEST PERTH WA 6000

Via email: [streamlinewa@treasury.wa.gov.au](mailto:streamlinewa@treasury.wa.gov.au)

Dear Deputy Premier

### **Red tape reduction and approvals reform**

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 policies that help realise our vision to make WA the best place to live and do business.

We thank you for the opportunity to put forward ideas on how the State Government can reduce red tape and implement other regulatory reform that would see a meaningful change to Western Australia's economy. This submission has been formed with considerable input from our members.

Our primary focus in this submission is how the government can assist Western Australian industry to capitalise on the significant opportunities created by current global shifts, primarily the shift to clean technology. We have also put forward recommendations around planning reform as well as other areas of reform the Government should consider.

Further ideas on red tape reform are also provided in Attachment 1.

### **Capitalising on the shift to lower emissions**

Western Australia is uniquely positioned to harness global economic opportunities, particularly those related to the energy sector and decarbonisation. To fully capitalise, our economy requires substantial business investment. However, the global competition for capital is intensifying, and the introduction of initiatives like the US Inflation Reduction Act has only intensified this competition.

Over the past several months, we have consulted with numerous proponents across various sectors, including resources, agriculture, transport, and utilities as well as government and Traditional Owners. These stakeholders have been deeply considered in sharing their experiences, compelled to share their concerns on the basis that significant investment that should underpin WA's future is at risk.

Western Australia and Australia, while unable to match the scale of subsidies offered in other jurisdictions, can nevertheless establish themselves as attractive destinations for investment. A key strategy is to ensure that our regulatory frameworks are both efficient and competitive. Unfortunately, our regulatory regimes, particularly environmental approvals, are burdened by excessive complexity and protracted timelines. This frustrates businesses and damages Western Australia's appeal as an investment destination.



**Chamber of Commerce  
and Industry WA**

---

T: (08) 9365 7555

E: [membership@cciwa.com](mailto:membership@cciwa.com)

W: [www.cciwa.com](http://www.cciwa.com)

Notwithstanding the actions the State Government has taken to reduce red tape and improve regulation within WA through its Streamline WA initiative, there is still significant progress to be made to ensure our regulatory regime is as competitive and efficient as possible, while maintaining rigorous oversight standards.

### **The Federal Government's 'nature positive' agenda**

The Commonwealth's 'Nature Positive' agenda represents the most comprehensive remaking of the national environmental law since the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) was introduced. The proposals have the WA business community worried that ongoing efforts by the State Government to streamline WA's regulatory approvals will be undone by burgeoning Federal regulation.

The sentiment across industry is that the proposed new Federal environmental laws will be out of touch with the commercial realities and complexities of doing business in WA and would stifle investment in WA.

The major concerns regarding the EPBC Act reform include:

- The extent to which social and economic considerations will be factored into the new National Environmental Protection Agency's decision-making process.
- The proposed 'nature positive' environmental mandate which could create a very high, impractical benchmark for project proponents.
- The new offset regime including the extent to which offsets will need to be delivered and secured before Federal approval is granted.
- Potential additional consultation requirements on top of what is already required under State laws and the effect of the Federal Court's decision on what constitutes a 'relevant person' in the context of consultation.

The compounding impact of all these proposed changes is a more challenging environment for business in WA that could see investment redirected to more favourable jurisdictions and the perverse consequence that environmental decisions restrain efforts to meet Australia's decarbonisation goals.



#### **Recommendation 1**

##### **Influencing the direction of the Federal Government**

The State Government should work with the Federal Government to limit the aspects of its Nature Positive agenda that would be most damaging for WA.

### **Concerns with the State's approvals framework**

There is also still room for considerable improvement in the State's regulatory approvals framework. Businesses have remarked on their "laborious and frustrating" engagement with WA's Environmental Protection Agency (EPA), which many have attributed to cultural challenges and inadequate resourcing.

#### *Onerous requirements*

One of the main challenges for WA businesses around the current approvals process is the management of cultural heritage. While CCIWA recognises the importance of protecting our cultural heritage, the regulatory proliferation around cultural heritage management — to the extent that multiple departments across the approvals interface now require project proponents to demonstrate engagement with Traditional Owners — alongside the WA EPA's onerous

requirements, is significantly impacting projects. Not only are WA businesses being left frustrated, but there is also material concern around the pressure that these consultation demands are placing on Traditional Owners.



#### Recommendation 2

##### Appropriate resourcing at agencies and a balanced approach to approvals decisions

The State Government should seek to ensure that the EPA, Green Approvals Unit and other key parts of Government with involvement in approvals are appropriately resourced. It should also ensure that key regulatory bodies have a culture where public servants can sensibly balance environmental, social, cultural and economic concerns.

#### *Inability to simultaneously progress approvals*

Land access has also been raised as a key challenge. To proceed with the development and use of land, such as Crown land, often requires multiple formal approvals. However, it's the inability to simultaneously progress approvals across departments to achieve parallel workstreams that acts as a significant barrier as it greatly impacts on the timeliness of projects.



#### Recommendation 3

##### Advancing parallel approval workstreams

The State Government should conduct a review into the legislative barriers that currently slow down the approvals process, including section 41 (3) of the Environmental Protection Act, which currently prevents the simultaneous advancement of approval workstreams

#### *Third party appeals*

The increasing use of litigation and appeals by third parties, which are seemingly being utilised for the sole purpose of frustrating the efforts of project proponents, are also adding to business' concerns. Smaller companies such as explorers are being strategically targeted, and a proliferation of similar appeals on a given project (for example, the extension of the North West Shelf) are simply designed to delay and frustrate. While appeals mechanisms are appropriate, it is clear that changes need to be made.



#### Recommendation 4

##### Preventing abuse of appeal processes

The State Government should seek to prevent abuse of third-party appeal processes by putting in place appropriate limits.

#### *Adopting successful initiatives*

The State Government has recognised the challenge of needing robust regulation to future-proof WA's unique environment and cultural heritage while ensuring that our regulatory regime does not place unnecessary burden on businesses that would drive investment away from our state.

The establishment of a new green approvals unit, whose role is to streamline and coordinate approvals processes for green energy projects, is a testament to this and shows that the State Government is well aware of just how vital streamlined approval pathways are to attract new investment. With businesses outside of the green energy sector facing significant regulatory challenges, any initiative that can streamline regulatory processes should be duly considered and adopted beyond just one sector.



**Recommendation 5**  
**Streamlining approvals processes**

The State Government should seek to determine the success of the new Green Approvals Unit as quickly as possible, and if it is considered a success, extend it to the broader economy.

### **More regulatory certainty needed**

While there is a pressing need for our regulatory approvals framework to be streamlined and simplified, there are some areas that would benefit from having regulatory regimes bedded down.

A robust and well-structured legislative framework is important to give certainty to proponents particularly in areas where there is a considerable lack of regulation such as carbon capture, utilisation and storage (CCUS), and hydraulic fracturing.

CCUS technology is undeniably a linchpin for achieving the decarbonisation of hard-to-abate industries and forms the cornerstone for the growth of emerging low-emissions industries. The State Government has recognised the important role that CCUS projects can play in reducing emissions and catalysing industry investment, with Western Australia well positioned to become a world leader in CCUS technology. However, to achieve this ambition, we need a well-structured regulatory framework for CCUS that will provide much-needed regulatory certainty.

Furthermore, despite the hydraulic fracture stimulation moratorium being lifted on existing exploration permits in 2019, hydraulic fracturing exploration is still unable to reliably commence until regulations under the *Petroleum and Geothermal Energy Resources Act 1967* and the *Environmental Protection Act 1986* are developed. These regulations were earmarked to be completed in late 2022 but appear to have stalled.



**Recommendation 6**  
**Fast-tracking the development of necessary regulations to facilitate new technologies**

The State Government should fast-track its *Petroleum Legislation Amendment Bill (B) 2023* and any related regulations in order to accelerate carbon capture, utilisation and storage projects. It should also fast-track its development of regulations under the *Petroleum and Geothermal Energy Resources Act* and the *Environmental Protection Act* to enable hydraulic fracturing exploration to occur where it is required.

## **Planning reforms**

### **Significant Geological Supply areas**

Significant Geological Supply (SGS) areas are defined within State Planning Policy 2.4 Planning for Basic Raw Materials (BRM) 2021 as “areas identified by the Department of Mines, Industry, Regulation and Safety (DMIRS) as having State significance due to the size of the resource, relative scarcity, demand and/or location near growth areas and transport routes”. They are “identified as the highest priority extraction areas for basic raw materials (BRM)” and “represent strategic, long-term supplies of BRM requiring protection”. However, the ability to give planning and development approval priority to quarry developments in these areas is limited. There are many examples where other land values over-write the BRM values in an SGS. For example, in Southwest WA, complex environmental regulation across Commonwealth, State and Local Governments limits the release of new BRM supplies to market, even when those resources are within an SGS.

The experience of industry is that the designation of an area as SGS does not materially smooth the development approval pathway for a quarry within that SGS. It is not that there is a shortage of basic raw materials in the ground, it is an issue of accessing the material and gaining a Development Approval in a timely and cost-effective manner.

Furthermore, the legal framework regulating the extraction of basic raw materials in WA is complex.

Where materials occur on private (freehold) land, they are regulated through approvals granted under the *Planning and Development Act 2005*, with local councils being the lead approval agency. As such, they are subject to local laws and state planning policies. However, industry is especially concerned with the disconnect between local and state planning policies which invariably leads to proposals being determined by the State Administrative Tribunal resulting in additional costs and further time delays for all parties.



**Recommendation 7**  
Providing an alternative approval pathway

The State Government should develop an alternative approval pathway for State significant quarry developments within a Significant Geological Supply area, for example allowing Ministerial intervention/'call-in' for quarry developments that meet certain thresholds as is the case in other jurisdictions like Victoria.

### **Industrial zoned land**

Two major concrete plants in East Perth that are major suppliers of concrete to the Perth CBD are due to shut in 2024 due to planning rezoning. Many major cities permit concrete batching plants to locate close to town and construction activity centres to ensure the sustainable development of their communities.

If concrete plants are located further away from the markets it supplies, it can significantly increase the costs borne by consumers, developers, Government, and taxpayers. Increased truck traffic could also further contribute to road congestion and more frequent and longer trips to transport the material from site to market could result in more negative environmental impacts due to the increased amount of carbon dioxide produced.



**Recommendation 8**  
Increasing the availability of industrial zoned land within Perth

The State Government should ensure that there is sufficient industrial zoned land within Perth to allow key construction supply chain facilities to be established close to markets.

### **Other areas of red tape**

In addition to project approvals and planning reforms, there are other areas where regulatory reform is warranted.

#### **Enhancing the State's High Wide Load Network**

Roads are the most dominant mode of transport for most freight and are used by all industries at some stage in their logistics chain. If they are not fit-for-purpose, roads can substantially hamper businesses' ability to operate efficiently and profitably.

Over two decades ago, agreement was reached between the State Government and industry on the need to implement a High Wide Load (HWL) network in Western Australia. Vehicles carrying HWL require extra lane width and height clearances, which are not always available on the principal road freight network. HWL access is currently restricted on key parts of WA's road network. Main Roads Western Australia has made significant progress implementing the originally planned HWL corridors from a width perspective but loads that can be transported within and leading out of the metropolitan area fall short from a height perspective.

The HWL corridor network is extremely important to the success of numerous industries, particularly those that need to be able to transport HWLs from one location to another. Without better HWL access on WA's road network, bottlenecks will arise.



**Recommendation 9**  
**Enhancing the State's road freight network**

The State Government should work with industry to identify parts of the HWL road corridor network where enhanced functionality is needed and prioritise addressing these. Enhancements would vastly improve efficiency of the State's road freight network.

### **Tying cost recovery to improving regulatory service delivery**

We acknowledge the steps that the State Government has been taking to make it easier to do business such as the newly launched Environment Online and the role this can play in improving approval timeframes for Environmental Impact Assessments, as well as projects that aim to introduce more transparency over approval timeframes. However, we are concerned with the trend toward recovering more of the costs of regulation from industry without a mechanism to ensure agencies that increasingly introduce cost recovery will implement ongoing improvements in delivering better and lower-cost service outcomes.



**Recommendation 10**  
**Holding regulators accountable**

The State Government should ensure that where there are models that require industry to contribute to the costs of regulation, they incorporate mechanisms to ensure regulators are accountable for continually improving processes over time.

### **Digitising regulatory services**

Western Australia has been under a digital transformation with numerous initiatives implemented in recent years, as well as the Digital Strategy Roadmap and other accompanying roadmaps that have highlighted all the work the government is undertaking to improve digital readiness. CCIWA welcomes these developments.

However, WA's regulators are still falling behind. The slow pace of the WA public sector's digitisation is holding businesses back from growing their organisations and imposing unnecessary costs. (It also impacts individuals living in Western Australia as they receive inferior products and services to those available in other States such as New South Wales.)

The Digital Strategy Roadmap must be accompanied by both a clear signal to agencies that investing is a digitisation priority, and sufficient funding in the budget. Without this, we will continue to lag the rest of the nation in transforming the interface between the State Government and people, business and communities.



**Recommendation 11**  
Improving the public sector's digital readiness

The State Government should continue to provide additional funds into the Digital Capability Fund and hypothecate some of this funding on an ongoing basis for agencies that invest in improving their digital interface with businesses.

### **Retail trade regulations**

The current rules that govern retail trading hours and what 'Special Retail' shops can sell under the *Retail Trading Hours Regulations 1988* are outdated, do not reflect contemporary practice, and create significant complexity for business.

For example, a Special Retail business can sell light bulbs, but not light fittings, outdoor lighting but not indoor lighting, wood-fired heaters but not gas heaters, kitchen sinks but not dishwashers. News agencies can sell education toys, but not 'computer games that are mains operated'.

It is unclear what the purpose or justification is for keeping these restrictions in place. They simply add to the costs of doing business and create an unnecessary barrier to entry for smaller businesses, who may not have the resources or understanding to navigate the compliance risks.



**Recommendation 12**  
Enabling contemporary retail trading

The State Government should abolish Column 2 in the table under Section 7(2) of the *Retail Trading Hours Regulations 1988*, which prescribe what a business can sell. This would allow Government to continue to prescribe the types of business that can trade extended hours (specified in Column 1) but would be far less prescriptive in doing so. Alternatively, we would be happy to work with Government on how to reform and improve Column 2.

### **Conclusion**

Thank you for the opportunity to put forward ideas on how to reduce red tape. The State Government has long had a mature understanding of the importance of improving regulation and have enacted positive initiatives over the years to achieve this. Continuing to do so will make WA a more attractive place to invest and do business and will also enable us to play a more important role in the global transition to net-zero.

Should your office or Department have any questions regarding this submission, please have them reach out to CCIWA Chief Economist and Director of Marketing, Brand and External Affairs, Aaron Morey, at [aaron.morey@cciwa.com](mailto:aaron.morey@cciwa.com).

Yours sincerely

Chris Rodwell  
**Chief Executive Officer**