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Committee Secretary
Senate Education and Employment Committees
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Dear Madam/Sir

UnionsWA submission to Inquiry into the impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders

UnionsWA is the governing peak body of the trade union movement in Western Australia, and the Western Australian Branch of the Australian Council of Trade Unions (ACTU). As a peak body we are dedicated to strengthening WA unions through co-operation and co-ordination on campaigning and common industrial matters. UnionsWA represents around 30 affiliate unions, who in turn represent approximately 140,000 Western Australian workers.

UnionsWA thanks the Committee for the opportunity to make a submission to this inquiry. We support the ACTU's contentions that

Australian unions have had long-standing and well-documented concerns with the operation of the temporary 457 visa program, but it is clear to us that the problems extend to a range of other temporary visa types where overseas workers can find themselves in vulnerable situations. We therefore welcome the fact the Inquiry encompasses all temporary work visa types.

...

At a time when unemployment remain[s] stubbornly above 6% and youth unemployment is more than double that, the Australian community needs to have confidence that such a large and growing temporary work visa program is not having adverse impacts on employment and training opportunities for Australians, particularly young people.

Equally, the community needs to be assured that employers and others are not exploiting vulnerable temporary overseas workers who are unaware of their rights or not in a position where they feel able to exercise those rights.

Earlier this year UnionsWA made a submission on the Department of Immigration and Border Protection's (DIBP) Proposal Paper *Simplification of the skilled migration and temporary activity visa programs*. UnionsWA would like to bring to the Committee's attention the concerns we expressed to

the Department about its 'simplification' proposals. In particular, while UnionsWA supports a strong, diverse and non-discriminatory immigration program, we remain concerned that temporary labour schemes require a proper, rigorous process of Labour Market Testing (LMT) for determining when there are genuine skills shortages. Otherwise employers will use them as a substitute for investment in training and skills development.

The issues of concern UnionsWA raised with the Department are as follows.

Free Trade Agreements and Foreign Workers

Temporary labour schemes must consider the impact of Free Trade Agreements (FTAs) on how they operate. These agreements have already removed safeguards from temporary work visa programs – raising the issue of why *further* removals might be proposed.

The Australian government has entered into a number of trade agreements which prohibit processes such as LMT from applying to employers seeking to bring in nationals of parties to those agreements. For example the recently enacted Korean Australian Free Trade Agreement (KAFTA) will permit employers in Australia (both Australian and Korean firms) to avoid their obligations to seek qualified locals to fill vacancies in the skilled trade, nursing and engineering occupations before 457s are approved for Korean workers. LMT is now permanently banned in all other 457 occupations under this agreement. The more recent Japan-Australia Economic Partnership Agreement (JEPA) has same blanket LMT exemptions as KAFTA.

In our view blanket 457 visa concessions should not be in FTAs at all, as they have nothing to do with international trade.

Exploitation and criminality with the Short-term mobility work visa proposal

The DIBP Paper proposed a 'Short-term mobility work visa' with a one year maximum stay for foreign workers. This would effectively take away the ability for temporary workers to become settled in Australia and restrict their meaningful interaction with Australian society. We believe that stronger regulations should be in place to gain entry to Australia, however that once entry is gained temporary workers should be allowed to spend a reasonable amount of time working here.

Under such 'short stay' arrangements employers will have the power to endlessly rotate workers staying for just under one year. This will create a highly transient and unstable situation in these workplaces which will leave workers open to exploitation and abuse.

Another danger which the Short term mobility work visa may encourage is labour trafficking, and the accompanying slave-like treatment of workers. While slavery and labour trafficking in Australia are difficult to quantify, the most recent *Australian government response to Trafficking in Persons* for 2013-14 reported that the Australian Federal Police

received 70 new referrals relating to human trafficking and slavery matters in 2013–14, taking the total to 469 since 2004. Of these 70 referrals, 60 were accepted for further investigation. Almost 43 per cent of these investigations related to sexual exploitation, 35 per cent to other forms of labour exploitation and 17 per cent related to forced marriage. As at 30 June 2014, four human trafficking and slavery matters were before the courts, involving

nine defendants. Three of these matters relate to labour exploitation and one to sexual exploitation.¹

Loose validity criteria for short-term visas would make them extremely attractive for those who wish to engage in human trafficking for the purposes of slavery. In 2010 the Australian Institute of Criminology published a study *Labour Trafficking* which found that the meat industry in Western Australia had a 'significant potential for the full spectrum of exploitation'.

A representative from the Australasian Meat Industry Employees Union, Western Australia (AMIEU WA) noted that the nature of the industry itself lends itself to exploitation; it is a labour intensive industry that is generally low technology and relatively low profit industry. The industry struggles to attract staff, with a high proportion of workers in the industry having low levels of education and literacy.

...

With labour shortages increasingly affecting the industry, employers have been drawing on workers from overseas. ... [T]his was described as being a 'profoundly rich territory for exploitation' both because of the nature of the industry itself, but also because the migrants that are being employed are people who are coming from very poor countries—Nigeria, the Philippines, China, Korea—and they would have been on very low salaries even in their own countries. The people who are employed have very little or no understanding of industrial conditions, so in that sense, very little in the way of coercion is required to get them to ignore safety or other standards.²

The transience and instability for workers on short-term visas will only exacerbate this situation. The most recent case of potential exploitation in Western Australia was uncovered in May 2014, when over 500 law enforcement agents raided properties in Perth's northern suburbs, particularly a market garden compound at Carabooda, where more than 130 foreign nationals were taken into custody. According to media reports

Australian Federal Police Assistant Commissioner Ramzi Jabbour said it was alleged the workers were underpaid.

"It's alleged that the syndicate used foreign nationals who entered this country lawfully, many of whom over-stayed their visas and were subsequently illegally harboured by the syndicate," he said.

...

¹ *Trafficking in Persons: The Australian Government Response*, 1 July 2013 – 30 June 2014 (p.1)
<http://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Documents/TraffickingInPersons-TheAustralianGovernmentResponse2013-2014.pdf>

² Fiona David, *Labour trafficking*, Australian Institute of Criminology, 2010 (p.33)
<http://www.aic.gov.au/documents/A/9/0/%7bA90867A2-1558-4B01-A233-34B3381D2F6D%7drpp108.pdf>

WA Police Minister Liza Harvey said on Sunday the workers had been shanghaied into working at low rates and in conditions that other Australian workers would never tolerate.³

Making work visas 'short-term' would place more power to exploit in the hands of employers, with no consideration of the need for safeguards against that exploitation.

The emptiness of employer commitments to training

UnionsWA contends that the private sector's enthusiasm for the 400 series visa program is not matched by its commitment to training local workers - that is, citizens and permanent residents of Australia, regardless of their background and country of origin. One such example is the resources sector.

In 2010 the National Resources Sector Employment Taskforce published its report *Resourcing the Future* which found that the resources sector

employs considerably fewer apprentices than would be expected from its share of trade employment. In fact the sector would have to double its number of apprentices to be on par with other industries.

The National Centre for Vocational Education and Research (NCVER) has data which shows that the 'in-training' numbers (of the workforce currently undertaking an apprenticeship or a traineeship) for automotive, engineering and construction jobs have declined since 2010 (-2.4% and -17% respectively), while the general technical and trades category has only increased by 6.3% (see **Table 1** below). This is a poor performance for a state which has been supposedly experiencing a resource 'boom' during which the overall numbers of employees in these occupational groups has been increasing (see **Table 2** below). The mediocrity of WA's performance is further highlighted when we look at the training rates for those occupations, which are derived from the number of apprentices and trainees in-training as a proportion of individuals employed (see **Table 3** below).

Table 1

WA: In-training as at the end of quarter by selected training characteristics, June 2010 & 2014 ('000)			
	June Q 2010	June Q 2014	% Change
Technicians and trades workers	22.5	23.9	+6.3%
32 - Automotive and engineering	7.4	7.2	-2.4%
33 - Construction trades workers	4.6	3.8	-17.0%

³ 'Carabooda raids: Numerous charges after WA operation targets organised crime', 5 May 2014 <http://www.abc.net.au/news/2014-05-05/ten-charged-after-carabooda-raids-uncover-foreign-workers/5429852>

Table 2

WA: Employee numbers at the end of quarter by selected training characteristics, May 2010 & 2014 ('000)			
	May Q 2010	May Q 2014	% Change
Technicians and trades workers	168.6	192	+13.9%
32 - Automotive and engineering	51.3	63.4	+23.6%
33 - Construction trades workers	21.2	28.1	+32.5%

Table 3

WA: Training rate at the end of quarter by selected training characteristics, June 2010 & 2014 (%)			
	June Q 2010	June Q 2014	Difference
Technicians and trades workers	13.3%	12.4%	-0.9%
32 - Automotive and engineering	14.4%	11.4%	-3.0%
33 - Construction trades workers	21.6%	13.5%	-8.1%

Sources: NCVER *Apprentices and trainees 2014 - June quarter: state and territory data tables*; ABS 6291.0.55.003 - *Labour Force, Australia, Detailed, Quarterly, Nov 2014* Note that since ABS does not publish employee numbers in occupation for the June Quarter, the May Quarter figures are used to derive the training rate.

UnionsWA is concerned that the resources boom period has seen a squandering of opportunities to develop a skilled local workforce. A key reason for this is the lack of commitment by major private sector employers to employ and train local workers. The 400 series visa program has become an enabler of this anti-social behaviour.

We also call attention to the employment situation of 15-24 year olds, particularly in the South-West region of Perth, which contains the Kwinana industrial area and should be a major centre of apprenticeship and training in skilled jobs. Unfortunately the inability of local steel fabrication manufacturers in the Kwinana to win contracts during the boom, and the lack of commitment to training generally by employers, has contributed to Perth's South West having the worst youth unemployment outcomes in WA.

15-24 year old unemployment rates, South West Region and WA (%)			
	Perth - South West	Western Australia	Australia
March-14	12.4	9.9	12.6
March-15	13.8	10.5	13.7
<i>Difference</i>	<i>+1.4</i>	<i>+0.6</i>	<i>+1.1</i>

Source: ABS 6291.0.55.001 - *Labour Force, Australia, Detailed - Electronic Delivery, Dec 2014*; 6202.0 - *Labour Force, Australia, Dec 2014*. SW and WA are derived from 12 month moving averages, while Australia is seasonally adjusted.

An example of the lack of such commitment to training and employing local workers came at the end of 2013, when one of our affiliates, the Australian Manufacturing Workers Union (AMWU), reported that the heavy machinery services company WesTrac had made more than 330 blue-collar workers and apprentices redundant in WA while keeping on foreign employees.

This employer insulted its workforce by assembling workers in a caged off area at its South Guildford base in Perth on three successive mornings. Managers called out names of those workers who did not fulfil a 'skills matrix' test. Those workers included 75 apprentices. When WesTrac had indicated

to the AMWU the previous month that jobs would be cut, it told the union that 457 Visa workers would be given the same priority as experienced locals.

There was clearly no 'skills shortage' at WesTrac if the company was getting rid of staff – yet the employer still favoured retaining 457 visa workers. This example demonstrates that employers need more regulation, not less, when they are given permission to utilise the 400 series visa system. They are in need of more 'red tape' not less.

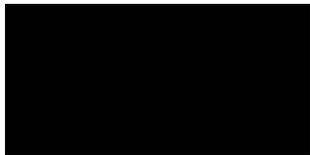
In conclusion, UnionsWA agrees with the ACTU's recommendations, and their conclusion that

Our preference for permanent over temporary migration recognises that permanent migrants provide a more stable source of skilled workers with a greater stake in Australia's future and in integrating into all aspects of Australian community life. With permanent residency, migrants have a secure visa status. This makes them less susceptible (though not immune) to exploitation and less likely to generate negative impacts on other Australian workers in terms of wages, employment conditions and job and training opportunities.

Given the reductions of safeguards in Free Trade Agreements, the dangers of labour trafficking, the unemployment situation in WA, and other parts of Australia, and the demonstrated lack of commitment by employers to training and skills development – UnionsWA rejects any notion that temporary labour schemes should become the 'new normal' in the Australian labour market.

Please contact me on 08 9328 7877 or MHammat@unionswa.com.au if you would like to discuss matters further.

Yours sincerely



Meredith Hammat
Secretary