12 February 2020

Committee Secretary
Senate Standing Committee on Economics
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600
AUSTRALIA

**UNLAWFUL UNDERPAYMENT OF EMPLOYEES' REMUNERATION INQUIRY –
SUBMISSION BY THE SOUTH COAST LABOUR COUNCIL (NSW)**

Dear Secretary,

Pease accept our submission to this inquiry and our request for a hearing to be held in Wollongong to enable the Committee to hear from witnesses in a region that has been plagued with wage theft and exploitation of young workers. A region that has also taken the lead in exposing this phenomenon with young workers speaking out about their experiences and proactive work being undertaken principally by the union movement to educate young workers and in the case of school students, their parents to address these issues. In addition to the workers who we would like to present to the inquiry as witnesses of and to wage theft we would request that Kristian Bolwell, a solicitor assisting the Council with our wage theft recovery activities join our delegation if permitted by the committee.

This submission will focus on key points as they relate to the Terms of Reference and rely heavily on the analysis of an earlier report prepared by this Author which is appended to our submission and titled *A Class of Their Own: Exploitation, Exclusion and Working Students (South Coast Labour Council 2017)* that was prepared for the ACTU. This report is often used as a reference for studies in exploitation of young workers in regional communities due its large sample of wage theft cases and other examples of exploitation at work.

About The South Coast Labour Council
The South Coast Labour Council is the peak union body on the South Coast of NSW and covers the area from Helensburgh, South of Sydney to the Victorian border and across to the Southern Highlands and adjoining tablelands in the west. The Council represents 25 affiliates across all industries and sectors and a unionized membership of almost 50,000 workers. Advocacy for working people and their rights at work is a principal role of the Council.

Wage Theft and the South Coast of NSW – Wollongong CBD A case Study
Ashleigh Mounser was a Wollongong University student whose disappointment with her pay and treatment at the hands of a number of Wollongong employers led her to what proved to be an explosive inquiry, posting her experiences on a University social media page and asking her fellow students whether they had similar experiences of illegal payments, cash in hand arrangements and general mistreatment. The outcome was a response of over 60 accounts of wage theft, ridiculous hours, illegal sackings and sham training arrangements. The South Coast Labour Council (SCLC) vetted and analysed the claims which formed the basis of the Fairfax Expose The Great Student Swindle https://www.smh.com.au/interactive/2016/great-student-swindle/ and later referred to in the SCLC paper as *Ashleigh's List.* Below are the key findings:

1. Wage Theft in Numbers

Of the 60 employers included in the original list (the list is now much greater) the vast majority were based in the Wollongong CBD along a 2km strip running from West Wollongong to the Beach and from Crown St to North Wollongong. Almost all of these cases were in the hospitality industry, bars, restaurants and clubs including several chains. The ages of the respondents ranged from 18 to 32 and almost all reported an hourly rate less than the minimum wage with only one reporting the payment of penalty rates. The key results are summarised below.

➢ 60 businesses reported by workers

➢ 45 businesses are located within a 2km strip in the Wollongong CBD

➢ Average (mean) age of workers was 21 (range 18-32)

➢ Average hourly rate of pay $12.50 per hour (range $7.50 - $20.00)

➢ The most common rates were $10/hr (15 cases) and $15/hr (14 cases)

➢ At least 50 businesses on the list have been either reported or strongly suspected as paying cash in hand (no payslips/group certificates being a key indicator)

Amongst other conclusions to be drawn from the above data perhaps the most remarkable are the frequency spikes at $10 per hour and $15 per hour suggesting collusion amongst employers.

2. Fake Training and Systematic Rorting of the VET System

Further investigations since the initial reports of training rorts have uncovered a number of brazen schemes and examples of exploitation, these are chronicled in the Appended Report and include:

- Elaborate schemes by Chains to enforce training wages and programs on young workers who are not given any structured or significant training as part of the arrangement,
- Refusal by employers to pay workers for weeks whilst working on a self defined and spurious "trial periods".

- Fabrication of training records by some employers with inhouse or related organisations delivering training and claiming public subsidies.
- The growth in international "internship" programs and first hand accounts by students who have claimed to be running administrative operations of medium sized corporates with no pay for up to 6 months.
- The links between certain migration agents, wage theft scams and promises of citizenship outcomes.

3. School Students and 30 hour Part-time jobs

As part of the South Coast Labour Council's educational program promoting awareness of basic employment rights and minimum wages, the Council has conducted sessions with teachers, school students and their parents circulating a general flyer (Appended) explaining and discussing key points. With a show of hands from the students as to their actual rates of pay and basic conditions it has become clear to the Council that the following are common:

- Clear wage theft with no attempt by many employers to disguise it.
- confusion as to permanent and casual status which almost always seems to result in a benefit to the employer,
- lack of records and
- Students in their Senior Years missing school being asked to work extra shifts supporting their families.

## 4. Lessons for the Future and Recommendations for Reform

1. Reforms to introduce criminal and massively increased civil penalties for major cases of wage theft and repeat offenders.
2. A simplified and quick pathway for employees to recover wages and entitlements up to an agreed level of claim.
3. Reform to corporations law allowing applicants in major cases of wage theft to take civil action behind the corporate veil against employers who use a variety of corporate strategies such as phoenixing activities to evade their responsibilities to their employees.
4. Reforms to employment specifically allowing the inspection of employment records by registered organisations, (trade unions) to ensure greater compliance and act as deterrence for many employers who currently believe that they are protected and untouchable.
5. Employment literacy to be a mandatory part of the Secondary curriculum.
6. A parliamentary inquiry and greater vetting of migration agents and sponsors of international workers, training and internship programs.
7. Reforms to employment law limiting the scope and duration of unpaid internships and mandating an official debriefing by Government Departments/agents of interns as a deterrent to sham arrangements.

8. Reform to Employment law requiring employers to publicly display, as they are required to display their business registration, the award and agreement(s) covering their employees.

9. Reforms to employment law terminating pre – workchoices "Zombie Agreements", that are still used to exploit workers undercutting current standards.

Concluding Remarks

In addition to the evidence above and detailed in the Appended report, we have cases currently before the courts as indicated by Mr Bolwell in his submission which are of an extraordinary magnitude of claim $250,000 each and another which involves gross exploitation of local and international workers and sham training arrangements. Our intention is to include these cases in our evidence before the Committee should we be given that opportunity.

Thank you for considering our submission
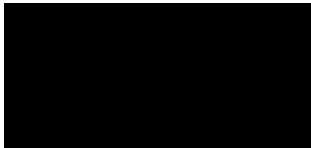
Arthur Rorris
Secretary
South Coast Labour Council