

8 April 2024

Hon. Rita Saffioti MLA
Deputy Premier, Treasurer, Minister for Transport, Minister for Tourism
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Via email: minister.saffioti@dpc.wa.gov.au



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Dear Deputy Premier

Western Australian Best Practice Industrial Conditions

I write in relation to the “Western Australian Best Practice Industrial Conditions” (WABPIC) policy, developed by Main Roads, for application on the Tonkin Highway Extension and Thomas Road Upgrade.

We hold considerable concerns about this new industrial relations policy. The policy, under the pretence of a procurement policy, seeks to dictate terms of the employment and contractual relationships that go far beyond what is the norm in the civil construction industry in Western Australia. Our concerns are explored in further detail below.

In the interests of transparency and good policy development, we consider it appropriate for this process to be halted, until proper public consultation with industry has been undertaken to establish any such terms and conditions. Only then can unintended consequences be minimised.

WABPIC creates unrealistic industrial relations obligations for State construction projects

Of most concern is the way the WABPIC policy goes further than just simply setting out best practice, seeking to mandate workplace terms and conditions across Western Australian construction projects, well beyond current terms.

Concerningly, these mandated terms and conditions not only capture the Tier 1 contractors, but also those smaller contractors within their supply chains. This creates a significant barrier for smaller contractors to participate in the construction of State infrastructure projects in the future.

In addition, the terms and conditions allow for further disruption and delay on worksites, by giving effective unfettered access to the CFMEU, above what is legislated currently under the *Fair Work Act 2009* (Cth).

WABPIC will have a significant cost impact on major infrastructure projects

We also hold significant concern that if the WABPIC was introduced, it would be a costly hit to both public expenditure and construction contractors, and potentially see projects become unviable and threaten the financial viability of construction businesses, a sector that is already under significant financial pressure. We suggest that this impact will flow beyond just projects yet to commence, but also projects currently underway – at a cost to the State Government’s Budget and contractors respectively.

As you would be aware, the Queensland Government, under former Premier Anastacia Palaszczuk, introduced the Queensland Best Practice Industry Conditions with similar industrial relations terms and conditions. There has since been reports of cost increases and productivity declines. As a result, according to the *Queensland Major Constructors Association's 2023 Major Projects Pipeline 2023 report*, project costs are expected to rise by 20 to 30 per cent over the next 5 years, with productivity also declining.¹

Infrastructure projects often already have extensive double digit percentage cost overruns as it is. The conditions proposed by the proposed WABPIC will create additional and significant cost pressures, for both the State's Budget and construction contractors, alike.

We are also concerned about the unrealistic precedent this sets for the broader construction industry, including for major non-government projects, including much needed housing and residential construction, placing at risk future jobs and business investment in these areas as well.

Concluding remarks

It is appropriate for employers, employees, and their representatives to negotiate individually what is in the best interests of both their workforce and the businesses' capacity to pay in context with the National safety net of the *Fair Work Act 2009* (Cth) and National Employment Standards. Any deviation from this will lead to perverse economic and cost outcomes, and likely increased industrial disputation.

To this end, we request that the WA Government pause the rollout of the WABPIC, and opens a broad public consultation process on this policy, which enables both small and family business as well as the larger contractors, to have visibility on the terms and conditions being proposed, and the ability to provide robust feedback.

Due to the cross section of areas this policy has the potential to impact, a copy of this letter has been provided to the Premier, Under Treasurer and Minister for Industrial Relations.

Sincerely



Chris Rodwell
Chief Executive Officer

CC.

Hon. Roger Cook MLA, Premier

Hon. Simone McGurk MLA, Minister for Industrial Relations;

Michael Barnes, Under Treasurer;

Doug Morgan, Acting Managing Director Main Roads WA;

Peter Woronzow, Director-General of the Department of Transport;

Leo Cocci, Managing Director of Office of Major Transport Infrastructure Delivery

¹ Queensland Major Constructors Association, *2023 Queensland Major Projects Pipeline Report*, November 2023 [14]