

18 January 2019

Hon Bill Johnston MLA
Minister for Mines and Petroleum; Energy; Industrial Relations
Level 9, Dumas House
2 Havelock Street
WEST PERTH 6005

Dear Minister Johnston,

Submission on *Security of payment reform in the WA building and construction industry* report

The Property Council is grateful for the opportunity to provide feedback on the *Security of payment reform in the WA building and construction industry* report and congratulates the McGowan Government on pursuing these welcome improvements to Western Australia's building and construction industry.

The Property Council represents more than 300 companies across WA in the residential, retail, retirement living, industrial and hotel sectors. The property industry now employs more people in Western Australia than any other sector, with more than 233,500 jobs.

We have consulted with our members which include those that will be directly impacted by the proposed amendments in the final report. The following comments are intended to provide insight into aspects of the reform that can add most value to the property industry, and assist with the critical role the industry plays in creating prosperity, jobs and strong communities for current and future generations of Western Australians.

The Property Council is generally supportive of the overall intent of the reform, and the focus to improve protection for subcontractors. We particularly support measures that would assist in the capitalisation of builders however, only without subsequent impost to developers and consumers.

The following detailed comments are provided on those aspects of the final report which are most relevant to the property industry.

Registration Framework for Building Service Providers

The Property Council supports any measure that would provide better training and regulation of people that hold licences within the building and construction industry. Any opportunity to provide advanced training and on-going professional development to maintain currency

of skills and knowledge would be welcomed by the property industry.

Building service providers need to be clear on what their roles and responsibilities are across the full range of business functions, particularly relating to understanding relevant laws and contractual obligations, business financial planning, contract management and trust accounting and record keeping.

We would recommend that reconsideration be given to the proposal that the role and responsibility for training be delivered by the Department of Mines, Industry Regulation and Safety. This may be more effectively delivered by an independent educational institution or industry body.

Project Trust Accounts

Property Council members have serious concerns on the application of Project Bank Accounts (PBAs). Our members consider PBA's expensive and inefficient to administer. They are likely to increase the cost of construction project delivery by tying the contractors that would be bound to administer the regime, in unnecessary red tape and could cause further insolvencies by tying up money that would otherwise be available to contractors to fund other projects, thereby disrupting cash flow when contractors need it most.

However, if they are to exist, we recommend PBA's be applied at every point in the contractual chain (from the client to the builder, to the subcontractor and to the subcontractors subcontractors), in order to ensure all entities are protected.

Statutory Deemed Trusts

The Property Council is supportive of the application of statutory deemed trusts accounts to ensure subcontractors receive payment in the instance a head contractor becomes insolvent. We consider statutory deemed trust accounts as striking the right balance between administrative efficiency and subcontractor protection.

The Property Council thanks you for the opportunity to provide industry feedback on the final report on a critical reform initiative for the WA construction and building industry. Should you wish to discuss our comments, please don't hesitate to contact me on 08 9426 1200 or by email to sbrewer@propertycouncil.com.au.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'S Brewer', with a stylized flourish at the end.

Sandra Brewer
WA Executive Director