



## Combined Small Business Alliance of Western Australia Inc. (CoSBA)

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## NEXT BOARD & CHRISTMAS MEETING

**12.00noon Tuesday 30 November 2010**

**Royal Perth Yacht Club**

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SBC Stirling Training-Building Business.pdf  
Ravlich-Small Business Motion.pdf



### Backdown raises fear of onerous IR laws

A prominent Perth employment law partner has warned WA businesses there is a risk that draconian health and safety laws could be adopted nationally after the NSW Government's backdown on a key national industrial relations agreement. Middletons partner Duncan Fletcher said there was a risk the Gillard Government would impose occupational health and safety legislation for all businesses, which would likely include some of the harsher union measures of the current NSW laws.

"The fact that NSW has kicked up a fuss means that the fears of business that an onerous NSW-style system might become the norm nationally are probably re-enlivened," Mr Fletcher said. "WA employers need to be wary." NSW said last week it would only adopt the legislation - which it signed in December with all the other States and Territories bar WA as part of the harmonisation of health and safety laws - if it could retain union-led prosecutions and reverse onus of proof laws.

Julia Gillard has said negotiations could be made on the reform that would see "harmonisation move ahead but also allows for these protections to remain in place in NSW". The national legislation is in its draft stages and set to be passed in January 2012, when the States must have their mirror legislation in place. However, relying on model legislation is a notoriously unstable approach.

But Talbot Olivier principal Mark Hemery, who also specialises in employment law, said he thought the risk of a NSW-style system being adopted nationally was "very small". "Politically, I don't see there is any realistic prospect that she (Ms Gillard) would try to resolve the problem by extending the NSW laws favourable to unions and employees to the rest of Australia," Mr Hemery said.

However, Commerce Minister Bill Marmion would not comment on the NSW Government's decision. "WA has been clear from the outset about its concerns in certain areas including the level of penalties and right of entry; power for health and safety representatives to stop work; and reverse onus of proof for discrimination," Mr Marmion said. (SOURCE/EXTRACT: *The West Australian*, 22.10.10)

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### **Minerals tax likely to end up in court**

A senior Treasury official has conceded the Gillard Government's mineral resources tax probably will end up being challenged in the High Court. As doubts grow over the deal that was struck between Julia Gillard and BHP Billiton, Xstrata and Rio Tinto in early July,

David Parker, who is on the committee charged with negotiating the final details of the mineral resources rent tax - admitted he expected to see the final piece of legislation face legal scrutiny. "Is it at risk of being found unconstitutional? Well, I suppose there is a reasonable chance that the matter will be tested in court," he said.

*The West Australian* revealed at the weekend that Treasurer Wayne Swan received advice from government solicitors that there were constitutional issues surrounding the resources super profits tax. The issues, over whether the tax would discriminate between States, are thought to extend to the MRRT. Mr Parker said because of differences between the RSPT and the MRRT, there could be differences in the legal underpinnings of the tax, although that would only be known once the legislation was written and before Parliament.

The Government has come under fire from the big miners this week over future movements in State royalties. The miners argue the July agreement means any future royalty increases will be credited against the amount of MRRT facing each company, a point rejected by the Government.

Mr Parker, while not expressing a view on which side was correct, admitted there was a real difference between the two positions. "It is clearly a dispute as to the meaning of that part of the heads of agreement," he said. (SOURCE/EXTRACT: *The West Australian*, 22.10.10)

### **Mining tax undermines states' revenue, says critic**

The head of Western Australia's Chamber of Minerals and Energy, Reg Howard-Smith, has turned up the heat on the Gillard government over its mining tax, saying the levy will restrict the freedom of states to increase royalties and is a "direct attack on their revenue bases." *The Fin*. (SOURCE: *WA Business News*, Daily Business Alert, 25.10.10)

### **CCI warns of two speed economy in WA**

The WA Chamber of Commerce and Industry has warned of a two-speed economy emerging within the state. CCI's latest Outlook publication has again revised up growth forecasts for the state to 5 per cent for 2010-11. CCI chief economist John Nicolaou said growth will remain relatively unchanged at 5.75 per cent in 2011-12 and 6.25 per cent in 2012-13. However he said conditions remained challenging for businesses outside or not linked to the resources sector.

"The services sector, particularly retail, are among those finding it tough," Mr Nicolaou said. "The two speed nature of the economy has been masked by the State's overall strong growth. "Over the past year to June the WA domestic economy grew by nearly 8 per cent - the highest annual rate of growth in nearly three years. "This has been driven by a pick-up in household spending, and investment by business and government." (SOURCE: *WA Business News*, Daily Business Alert, 21.10.10)

### **Shorten super statement short on detail and substance**

Bill Shorten made his first statement as the new Minister for Superannuation in Parliament [on Tuesday]. It was short on detail and does not contain any new information. He faithfully restated various commitments already made by his Labor predecessor Nick Sherry, including the push for an increase in the superannuation guarantee from 9% to 12%. Yet he failed to explain why a 3% cut in take home pay for working families is the best way forward and lacked the courage to explain how he is going to ensure competition in the default fund market.

The Henry Review spent more than a year considering the best way to boost retirement savings. Having done all that hard work they decided against recommending an increase in the super guarantee levy from 9% to 12%. Specifically, the Henry Review pointed out that the burden of any superannuation guarantee increase 'is likely to fall most heavily on low to middle income earners'.

What information does the government have to demonstrate that Henry was wrong and Labor's 3% cut in take home pay for working families is right? Why are they keeping any modeling and other assessment they did on this secret? Minister Shorten failed to be open and transparent about the impact of Labor's proposed super guarantee increase on working families. The Minister shied away from outlining necessary reforms to improve corporate governance of superannuation funds and to ensure competition in the default fund market. (SOURCE/EXTRACT: Report, Mathias Cormann, Senator for Western Australia, Shadow Assistant Treasurer, Shadow Minister for Financial Services and Superannuation)

### **Watchdog shown to boost building output**

**EMPLOYERS and the Coalition last night called on the Gillard government to retain the contentious powers of the building industry watchdog.** The move comes as a new analysis shows the body has added 9.4 per cent to labour productivity in the construction industry.

Master Builders Australia last night released the fourth annual edition of the KPMG Econtech report that purports to show the productivity contribution of the Australian Building & Construction Commission. According to the report, productivity reforms in the building and construction industry through the ABCC and related industrial relations have added 9.4 per cent to labour productivity in the construction industry.

The report says the gain to the community equates to \$59 billion over 10 years or \$5.9bn annually. It says the effects of the ABCC have contributed to a permanent reduction in inflation of about 0.7 per cent and a 0.6 per cent boost to gross domestic product. Since 2002, the industry's labour productivity has outperformed predictions -- based on historical performance relative to other industries -- by 7.7 per cent.

Wilhelm Harnisch, the MBA's executive director, said the productivity statistics were "unambiguous". He said the report showed that the entire community was better off through the economic welfare gains and the significant lift in productivity and industrial harmony since the ABCC was established in late 2005.

The Construction Forestry Mining and Energy Union, last night attacked the modelling used in the report, which was commissioned by the MBA. Dave Noonan, the national secretary of the union's construction division, said the report relied on assumptions that had previously been discredited by reliable economic commentators (SOURCE/EXTRACT: *The Australian*, 27.10.10)

### **Fair Work Act leads to a rise in dismissal claims**

**UNFAIR dismissal applications increased to more than 13,000 in the first year of Labor's Fair Work Act.** The increase represents a 63 per cent rise on the previous 12 months.

The significant increase is revealed in the annual report of Fair Work Australia tabled in federal parliament yesterday. The latest figures are considerably higher than recent data released by the government showing there were 10,751 claims at June 18 this year.

Under the Fair Work Act, the vast majority of employees are covered by unfair dismissal rules once they serve a period ranging from six to 12 months. This compares with John Howard's Work Choices regime when businesses with 100 or fewer employees were exempt from unfair dismissal claims.

According to the tribunal, 11,823 of the unfair dismissal applications lodged last financial year were finalised at, or prior to, conciliation. There were 7994 applications made during 2008-09. In its report, the tribunal pointed out that total number of claims was lower than the 13,643 applications lodged during 1995-96, "which arguably was the last full year in which a national termination of employment jurisdiction existed".

*The Australian* understands that the former ACTU secretary told unions attending a meeting of the ALP's national Left on Sunday that they should spend less time complaining about the Fair Work Act. ACTU president Ged Kearney was in the audience when Mr Combet, who said he was proud of the legislation, spoke. (SOURCE/EXTRACT: *The Australian*, 27.10.10)

### **Buswell's return in the wind**

Speculation is mounting that dumped West Australian treasurer Troy Buswell could reclaim his old job within a month. *The Fin*. (SOURCE: *WA Business News*, Daily Business Alert, 25/10.10)

### **Workplace tribunal got it wrong: CFMEU**

**UNIONS have suffered a fresh setback in their bid to rebuild their standing in Western Australia's Pilbara region, with mining unionists employed at Rio Tinto's rail division effectively prevented from taking protected legal action until late 2013.**

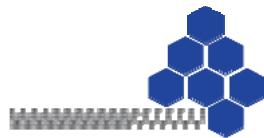
Fair Work Australia has dismissed a bid by the Construction Forestry Mining and Energy Union for a protected action ballot while a five-year non-union agreement applying to other workers in the rail division continues to operate. Gary Wood, the West Australian secretary of the union's mining and energy division, said the ruling would stop the union seeking to take protected action in support of a collective agreement until a month before the non-union deal expired in 2013.

After federal Labor stopped the creation of new Australian Workplace Agreements, Rio put in place non-union collective agreements that essentially mirrored the terms and conditions of the Howard government-era AWAs. According to Rio Tinto, the locomotive train drivers earn more than \$200,000 a year, working a 50-hour week. It is believed about 130 are employed under expired AWAs; 70 work under current AWAs; and 115 are on the non-union deal.

In August, the Federal Court rejected a CFMEU challenge to the validity of the non-union employee collective agreement struck by Rio directly with the group of employees in 2008. Mr Wood said the union had sought leave to appeal to the High Court and the matter was listed for February. (SOURCE/EXTRACT: *The Australian*, 28.10.10)



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