



**Minister for Mental Health; Aboriginal Affairs; Industrial Relations;
Deputy Leader of the Legislative Council**

Our Ref: 62-26074

Justice Iain Ross
President
Fair Work Commission

chambers.ross.j@fwc.gov.au.

Dear Justice Ross

We refer to the application by the Australian Workers Union (AWU) to vary clause 15.2 in the Horticulture Award 2020 (award) under section 158 of the *Fair Work Act 2009* (Cth) (the application) [AM20/104].

The McGowan Government strongly supports fair and safe work practices and pay. We support the principle of a minimum wage and believe there should be adequate measures in place to protect workers from exploitation.

Border closures as a result of the COVID-19 pandemic have reinforced how reliant the horticulture industry is on a seasonal workforce. Efforts to encourage Western Australians to take up seasonal work in the absence of international back-packers have drawn public attention to pay rates in the industry and the physical demands of the work which has made it a challenge to attract labour.

We note that the availability of international holiday maker and seasonal worker labour has distracted from the need to invest in technological innovation that could reduce some of the physical demands of the work and make it easier to attract local labour. Government and industry need to place some focus in this area.

While the vast majority horticulture businesses understand the value of their workers, we know there are some operators in the industry who operate without regard to providing a fair return to their workers. We support greater transparency in the horticulture industry when it comes to wages and workplace conditions.

We recognise this is a complex issue and it is important that any changes to the award are sustainable for both businesses and workers. Horticulturalists are price takers and cannot necessarily pass on cost increases. However, the reputation of industry and its ability to attract workers into the future requires that standard safety nets of a minimum wage should apply to horticultural workers.

The AWU submission provides evidence that the current piece rate method can result in very low wage rates for workers in the industry, when calculated over the period worked, at significantly less than minimum award rates. This evidence is regularly provided in public commentary and other inquiries.

We also note that the circumstances experienced by many horticulture workers (transient, limited English language skills, isolation, financial and visa pressures) can mean that piece rates are not the product of genuine agreement. This renders null any protection offered by clause 15.2 (f), which aims to address coercion and duress.

We understand that some employers will start new workers on an hourly rate until they are competent before moving them onto piecework. There may be an option to regulate this approach or ensure further support or training is provided to bring workers up to an acceptable performance standard.

We continue to encourage the Commonwealth Government to deliver on its commitment to a national labour hire registration scheme for the horticulture industry that will go some way to addressing some of these issues.

We thank you for the opportunity to provide the McGowan Government's views on this matter.

Yours sincerely



**HON STEPHEN DAWSON MLC
MINISTER FOR INDUSTRIAL RELATIONS**



**HON ALANNAH MACTIERNAN MLC
MINISTER FOR REGIONAL
DEVELOPMENT;
AGRICULTURE AND FOOD**

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