

Submission

To

Standing Committee on Employment, Workplace Relations and
Workforce Participation

Inquiry into Employment Challenges in the Australian tourism sector

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INTRODUCTION

1. The Australian Workers Union of Employees, Queensland is the largest State registered union of employees in Queensland. Of all unions in Queensland, the AWU(Q) has the broadest coverage of employee's across different industries, and one of the broadest ranges of coverage of all Unions in Australia.

2. This unique position puts the AWU(Q) in an ideal position to understand the working conditions and industrial arrangements of Queensland workers across a vast array of workplaces and industries including the tourism and hospitality industry.

3. The AWU(Q) states at the outset that the principle reasons for an inability of employers in the tourism sector to attract and retain employees is,

- (a) the poor wages and conditions paid to employees in the industry, and
- (b) the failure of employers to invest in training for their employees to provide them with the incentive to enter and stay in the industry.

4. There has been a concerted push in 2006 for some major employers in the Off Shore Island Resort Industry in Queensland to depress wages, and substantially weaken the future bargaining position of workers. This submission presents clear evidence of this occurring in the Off Shore Island industry where there is almost a total absence of commitment to training from many employers. The reluctance of employer's in the industry to invest in training staff is justified by a complaint that staff turnover is so high that investment in training cannot be justified.

5. However rather than attempting to arrest the problem of extraordinarily high levels of staff turnover, by developing more attractive and sophisticated industrial conditions for their workforce, the industry has taken the low road, with low wages, and no investment in skilling of staff leading no prospect of career development and subsequently high turnover.

6. The new "Workchoices" legislation has exacerbated the problem as employers have used their new, and dramatically strengthened bargaining position over workers

to the point that in many instances (has as has occurred this year with Hayman Island and Hamilton Island) genuine bargaining over wages and conditions did not actually occur at all.

7. The AWU(Q) believes that the push by some employer's in the tourism industry to dramatically expand the use of 457 visas to bring in labour from overseas reflects a view on the part of those employers that they do not wish to pay wages and conditions that meet community standards and expectations in Australia, and it is also a demonstration of lazy management that does not have the will to invest in training and skill development in their own industry.

8. This recent campaign by employers for the expansion of access to 457 visas abandons the traditional Australian ethos that rejects exploitation of employees as an acceptable means to achieve competitiveness. The tourism industry 457 visa campaign is effectively a campaign to compensate for managerial laziness and incompetence by driving down wages of tourism industry wages to keep it viable. It is a short sighted and ultimately doomed strategy as ultimately the industries reputation and success relies so heavily on quality service.

9. It is in this context that the AWU(Q) will argue in this submission against the proposal from some elements of industry to expand access to workers under 457 visas. The AWU believes any such proposal cannot be considered until an employer has demonstrated bona fide commitment to training, skill development and the meeting community standards regarding working conditions.

THE AWU(Q) IN TOURISM AND HOSPITALITY

10. The AWU(Q) has coverage of resorts, integrated resorts, hotels, motels, casinos, convention centres, theme parks, tourist boating operations, transport and the full range of tourism and hospitality operations, both licensed and unlicensed including restaurants and cafes in Queensland. In many of these operations, leisure activities are provided for guests including water sports and recreational snorkelling and diving.

11. The AWU is the predominant union representing employees under a range of awards and industrial agreements, both common rule and otherwise, applying throughout the whole of the Whitsunday and Cairns region, and most areas of Central and Northern Queensland. In addition, the AWU has coverage of engineers, technicians, mechanics, video technicians, tradespersons and similarly skilled occupations in the tourism and entertainment industry.

12. For example, the AWU has traditionally covered the following establishments:-

- (a) The Off-shore Islands Resorts
- (b) Cairns International Hotel;
- (c) Cairns Hilton Hotel;
- (d) Mirage Port Douglas;
- (e) Paradise Palms Golf Course at Palm Cove;
- (f) Breakwater Island Casino at Townsville;
- (g) Kingfisher Bay Resort at Fraser Island.

13. Within the Tourism and Hospitality industries, the AWU has coverage in respect of the following callings:

Head Waiter	Yardsperson / Gardener
Host / Hostess	Qualified Gardener
Food Waiter	Maintenance Person
Bar Attendant	Security Officer
Trainee Bar Attendants	Guest Movements Co-ordinator
Night Porter	Forklift Driver
Day Porter	Front End Loader
Shop Assistant	Back Hoe Operator
Cashier / Receptionist	Qualified Landscape Gardener
Hairdresser	Assistant Greenkeeper
Qualified Cook	Specialist Maintenance Person
Activities Staff	General Maintenance Person
First Cook	Tradesman Assistant
Breakfast or other cook	Yard Hand / Gardener
Cook employed alone	Maintenance Person
Chef de Partie	Assistant Landscape Gardener
Senior Chef de Partie	Swimming Pool Attendant
Pastry Chef	Dive Instructor
Baker	Dive Master
Qualified Butcher	Cellar Person
Kitchenhand	Ride Operators
Housemaid	Cashiers
Storeperson	Ticket Sellers
Deckhand	Cleaners
Boatman / Launch Master	Gateperson
Laundry Attendant	Beach Hand

Marine Hostess	Water Sports Assistant
Coxswain Wardrobe	Seamstress
Animal Handlers	Photographers
Bookings / Administrative Staff	First Aid
Nurses	Video Technicians
Guest Relations	Pantrymaid
Animal Handlers	Engineers
TV Repairmen	Electricians
TV Technicians	Mechanics
All classes of divers	

14. The AWU has a number of offices close to the tourism industry. For example, it operates and maintains a fully staffed office at Airlie Beach in the Whitsunday's. This is a major tourism destination and a number of tourism resorts are located in the area. This office has a full time Organiser so that union members particularly those situated on offshore islands, have ready access to the union. This is in addition to other offices on the coast of Queensland. The resident organiser regularly visits all off-shore island resorts.

15. The AWU also has offices in Cairns, Townsville and Mackay that allows for the AWU to service all of the tourist islands along the east-coast of the Northern Region of Queensland. The Union, provides an extensive service and local representation to members employed in the Tourism and Hospitality industries throughout Queensland. The AWU represents the majority of employees employed in the tourism and recreation industry in Queensland, particularly that part of Queensland outside south east corner.

16. The Union has developed both industry wide awards/agreements, as well as the establishment of a number of enterprise based awards/agreements. The Union makes a considerable effort to negotiate tailor-made enterprise awards/agreements to suit the operational needs of AWU members at particular establishments.

17. Apart from the site specific coverage, the AWU has traditionally had wide State common-rule award coverage throughout the tourism and hospitality industry, for example:-

- Hotel Resorts and Other Licensed Premises Award - State (Excluding South-East Queensland)
- Club Employees Award - State (Excluding South-East Queensland)
- Café, Restaurant and Catering Award - State (Excluding South-East Queensland)

- Queensland)
- Boarding House Employees Award - State (Excluding South-East Queensland)
- Fast Food Industry Award - State (Excluding South-East Queensland)
- Motel and Accommodation Industry Industrial Agreement
- Retail Industry Interim Award – State

18. These former State awards are known as NAPSA's (Notional Agreements Preserving State Awards) under the Workchoices legislation where the employer is a trading corporation.

19. In 2006 the AWU has concluded agreements with the Eurong Beach Resort on Fraser Island, and also an agreement with all of the Off Shore Islands owned by the Voyages group. This includes Bedarra Island, Brampton Island, Coconut Beach Rainforest Lodge, Dunk Island, Ferntree Rainforest Lodge, Heron Island, Lizard Island and Silky Oaks Lodge. The AWU has also concluded an agreement with Club Med Lindeman Island, Great Keppel Island, and Club Croc Long Island Resorts.

20. The AWU also has significant coverage of Tourist Attractions. The AWU Theme Park and Amusement Award 2001 was finalised by the parties and approved by the Federal Commission in November 2001. The AWU also has coverage of the three major Theme Parks in South East Queensland, MovieWorld, SeaWorld and DreamWorld. A new award was made for Tour Guides across the State during 2002.

THE PUSH TO DRIVE DOWN CONDITIONS IN 2006

21. The AWU can advise this standing committee there has been a concerted push to reduce wages and conditions of employment in the Off Shore Island Resort Industry in Queensland in 2006. The principle proponents of this push in the Off Shore Island Resorts component of the industry have been the owners of Hayman Island Resort and Hamilton Island Resort.

22. Hayman Island Resort is a **5 STAR** resort in the Whitsunday Islands in the Great Barrier Reef. The resort is owned by Mulpha Hotel Pty Ltd. There are approximately 400 employees working at the Island Resort.

23. Until 2006 the resort paid its employees under a State registered certified agreement that expired on 15 June 2006. The expired state agreement has fallen behind the conditions of the state award created in 2005 that would have otherwise covered Off Shore Islands in Queensland before Workchoices. The AWU was seeking to negotiate with Hayman Island to replace the expired EBA since early 2006 and at least bring it up to the standards under the award.

24. Management ignored the AWU and commenced meetings with wages staff on Monday 19 June, 2006. The AWU was advised that management called in groups of between 3 and 10 employees for separate meetings each day. Immediately before commencing this process of conducting small meetings with employees, the AWU is advised that Island management have directed a number of the workforce, including more experienced and longer serving staff to take their annual leave giving them 14 days notice. This leave coincides with the proposed timetable it proposes to put the proposed agreement to staff.

25. At these small meetings with management the staff were given a copy of a document headed "Off Shore Island Resort (Hayman Great Barrier Reef) Collective Workplace Agreement 2006 - Frequently Asked Questions. The staff were not provided with a copy of the new proposed collective agreement, which is some 47 pages in length. Instead they are walked through points in the document 'Frequently Asked Questions' which put a positive spin on the conditions in the agreement. The document was completely silent on most of the large number of reductions in employees conditions compared to their current agreement.

26. Employees were then directed to go back to work. The employees were told if they want to read the agreement they can go up to the HR office and have a look at it but they are not allowed to remove the agreement from the HR office, or to have a copy of the agreement.

27. The Union obtained a copy of the agreement despite the best efforts of the employer to prevent that and the AWU discovered the following long list of reduced conditions proposed by the employer. The table below describes the reduced conditions in the third column.

PREVIOUS EBA COVERING HAYMAN (June 2003-June 2006)	FORMER STATE AWARD THAT WOULD OTHERWISE HAVE COVERED HAYMAN (Applied from May 2005)	NEW NON-UNION AGREEMENT (to apply from July 2006 until July 2011)
40 hour week	38 hour week applied from May 2005	Retains 40 hour week
Casual loading of 50%	Casual loading of 50%	Casual loading reduced from 50% to 20%
3 year agreement	n/a	5 year agreement
Overtime at time and one half or double-time	Overtime at time and one half or double-time	Overtime reduced from time and one half and double time to time and one quarter in all cases
No seasonal employee definition	No seasonal employee definition	Proposed new category of employee called a 'seasonal' worker who is defined essentially like a casual employee without getting paid a casual loading as the employer can employ them only for a period it regards is a 'season' .
25% exemption payment provides for exemption from certain penalties under agreement. Such employees are required to work 45 ordinary hours a week.	No exemption rate	Reduces exemption rate from 25% to 20% and increases hours required from 45 to 50 hour per week for employees paid the exemption rate
QIRC could conciliate and arbitrate disputes	QIRC could conciliate and arbitrate disputes	Neither the QIRC or AIRC can compel dispute conciliation or arbitration
Seven Level wage structure. Wages are loaded to include payment for half of the weekends in a year and for and shift penalties and public holidays.	Seven Level wage structure with penalties applying for weekend work, late work, overtime and public holidays. The Award introduced the	The agreement adopts previous agreement wage structure and wage rates as a loaded wage but is now supposed to include payment to cover for all weekends , shifts and public holidays.

<p>The loaded rate under the current agreement no longer compensates for the penalties that would apply under the Off Shore Islands Award and also has not yet been adjusted to compensate for the introduction of a 38 hour week in the Award.</p>	<p>38 hour week</p>	<p>The agreement ignores the improved conditions under the award and instead creates new lower paying wage rates at levels 1, 2 and 3, compared to the old agreement.</p> <p>The new agreement lowers the wages at levels 1, 2 and 3 by 3%. It then requires new employees to complete competency based training (which is not detailed in the agreement) in order to get back to the wage rates that used to apply at Level 1,2 and 3 by creating new levels 1A, 2A and 3A which are at the old levels 1,2 and 3.</p> <p><i>(* most employees are employed at Levels 1, 2 or 3 and the staff turnover is very high).</i></p>
		<p>WAGES</p> <p>The proposed first wage increase of 3% from August 2006 is effectively cancelled out by lowering the pay levels for level 1,2 and 3 by 3%. <i>(*Because staff turnover is so high and most staff are at level 1, 2 and 3 most staff employed in 2006/2007 will not receive a wage increase.)</i></p> <p>Wage increase of 3% from August 2007</p> <p>Further increases in line with AFPC in 2008,2009,2010.</p>
<p>Part timers have a daily minimum of 4 hours and a weekly minimum of 12 hours</p>	<p>Part timers have a daily minimum of 3 hours and a weekly minimum of 12 hours</p>	<p>Part-time employees have no daily minimum or maximum hours but can work the same hours as a full-time employee averaged over one month</p>

10 hour break between shifts or 8 hours on change of shift. Overtime applies at time and one half and double time if break not received	10 hour break between shifts or 8 hours on change of shift. Overtime applies at time and one half and double time if break not received	10 hour break reduced to 8 hour break between shifts. Overtime at time and a quarter if 8 hour break not received
Daily maximum hours of 12 within a spread of 16 hours	Daily maximum of 10 hours within a spread of 16 hours	Daily maximum of 12 hours within a spread increased from 16 hours to 18 hours
3 consecutive 12 hour days in a row entitles 2 days off	No 12 hour shifts	Increase from 3 consecutive to 4 consecutive 12 hour days in a row before being entitled 2 days off
Rosters must be posted with 3 days notice and changed only by consent or agreement with union	Rosters must be posted with 3 days notice	Roster system now changed to allow the company to adjust rosters with minimal notice
		If recalled to work or called out to work overtime the 8 hour break between shifts does not apply
Employees can be rostered up to 48 weekend days in a 12 month period and then overtime applies at time and a half Saturday and double time Sunday	Ordinary time on Saturday is time and a quarter. Ordinary time on Sunday is time and a half.	No weekend rates apply in any circumstances
Standby Allowance of \$70 per week or \$10 per day		Allowance removed
No late work allowance	Late work allowance	No late work allowance
30 minute Meal Break must be before expiration of 6 hours or time and half applies	30 minute Meal Break must be before expiration of 6 hours or time and half applies	Meal break only to apply after six hours completed and no penalty payment if meal break not received
		Removed option for maintenance and trades employees to work 5 day per week rosters. All must now work a 7 day roster rate.
Only an employee may amend or change their time sheet.	No right for employer to amend or change employee time sheet.	The agreement allows managers to change employees time sheets if the employee is present.
Meals and Accommodation to be provided by the	Employer may only charge for meals and accommodation if an	Provision for the amount employees are charged for meals and accommodation

employer to employees at rates struck under the agreement and can only be increased as provided under the agreement by 3% each year or CPI.	agreement is negotiated with the Union	is removed from agreement and is completely at the whim of the employer to increase at any time and to any rates the employer chooses
40 hours of public holiday leave after one year for a full-time employee and pro rata for part time	11 public holidays paid at double time and a half if worked	40 hours of public holiday leave after one year and pro rata for part time
Sick leave 64 hours	Sick leave 60.8 hours	Sick leave 80 hours subject to AFPCS requirements
Long Service Leave 13 weeks after 10 years pro rata after 7 years.	Long service leave as per state act	Agreement removes unconditional entitlement to pro-rata long service leave payment on termination after 7 years and inserted conditions from state act
No requirement to reimburse employer	No requirement to reimburse employer	Agreement requires employees reimburse the employer the fares to travel to and from the island if they leave in the probation period, and one way of they leave in the first 12 months
Entitled to 10 minute break every hour when in temperatures of 42 degrees or above	No such clause	Agreement removes entitlement under the current agreement for a 10 minute break for each hour they work in temperatures of 42 degrees or higher
No right to inspect rooms without notice during employment. \$100 cleaning charge on departure if room left unclean	N/A	Increases to \$200 dollars a cleaning charge on departure If room unclean. Agreement introduces a further new \$200 cleaning charge for employees living in accommodation if the employer deems it is not maintained to the required standard. Further the employer is entitled to inspect employees accommodation with no notice
Anti Discrimination	Anti Discrimination clause	Anti Discrimination Clause

Clause included	included	removed
No such right	No such right	New agreement seeks to give the employer the right to stand down employees from their duties without pay to conduct scheduled maintenance.
Multi-Hire Clause allowing for a separate engagement at the resort in a separate role at 15% higher than ordinary rate	No multi-hiring clause	Multi-Hire clause at 25% higher than ordinary rate
Redundancy pay scaling up to 16 weeks depending on length of service	Redundancy pay up to 16 weeks depending on length of service	Redundancy payments are the same up to 7 years service then significantly reduced for all employees with 7 years service or more. For example an employee with 9 years service is reduced by 5 weeks pay. An employee with 12 years or more service is 9 weeks pay worse off.

28. The proposed agreement dramatically cut conditions, and many employees raised serious concerns with the union. The AWU, complained to the Office of Workplace Services who directed the employer to allow for proper consultation with staff about the agreement. A ballot was subsequently run by the employer by holding separate meetings of staff across the island resort and asking for a vote by show of hands in front of management. The AWU was advised by members who attended the meetings that the clear majority of staff voted against the proposed agreement who were in attendance at meetings reported to the Union. However more than a week after these meetings were held the employer advised staff the proposed agreement was voted up and the employer subsequently registered the agreement with the Office of the Employment Advocate (OEA).

29. A large number of staff subsequently complained to the OWS and the AWU was advised some months ago an investigation is being conducted into the ballot several months ago however no subsequent advice has been received.

30. Further to the Hayman Island case, recently Hamilton Island sought to put to its combined workforce of over 700 employees an employee collective agreement which sought to dramatically reduce conditions of employment for its employees. The following is just a sample of conditions employees were asked to give.

- (a) No commitment to ongoing staff accommodation for workers at Hamilton Island.
- (b) Any restriction on multi-hire arrangements to be completely removed so employees could work any number of hours in the same job or another job and never get paid overtime rates.
- (c) Probation period was 3 months to move to 4 months. Therefore the employer will be able to dismiss employees at anytime for 4 months.
- (d) Employer to be able to direct employees to attend training in their own time.
- (e) Moving from a 40 hour week to a 38 hour week would normally mean an increase of about 5% in wage rates in real terms. Under the Hamilton proposed agreement that would not have happened because the hourly rate was not going to be increased and overtime was effectively abolished. Instead of overtime applying if an employee worked outside their rostered hours on a given day, it may only apply if the employee worked more than their maximum hours over a whole month.
- (f) Under the current expired Hamilton agreement overtime is paid for work outside an employees roster at time and a half for the first three hours and double time thereafter. That was proposed to be abolished.
- (g) Currently rosters must be posted three days in advance. That was to be abolished.
- (h) Currently employees are entitled to a meal break of at least 30 minutes between the 4th and 6th hour of shift. That right was to be abolished and it was proposed that the meal break could be anytime during a shift. At the moment there is an entitlement to overtime if an employee has not had a meal break after 6 hours. That right was to be gone. Even worse the agreement proposed that an employee could lose their meal break completely and just get paid ordinary time.

- (i) A 4% increase and then no decent payrise for the next five years. Pay rises for the next 5 years to be linked to the decisions of the Australian Fair Pay Commission.
- (j) Previously Time Off In Lieu had to be paid out after three months if not taken. That protection was to be gone.
- (k) The stand-by allowance was to be reduced from the current rate back to what it was three years ago.
- (l) Employees are now entitled to a 10 hour break between shifts from one day to the next. It can only be less in special circumstances. That was going to be reduced to 8 hours.
- (m) Sick leave/Personal leave was proposed to require employees to produce a medical certificate if they were sick even for just one day.
- (n) It was proposed to abolish redundancy pay completely.
- (o) Instead of paying 250% of the ordinary rate or giving another day off Hamilton proposed to pay only 3% more on public holidays. It also proposed to remove the requirement that employees must be given at least 4 hours work/or pay for working on a public holiday.
- (p) Employees were asked to accept that the employer have the right to inspect their personal property, including their bag, locker or pockets at anytime they choose. An employer would never normally have such a right.
- (q) The employer proposed it have the right to test employees for drug and alcohol testing at just about anytime. That includes random testing, pre-employment testing, post accident/incident testing, testing a worker deemed by the employer to be unsafe, post positive result testing and voluntary testing.

31. Employees were understandably alarmed at what Hamilton Island proposed to take away and voted the proposed agreement down. Since that time the employer has not attempted to work with employees to discuss their industrial conditions further and the whole issue has been left unresolved for several months now.

FAILURE TO INVEST IN TRAINING

32. The experience of the AWU in Queensland dealing with Off Shore Island Resorts in 2006 is that the industry is not investing in training primarily because of high staff

turnover and a fear that the value of the investment will be lost. The difficulty with this approach is that there is no strategic effort to tackle the cause of the problem, but instead a general approach of complaining about it, and seeking government assistance to solve the attraction and retention issue for them. The AWU believes the recent adjustment of the Working Holiday Maker scheme to allow backpackers to work for six months at a particular workplace, as opposed to three months is a classic example of the industry lobbying for gaining concessions from government to assist it without making any substantial reciprocal effort to address it's own problems.

33. Over recent decades the AWU has tried to work co-operatively with the industry to develop some of the most innovative and flexible industrial agreements. This has included career paths allowing for multi-skilling and broadbanding of classification structures covering the entire workforce.

34. The Union did so because the AWU understood the unique demands of the islands as businesses, and believed it would enhance the future viability of the industry in Queensland and the employment prospects for workers in this growth industry. The AWU worked with industry throughout the 1990's to move away from being regulated by up to 15 different industrial awards, all with varying terms and conditions, to a single agreement covering all terms and conditions.

35. The rationalisation of awards and the development of comprehensive skills based classification structures was a difficult and expensive process that the AWU and the industry in Queensland as a whole worked together to achieve in the interests of both the industry and the workforce throughout the 1990's. Sadly the industry is squandering a lot of the work done in the last decade to develop an industrial environment for better skills and higher pay. Instead the push is now to hold wages down, and reduce other conditions so the industry is unattractive in comparison to most others in the Australian labour market, coupled with little or no investment in skills.

CONCLUSION

36. The AWU(Q) repeats that the principle reasons for an inability of employers in the tourism sector to attract and retain employees is,

- (c) the poor wages and conditions paid to employees in the industry, and
- (d) the failure of employers to invest in training for their employees to provide them with the incentive to enter and stay in the industry.

37. The AWU calls on the committee not to reward the tourism industries clear failures in these areas by supporting its campaign to make it easier to bring in foreign labour.

38. The AWU recommends that the committee should oppose any proposal that makes it easier for tourism industry employers to introduce foreign labour. The committee should develop recommendations that require industry participants to demonstrate bona fide commitment to training, skill development and meeting community standards regarding working conditions in order to give incentive for the industry to move away from the low wage, low skill course it has adopted.