

2 June 2021

Senator the Hon. Michaelia Cash
Attorney-General of Australia and Minister for Industrial Relations
PO Box 6100
Senate Parliament House
Canberra ACT 2600

Via email: Michaelia.Cash@ag.gov.au

Dear Attorney,

Australia's leading employer groups the Australian Chamber of Commerce and Industry (ACCI), Australian Industry Group (Ai Group), Australian Resources and Energy Group (AMMA) and Master Builders Australia (MBA), (**‘the Employer Groups’**), urge the Morrison Government to continue to pursue important industrial relations (**‘IR’**) reforms within this parliamentary term.

We congratulate the Government for passing important casual employment changes in March. Those changes were critical for dealing with a pressing and serious threat to employment. However, with the IR framework placing significant restrictions and productivity barriers on businesses and the economy, more fundamental reforms are gravely overdue.

As the world realigns post-COVID-19, the Australian labour market is already outperforming expectations. More functional and practical IR regulation would see our members - small, medium, and large - create even more jobs, bring unemployment even lower, and further lift our nation's competitiveness.

The Employer Groups are united in the strong view that proposed legislative changes across the following areas, consistent with those examined within the 2020 IR Working Groups, should remain of the highest priority to support Australian job creation during the post-pandemic economic recovery.

1. Enterprise agreement making

Enterprise agreement making has been the cornerstone of Australia's IR system since the early 1990s and is our nation's designated mechanism to progress productivity and shared gains for employers and employees.

However, the past 10 years have seen a dramatic and sustained fall in the use of enterprise agreements in Australian workplaces, declining from 24,400 in-term private sector agreements in 2010 to less than 9,600 today.

Without significant policy intervention this downward trend is only set to continue. Members of the Employer Groups are increasingly reporting a strategic move away from enterprise agreements due to the complexity, unpredictability and cost of the process. Employers have no confidence in the current system and until that changes, enterprise bargaining will remain in terminal decline.

The enterprise agreement making amendments contained in the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill* (**‘IR Bill’**) were well-balanced, measured and administrative in nature. By removing unnecessary complexity from enterprise agreement making and facilitating the approval of new agreement applications within 21 days, they would go some measure towards restoring employer confidence in pursuing enterprise bargaining.

Reviving enterprise agreement making is one of the key policy triggers the Morrison Government can activate in the post-pandemic environment to support jobs, productivity and wages growth.

Fairly modest reforms will encourage employers to pursue new productivity measures and lift output across the economy, while employees will see faster and greater pay rises.

2. Award flexibilities

Following the limited and temporary flexibilities provided by the FWC, the Employer Groups commend the attempt of the Morrison Government to legislate additional relief from restrictive award conditions in the IR Bill, even if only to workplaces covered by 12 of Australia's 121 awards.

The award flexibilities proposed by your Government were entirely justifiable given the circumstances facing businesses across pandemic-affected industries. Re-prosecuting those limited measures would address perverse outcomes brought about by an awards system that has failed miserably in allowing businesses to adapt to the disruption of COVID-19, such as:

- Employers across some award-covered industries being unable to offer additional working hours to part-time employees without attracting punitive overtime rates, despite other awards allowing for agreement to waive the payment of overtime;
- Part-time employees not being offered additional hours, even where readily available, due to their inability to voluntarily work those hours without receiving overtime payments;
- Employers prevented from directing employees to undertake different duties or work at different locations even if that flexibility was critical to keeping the doors open; and
- Employees being stood down or even made redundant despite opportunities to be productively engaged in other parts of the business, due to award restrictions about how an employer can utilise their labour and talents.

The urgency to address the inflexibilities imposed on Australian businesses by the industrial awards system, especially SMEs, has never been greater as they seek to bounce back from lockdowns, significantly reduced revenues and dramatically changed market conditions.

3. Greenfields agreements

Facilitating longer nominal terms for greenfields agreements to support the construction of major resources and infrastructure projects is a sensible and long overdue reform; recommended in multiple previous reviews of the international competitiveness of Australia's IR system and critical to securing the next wave of global major project investment in this country.

There is an enormous opportunity for Australia's resources and energy industry to contribute further to the nation's post-COVID economic recovery and higher living standards for generations. The Commonwealth Department of Industry has described the sector as being on the verge of "a new growth cycle", with 335 potential new major projects worth approximately \$334 billion in Australia's investment pipeline.

If all this investment could be secured, the job creation would easily exceed 100,000.

The IR Bill sought to amend the greenfields agreements provisions to facilitate agreements of up to six years' duration for the construction of new 'mega projects'.

Requiring agreement by unions and limited to major projects with capital value exceeding \$500 million, this simple and uncontroversial change would provide certainty around cost and timing of world-class infrastructure, resources and energy projects which deliver significant employment and economic opportunities throughout the community.

Extending the maximum term of greenfields agreements to six years (just 12 months longer than the maximum term for all agreements made between 1996 to 2009) would significantly assist Australia's resources, energy and construction industries to secure this new global investment and provide a significant shot in the arm for the Australian economy and jobs.

The above IR system improvements, based on the work of the 2020 Working Groups and key schedules of the IR Bill not passed in March, would significantly improve the ability for businesses to invest, employ, pay higher wages, and generate new sources of taxation and resource royalties.

These outcomes should be of the utmost priority as the nation emerges from the COVID-19 economic downturn and seeks to position itself competitively within restructured global markets set to be uncertain, unpredictable, and more competitive. In such an environment, Australian enterprises should not be left fighting against IR legislation holding them back from reaching their full productive potential.

In closing, the Employer Groups collectively urge the Morrison Government to pursue these modest and incremental IR reforms during this term of Parliament.

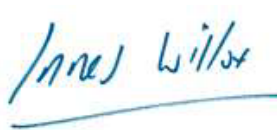
They represent the right policy approach for the immediate objective of assisting Australian workplaces and the economy out of the pandemic and would further set-up our nation to consider more transformational workplace reforms in the next term of Parliament; those that would seek to align Australia's IR system to the 21st Century modern business environment.

The Employer Groups stand ready to provide any additional evidence, support and/or assistance that yourself, your ministerial team or department may require. We would be happy to meet with you and Crossbench Senators in Canberra collectively, individually and/or with a delegation of member company executives if that would assist.

Yours sincerely



Jenny Lambert
Acting CEO, Australian
Chamber of Commerce
and Industry



Innes Willox AM
CEO, Australian
Industry Group



Steve Knott AM
CEO, Australian
Resources and
Energy Group



Denita Wawn
CEO, Master Builders
Australia