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CoSBA welcomes another new member: NECAWA

The National Electrical & Communications Association, WA Chapter (NECAWA) has become a member. On behalf of our President, Les Marshall, CoSBA welcomes NECAWA's President, John Sweeting, CEO, Kyle Kutasi, and the membership as our latest member.

Rates could hit 6% this year: analysts

Official interest rates could hit 6 per cent by the end of 2010, as Australia's economic story enters a new chapter of higher inflation. Analysts say the recent run of positive data, including Thursday's record-breaking jobs report, point to an economy that is speeding up faster than many policymakers and market players had anticipated last year.

TD Securities senior strategist Annette Beacher says the latest unemployment figures show the economy is speeding up with less spare capacity than previous economic upswings, potentially putting upwards pressure on inflation and therefore interest rates.

Ms Beacher says there is a risk the Reserve Bank of Australia will push the cash rate from its current expansionary setting, through the "neutral" range of 4.5 to 5.0 per cent, and into restrictive territory by the end of the year. The cash rate is currently at 3.75 per cent. (SOURCE/EXTRACT: *WA Business News*, Daily Business Alert, 15.1.10)

Perth house prices set to hit new record

Perth's median house price is poised to break through its 2007 peak soon, pushed higher by renewed activity from trade-up buyers towards the end of last year. The Real Estate Institute of WA today said that new data is showing a continued swing away from first home buyer activity to upgrade buyers.

"Notwithstanding the first homebuyers purchasing homes at the cheaper end of the market, Perth's median house price has held up and is increasing due to renewed activity with trade-up buyers," REWIA deputy president David Airey said.

"REIWA data show that for the last six months it was sales of homes valued at between \$500,000 and \$600,000 which dominated the market, but for the December quarter alone we saw sales in the \$600,000 to \$750,000 range jump significantly from around 10 per cent in September to just over 14 per cent in December." (SOURCE/EXTRACT: *WA Business News*, Daily Business Alert, 15.1.10)

Toy retail giant faces pay allegations

Popular Australian toy retailer Toys"R"Us is facing more than \$600,000 in penalties for alleged breaches of national workplace laws. The retailer, which has more than 30 shopfronts across Australia, has become the target of the Fair Work Ombudsman over allegations it failed to promptly compensate some 700 staff who had been underpaid.

Those staff, mostly casual employees and many aged under 18 years, were employed at Toys"R"Us stores in NSW, Victoria, ACT, South Australia and Western Australia. "It is alleged that hundreds of the company's workplace agreements were invalid because they failed either the fairness test or no disadvantage test," a statement from the office of the Fair Work Ombudsman says.

"The Fair Work Ombudsman claims that insufficient pay rates contained in the invalid workplace agreements resulted in Toys"R"Us underpaying more than 700 employees for various periods between 2007 and 2009. "The alleged underpayments were of entitlements including the minimum casual hourly rate and penalty rates for weekend, public holiday and night shifts." (SOURCE/EXTRACT: *WA Business News*, Daily Business Alert, 15.1.10)

PROFILE- Stephen Moir: When opportunity knocks

STEPHEN Moir will tell you that the passion for small business still runs through his Scottish-Methodist blood. Although his December 23 resignation as managing director of the state government's Small Business Development Corporation came as a surprise to many in the small business sector, Mr Moir insists that his decision was not based on frustration or dissatisfaction.

And as the father of two will protest, having worked under two different governments during his tenure at the corporation, "you can't afford to be frustrated with government, with either party, when you get a change of government you get a change of opportunity".

Mr Moir, it seems, is a man of opportunity. After 10 years at SBDC, three of which were at the helm, Mr Moir believes it's time for new challenges. This week he told *WA Business News* that he has found such an opportunity with the Motor Trade Association of Western Australia. He takes the reins from Peter Fitzpatrick at MTA on February 1, marking the end of another era, with Mr Fitzpatrick's resignation coming after 11 years in charge.

"My reason for resigning was I saw a new opportunity," Mr Moir says. "I had been offered an opportunity to go and work in an organisation which I have had a high level of regard and respect for, for a number of years. "The MTA has been one of those leading industry organisations, and when you get that opportunity to go in and lead that organisation it's not something you take a lot of time to think about. "The position was advertised in the media, I applied and was successful."

The move is the latest in a series of changes to WA's public sector with former Health Department boss Peter Flett resigning in December, Tourism WA chief executive Richard Muirhead recently resigning, and Premier Colin Barnett announcing new roles for his current chief of staff Deidre Willmott and the head of the government media office, Paul Plowman. While there appears to be a changing of the guard in the state's public sector in recent times, Mr Moir says the MTA offers him fresh challenges, although he concedes he had not achieved all he set out to at SBDC.

"But I would hope that if it's five or 10 years down the track at the MTA I still wouldn't have achieved everything that I would have wanted to achieve, because I think that if you tick all the boxes, you probably haven't tried hard enough ... there is always something more you can do," he says.

"In relation to the SBDC, I would have liked to have seen more done. "There's many things with ongoing projects that I would have liked to have seen completed, but equally there's a great deal of excitement about the new opportunity and new avenues that can be done with the MTA. "I was still very much challenged here [SBDC], my

move wasn't because of boredom, frustration or anything else, it's clearly a basis of a new opportunity that has come along.

"These opportunities don't raise themselves on a regular basis; Peter Fitzpatrick has been in that role for 11 years. "So, you've got to look at that and when the opportunity comes, you have to make a decision and make it quickly. I have been fortunate enough to have been selected for that role." Mr Moir says he would still be head of the SBDC if the MTA position had not presented itself.

Graduating from Balcatta Senior High School in 1976, Mr Moir landed a cadetship at retail giant Myer soon after, where he worked for five years. Over that time he moved through the ranks to become assistant sales manager, later taking on the role of buyer and expeditor. When the opportunity came up he then moved to the then Department of Tourism, working briefly in Sydney and then later back in Perth, taking on a marketing role.

The avid sailor and member of the Nedlands Yacht Club then worked in human resource management for the Public Service Board, which led to other HR positions working in the Department of Commerce and Trade, as well as the Office of Workplace Agreements. It was during his time at the Office of Workplace Agreements that Mr Moir began working with business, and the appeal of the small business sector grew on him.

"My time at SBDC has been challenging and rewarding. Challenging because when you follow a long-term CEO like I did in following George Etrelezis you've got to make some clear decisions as to where you're going to go," he says. "You can continue to follow the same stream or you can set your own path and I'm a firm believer in respectfully setting your own path.

"But you could not do this job properly unless you are absolutely passionate about small business. "One of the things I'm very pleased about moving on to this new role is that the majority of the membership of the Motor Trade Association is small business, so there is a continuum there for me. "I'm absolutely passionate and dedicated to developing small business, so with whatever role I go to in the future, that will be a core focus.

"I can tell you now, absolutely, that I leave this job at SBDC, with as much if not more passion than when I first started it, because it's the sort of job that gets into your blood," he says. "And I've done it for 10 years, and I've been working with small business for 10 years, so this is something I am very, very passionate about."

Do you have a mentor?

I have a few. One is John Garland, ex-chairman of the board at SBDC, and I have a couple of CEOs in the past that I have used as role models; not necessarily as mentors, people like Noel Simmons.

Biggest achievement?

The last three years at the SBDC would be my biggest achievement in terms of getting a number of significant projects under way that I had been seeking for a number of years, most notably Aboriginal business, engagement with the tourism industry, the BizFit program, and our migration program.

What's your business mantra?

Work hard, try harder.

If you were premier, what would you change?

Retail trading hours (laughs). No, I would love to see a 10- to 15-year vision for Western Australia.

How do you deal with conflict?

Carefully and decisively.

Influence of family on your career?

Very, very strong. Scottish Methodist. The Scottish Methodist thing there is about work ethic, hard work and total dedication to what you are doing. That's very much something I got from my father, who was a principal. (SOURCE: *WA Business News*, 14.1.10)

COMMENT: The loss of Steve Moir from the SBDC represents a tragic loss for small business, he was an outstanding champion for small business, and worked cooperatively and pragmatically with CoSBA and other small business organisations in relentless pursuit of the needs and aspirations of small business.

CoSBA acknowledges that whilst Steve Moir will be a hard act to follow and will be difficult to be replaced, the Government appoints a suitably qualified champion for small business, and ensures that the role and function of the SBDC remains unchanged.

CoSBA wishes Steve all the best in his new role as the CEO of the Motor Trades Association.

McDonald in fresh ABCC proceedings

The building watchdog has launched a new proceeding against union heavyweight Joe McDonald for his involvement in unlawful industrial action at the City Square project last year. The Australian Building and Construction Commission said it had filed an application in the Federal Court in Perth yesterday over what it claims was an unlawful strike at the city project in July.

The ABCC alleges that Mr McDonald, who is the CFMEU assistant secretary in WA, visited the site on July 15 and spoke with employees, who then left the site and failed to return for the rest of the day. Brookfield Multiplex, which is the head contractor for the City Square project, is currently seeking a Federal Court order to restrain Mr McDonald from being involved in industrial action at the site.

Brookfield's application is set to be heard early next month, and the ABCC today said it is seeking to consolidate its proceeding with the company's. The maximum penalties for the unlawful industrial action are \$22,000 for an individual and \$110,000 for an organisation. (SOURCE: *WA Business News*, *Daily Business Alert*, 15.1.10)

Unions gain upper hand from Rudd's workplace reforms

A spate of MUA industrial action threatens to lead Australia back to its uncompetitive past. THERE is much more to the ongoing industrial action taken by the Maritime Union of Australia against shipping companies servicing our offshore oil and gas industry than merely the news that there have been five strikes in just two months.

Escalating industrial action and union militancy in the maritime sector will put at risk Australia's international reputation as a reliable supplier to the world of energy and resources. Yet Workplace Relations Minister Julia Gillard is refusing to intervene to stop the strikes under her new workplace relations laws, and dismisses concerns with a blithe warning to employers to "expect a greater union presence in workplaces this year".

Companies in the mining, resources and energy sectors can decipher the code. Militant unions such as the MUA and the Construction, Forestry, Mining and Energy Union are back with a vengeance and the Rudd government will do little, if anything, to stop them.

Yet not only will outrageous wage claims cause significant harm to the individual companies being targeted by the MUA, but will also cause damage to other sectors of the economy. The MUA is highly unlikely to confine to the North West Shelf or Bass Strait its wage claims of an additional \$70,000 to \$100,000 a year for unskilled workers.

Australia is witnessing the return of "pattern bargaining", where unions extract entitlements from one employer and use them as a precedent to demand the same or better entitlements from other employers and across other sectors. There are already reports that other unions intend to seek flow-on claims. We can't say we weren't warned.

It is essential for the long-term health of our economy and our global competitiveness, that the Rudd-Gillard government not be permitted to sit by mouthing platitudes while some key unions strive to take us back, by stealth or otherwise, to the days of industrial sabotage and endless strikes. (SOURCE/EXTRACT: *The Australian*, 16.1.10)

New IR system 'stuns' bosses

The peak business lobby claims many bosses are still unprepared for recently introduced employment awards, with some firms shocked to find their costs had jumped tens of thousands of dollars overnight. The Chamber of Commerce and Industry said the changes heralded the biggest shake-up to the award system in history, but many businesses had little idea how it affected them.

CCI workplace relations policy director Marcia Kuhne called on the Federal Government to give funds to employer groups such as the CCI so they could run education programs. She said the introduction of \$66,000 penalties for breaches should be delayed until after adequate awareness campaigns.

The new system streamlines the number of awards governing pay and conditions from 4000 to 122 from January 1 this year. In some cases, pay rises would be phased in from July. Ms Kuhne said one small business was shocked to discover that from January 1, it would be forced to pay staff an extra \$18,000 in laundry allowances.

Some businesses had been stunned to find out they would come under a new award after calling CCI on an unrelated industrial matter. CCI has had a five-fold increase in industrial inquiries. Inquiries had almost doubled compared with March and April in 2006 when WorkChoices was introduced. Federal Workplace Relations Minister Julia Gillard did not respond to questions. (SOURCE/EXTRACT: *The West Australian*, 20.1.10)

WA leads nation in employer confidence

Western Australia has recorded the largest jump in employer confidence of all Australian States and Territories, a survey has found. Employer confidence in Western Australia has rebounded strongly, recording by far the largest increase in sentiment of all Australian States and Territories, according to the latest Hudson Report: Employment Expectations survey released today.

Up a significant 23pp from last quarter, a net 43.1 percent of employers indicated an intention to increase their permanent staff levels over the January-March 2010 period. This is well above the national average of 29.1 percent.

Employers in the resources industry are now at their most confident levels in the last 12 months, with a net 54.1 percent reporting an intention to increase their permanent staff levels during the first three months of 2010. Up a considerable 39.3pp from last quarter, the industry is now one of the most confident in the State. (SOURCE/EXTRACT: *WA Business News*, Daily Business Headlines, 20.1.10)

Some retailers struggle with changing times

WESTERN Australia received a small taste of deregulated retail trading hours this month when stores in the Fremantle and Perth tourism precincts were allowed to remain open outside normal trading times. From January 1, Fremantle, the Perth CBD, certain parts of North, South, East and West Perth, as well as Mt Lawley, Subiaco and Victoria Park were allowed to remain open for business until 9pm on weekdays, with Sunday trading from 11am to 5pm.

The extension of the Perth trading precinct encompasses few supermarkets, and other retailers in the area contacted by *WA Business News* seemed largely unaware of the changes. Around the state, shops north of the 26th parallel enjoy an unrestricted retail-trading regime, while regional areas such as Busselton, Dunsborough and Margaret River currently have more flexible opening hours.

Establishing the tourism precincts was part of a push by the state government to extend retail-trading times across the board, a proposal rejected by the Labor and National parties. While there has been mixed reactions to what has been described by Treasurer Troy Buswell as "frustratingly moderate changes", one issue has apparently plagued both sides of the retail trading debate since December.

Almost all business owners, shopkeepers and store clerks spoken to by *WA Business News* revealed that, although they were aware of the tourism precincts, they did not know its boundaries, what the conditions of trading were, when they started, or in some cases whether their business was part of it.

A Chamber of Commerce and Industry WA consumer confidence survey revealed that 59 per cent of respondents intended to use extended trading hours during December. For those consumers who did not intend to take advantage of the extended trading, 58 per cent said they were, however, most interested in purchasing groceries after 6pm weeknights.

Some businesses in the Perth tourism precinct reported a huge influx of trade over the festive season and the three weeks into 2010, while others complained that stores were open for too long. But the majority of business owners conceded it was too early to determine the success of deregulation in the tourism precincts.

Retail Traders Association executive director, Wayne Spencer, said it could take up to nine months before people were used to late-night and Sunday trading. "It's all about spreading the word and getting people to realise that they now have another convenient opportunity in front of them and therefore to change their patterns to operate," Mr Spencer told *WA Business News*. IGA president John Cummings believes the big supermarket chains had most to gain from blanket extended trading in WA. (SOURCE/EXTRACT: *WA Business News*, 21.1.10)

Regulation hinders retail – CCI

Key arguments used by independent retailers during a fiery deregulation debate several years ago have been challenged this week by the Chamber of Commerce and Industry of Western Australia. The CCI claims deregulating trading hours would likely lead to lower prices, create higher levels of retail investment and increase employment opportunities.

The 75-page report, 'Retail Trading Hours in Western Australia: A Case for Reform', aims to debunk arguments used by independent retailing lobby groups, which waged a successful campaign against the deregulation of trading hours ahead of the 2005 referendum on whether to introduce weeknight and Sunday trading. When the government first mooted changes in 2003, the WA Independent Grocers Association led with a campaign titled 'More Hours Means Less Shops'.

However, the CCI report shows that between 1998 and 2006 (when the major states deregulated) the number of small retail businesses in NSW increased by 4,900, in Victoria by 6,400, and in Queensland by 4,500 but by just 200 in WA. There were 100 fewer small businesses in South Australia during the same period. The CCI said the statistics suggest restricted trading hours may have limited small business growth in WA and SA.

The report also cites an unnamed retailer that wants to expand its three-shop business but is unable to under WA's current laws, which prohibit seven-day trading if an owner has more than three shops. It's even something that John Cummings, the head of lobby group WA Independent Grocers Association, has come up against.

Mr Cummings, who has been fighting the battle against deregulating shopping hours for about a decade, owns IGA Supermarkets in Leederville, Duncraig and Glengarry. However, he is linked to a fourth supermarket in North Beach, which is owned by his wife, son, and daughter-in-law. Mr Cummings said the current legislation did not restrict small business growth and business owners needed to assess their options when looking to expand.

The CCI report also highlights underperformance in retail development in WA compared with development in other deregulated trading states, and suggests deregulating trading hours would likely stimulate investment in the sector. Using figures from Access Economics, CCI says the value of retail work in WA, estimated to be about \$373 million, represents just 5.9 per cent of retail output. (SOURCE/EXTRACT: *WA Business News*, 21.1.10)

WA moves towards private sector deals

The West Australian government has opened the door for significant private sector participation in the development of the state's \$24.6 billion infrastructure program. *The Fin Review*. (SOURCE/EXTRACT: *WA Business News*, Today's Business Headlines, 21.1.10)

Harmonisation of OSH Laws Explained

(SOURCE: *MASTERBUILDER*, Vol. 6, No. 5, Dec-Jan 2009)

In 2008, the Council of Australian Governments signed an intergovernmental agreement committing to the development of harmonised Federal OSH legislation by December 2011. Model laws then are to be enacted by each State and Territory with variations to be approved by the Workplace Relations Ministers Council.

In September this year, an exposure draft of the model OSH Act and regulations was issued for public comment. Master Builders Australia provided a submission setting out the movement's many concerns on the content of the draft Bill.

Implications for employers

Debate on the Bill suggested the primary duty of care to be imposed on employers would be 'reasonably practicable', the current standard under the WA OSH Act. Primary duty of care captures employees, contractors, subcontractors, labour hire workers, work experience students and volunteers. However, the debate on duty of care has been somewhat misleading as the intention is that it be much higher than the reasonably practicable standard.

The Bill introduces three categories of offences. Maximum penalties proposed also are significant - up to \$3 million for corporations and \$600,000 and five years' imprisonment for individuals guilty of Category 1 offences. Company officers will owe a duty to exercise due diligence (yet to be defined) to ensure their organisations comply with obligations under the model Act.

Union officials can enter workplaces to investigate suspected contraventions of the Act and to consult on OSH matters with relevant workers. It is proposed that no prior notice of the entry will have to be provided where there is a suspected contravention of the Act. By contrast, at least 24 hours' notice must be given for proposed entry to consult and advise relevant workers.

The Bill contains three categories of offences for breaches of the safety duties. Category 1 is for the most serious breaches involving recklessness and a risk of death or serious injury at a workplace. Category 2 is for offences where there was a high risk of serious harm but without recklessness. Category 3 involves breaches of the duty without recklessness or high risk of serious harm. In addition to monetary fines, sentencing options include enforceable undertakings, injunctions and remedial, adverse publicity, training, compensation and community service orders.

As far as is practicable employers undertaking must consult with workers about matters of safety. This also extends to subcontractors. If workers are represented by a Health and Safety Representative (HSR) then consultation must involve the HSR. Discriminatory conduct is prohibited. This includes dismissal, injury, altering the position of the worker to the worker's detriment or threatening any of these. Inspectors

may enter workplaces at any time with or without consent of employers and exercise powers to inspect, examine and make enquires. They may obtain search warrants for places such as a person's home.

Master Builders Australia's position

Master Builders National Safety Committee, meeting in October, identified three major concerns. The Bill's Discussion Paper guidance notes, setting out what is 'reasonably practicable', impose higher standards of committing the duty holder (employer) to:

- Providing the highest level of protection for people against risks to their safety and health; and
- Being proactive in taking measures to protect the health and safety of people.

These tests are to be taken into account by union officials when exercising right of entry to investigate workplace safety. Master Builders Australia identified this issue and, in rejecting the enhanced tests, noted it was disappointing that debate on the employer's duty of care had not raised the issue.

A second concern is right of entry by union officials during working hours to 'hold discussions with employees on safety'. There is no time limit on the duration of these discussions. Construction unions have a track record of using safety as a cloak to hide their industrial relations agenda. The proposed entitlement could result in safety discussions being used as de facto strike pay and could return the

construction sector to the bad old ways of the 1980s and 1990s.

The third major concern is the Bill's clause 63 which allows workers to seek assistance of elected HSRs from other workplaces. There is no requirement for employer agreement at the HSR's current workplace or other workplace for this to occur. Clause 66 provides for cost sharing arrangements between employers where HSRs provide safety advice on separate work sites. The ability of union appointed HSRs to appoint themselves on construction projects without employer agreement is evident.

Master Builders fundamentally opposes these and several other issues and has called for changes to the draft Bill. If there is no, or inadequate, change, the Association will urge Treasurer Troy Buswell to honour his statements that WA will not sign off on the Federal OSH law if it is not in the State's best interests. The Association is calling for better safety legislation, not simply more red tape which does little to improve workplace safety.

Media Release

GOVERNMENT SHOOTS MESSENGER ON SMALL BUSINESS WORKPLACE CHANGES

14 January 2010

Small Business Minister Craig Emerson has resorted to attacking the small business community and claiming that 'government knows best' instead of responding to its legitimate concerns about the impact of its new workplace regime.

The Rudd Labor Government is failing to address the 'real life' concerns raised by small businesses which have been revealed in research conducted by both The Retailers Association and the Australian Retailers Association.

After weeks of indifference, Mr Emerson lashed out at the National Executive Director of The Retailers Association, Scott Driscoll, during an interview on Brisbane's 4BC yesterday, rather than addressing his organisation's worrying research findings.

A survey conducted by The Retailers Association shows that the Government must immediately do more to explain the new workplace regime to small businesses; that working hours and employment will be reduced because of increased costs; and the changes will adversely impact on business growth.

Mr Emerson is ignoring real-life small business concerns, refusing to address actual adverse impacts from across Australia about his Government's new workplace regime.

Instead, Craig Emerson chooses to shoot the messenger, hide behind Government propaganda and questionable Government-funded research and simply echo Julia Gillard's claim that job gains will result from the changes.

Incredibly, the Government is relying on a survey of just 30 businesses.

The Access Economics report recognizes the disproportionate burden of the changes on smaller businesses, yet *'the average respondent employed 923 people (headcount, not full time equivalents)'* and the survey included just 4 businesses with under 15 employees.

Little wonder Julia Gillard and Craig Emerson have their departments trying to get their hands on some credible research about the impact of the new workplace regime on small business, having been exposed as caring so little and the small business community reporting significant costs and disadvantages from the Government's changes.

There is a lot more to delivering the Government's promise to the small business community that modern awards would not 'disadvantage employees' or 'increase costs to business' than paying lip service about it being theoretically easier and cheaper to classify employees, fill out pay slips and calculate new allowances.

It is reprehensible that the Government is blatantly ignoring the actual adverse employment and working hours impacts and small business concerns about its capacity to pay new pay rates, afford the new penalties and allowances and deal with the operating changes being forced upon them.

The workplace regime change the Government has imposed from January 1 is making it harder and more costly for small business to employ people and the Government is failing to provide information and support to assist small business employees and employers to meet new obligations and requirements.

Only with the Government committing to an independent and public assessment of the impact of the new workplace regime will it be clear whether the Rudd Labor Government has delivered its 'no disadvantage' commitment or broken another new workplace regime promise on the back of the promised information and education campaign it has failed to deliver.

http://www.deewr.gov.au/WorkplaceRelations/NewWorkplaceRelations/Documents/AE_Harmonisation.pdf
<http://www.deewr.gov.au/WorkplaceRelations/NewWorkplaceRelations/Documents/AE_Harmonisation.pdf>

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