



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT STANDING COMMITTEE ON MIGRATION

Reference: Temporary business visas

MONDAY, 16 APRIL 2007

BRISBANE

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**JOINT STANDING COMMITTEE ON
MIGRATION**

Monday, 16 April 2007

Members: Mr Randall (*Chair*), Senator Polley (*Deputy Chair*), Senators Bartlett, Eggleston and Parry and Mr Laurie Ferguson, Mrs Irwin, Mr Keenan, Dr Lawrence and Dr Southcott

Members in attendance: Senators Bartlett, Parry and Polley and Mr Laurie Ferguson and Mr Randall

Terms of reference for the inquiry:

To:

1. Inquire into the adequacy of the current eligibility requirements (including English language proficiency) and the effectiveness of monitoring, enforcement and reporting arrangements for temporary business visas, particularly Temporary Business (Long Stay) 457 visas and Labour Agreements; and
2. Identify areas where procedures can be improved.

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Committee met at 9.30 am**BIRD, Mr Graham, Federal Secretary, Australasian Meat Industry Employees Union****BUCKLEY, Mr Craig Harold, National Organiser, Australasian Meat Industry Employees Union****CARR, Mr Russell David, Queensland Branch Secretary, Australasian Meat Industry Employees Union****SMITH, Mr Graham Richard, South Australian Branch Secretary, Australasian Meat Industry Employees Union**

CHAIR (Mr Randall)—Welcome. I declare open this public hearing of the inquiry into temporary business visas by the Joint Standing Committee on Migration. The committee is inquiring into the adequacy of current eligibility requirements and the effectiveness of compliance arrangements for temporary business visas, particularly temporary business (long stay) standard business sponsorship (subclass 457) visas, and labour agreements.

I welcome the witnesses from the Australasian Meat Industry Employees Union. Although the committee does not require you to give evidence under oath, I should advise you that these hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The committee has received your submission and it has been authorised for publication. I invite each of you, if you wish, to make a brief opening statement before we proceed to questions.

Mr Bird—The Meat Industry Employees Union welcomes the opportunity to be here. The 457 migration to Australia for temporary work is something which has had a significant effect on the meat industry, and particularly our members, over the last couple of years. From a position where, a couple of years ago, to our knowledge, there were no 457 visa holders, there are probably now somewhere near 2,000. There has been a very rapid increase in the number of these people who have been brought into Australia.

It is our view that very little of this was necessary. It is our view that, apart from some parts of Queensland, which Mr Carr can talk about later, there has been no real requirement for any of these people to be brought into Australia. The reason they have come in has been as a means of exploitation of workers and a means of keeping wages and conditions in the meat industry down. We believe there is no evidence whatsoever of any lack of numbers of people who can work in the industry.

The numbers that have come in to a very large extent have been employed illegally under the terms and conditions of the act. Only a very small number of them have been employed as slaughterers, which we say is the only classification that has any relevance to the 457 visa at all. Many of them are employed as semiskilled labourers and many of them are employed as boners and slicers, which do not fall into the categories of the designated 457 worker.

We can see absolutely no need for these people. They have been used in the main as a cheap source of labour. Because of the temporary nature of their visas, they can be used in such a way where they do not believe they have an ability to stand up for themselves and to demand that they be paid correctly and treated properly. A very large number of them have a hope that they will one day be allowed to stay permanently in Australia, and they are given the view that that will not happen unless they behave themselves, do as they are told and not complain about any of the conditions they may have to put up with. We believe that our submission is quite comprehensive and we are happy to answer any questions you may have.

CHAIR—Thank you very much, Mr Bird. Would any of your colleagues like to make an opening statement?

Mr Carr—I would like to note that the Queensland situation is slightly different, in that I think it is the only state that has a labour agreement on offer for employers in the meat industry to sign. We have written letters of complaint to Abul Rizvi at the department of immigration, because that labour agreement is available to all employers in the meat industry.

As Mr Bird has said, certainly in Queensland I do not think any of the employers are complying with the 457 visa regulation. The noncompliance of some employers is worse than that of others, in that some employers are indulging in blatant exploitation of migrant workers. Other employers simply have the migrants in the wrong positions. In other words, they are not slaughterpersons, as they should be under the 457 visa regulation. I think that is common knowledge within the industry. I cannot think of a single employer that has full compliance or anywhere near compliance with the legislation. That is obviously acknowledged by DIMA and other people within the government, because they have ceased allowing migrants to come into the country for a long period of time now, because they know there is a problem.

Our position is this: we think the government played a reasonable role, along with the state government, in negotiating a labour agreement. We also played a role in negotiating that labour agreement—facilitating negotiations. The labour agreement is available for any employer to sign. Many of the employers in Queensland have refused to sign the labour agreement. They know they are in breach of the legislation and they know that it has been allowed to continue for years and that it is probably going to continue to be allowed to occur.

We have the situation where everybody knows they are breaching the law and nobody is willing to do anything about it. I must say that, in a few cases, those employers are treating the migrants appallingly. There does not seem to be anything we can do to get them to sign the labour agreement, comply with an audit under the labour agreement or hand their workers over to somebody who will treat them appropriately and is willing to sign the labour agreement. I do not see that there is a third option. You either must comply with the 457 visa regulations or you must sign the available labour agreement. To say, 'No, we're just going to keep working them; we are going to keep exploiting them; and we are going to do it outside the legislation', I just cannot see how it is appropriate that it just continues and goes on month after month.

Mr LAURIE FERGUSON—Did Mr Bird say that you were also going to talk briefly about what the union concedes are some small areas of shortage in Queensland, or did I mishear?

Mr Bird—I said before that the union believes that the only genuine shortage in the industry is in some parts of Queensland where workers have gone off to get better paid in the mining industry.

Mr Carr—If you would like me to comment on that, I will.

Mr LAURIE FERGUSON—Yes, just to give us a view as to whether there is a shortage or not.

Mr Carr—There is a shortage in some areas of Queensland but, funnily enough, it does not always follow that the majority of migrant workers end up there. There are certain other areas of Queensland where there are high youth unemployment areas and also large concentrations of migrants. I do not have a huge problem with places like Biloela, Mackay and Rockhampton. If you are looking at places around central Brisbane, where you have high levels of youth unemployment, I think the system is failing somewhere where we are not training and utilising those young people.

CHAIR—I want to return to some of the specifics there shortly. You have talked about exploitation. I want to see if you can give me details, examples and possibly names. I would also like you to shortly address the labour agreement signed by the Queensland government minister Mr John Mickel earlier this year. Do any other members of the delegation have any opening statements?

Mr Smith—On top of everything else, there are a couple of areas of significance where we say this particular visa is not compatible with the meat industry. One of them is in the area of training. The abattoir area where we are using the 457 visa is not typically a trade area. We do not have any tradesmen in that area at all. What happens generally is that people come in off the street, they get a job, they start as labourers, they see that there are a couple of higher paid positions of slaughtering and boning and they start to learn those as they go along. Over a period of time as people leave, they fill those positions. So it is really a stepping up arrangement.

One of the problems we have with the 457 visa is that the terms say you have to take people and put them straight into those trade, trade equivalent or skilled jobs—as I say there is no actual trade—which in turn affect the career path opportunities for the Australian workforce. Because we are dealing with an abattoir—abattoir work is not generally aspired to as a great job by people on the street—where those career opportunities become diminished, that creates more turnover for the labour market and the workforce. People leave because they see there is no opportunity to do any better. They are only meatworks jobs. You are talking about things like cleaning bloody floors, spraying carcasses and that sort of thing. It is not a great job. If they cannot go that step up, it does mean that there is more turnover of labour.

This in itself creates a much larger problem. By addressing allegedly some skills shortages by bringing people in and plonking them into those higher paid jobs, you are actually creating a much longer term problem because the turnover of the Australian workforce becomes larger and larger. You become a sort of dog chasing your tail in that respect.

The other area where it becomes incompatible is that the meat industry is largely seasonal. We are subject to seasonal fluctuations of stock availability. We can be affected by things like

drought and various other factors seasonally. We will come to various areas of the year where there is no work available. The terms of the 457 visa say that the people who have come in on 457 visas have to be paid a minimum salary per year and the Australian workforce does not. So we have this immediate situation where there is an incompatibility. You have the Australian area of the workforce being stood down without pay whilst the people on the 457 visas are being maintained on their minimum salary level. It is a real problem between the Australian workforce and the 457s. That is where we see that the visa is incompatible with the industry altogether.

Mr Buckley—I do not wish to add to the opening statements, but the staff of the committee contacted me and advised that in our submission we had referred to an attached item of correspondence but that that item of correspondence had not been included with the submission. I have brought along some copies of that, which can be added to the documents.

CHAIR—The committee thanks you for providing the material and will consider it at its next meeting to resolve its formal status. I now turn to questions. So far, we have taken evidence in Victoria, and we have had the meat industry represent itself there from an employer's point of view. It appears from the evidence given so far that there is a shortage in this industry. I understand that Queensland's current unemployment rate is four per cent. We are getting evidence later on, for example, from Australia Meat Holdings Pty Ltd, which has a contrary view to yours. Following Mr Ferguson's initial question, I ask: do you believe you can supply a sufficient workforce for the meat industry, particularly in Queensland?

Mr Bird—Perhaps Mr Carr could answer the question about Queensland, but I think that it is quite true to say that, throughout the rest of Australia, there is very little evidence of any difficulty in employers getting sufficient people to work if they are prepared to pay what we regard as proper wages and conditions. We have examples of meat works in various parts of Australia where meat works A have a turnover of two or three per cent and people work there for 20 and 30 years yet, down the road, there will be another meatworks with a turnover of 95 per cent, with people coming and going all the time. The reason they stay in one is that they receive decent wages and conditions and are treated properly; the reason they do not stay in the other is that they are not treated very well, their wages are quite low and their conditions are substandard. I could give an example of this happening at Warrnambool—and I understand that a representative from Midfield Meat International has already spoken at this inquiry.

CHAIR—That is correct.

Mr Bird—Midfield Meat International, over the last five or six years, has employed something in the order of 600 or 700 trainees, which is probably about double their workforce. Those trainees come and go. The company has had a great deal of difficulty in retaining a workforce. It is our view that the reason they have difficulty in retaining a workforce is that they do not treat their workers very well and they do not pay them very well. You can travel half an hour up the road and find meatworks where people have stayed for years.

CHAIR—When you say that they do not treat them well and they do not pay them well, there is a minimum award and, under the 457 visa arrangement, there is also a minimum pay rate. Are you saying that they pay below those rates? Secondly, can you give me examples of the maltreatment you refer to.

Mr Bird—They are paying them below the going rate for the jobs those people are doing in the industry—

CHAIR—But not below the award rate?

Mr Bird—They are not being paid below the award rate, but the award rate in the meat industry is well below the going rate. The award rate in the industry is less than \$600 for a skilled worker, but there are very few skilled workers who work in the industry who get less than \$900. Some of them get substantially more than that. The problem they have in Warrnambool is a very large turnover. They train lots and lots of people, and very few of those people remain. As I understand it, that company is on the record as having said some years ago at a training meeting that their idea is to get people and rotate them through the place. They do not like to see people stay there for very long. They like to get young people and they like to work them for a year or so and then get rid of them and get more people in. If that is your policy of operating a meatworks, I think it is unfair to then say that you are having trouble getting a steady workforce.

CHAIR—On that point, why do you think they try and put through so many trainees without hanging on to them? Let me make it clear before you continue that this committee does attract privilege, so feel free to be very frank.

Mr Bird—There are obviously financial advantages in employing people as trainees. They get a government grant for the training. In Victoria they also get exemption from WorkCover premiums. So, if you have trainees, you do not have to pay WorkCover on their behalf. That is paid for by the WorkCover authority. In the meat industry, where there is substantial competition and in which it is obviously very hard and very dangerous to work, if you have the advantage of having about a third of your workforce employed with no WorkCover premium, that gives you a substantial start against one of your competitors. It is a substantial advantage for you in that way.

In our view, the people at Midfield Meats have operated their meatworks for many years on the basis of the financial advantage in employing young people on traineeships at traineeship rates of pay and attracting that subsidy as against paying the going rate of pay that some of their competitors are up for as well as paying the substantial WorkCover premiums that the industry attracts. The other thing I would say is that at Midfield Meats, for example, there are people who are employed basically off the street as trainees in jobs that in other meatworks would be regarded as skilled jobs. So, for anyone in the industry to say that there is a shortage of trained workers because it takes two or three years to train someone into these positions—which I understand some of the employers do say—is entirely incorrect.

We have the example in our submission of Mr Hughes—who worked for AMH at one stage and who I think now works for Teys Bros—saying that anyone with average intelligence could be taught to do some of these jobs in five minutes, having walked in off the street as a casual. I think you will find that some of these employers have, over the years, used people as casuals in these sorts of jobs with very little training at all. The problem comes when people in the local area no longer want to work under those sorts of conditions. The traineeship people dry up and, rather than properly training people in an attempt to keep them as long-term workers, the easiest way to fix their problem is to ask for workers to come in from overseas. That is the immediate thing that they do. They see this system in which they can simply have people brought in from China and come to work at the meatworks.

It is quite clear that people in China are paying money to agents to come to Australia. It has been accepted in our discussions with the department that there are people who are paying sums of money to agents in China, up to \$20,000 and \$30,000 in some cases. They come to Australia. They are not necessarily people who have been meatworkers in China at all. They are people who want to come and live in Australia. When they get here, in many cases they have to be trained to do the job. And, having arrived here and wanting to stay, they are told, 'Well, if you work for two years, we may look at putting you up for permanent residency, but you will have to go another two years as well to prove yourself.' Now, people working under those sorts of circumstances can come under a great deal of pressure to do things that you would not have to do if you were already a permanent resident and you were able to stand up for yourself—and by standing up for yourself I mean having an ability to join the union, for example, and make sure that your conditions are appropriate conditions.

CHAIR—Mr Bird, you raise an enormous number of issues and I really should give my colleagues a few opportunities to examine your evidence so far, to ask you questions. But I very briefly want to pursue two issues. The first is that both you and Mr Carr have alleged that there is exploitation, and I would like you to briefly outline some specific examples. Secondly, I would like Mr Carr to address my opening question about the fact that the Queensland government have taken it upon themselves to sign a labour agreement with the Commonwealth in this industry. Can we briefly do that so we can then go to questions from Senator Polley.

Mr Bird—One of the difficulties that this sort of situation brings about is that these people, as I said before, are worried about being sent home and so on. So you have difficulty in getting individuals to stand up and declare themselves publicly. But we have been contacted by a number of workers under these visas who tell us that they are being asked to work excessive hours and that numbers of them are being given their wages and then have various amounts of deductions made to those wages for things which we believe to be impermissible.

CHAIR—But can you provide hard evidence of that to us, either stat decs—

Mr Bird—Names of the people who have alleged—

CHAIR—from the people you are talking about or their financial details, so that you can confirm this? Are you able to provide that in hard copy?

Mr Bird—We have given the names of a number of meatworks to various officers of the Department of Immigration and Citizenship, as I think it is now called.

CHAIR—So could you give them to us as well?

Mr Bird—Yes, we could, I imagine. Yes, we can give you that. We have asked for investigations of a number of places as well. We have had no reply about those inquiries.

CHAIR—No reply from the department or from the Office of Workplace Services?

Mr Bird—Both. We understand that some places have been investigated and we understand that some people are now being paid correctly as opposed to what they were being paid before. But we have recently heard—

CHAIR—So it has had a result?

Mr Bird—We understand it has had a result. But we have recently heard that there are a couple of players—Mr Smith may be able to elaborate on this—where, instead of deducting the money before it goes to the worker each week, the worker is paid and then someone comes around later to where they live and asks for money to be given back. So you get your correct wages and the wage or pay record looks correct but in fact, later on, someone comes along and says ‘you owe \$100’ or ‘you owe us \$150’ for this, that and the other, which they are able to then take from these people.

CHAIR—That would be interesting to get evidence on because I am not sure how legal that is. You have outlined your case. I am just worried about time. You might be able to expand on that in other answers. I want to get back to Mr Carr about the Queensland labour agreement. How do you sit with that?

Mr Carr—When the negotiations were on between the employers, the department of workplace relations and the department of immigration for a labour agreement for Australia, we were not involved. I believe that there were some 21 meetings. The employers became very frustrated at the lack of progress on that. The employers in Queensland were telling us how frustrated they were. The problem for the employers was that they also did not have a united front in that they were each representing their own situations. We were able to facilitate a few meetings in our office between the employers and gain some sort of an agreement on a common ground probably because we are used to negotiating with those parties all the time. We were then able to go back to the Queensland government and the department of immigration and have it negotiated. We would rather have not done that, but the problem was that we had varying situations with the migrants who had come into Queensland and we are having ever-increasing numbers. It had been put on hold for a while but we had no confidence that it was going to stay on hold. We had employers who were using the regional salary aspect of the 457 visa legislation to pay very low wages. We had some things that we desperately had to fix up, and one of them was that ridiculous regional salary.

We are in favour of the Queensland labour agreement because it is better than the 457 visa legislation. It is better in that it addresses things such as the deductions of air fares for migrants. It has more provisions regarding employers having to prove that they have shortages of labour, which is good. It has restrictions on the type of payroll deductions the employer is allowed. It makes it more likely that the workers who arrive here will actually be skilled. We supported that labour agreement and we continue to support it. If we are going to have migrant workers in this country, anything is better than the last lot of regulations. If we could get something better again than the labour agreement we would be happy but, at the moment, the only thing wrong with the labour agreement is that only one employer is complying with it and has signed it and the rest are flouting both the 457 visa regulations and the labour agreement and joyfully doing so.

CHAIR—Unless I have read your submission incorrectly, it appears that the evidence given is that there is an objection to the labour agreement, but you are saying now that you do not have much of a problem with it. Is that right?

Mr Carr—The federal submission is prepared on a federal basis. You asked me about the Queensland branch’s view—

CHAIR—That is good.

Mr Carr—I think you should know that we are a federal union but we are a federation of states, and you asked me what the Queensland branch's view is. The view of the Queensland branch is that this particular labour agreement is suitable for Queensland. I have no idea whether it is suitable for Western Australia, South Australia or Victoria, but we believe that it is the right thing for Queensland right now. I do not think you should have to make a labour agreement. I think it is ridiculous, but the 457 visa regulations are full of such holes that you then have to go out and make labour agreements to stop employers rorting. I find that ridiculous, but that is the situation we are in. In that context, yes, it is better than nothing.

Senator POLLEY—I want to reiterate what the chair asked for and that is if you could give us a demonstrated case or some facts in relation to where the participants on the 457 visa have been underpaid or their terms and conditions were lacking or if you have any evidence of people taking money after their salary has been given to them that would be most helpful for us to take on as solid evidence.

Mr Carr—I will answer briefly, then I am sure Graham will be in a good position to answer that question. Take one company in Queensland—the Kilcoy Pastoral Co. We are not the flavour of the month with the Kilcoy Pastoral Co and we are not given reasonable access. We are given Work Choices legislation access, which means you get stuck in a room around the back, and anyone who comes to talk to you is then immediately victimised by the employer. That is how Work Choices actually works. So our ability to gather information is not as good as it should be.

We went to some extensive efforts to have some Filipino members of our union, who are fluent in Tagalog, a Filipino language, actually go to Kilcoy and speak to some of the workers in their spare time. They were able to highlight a number of issues where these workers were being disadvantaged, but when the workers were asked, 'Are you willing to make a statement to that effect?' they said: 'But we will get sacked and we will have to go back to the Philippines. We paid money to get here—we are not going home with a debt hanging over our head when we get there.' When we were talking to those workers, they were on just over \$14 an hour.

The employer had obviously filled out the application under 457 legislation to get migrants. They had obviously stated that they were going to be put in skilled slaughtering positions. The skilled slaughtering positions, even at Kilcoy—which is not a very good shed—were at least \$20 an hour. So the employer has signed paperwork saying, 'We want workers—we will do it under 457 visa legislation, and they will be skilled slaughterers,' and the whole place was full of Filipinos who were not skilled and who were working in the gut room and the tripe room and those sorts of areas. They were complaining to us about the amount of deductions that they had.

A Filipino worker that I was involved with, a female from a poultry shed, was there on a Saturday talking to these workers and she was able to translate to me. The specific complaints were about the deductions from wages and about the fact that, when they injured themselves, cut themselves, instead of going through WorkCover they had to use their private medical insurance, which the employer demanded they take out to address workplace injuries.

CHAIR—As part of their visa requirements, they must have private—

Mr Carr—Yes, but if you get injured at work, you should go through the Queensland WorkCover act and it should be part of the employer's claims on WorkCover. You should not force employees to go out and use their private insurance, to treat it as a non-work related injury. Those are the types of issues that were highlighted to us. But when we asked that particular person to fill out a statutory declaration, he said no, because \$A14—no matter what he was putting up with—was better than what he could earn in the Philippines, and he would not be able to pay off the debt, so he was stuck.

Senator POLLEY—In relation to your evidence that workers are not being used in skilled areas and they are not being paid correct wages and are working under the conditions you just outlined, is the department just short staffed or in your experience are they not making site visits?

Mr Carr—I have not heard of meaningful site visits by the department to employers with migrants. In fact, we wrote a letter on 19 June, which I am happy to hand over, to the Queensland regional manager of the Department of Immigration and Multicultural Affairs, Adelaide Street, Brisbane. We outlined the problems at Kilcoy. Not only did they not investigate, they did not even respond to our letter.

CHAIR—Can we have a copy of that?

Mr Carr—Yes, certainly.

Mr Bird—Could I also say that we have made a number of complaints, asked a number of questions, again without any answers, other than acknowledgement of the letters. The only investigation that we know of that ever did happen was at T&R Pastoral in South Australia, where an inquiry was undertaken. As we understand it, that inquiry concluded at about this time last year, and the results of it are yet to be made public.

The inquiry was concluded. It was to investigate whether or not these workers were skilled or not skilled, whether or not they were being employed in correct classifications under the regulations and whether or not they were being paid properly. The work was concluded. The then minister, Senator Vanstone, in a Senate hearing said that the concluded report was going to be sent back to the company to have a look at so that they could answer whatever was raised in it. It would then come back to her and it would be released at some stage. That was something like 12 months ago. No-one to my knowledge has yet seen the contents of that inquiry. With regard to other questions that we have asked, we are told separately that some people have gone down to some of these meatworks, but we have never been given any formal answers to any of these questions.

CHAIR—To confirm your evidence, the secretariat will on our behalf endeavour to get some corroboration of that and see if there are answers that are sufficient. You will see it as part of our evidence as well.

Mr Bird—I might say that we had a couple of discussions with the department at the end of last year during the time that the government was negotiating with the Australian Meat Industry Council for a labour agreement. We had a number of discussions. During those discussions it was made clear to us that some of the issues that we raised were certainly valid, that the

department did recognise that there were untoward things going on and that many workers were having their wages and conditions rorted. But we have never been given back any definite examples of it or any evidence of the results of those investigations.

Mr Smith—We had a meeting with the department of immigration in March last year, which is what started the T&R inquiry. At that point the officers that I met with—I think one of them was Mr Fox; I am not certain of that but I am pretty sure that one of them was Mr Fox—agreed at the time that they were well aware that there were arrangements in place where agents were taking money and then, further to that, when the workers got to Australia, companies were then withdrawing money from their wages. We understand that from that point on, in June last year, they ordered T&R Pastoral to stop taking that money from their wages. That was some period of time after they acknowledged that that was going on. The department was well aware of it. They then commissioned the T&R report, as Graham said.

When it became obvious that that was not going to affect anything or was not going to be released—that became fairly obvious to us fairly quickly—we wrote a formal complaint to the department, on 1 June. It was a very long piece of paper—it was about six or seven pages long. It attached some evidence of those things we were talking about.

The evidence that you are looking for is very difficult to obtain because a lot of these workers want to remain anonymous. They want to make the complaints and let us know what is going on so that we can try to do something about it, but they want to remain anonymous. We have some witness evidence but only in respect of having spoken to them. So really it is a type of hearsay arrangement.

Senator POLLEY—Can I add that, when we were in Melbourne, we had a situation as well where we wanted to get some evidence from the individual concerned, and obviously they were concerned about having to leave the country and not being able to find another sponsor. So perhaps we can look at the same situation and find a way of resolving it so that they get some cover and then we might be able to also come back to you. Thank you for your submission. I have one final question. My view would be that anyone coming into your industry would have to be quite proficient in the English language from a safety point of view. Do you have a comment?

Mr Bird—It is certainly our view that they should have English to a standard where they can read, write and understand whatever is required for safety purposes and hygiene purposes. You only need some problems with hygiene and the industry is in difficulty. As far as that is concerned, they certainly require some ability, at least at the level of being able to understand and read things which directly relate to their personal safety and the safety of the people they are working with, and in terms of hygiene matters.

Mr LAURIE FERGUSON—Mr Bird, I think you gave a figure of 2,000 visas in the industry. To put that in context, could you tell us roughly how many people you think are employed nationally in the industry?

Mr Bird—I think that the 2,000 would be something in the order of five to 10 per cent.

Mr LAURIE FERGUSON—I think anyone objectively would say that in regard to your position on the 457 visa the test for permanent migration entry under the skills category is more

stringent than for people coming in on 457 visas. Could you just give us some further comment with regard to RTOs accelerating vocational training, and also the Warrnambool TAFE college?

Mr Bird—The TAFE college, as I understand it, was asked to go to China to train or to verify the qualifications of people who were supposedly meatworkers in China. They were paid, as I understand it, something in the order of half a million dollars to do that. They sent a number of trainers across and they were given two or three weeks to ascertain whether workers were up to standard. They sought to get that training verified through the National Meat Industry Training Advisory Council, MINTRAC, and that permission was not given to them. They were not allowed to have that as authorised training; nonetheless, they continued to do it. In our view, it is doubtful whether they trained anyone, or did much training of any worth. Quite clearly, some of the people that have been verified as trained were not the people who came to Australia, or they had not been verified correctly, because when they got to Australia they were found to be unable to do any of the work available and many of them were found never to have worked in the meat industry before. They had to be trained on the job when they got here. I can tell you that we have been told that at least a couple of other TAFE colleges were approached and both refused to participate in that scheme, on the basis that they believed it was an impossible task to go over there and train and source people in the time that they were given.

Mr LAURIE FERGUSON—I would like you to clarify that. I am not sure that I understand exactly what you said. I do not think this is in the submission; I think you just went further. Are you saying that some of the people entered as having been assessed by Warrnambool?

Mr Bird—I believe that some of the trainers at Warrnambool have told one of our organisers that they saw people but they could not verify that the people that they saw were the ones that came to Australia. That is one of the reasons that in the labour agreement there is provision for digital photographs and video-taking of the people in the country of origin—before they get to Australia—to try and ascertain that the people that are being looked at are actually the people that come into Australia under the visa program. It was raised during our discussions with the department that previously there had been some students that had arrived in Australia some years ago who were not the students they purported to be when they were given a visa to get here. This was one of the problems they had, we were told, particularly in China.

Mr Smith—Certainly they were ticking them off and assessing them as skilled people in order that they could come to Australia. However, when these people came here, we found that they were not skilled at all, and that creates all sorts of other problems, especially in terms of safety. We have had a couple of safety problems in South Australia, which were of note. We had a fellow on a 457 falling into a pig-scalding tank. This is a big hot water bath that softens the skin of the pigs before they are beheaded. I have never, ever heard of anyone falling into a pig-scalding tank before. You can get seriously injured falling into an 82 degree Celsius tank of water.

CHAIR—How did he come out?

Mr Smith—Fortunately, the fellow that he was working with was very quick in pulling him out. They hosed him down and took him to hospital, and he only ended up with minor burns. But had the Australian worker that this fellow was with not been so quick, he would have ended up

seriously burnt. Because it is quite a deep tank—you can go right under—he could have drowned.

Mr LAURIE FERGUSON—Mr Smith, from recollection, it was in South Australia that a successful attempt was made to find labour. Do you want to briefly talk about that?

Mr Smith—Yes. I also hold a position on the Meat Industry Development Board in South Australia. We sponsor a project for workforce development. It is No. 1 on our list of priorities. We have various ongoing projects. One of our most immediate results came from Primo Meat Works at Port Wakefield. They had requested a number of 457 visas because they believed that they could not get any labour locally. One of our project officers went to Primo and visited the meatworks. They put in place a project under the development project that we are using. It turned out that they could get sufficient labour to cover the shortages without having to go to the 457 visa at all. In fact, they ended up with a situation where they had more labour than they needed. Firstly, training is paramount; secondly, it goes to show that, if people really try, the labour shortages just do not exist.

Senator PARRY—I just want to test some of the evidence that was given, particularly by Mr Bird and Mr Carr, in relation to wages. You say that ‘proper conditions and wages have been eroded’. I think you gave \$14 per hour as an example of some wages.

Mr Carr—It is around \$14-something.

Senator PARRY—That is still low. So that we get it on the record, could you clarify the typical wages under the classifications of slaughter class 1, class 2 and class 3? What is set down in the award?

Mr Carr—The award would be around \$600. We do not have anybody doing those tasks on the award in any significant meatworks anywhere in Queensland. We have just made several agreements.

Senator PARRY—Let me just jump in in order to save time: what do you have then? What are the classifications in Queensland and, for that matter, in Australia?

Mr Carr—We have plenty of people working under those classifications in Queensland, but they are all working on enterprise agreements, collective agreements and union collective agreements.

Senator PARRY—What is the minimum wage? They are all earning above the minimum wage?

Mr Carr—They are all earning between \$900 and \$1,000 for a 38-hour week. Some are earning more than that; \$900 would be the low-ish end of the stick.

Mr Smith—So \$600 a week would not meet the minimum salary level—

Senator PARRY—Exactly. That is what I was getting to. What is the evidence of the \$14 or even \$15?

Mr Carr—I will tell you specifically how that occurred. That occurred at Kilcoy Pastoral Co because the miners were all right. The company allegedly brought in Filipino slaughtermen—I do not think they had seen a slaughterhouse—and put them on flat labouring tasks. Kilcoy has an LK agreement; it is a non-union agreement. I am not bleeding over that but it is a fact of life that the wages for a labourer at Kilcoy are lower than at any of these other places.

Senator PARRY—That would not meet the minimum wage.

Mr Carr—No, it does not.

Senator PARRY—Have we got evidence, such as payslips, to that effect?

Mr Carr—No. When they came in they got a regional concession off the body to pay the award rate or that agreement rate. So they were getting paid a non-union, lowest agreement in the meat industry rate. It is actually a legal rate but they should not have been doing those tasks. The whole thing is a furphy anyway, because they should be doing slaughtering tasks. But when they came in under the regional concessions, the company were given the right to pay them the award rate and not worry about the minimum salary. That is one of the very reasons that we entered into helping negotiate the labour agreement. The thing that was getting bastardised most in Queensland was the regional concession, and that is how they are doing it.

Under the old legislation they could be brought in on a regional concession and be paid the relevant industrial instrument rate. If the relevant industrial instrument happens to be an AWA for \$14.40 an hour, then that becomes legal. Our fear and our support for the labour agreement was based around: what happens if employers start bringing them in under the 457 visa legislation and get the right to pay them under the relevant industrial instrument? There is no flaw in the relevant industrial instrument except the minimum salary, if they are put on AWAs. That is why the employers panicked, wanted a labour agreement and actually rolled over on the position of getting rid of the minimum salary. Like everybody else, they wanted stability. They did not want people doing slaughtering tasks for \$14 an hour or something on an AWA, on the minimum salary rate. That would have been legal and possible, and it still is under the 457 visa regulations as they stand. That is perfectly legal.

Senator PARRY—In a short sentence, can you describe the difference between a boner and slicer and a slaughterman?

Mr Carr—Yes. A slaughterman is somebody who works on the slaughtering floor. They kill the bullock, take the hide off, take the gut out and reduce it to a carcass. You probably saw in *Rocky* where he punches a carcass—

Senator PARRY—Yes.

Mr Carr—They are in the chillers.

Senator PARRY—And a bone and slicer does the meat defining?

Mr Carr—The next day, the bone and slicer comes in and does the rest of the work.

Senator PARRY—The bone and slicer is the higher skilled of the two, obviously?

Mr Carr—No. An A-rate slaughterman is equally skilled as a boner. The other two people can explain it better, but under the classifications the slaughterman is the higher skilled. They are the ones who were legally allowed to be brought out under the 457 visa legislation. Employers were not entitled to bring anyone out as boners and slicers under the 457 visa regulation, and they are still not entitled to, and yet the whole meat industry is full of boners and slicers who have been brought out. That is what caused—

Mr Smith—Quite frankly, they should not be able to bring them out under the slaughtering classification either because the slaughtering classification that we use is a non-trade classification. It is at 95 per cent of the trade rate. The 457 visa is supposed to apply to tradespeople. The whole thing is just—

Senator PARRY—A lot of questions have arisen out of this—with AQF as well.

Senator BARTLETT—Putting all that to one side—and you have made a fair point about boners and slicers not meeting classifications and being employed illegally, as you put it—there is the broader issue of a labour shortage, even if it is an unskilled labour shortage. You hear that continually. I do a lot of campaigning on trying to stop the live export trade and keep being told that they cannot find workers. In the refugee area, we are told refugees saved the meatworks at Young, Murray Bridge in South Australia and Albany in WA, and that sort of thing. Even if it is unskilled labour that they cannot get, what is the situation? Is it just because the conditions are so poor that they cannot get people?

Mr Bird—That basically is it. As I said before, there are plenty of meatworks around which have very little turnover. People go there, stay for 30 years and then leave; they are replaced by someone who stays for another 30 years. They have no problem at all in getting people to work. Up the road, they have some difficulty, and the difficulty in our view is simply because the wages are \$200 or \$300 a week less. If someone is paying, as Russell said earlier, between \$900 and \$1,000 a week for a slaughterman, which is the going rate around Australia, and you offer \$650 or \$700 a week and they will work harder and for longer hours, and they do not get some of the conditions that other places have, people are not prepared to work there. If they do work there, it will be for a short time. They will learn something about it, leave and go to one of the places where there are better conditions. If those employers were prepared to pay the same rates of pay—the going rate—and offer the same conditions as others, they would have no trouble at all in getting people to work, in our view.

Mr Smith—And the attitude of the employers is somewhat lacking too. They tend to not only pay badly and treat them badly but also have a poor general attitude towards how they go about telling people to do a task—they bark at them, they shout at them and they threaten them with this, that and the other if they do not look at them the right way. People will not put up with that; they leave. That creates this big turnover problem. The employers have created their own problem.

CHAIR—We have to conclude your evidence there. I would like to confirm that what appears to be coming from your evidence is that you are indicating that there is no need for there to be any 457 visa holders in your industry.

Mr Smith—Correct.

CHAIR—Thank you for attending today’s hearing. We would be grateful if you could send the secretariat any additional material that you have undertaken to provide as soon as possible.

[10.32 am]

PANITZ, Mr Mark James, Chief Advocate, Growcom

CHAIR—Good morning and welcome to this public hearing. Do you have any comments to make on the capacity in which you appear?

Mr Panitz—My key responsibility is government lobbying, dealing with government policy related issues on a state or federal basis.

CHAIR—Although the committee does not require you to give evidence under oath, I should advise you that these hearings are legal proceedings of the parliament and warrant the same respect as the proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The committee has received your submission and it has been authorised for publication. I invite you to make a brief opening statement before we proceed to questions.

Mr Panitz—I will give a brief introduction. I am representing the fruit and vegetable industry, particularly in Queensland. It is an industry worth about \$1½ billion. The nature of the industry is that it is very diverse and spread principally up and down the eastern seaboard. There are about 2,800 individual farming enterprises. Most of the production is between Stanthorpe near the border and Mareeba in the Atherton Tablelands in North Queensland, and goes as far west as St George and even out as far as Cunnamulla. So it is a very diverse industry in terms of spread and production enterprises.

In terms of labour related issues, the industry has had a number of labour shortages from time to time over the last decade or so. Those issues have become more pronounced in the last couple of years both for the mid-level management type roles as well as the majority of workers—the pickers, the packers and the farm hands as well. So there are a couple of different levels where farm labour shortages have occurred. Some of the shortages fit into existing government arrangements and some of the shortages do not fit into government arrangements. We have put in a written submission to this committee. I will leave that as it is and answer any questions as they arise.

CHAIR—At the outset you have indicated that your industry does support the use of 457 temporary long-stay visas to alleviate labour shortages. Could you outline the advantages of using these visas? Do you know roughly how many 457 workers are employed in your sector? What specific skill shortages do you face in the sector? Is the demand in your sector principally for skilled or semi-skilled workers?

Mr Panitz—I will wind things back a little bit. Principally, the 457 visas are in general terms for people with high-level skills rather than those with no skills or very limited skills, and that level of need in our industry has only emerged in the last couple of years. The majority of our previous issues have been around people with lower or lesser skills. We have started to look at the 457 issue, in particular at 457 visas linking to the ASCO codes. I think there is a need for a closer look at that linkage to see whether some more flexibility can be built in for our sector,

because at the moment there is not a good linkage. It is difficult for a producer to interpret the codes easily and I think some more need work needs to be done there.

CHAIR—Please give us an example.

Mr Panitz—I will go through the ASCO codes structure, particularly going down to the level of skilled agricultural and horticultural workers. In the skilled agricultural workers area there is a title, ‘Farm overseers’. That describes in broad terms someone who manages other people. When you look at some of the other descriptions of people under the same sort of ASCO code, you see that they are just individually skilled people; they are not having an overseeing management role. So I think there is a disconnect between the needs of our sector and the way the ASCO codes are used or linked. That is a good example. As a result of that disconnect, people then go down to ‘Miscellaneous tradespersons and related workers’, which is a grab-all, and again it is very difficult to get a clear linkage between what our industry needs and these sorts of codes. That is why I am saying some more work needs to be applied to see where we can fit in properly.

CHAIR—What about specific numbers?

Mr Panitz—Specific data as to numbers is very difficult for us to ascertain. We know of a number of people who have applied through the 457 visa process. That would be a fairly small number. The majority in terms of the labour requirements of our industry is principally drawn now from the working holidaymaker visa program for backpacking folk. But there are limitations with that. We are finding that, as our business enterprises are getting bigger and more sophisticated and having to supply products 12 months of the year, they need more consistent, reliable, skilled workers within their business structure rather than backpackers who can come and stay for a couple of months before moving on. So there is the changing nature of our industry which means that the changing nature of the workforce that we need moves along as well.

CHAIR—On that question that I referred to, can you give us information on the specific skill shortages in your sector? What are one or two of the areas in which you suffer shortages?

Mr Panitz—The main one in terms of the quantity would be pickers and packers. They have discrete skills. For example, if you are packing on a fresh vegetable line to meet the quality of requirements of a Coles or Woolworths major chain, you have to do it properly. It is not as though you are just throwing stuff into a box. It is quite specific work. The other area that is emerging concerns some of the middle level management in some of our enterprises because, as I said before, some of our enterprises are becoming more sophisticated, the businesses are getting larger and there is a another layer of middle management that is required for our sector.

Senator PARRY—I have a supplementary question. As for the pickers and packers, is that because it is labour intensive, because you have a high volume required for that or because is it a difficult task? What is the reason?

Mr Panitz—It is a bit of both. It is labour intensive and it is high volume. If you are a farmer and you are harvesting a couple of hundred acres of vegetables, it is all manual work. There is not too much machine harvesting going on; it is all manual—hands, arms and legs.

Senator PARRY—So it is not attractive to the labourer?

Mr Panitz—Not necessarily, but our people are working on ways to make it more attractive, like more job sharing so that you are not out in the field all the time. You might be out in the field for some periods of the week or a week around and then you might be in the packing shed doing some other mixed tasks in other weeks. They are trying to redesign the jobs to make them more interesting and more broadly skill based.

Senator BARTLETT—The job that you have just been describing would not come under a 457 visa in most circumstances, would it?

Mr Panitz—In some cases it could. That is why I think we need to have a closer look at that ASCO coding process and the needs of our horticultural sector. It is an area that has not had much attention at all. When I read through the ASCO codes and look at what our people need, I think there may be some opportunities there.

Senator BARTLETT—It seems, with a lot of those things in your industry and probably what we have just heard with meat as well, that this need to try and stick everyone in these really narrow boxes within the ASCO codes does not really reflect the reality of a lot of industries.

Mr Panitz—That is a fair statement from what we have had a look at. Some more flexibility there to match the type of work in the industry sector would be a lot more useful for us.

Senator BARTLETT—Linking into that is the issue of just how significant the labour market shortages are, despite the figures and how much you want to believe in the four per cent or that sort of thing. It is still fairly high in some areas and there is a lot of under employment. But I know from other inquiries and other areas there is a fair problem with labour shortages in some areas. Why is that?

Mr Panitz—More recently the issue of the drain to the mining sector has been quite significant. The fact that we are in a period—whatever the figures are—of relatively low unemployment makes it very difficult to find workers when you need them. I will use the example of Cyclone Larry in North Queensland. When the cyclone went through, a lot of workers left that area because they had their families and everyone to look after. So they actually shifted out of the region, maybe to a mining area or another area. Getting them to come back quickly is just not going to happen, so we have to find a new workforce for those regions. Other areas that have been impacted are drought affected areas. Without water you cannot carry out horticulture at all, so some of the skilled workers have left, found some other employment and shifted their family to another town. They are not likely to come back quickly without another workforce being brought in.

Senator BARTLETT—What about the seasonal nature of the work? It would not match the 457 visas normally either, would it?

Mr Panitz—Sometimes it can. For example, some of our crops are seasonal. Mangoes are a good example of a seasonal crop where a farmer in Mareeba would be harvesting mangoes, say, for two months and that is it, whereas other crops, for example, bananas around Innisfail and Tully are harvested for 12 months of the year, so there is a different employment profile for that

sort of region. That is one of the challenges of the diversity of our sector. We have these different needs and we need to assess them differently and have the right solutions for them.

Senator BARTLETT—I understand at least some of these regions in Queensland have an issue with adequate housing for workers. What sort of facilities are available? Is that one of the reasons you cannot get skilled labour from Australia and what sort of facilities are then available for people coming from overseas to avoid that risk of people coming here and then having half their pay taken out for that sort of cost?

Mr Panitz—Again, there are different issues in different regions. I will use the banana example again from North Queensland following Cyclone Larry. There is a demand for workers. There are backpackers, for example, who want to go there but there is no backpacker hostel available for them because the existing hostels are full of workers who are doing the rebuilding of houses in Innisfail, so there is a bit of a dichotomy there. In another area closer to Brisbane, on the northern outskirts around Caboolture, there is a major strawberry and pineapple growing area and, for whatever reason, there is no real impetus to build a backpacker hostel in that region. The growers now have to find backpackers from Brisbane and bus them up and down each day, which is a bit of a crazy thing to do. That group of people could be living and spending money in that community and that sort of thing.

Senator POLLEY—Thank you for your submission. Would you be supportive of a relaxation of the requirements under the 457 visa and bringing in unskilled labourers?

Mr Panitz—Depending on what the term ‘unskilled’ is. I think there needs to be some flexibility around, as I said before, matching the ASCO codes to the 457 requirements and, in some cases, that might be reducing the skill level because in volume and numbers that is where a lot of the needs are in our sector.

Senator POLLEY—What would be the average salary, within your local market, for those people you are trying to support coming in on the visas?

Mr Panitz—That would be around \$800 or \$900 per week. Some of our existing employees may be on piecework arrangements and they may well be on over \$1,000 per week based on piecework. To be on piecework you have to have well above the award rates anyway.

Senator POLLEY—Do you have comments or concerns in relation to how DIAC monitors the 457 visa applications and the processing of them?

Mr Panitz—We have not had any real examples because the number of our people who have gone through the 457 process is relatively small. But, from a broader perspective, I think the monitoring of the process needs to be very clear and the rules very clear because if the community sees that something is being misused then there is a likelihood of that avenue being taken away, and that is certainly not what we want to occur.

CHAIR—So you would support the relatively recently announced sanctions against employers who are deemed to transgress?

Mr Panitz—I do not see that this sort of arrangement should be different to any other sort of arrangement in the community. A set of rules or guidelines are put down and people should meet those.

CHAIR—They have been ‘enhanced’, for want of a better word, or toughened up to deal with employers who are deemed to be transgressing.

Mr Panitz—As long as the reasons for the beefing up of those things are legitimate and justified, I do not see any problem with that, and I do not think any fair-minded employer would see anything wrong with that.

Mr LAURIE FERGUSON—On the one hand we have your industry’s needs and on the other hand we have what the rules are. The previous witnesses spoke about use of people entering a supposedly skilled area and then working in areas which they would assert are unskilled. You told us a few minutes ago about pickers and packers, and I guess most people’s response would be to question whether they are that skilled. In your submission you say, firstly, that you do not want more onerous training put on the industry and, secondly, that most of the training is on the job. Can you give us some background on the kind of training and a bit more on the skills that you see as being in those two jobs?

Mr Panitz—Most of the training that is done in our sector for the picker-packer type person is done on the farm in situ. It is not something that would be successful if you were to take a group of people to a classroom scenario; it is just not that sort of thing. It has to be done on the job and, as a result, it is done on the farm.

When it is done on the farm, it is done to meet the specific business needs of that business. If you were picking and packing apples, for example, you would have to be picking and packing apples to meet a certain market opportunity and certain market requirements of the retailer or consumer you are aiming for. It would be a question of size, colour, maturity when picked, and minimal bruising or damage to the product, and it would be sorting and packing that in a way that makes it acceptable to the marketplace and the consumers. Within that, there is a range of skills that make it a little more complex than just grabbing an apple and throwing it in a box. I think that is the area we need to have a harder look at—to describe what those skills are and then match them up better.

Mr LAURIE FERGUSON—Are you aware of any cases in your industry of employers paying people to recruit people overseas and of deductions from wages by employers for a variety of things?

Mr Panitz—No, not of people employing people from overseas and then taking deductions out. I have not heard of that.

Mr LAURIE FERGUSON—You seemed about to refer to something else you had heard about.

Mr Panitz—I have heard of some of our people getting overseas workers in under 457 arrangements, but beyond that and those broad arrangements I have not heard any detail.

CHAIR—Finally, do you see a place for 457 visas in the industry that you represent? We asked that at the beginning, but can you confirm—

Mr Panitz—We certainly see a place for them.

CHAIR—You see it as a continued mechanism to provide temporary employment?

Mr Panitz—That is correct.

CHAIR—Do you have any further comment on the future of this visa program in terms of its growth or on your industry in general before we conclude?

Mr Panitz—I would just reiterate that I think there is a need there into the future. I think some flexibility and some better matching of the horticultural needs with the ASCO codes and the 457 visa system is needed. I should also add that I think we as a sector need to look a little more closely at the labour agreements process. There may be some potential for us to go down that path a bit further.

CHAIR—Do you agree with negotiating a different set of payment and conditions—for example, regional concessions are 90 per cent of the base salary, aren't they?

Mr Panitz—I think we would have to put that into the mix of having a closer look at matching our industry needs with the 457 visa process.

CHAIR—So you do not have a problem with it at this stage, though?

Mr Panitz—Not at this stage.

CHAIR—Thank you for attending today's hearing. I would be grateful if you could send to the secretariat, as soon as possible, any additional material that you have undertaken to provide.

Proceedings suspended from 10.51 am to 11.02 am

PATON, Mr Alan Charles Stuart, Organiser, Electrical Trades Union; and President, Unions NT

TIGHE, Mr Peter Anthony, National Secretary, Communications Electrical Plumbing Union

CHAIR—I welcome you to the hearing. Although the committee does not require you to give evidence under oath, I should advise you that the hearing is a legal proceeding of the parliament and warrants the same respect as proceedings of the House of Representatives or Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The committee has received your submission and it has been authorised for publication. I invite you to make a brief opening statement, if you wish, before we proceed to questions.

Mr Tighe—Thank you. It was my intention to do just as you have asked and introduce our submission and some additional matters verbally to the joint committee. I am going to ask Alan to give some specific examples of the manipulation of 457 visas from a Territorial perspective. As the committee would be aware, because of its proximity to Asia, the Territory uses a quite diverse range of labour such as people under the skilled migration process but also people on 457 visas.

Just to give the committee some background, the CEPU represents 120,000 workers, of which 70,000 members are employed across the construction and manufacturing sectors—risk industries, as we understand, in relation to 457 visas. We broadly represent communications workers, including postal workers, electrical tradespeople and ancillary workers in the electrical-electronic area and also plumbing and mechanical services tradesmen and trades assistants.

CHAIR—You have appeared before this committee before on another inquiry. Is that right?

Mr Tighe—That is true. I appeared before the committee when it was examining the skilled migration process in relation to Trades Recognition Australia.

CHAIR—I just said to the inquiry secretary that we recognise the excellent submission you made previously, so we are looking forward to today's.

Mr Tighe—Thank you, Chair. My own background is that I sit on the central trades committee of Trade Recognition Australia. I am also chair of our industry skills council, which looks after the electrical-electronic sector of Australian industry, and I am also a member of the Australian Safety and Compensation Council, the successor organisation to the National Occupational Health and Safety Commission. So I have specific expertise in those areas.

The issues that I want to touch on are summarised in the submission that we have sent to the committee but, specifically, we see the impact of 457s on the wages area. In our view, we have seen the number of 457s issued in the construction and manufacturing sector over the last three years increase by, in some instances, 100 per cent, 200 per cent and 300 per cent. We believe that the visas are being used as a vehicle to deliver low-wage and low-skill worker outcomes within

Australia. I will support that argument in further submissions to the committee, but I think a similar comment was made by former Minister Vanstone—that she also saw that wages for people under 457 visas were certainly leading to a depression of normal Australian wages in that area.

I make some specific comments in relation to the wage criteria that DIAC use in granting visa applications. They use the MSL, or the minimal salary level, award minimums and also arrangements which might be certified by regional certifying bodies. In our submission there is a table that compares the MSL and award rates with labour market rates that apply for electrical workers in the state of Victoria. You can see from that comparison that the criteria established by DIAC and what the labour market requires for specific electrical tradespersons in Victoria—and we have used that as an example—is anything between 25 per cent and 40 per cent below the market rate. Hence, someone coming in under the minimum criteria set by the department would be on a much lower rate than an Australian worker who has the same skills and is working as an operative in the same instance or, I suppose, a genetic worker to the Australian electrical and plumbing industries.

We believe that arrangements in which there has been further deregulation of the labour market with the introduction of AWAs allow employers to engage people on 457s under AWAs which, whilst they might pay the minimum criteria salary, do not compensate for payment of overtime and penalty rates which would be the norm.

CHAIR—You are saying that they do not?

Mr Tighe—They do not. AWAs do not necessarily have to embrace those provisions. They can set up an all-up salary rate, which might compare to the award minimum or to the MSL.

CHAIR—You will provide evidence of that, will you?

Mr Tighe—We certainly have. If you look at that table, you will see the EBA rate. An AWA only requires that a salary rate is set within the constraints of the Workplace Relations Act in relation to hours. So any time outside that rate may pick up an all-up salary which is prescribed by the MSL.

Senator PARRY—What are the minimum rate and the gazetted rate? Under paragraph 3.15 of your submission, you mentioned the minimum gazetted rate. What is it, using the electrician grade 5 licence example given there?

Mr Tighe—They are the enterprise bargaining agreements that we have operating in the industry.

Senator PARRY—Yes, they are the market rates. What is the minimum gazetted rate?

Mr Tighe—The minimum gazetted rate under the MSL is the minimum salary level dictated by the department. Someone in that instance would have to be paid, in the case of metropolitan rates, a salary of \$40,850 per annum—

Senator PARRY—Sorry, in the paragraph below you have indicated what you were alluding to: you could go onto an AWA but you must not pay below the gazetted rate. That is the MSL for people on the 457 visas; what is the standard minimum salary level? Is it the same?

Mr Tighe—Well, you have a different rate that applies in regional areas, because you have different rates of pay that apply in the regions versus metropolitan areas, in relation to these visas. The MSL for a regional area, as you can see, is lower than what applies for a metropolitan area—or those defined as.

Senator PARRY—I will come back to that.

CHAIR—Sorry, I interrupted because I just wanted to clarify that. We will return to that.

Mr Tighe—The other thing we believe that it impacts on is the issue of training and skills assessment. The first point I would like to make there is that people who are able to access skilled labour under temporary visa arrangements do not have an imperative to increase their skill formation or training policies within the country. So if you want to supply skilled labour—and we have a chronic skills shortage—if you rely on importing labour then you do not have any internal strategies in relation to addressing skill shortage problems for industry. There is no training commitment check other than a requirement to indicate on the application form for a 457 that you expend a certain amount of your overall revenue in relation to training. It is not specific enough to ensure that that is focused on replacing labour in the area that you are seeking to import labour for.

There is also no requirement for skills assessment in relation to the employer-sponsored 457 visa holder. If you come in under the skilled migration arrangement you have to go through a process that is underpinned by TRA. That is in the process of change. I am sure the committee is aware of that. There are some COAG changes that will tighten that area up—

CHAIR—We hope so.

Mr Tighe—as a consequence of some recommendations of the committee that you were referring to earlier, Chair.

CHAIR—I hope they will flow on. You are in a good position to tell us, actually.

Mr Tighe—In fact I sit on a couple of those COAG committees, Chair.

CHAIR—Well done.

Mr Tighe—Because there is no skill assessment of someone coming in under a 457 visa, they do not necessarily align with the Australian standards in relation to that issue. It is a requirement that the employers satisfy themselves. I will make some comments in relation to a case history that is appended to our submission. In our view it is now being used as a major conduit to bring ancillary skilled labour into this country. If you look at the departmental statistics and the publicly available statistics you will find that in the construction and contracting area over the last five years the numbers have grown from just below 1,000 to well over 3½ thousand people coming in under 457 visas.

The other comments I would like to make are in relation to the regional certifying bodies, and they are the bodies that can set a salary level, in regional areas, which may be lower than the MSL that has been determined by DIAC. Our view is that those regional certifying bodies do not have the expertise to judge skill shortages in regional areas, nor determine market rates. An examination of those bodies appears to show that they are made up of local committees which reflect the chambers of commerce in regional areas, regional development agencies and local government. We believe that shows a shortfall in relation to advice from regional areas about the need for migrants under the 457 business visas.

The other concern we have is in relation to DIAC's capacity to monitor and enforce the provisions in relation to 457s. With the exponential growth in relation to people coming in under those arrangements we do not believe that DIAC has the capacity to ensure that there is a policing of the system. To our knowledge the DIAC system relies on an IT based application system and a paper based system. Most of the practical checks that are done by departmental officers are either by way of paper inquiry, telephone checks or limited interviews. We see that none of those limited interviews focus on the 457 holder; they are focused on the employer. We believe that their reliance on other government agencies to ensure that minimum salary standards are met—the Office of Workplace Services, state agencies, and agencies in relation to occupational health and safety—does not allow them to keep full control of the system once the individual is in situ in Australia.

There is no real punitive ability for DIAC to ensure that there is not manipulation of the system. I know that the current minister has indicated that he is looking at that area. But there is no difficulty in relation to companies setting up phoenix type operations and sham type operations. The only punitive capacity that DIAC has at the present time is to refuse to accept further applications from a company that may have transgressed what they see as the current standards.

The other comment that I want to make is on the issue of English-speaking background requirements. As we understand it, there is no requirement to meet the skilled migration criteria in relation to numeracy and literacy in the English language. That makes it very difficult for a person who might be out here holding a 457 visa to raise issues in relation to their treatment. It also inhibits the capacity for that person to work safely in the workplace. They are not aware of safety procedures in this country or occupational health and safety legislation. Most of the signage, especially in the construction industry, is only written in English. There are very few sites where a multiplicity of languages is used to convey dangers associated with workplaces.

The other concern that we have especially in relation to the plumbing and electrical trades is that they are required to become licence holders to work in this country. A person coming through the skilled migration process in fact has to do gap training before they can gain a specific licence and be work ready. That is something that the COAG decision in relation to skilled migration routes is addressing. There is no real requirement to ensure that people who come in in the electrical and plumbing areas have the capacity to gain licensing and credentials that are required under state legislation to work in this sector.

Senator PARRY—But they cannot operate unless they have them.

Mr Tighe—That is true. But we have had instances where teams of electricians have been brought in to do installation of manufacturing equipment. ABC Tissues in New South Wales were in breach of state supply authority and licensing regulations, in fact. The work that they had commenced was stopped, but they had already gained entry into Australia under 457 arrangements. They may have been under an ENS arrangement—I am not sure. But there was a team of electrical workers wiring up equipment to meet Australian standards which did not have the appropriate qualifications.

The other issue I want to take you through—this is appended to our submission; I did not use the individual's name, but I intend to now—is the case of an applicant that I personally came across. The individual's name is Stany Rodrigues, also known as Thomas Rodrigues. The committee would have a broadbrush understanding of what took place in that area, but I will just add some meat to that submission. The individual answered an advertisement in India for employment in Australia as an electrical worker. He made a written application and went for an interview with an agent, who was in fact a migration agent who had a linkage to a migration agent in Melbourne. He was told that there was a company that required an electrical worker and he would be employed on rates equivalent to the labour market in Australia.

The application was lodged online with DIAC. It was overlooked by departmental officers. The application was approved. He had his visa stamped at the Australian embassy and paid \$US15,000 to the migration agent in India. Once the visa was issued, the company, which was a shell company in Australia, advised DIAC that they no longer required the employee and wanted to withdraw their application. It appears to us—and this is conjecture—that they understood that the wheels of bureaucracy would turn slowly enough to allow the individual to in fact arrive in Australia before the 457 visa was withdrawn.

The individual arrived in Australia, rang the contact he had been given and was told that that job was no longer in place—in fact, they had advised the department that the 457 visa was no longer required. He found out the address of the company. He went personally to their address and was told exactly the same thing. He was told that, if he continued to create a problem, he would be reported to the department, which he subsequently was. The department's response to him—and I know they have a number of issues at hand—was, 'If you don't find a sponsoring employer within a period of 30 days, you will be deported.'

The difficulty with this individual was that he had borrowed \$US15,000, which is a fortune in India. He was required to pay that back. He had used various members of his family as collateral for that, and what was facing him was deportation with no capacity to repay that. He actually went to the Anglican Church, and it was the Anglican Church that contacted my organisation—referred him to my Victorian branch—and I subsequently interviewed Mr Rodrigues. The difficulty with Mr Rodrigues was that he was unemployable in Australia. We in fact found him employment here in Queensland through our group training company. He was placed with one of our clients up here. He has been employed as an electrical linesperson. He was trades tested by our group training company and did not meet the mark for an electrical tradesman in Australia. That is understandable, because the training period in India for an electrical tradesperson varies from 18 months to two years. Even though he had a history of work employment in the United Arab Emirates for a number of years, he did not meet the standard for employment in Australia, would not have been able to gain a licence and hence would not have been able to work in this country. We now have him working in a workshop, getting experience so that he will meet that

qualification. But this is one example of a person who had slipped through the cracks, had no-one to appeal to and, when he raised it with DIAC, DIAC said, 'Sorry, we can't help you unless you find a sponsoring employer.'

The Anglican Church have said to us that they believe that that is only the thin surface of the sorts of problems that arise in this area. Most people who find themselves in that situation go and find employment either driving a cab or labouring in the country, because they have a great fear of returning to their own country under financial circumstances that would leave them, at best, under physical threat. In fact, the woman from the Anglican Church said to me that they had him on suicide watch for a period of time. He is now working in a regional area in Queensland. He has been there for 18 months. But he is only one that we have been able to pick up in the sweep. God knows how many other examples are out there. Chair, I might leave it at that. I am happy to answer any questions you might wish to ask. Or would you like to hear from Mr Paton about some of the local instances in the Territory?

CHAIR—Mr Paton, do you want to give us an opening statement or do you want to answer questions?

Mr Paton—It is up to you, Chair, if you want to ask Mr Tighe some questions now, while it is on the table.

CHAIR—No, while we are on this, do you have any opening remarks?

Mr Tighe—Why don't you go through some of the information, Alan?

Mr Paton—Okay. What we have found in the Territory over the last 15 months is that there have been 146 companies, and we know there are a lot more that are not on the list so far, that have 457-visa workers. There are over 1,200 people now on 457 visas in the Territory. Of those 146—

Mr LAURIE FERGUSON—Is that only in your industry or across the board?

Mr Paton—No, across the board. Because I am President of the Northern Territory Trades and Labour Council, it is across all industries. There have only been 16 investigations done on companies so far in the last 15 months, and only four of those have been finalised. On the back of that we have been to visit DIMIA and also the Office of Workplace Services. DIMIA had one inspector up until two weeks ago; now they have two inspectors. There is only one inspector from the Office of Workplace Services.

There has been some press running for quite a few months now on the 457 visa stuff, and I have newspaper clippings here I could pass on to you if you would like. What some of the companies are saying is that the locals are so lazy that they cannot employ them anymore. One of the quotes from one of the builders up there, which is Acacia Building Services, was:

... he had had to let people go because they were lazy, on drugs or too hungover to get to work.

He said he could now plan for the future for the first time since the business started in 1991 because he had a dependable workforce.

He has also said of the foreign workers:

... the lack of language skills was overshadowed by the work ethic ...

So what he is saying there is that people cannot speak English but they have got a good work ethic. He was also quoted in the paper as saying:

... he spent seven weeks in China last year finding tradesmen and intends on employing more foreign workers—

without even advertising in the local papers. Another company in the last week or so have actually advertised in the paper; they had 28 applicants for jobs within four hours. There are other welding companies now that just will not employ Australians at all.

Another person came into my office last week. He worked for the Palmerston Tavern as a chef. He alluded to the fact that his bosses were flying overseas to bring back some Filipino workers—to supplement the workforce, he thought. What he found when they got back was that he got the sack. So he is now unemployed.

We see that this is being fuelled by a number of employer associations as well. We have had lots of members who actually work for the Chamber of Commerce and for another company called the Territory Construction Association. They have been telling their people that the way that they can drive down wages and conditions is to bring in people on 457 visas, and what we are hearing back from the public now is that this is becoming the case.

One of the union's paramount things is safe work sites. We are finding in the Territory now, with these people not being able to speak English—there are no site inductions in the Territory at this time although it is something that is going to happen this year—that they do not understand the safety issues. There was an instance three weeks ago where some guys were driving down a driveway and there were some guys up on a one-scaffold ladder. That is illegal by legislation anyway but they do not understand what the rules are. They were just about knocked off that ladder. When people yelled to them to say, 'Hop out of the way,' they did not understand; they just started looking around.

One of the welding companies up there does a lot of offshore work—it is a specialised labour hire company. There are some Filipino people who work for them. They did 98 welds that were about to be sent offshore. When the inspector came to inspect them, 94 of them failed so only four passed. What we are saying is that the skills that they bring across from overseas are not up to Australian standards. Therefore, when you start talking about offshore work, it is nowhere near the mark.

Peter has touched on this as well. There is a skills shortage and there are a lot of companies out there which need to supplement their workforce. But by supplementing their workforce with people who do not have the right tickets, they have to retrain those people as well. What we are saying there is that, if the companies have positions, they should be training Australian apprentices and especially young Territorians. For companies, such as the example of Acacia Building Services, which say that they will not employ people anymore, that they will not advertise and will just keep flying overseas to bring people in, I think that is a long way from the

mark of what the idea of 457 visas was in the first place. That covers most of what I wanted to say.

CHAIR—Thank you. We will take questions now. Given the current unemployment levels in Australia, do you believe there is a place for the 457 temporary visa program?

Mr Tighe—There is no doubt that, when you get peaks and demands in relation to labour, there should be a capacity to bring people in under these temporary business visas, but as to the criteria to bring those people in, firstly they have to meet the skills shortage requirement that you have, otherwise you denude the Australian standard. There needs to be some supplementary arrangement able to be put in place.

CHAIR—I understand that. I am not cutting you off. You have outlined your concerns but, if those concerns were largely addressed, you are suggesting that there is a place for a temporary skilled visa program.

Mr Tighe—Yes.

Senator POLLEY—Thank you for your submission. You have highlighted through your submission that in fact there have been some underpayments made. Your concern is that DIAC and the office of workplace safety do not have the capacity to recover those moneys. Can you add anything to that?

Mr Tighe—They, by arrangement, use the Office of Workplace Services to investigate any underpayment of wages. The difficulty associated with that was alluded to by Alan, where the Office of Workplace Services has one inspector for the Darwin-Northern Territory area. If there is a complaint about underpayment, firstly what is the measure in relation to underemployment? If the person is employed on a workplace agreement it is quite clearly stated. But he may be employed on the basis of the minimum salary level—the minimum salary level component. If they were paying under that criterion, which is a departmental criterion, how does the Office of Workplace Services recover that wage, because they have to show where there is an underpayment under an industrial instrument?

The only industrial instrument that exists is the overall award. That is a minimum rates award which is below the MSL. So in fact there is no way for the Office of Workplace Services to recover that unless they are being paid below the award minimum, which in most cases is far below the MSL. Unless they can construct a legal case which they can take to an industrial magistrate, the Office of Workplace Services cannot pursue that arrangement. In fact, we are told that when DIAC hands it over to the Office of Workplace Services, it is then in the hands of Workplace Services and sometimes a report may come back or it may not come back. It is pretty easy to underpay someone under the current criteria of 457s if you know the system.

Senator POLLEY—Thank you. In relation to the lack of English skills that are evident in some of these applicants who come into the country in a number of areas, safety concerns for those individuals and their work colleagues is one issue but also, if they do not have the qualifications, isn't there a safety issue as far as consumers are concerned on a construction site?

Mr Tighe—The issue is not only their own personal safety from their lack of capacity in the English language. If they do have some smattering of verbal English, they certainly very rarely have a reading skill at the level which would allow them to understand signage. So there is a risk to themselves in the first instance but there is a greater risk to their peers, especially in regulated areas such as electrical work and plumbing. It is a general issue for construction site safety. Alan also alluded to the issue that nearly all states and territories by the end of this year will have an English induction training program to ensure that people understand all the safety aspects of state and territory legislation.

Mr LAURIE FERGUSON—Most of it is very clear, but can I turn to point 8.14 in regard to increased DIAC expenditure and the phraseology used. You say that:

... a closer look at this commitment reveals it will mainly go towards extra DIAC staff ...

Is there an implication in the way that is worded that it would usually go somewhere else?

Mr Tighe—Our concern in relation to that is that we do not believe that it is focused on the areas that are the most pressing at the present time. It is a general increase in staff because the number of applications coming in have increased exponentially. We want monitoring and staff who are able to, with appropriate changes to the legislation, enact some sort of community provision. So it is not focused on increasing funding.

Mr LAURIE FERGUSON—So you are saying that some of these DIAC staff will be used on something else probably?

Mr Tighe—Exactly.

Mr LAURIE FERGUSON—You make the point in your submission—and it has been made by many people—that besides all the other issues such as safety, underpayment of wages and driving down conditions, there is the possibility that this is being used essentially as a quicker way of migrating to Australia. You make that point in your submission. Are we just talking about people moving to spouse or refugee claims or are you saying that, once you are here, the skills recognition level onshore is such that it is a quicker way of migrating your skills than from outside?

Mr Tighe—Take the example of the case history that I raised of Mr Rodrigues. Mr Rodrigues is far below a level which would have allowed him to come in under the skilled migration process. Because he came in on a 457 visa, he can use the Australian training system to lift his skills up. He could then make an application under the skilled migration process when in fact he is in this country under a temporary visa. There are a number of other avenues that he could use such as family reunion arrangements if there are people who have moved to this country. Our concern is that there are people operating overseas—an example I referred to was a migration agent in India—who will use every nook and cranny in our legislation standards to find an avenue to get someone into this country. You cannot blame them. For someone to come over here and live our lifestyle compared to that of the Indian subcontinent, \$US15,000 is a very small payment. They are the sorts of things that we are concerned about. We need to have criteria that are a genuine attempt to ensure that there is a conduit for that skills shortage arrangement. That is why I say that I support it, but the problem at the present time is that it has

come from what we saw as a side filler in relation to skilled migration to where it has now become a major conduit in the same terms as skilled migration policies that the government has in place. It has jumped exponentially.

Mr LAURIE FERGUSON—Finally, turning to Mr Rodrigues specifically again, whilst there was a shell company and there was subterfuge on that level, you are not saying that the company had to indulge in subterfuge about Mr Rodrigues's skills, are you? It was just that the skills process is so bad that he got through as a legitimate applicant.

Mr Tighe—The only requirement for the employer is to fill out the application form. There is an application form that is filled out by 457 holders. The requirement in relation to identification of skill is minimal at best. There is no assessment. There is not even any check of the documentation that might be supplied to the department as to whether it is bona fide. So someone purporting to be an electrical worker could get into this country and quite clearly not be an electrical worker.

CHAIR—Just on that though, my understanding is that the Australian departmental officials, whether it be through embassies or whatever, have to check the competency and the qualifications of these people before those visas are granted.

Mr Tighe—My understanding is that they do not do a skills assessment. They might do an interview and ask the individual: where have you been employed? Is this statement correct? But it is not a technical assessment and it is not the same assessment that currently goes through Trades Recognition Australia for someone who is coming under the skilled migration process. I only know our areas.

CHAIR—But it is a bit more involved than them just filling out a paper and then they come. There is Australian departmental involvement to further check. You are saying that they do not check things well enough. But it is more involved than just having someone apply.

Mr Tighe—It is a bureaucrat who works in the Australian consulate or embassy in the country where the application has been made. I would not take the view that a person, even if they had some understanding of skills formation, could assess whether people, who may range from an IT systems analyst to a chef, had the skills and the capacity.

CHAIR—You are correct. That is a further point that could be examined. I just had to make the point that there are other checks.

Mr Tighe—In the case of Mr Rodrigues, when he was actually challenged and tested in relation to his skills he did not meet the test. That is only one example, admittedly.

CHAIR—We would be interested to follow up with the department their response to Mr Rodrigues to see how they eventually respond to this case that seems to have fallen through the cracks, as you say.

Mr Tighe—In relation to Mr Rodrigues's case I sought to speak to the case officer from the department. I was told that I was not able to do that.

CHAIR—We will try to do that.

Senator PARRY—I want to go back to Mr Paton. You gave some statistics. You said there were 146 companies, 1,200 section 457 visa holders in the Northern Territory, 16 investigations and four have been finalised. Out of the four that have been finalised do you know what the results were just as a snapshot or overview?

Mr Paton—No, again we do not get those results. We are not allowed to get those results. We have asked DIMIA for those results and they have declined to give those to us.

Senator PARRY—So what does ‘finalised’ mean?

Mr Paton—We asked the same question: what does finalised mean and what was the result? We cannot get any answers.

Senator PARRY—You also made reference, quoting from some newspaper clippings, to some workers being on drugs and some being too drunk to come to work. I would have thought that would be a fair reason for dismissal. I do not know whether you might have a different view.

Mr Paton—No, obviously safety is paramount and if you are going down that path then that is a fair reason for dismissal. But what this guy is doing is using that as an excuse to get rid of his workforce where there have been no checks and balances. There have not been any tests done on these people to see whether they were on drugs or drunk when they came to work. There have been no test done. We see that he has been using that as an excuse to get rid of his workforce.

CHAIR—Are you allowed to test your workforce for drugs and alcohol if somebody comes onto your site?

Mr Tighe—In construction, yes.

Mr Paton—In the construction industry you can.

Senator PARRY—Anyway where there have been dismissals they have then been replaced and you are suggesting that the replacement is someone on a 457 visa.

Mr Paton—Yes.

Senator PARRY—On page 4 of your submission there are five categories listed: electrical contracting and construction, plumbing and mechanical services, manufacturing, energy and power, public and private sector communications. For all those people qualified in those areas are you aware—anecdotally would be sufficient—how many people are unemployed in those categories? What is the unemployment rate within those groupings?

Mr Tighe—Mr Paton did not put together the submission. It came from my office. He could give you an understanding of what the unemployment position is in the Territory. We certainly have high youth unemployment up there in the apprentice trades.

Senator PARRY—That is unskilled. I am interested in the skilled area. Mr Tighe, maybe from a national perspective, could you give the committee an understanding of—

Mr Tighe—I can certainly supply that to the secretariat. I do not have that with me.

Senator PARRY—That is okay. Anecdotally would you say that there is basically full employment within those sectors?

Mr Tighe—There are skills shortages across the board in relation to our occupations, but it varies from sector to sector. Obviously in the iron ore industry in Western Australia there are chronic skills shortages. In places like Darwin some of our members are saying, especially subcontracting members, that they in fact are bidding for work and not being able to win that work now. Whether that means there are high levels of tendering and in fact there is an oversupply of labour in that area is hard to guess. It is all anecdotal reports.

Senator PARRY—It would be good if you could provide any statistical information you do have to the secretariat.

Mr Paton—Nick Egglestone, one of the tilers who have come to the Territory, arrived in the Territory over six months ago. He is 26 years old. He brought another tradesman with him to work in the construction industry in the Territory and intended to employ an apprentice and a labourer but had to return to Brisbane empty-handed after six months when bosses said that he would not win a contract because he could not employ twice as many overseas tradesmen at half the price. When he arrived, he was told by companies: ‘Why would we employ you blokes when we have six overseas workers to do the same job?’ They stuck around for six months. One company told them that they had 40 Chinese on the books and another 40 coming and that, unless they could drop their prices, they could forget working for them. That is what we are starting to see now.

Senator PARRY—That leads to my next question, which comes back to Mr Tighe speaking earlier about the minimum wage and the market rates. You have a table here quoting the industry market rates and the gazetted minimum salary for 457 workers. So that we have a comparison, what is the gazetted minimum wage, referred to in paragraph 3.15 on page 11 and the third dot point under ‘Wages’ on page 4 of your submission?

Mr Tighe—DIAC determines an MSL, a minimum salary level, for that area. So, if you look at Darwin, which is determined to be a regional area, the minimum salary level you can bring in for a classification which is equivalent to trade is that they must be paid a salary of \$37,655.

Senator PARRY—You are talking about the 457 minimum salary level. Forget 457; what is the standard within your industry—the gazetted rate you referred to in the two paragraphs?

Mr Tighe—For an electrician working in the Northern Territory?

Senator PARRY—Yes.

Mr Tighe—You could say that—and this is again—

Senator PARRY—Not the market rate, the minimum gazetted wage.

Mr Tighe—The minimum rate?

Senator PARRY—Yes.

Mr Tighe—The minimum award provision that applies up there is probably equivalent to around \$40,000.

Senator PARRY—So it is slightly below the minimum salary level for the 457 visa. Can you also provide that on notice—the actual minimum rates for award?

Mr Tighe—I will give you that, yes; that is no problem—the minimum rate for the award applying in the Territory. I think it is the metal trades industry award up there.

Senator PARRY—Even if you could send a reference to any website back to the secretariat that would be great.

ACTING CHAIR (Senator Polley)—Is there anything else you would like to take the opportunity of putting on the record today?

Mr Tighe—I think we have covered all the areas on which we wanted to make a point. Most of them are covered in our submission. The only other thing I would like to point out in relation to the Territory is that a petition is circulating in the Northern Territory from workers in the industry complaining about the use of 457s in that sector. The petition is still circulating but there are over 1,000 signatories to it—and I would not say that the workers up there are unionised. A lot of people in the Territory are subcontractors or on labour-only contracts, but I think it shows that, in the Northern Territory, there is critical manipulation of the current criteria for the issue of the 457s.

ACTING CHAIR—Thank you very much for attending the hearing today. We would be grateful if you could send to the secretariat as soon as possible any additional information you have undertaken to provide.

[11.46 am]

GIBSON, Mr Andrew Peter, Private capacity

CHAIR—Welcome. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as the proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The committee has received your submission, and it has been authorised for publication. The exhibit you have just given us is welcome and the committee will consider its formal status at the next meeting. I now invite you to make a brief opening statement before we proceed to questions.

Mr Gibson—I would firstly like to thank the committee for accepting my submission and allowing me to speak today. I do not belong to any union or hold any political preferences whatsoever. There may be a chance I risk everything in addressing this committee today. There is no doubt that today I am putting those close to me at greater risk. I have received death threats over the past few months and it is very hard sleeping at night. Many have asked why I am prepared to risk so much with so little to gain in return. In a short period of time my ideals, my thoughts and my beliefs I had in the political system have changed dramatically. I stand before the committee today to speak on behalf of the workers, contractors, subcontractors and small business owners who have contacted me. I believe I represent the overseas exploited workers.

I am here for not only my daughter but all the sons and daughters from all ethnic backgrounds in the hope that they will all grow up in the same country with the same values as I did—a country with tolerance, a country that prides itself on equality, mateship, honour, freedom but, most of all, on a fair go. It is a lucky country. I would like to begin with a difference. In Germany in 1939, Lutheran Pastor Martin Niemoller was arrested by the Nazi Gestapo. These are his words:

In Germany, the Nazis first came for the communists, and I didn't speak up because I wasn't a communist. Then they came for Jews, and I didn't speak up because I wasn't a Jew. Then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist. Then they came for Catholics, but I didn't speak up because I was a protestant. Then they came for me, and by that time there was no one left to speak for me.

Like the pastor, I have sat back and watched small corner stores and many Australian small businesses close down, including greengrocers, butchers and bakers because we were told about their economic future—cheaper prices and so-called better services for the Australian family. Yet there is no doubt we have just created an opportunity for business to gain a monopoly—a monopoly where the same businesses dictate that the price that they will sell for is the price that they will buy for.

I have also sat back as our clothing manufacturing businesses have been closed down or have taken their businesses offshore in pursuit of cheaper labour and higher profits, with hundreds of Australian jobs lost, and small towns feeling the pinch as we, once a large and local employer, are gone. Not long ago our Australian wool industry was under threat from an animal rights group, backed by big names in the entertainment industry, yet it is as though no-one cares for a

14-year-old working girl, who works a large number of hours until she is sacked or sent back to her village for falling asleep or because her fingers will no longer do what her brain asks her. Yet the large brand names sell for no less: larger profits.

I have sat back as our banking sector has posted yearly record profits. It has no problem in sending its call centres overseas to cheaper markets, and it costs hundreds of Australian jobs. I have sat back and watched the unions' power and control diminished. They have been discredited by federal government smear campaigns that have been supported by big business associations and employer groups. Initially we all believed the unions had no-one else to blame but themselves. There is absolutely no doubt that the unions played a very important role when it came to the protection of workers and their safety. The Northern Territory is probably one of the least unionised areas in Australia. The majority of Territorians work on a contract basis and there is absolutely no doubt that the Northern Territory's safety standards are way below those of the other states. Due to the lack of union presence, 457 visa abuse is rife in the Northern Territory. The unions are not allowed on site, and no-one knows what goes on on those sites. When government safety departments give sites one to three days notice before they do a safety induction, this itself leaves the workers totally open to abuse.

I sat back, along with many others, when the 457 visa abuse began. Companies are prepared to sacrifice Australian workers and their families in the pursuit of higher profits. I have worked on many sites with underpaid 457 visa workers. They do extraordinary hours—they work up to 70 to 80 hours a week—and have poor to no English skills. The workers that are brought here believe they are doing this country a service, and then they realise that they may not be welcome or wanted. The 457 visa holders should not feel blamed or unwelcome in this country. The emphasis should be put on the companies exploiting this system, not on the workers.

I would now like to explain how this is done. In late November 2006, I worked for a company by the name of Allpro in Darwin, in the Northern Territory. I initially believed that we were going to acquire labourers or fixers—a fixer is someone who fixes the plasterboard to walls and ceilings. It was not until the meeting between my employer, his partner, representatives of the Chinese labour hire company, another foreman and me that I learnt that their intentions were to replace the 25 plasterers that I had working under me with 40 457 visa holders. At this meeting it was discussed that they would also bring in an additional 20 painters under the 457 visa.

This is how we proposed to do it. I was in a meeting with the Chinese labour hire company. I was to run the plasterboard division of our company. We were going to take on two of the biggest contracts in Darwin. Realistically, this was how we could do it: I would be at the top and we would keep only three Australian foremen in the company; the 25 people under me would be replaced; each of the foremen would run a different division of the plasterboarding. You break plastering down into three different sections. There are plasterboard installers—the fixers who fix the plasterboard onto the walls—and they are basically glorified labourers. You have flushers or stoppers—it depends on which part of the country you come from—who flush the joins. That is probably a higher standard in the trade itself, so realistically they get paid a lot more money. Then there is steel construction—the construction and erection of walls and ceilings—and that probably attracts the top dollar in the trade. A good tradesman—hopefully, like me—can do all three of those jobs. That is what the trade is about; yet the trade is broken up throughout Australia into three different categories—fixer, flusher and steel worker—or you can do the whole lot. In my trade in the Territory, in the company that I work in now, which has about 25 to

30 employees, probably four of us can do the lot. What this is all about realistically—and in other areas—is breaking down our industry. The children are not getting taught what I was taught. I was lucky to have a very good employer who taught me everything.

In this company, there was the Chinese minder. In the meeting with the Chinese employment agency, he was highly recommended—well, not recommended; we were told to bring him in. We pay him \$50,000 to \$55,000—\$10,000 to \$15,000 more than anyone else. He does not work; he is wholly and solely on the site to organise—

CHAIR—I will stop you there just to clarify before we go any further. What is the name of the labour hire company?

Mr Gibson—I have no idea.

CHAIR—You said you met with a labour hire company to put this arrangement in place. Who were you dealing with?

Mr Gibson—My company sent me to a meeting with these people. I was not there to discuss their names or anything else.

CHAIR—What is the name of the company you work for?

Mr Gibson—The Allpro Group.

CHAIR—Allpro sat down and made an arrangement, such as the one you are suggesting—

Mr Gibson—I was brought in to oversee the process of how we would actually obtain plasterers in China. My main role was to go over to China and do the trade skill assessment when we got there. The Chinese company or the company that was representing the Chinese market said to us that basically, although we were hoping for 40 tradesmen, they could not guarantee that. So, realistically, we were looking for the top six.

CHAIR—Did you go to China?

Mr Gibson—No.

CHAIR—With regard to the Chinese minder, as you called him, how was he to come to Australia—or was he already here?

Mr Gibson—No, he was to be brought in.

CHAIR—On what basis?

Mr Gibson—A 457 visa.

CHAIR—What as?

Mr Gibson—As a skilled tradesman.

CHAIR—In the plastering industry?

Mr Gibson—Yes. I actually quit the company the next day, after sitting in on this meeting. I believed it was totally illegal. Not only that: what we were about to do was immoral to the Australian workers. That did not really hit home until the next day when I was at work. One of my workers approached me and asked for a letter of employment because he wanted to buy a house and he was going for a house loan. I sat back and thought, ‘You’re not even going to be here next year.’ I got out. I got into my ute, turned my mobile phone off and drove home. That was how I resigned. I could not do that to my workers. Realistically, we were not looking for 40 tradesmen.

CHAIR—Did this happen?

Mr Gibson—No. They pulled up on it after I quit. They actually did a trip to China looking for workers. But basically since I have come out in the Northern Territory—and there has been a lot of media coverage of this as well—this company has pulled up. They definitely did go to China to bring workers back in, but I guess to my knowledge—

CHAIR—Your company went to China—that is, the company you were working for, Allpro?

Mr Gibson—Yes, they did go to China. A lot of the companies in the Northern Territory have pulled up on the system. I would not say ‘pulled up’, but they have definitely slowed down on what is going on because of the press. As I explained in the submission I have given you, the company we used when we were bringing them in is being passed on from company to company. You do not look up the Chinese labour company in the Yellow Pages.

What happens is that we are working on big construction sites and the main contractor at those sites is encouraging the smaller contractors to get overseas labour. They come in and you sign these people up to 10 hours a day, six days a week. That is 60 hours they are working for that \$40,000. You take out the deductions that I have stated here. You then deduct their rent. The employers are saying, ‘We are ferrying them to the job sites, which costs us money.’ That is absolute rubbish. You charge the workers to be taken to the job sites.

We were told by the same Chinese company that we could deduct \$1,000 off every tradesman that we bring into the company. For over 60 workers, that is \$60,000 made back. You go and buy all of the tools through your company and claim all of that on your tax—the whole lot—yet you still take \$1,000 off each one of these workers. Our first rally in Darwin was actually being run by me and not the unions. The majority of the things happening up in the Northern Territory have been run by me and the workers behind me. Of those workers, the majority are not union. None of us have been in unions up there. The majority do not want the unions in up there. But we have to make a stand. There is something drastically wrong here.

When they bring these workers in you think, ‘Well, \$40,000 is a lot of money for a tradesman.’ I am a tradesman up there. I supply my own ute. I supply around \$10,000 worth of tools in the back of that ute. We have to supply everything—our own insurances, superannuation, the lot. So \$40,000, to us, is absolutely ridiculous. We all work on a contract

basis, so the harder you work, the more money you make. That is a pretty good system to us—until you start getting ripped off, anyway.

But they are not paying \$40,000. You take \$1,000 off that straight off. So you are now down to \$39,000. You then take up to \$150 a week in rent. That was what I was about to go into. Dave Tollner has admitted that one of the companies up there in the Northern Territory has already been found to be charging I think eight to 12 workers in a unit \$120 each in rent. You are looking at a unit worth \$300 a week. That company is making somewhere around \$1,000 or \$1,200 a week back off its workers.

The intention of the company I was working for was to buy a couple of investment properties. The company would fill them with as many of these workers as they possibly could and charge them \$150 a week in rent. So they were looking at getting back \$1,500 to \$1,800 a week from these workers, which would then pay off the investment property. This is where the scheme totally leaves itself open to abuse. Few of these companies have been investigated; there have been four or 16 out of 160 in the Territory. That is not enough.

It is definitely going on. The word on the street is—and you only have to ask anyone about all the poor Chinese who are stuck over in Nightcliff in the Northern Territory or in different suburbs—that there are 10 to 12 of them walking out the door of every unit. An Australian tradesman will not be flown up from Victoria or New South Wales to live in a house with 12 people.

This diagram shows exactly how we were going to do it. It leaves itself totally open to abuse and it is not being policed. Now, we are working on sites in the Northern Territory where easily 60 to 70 per cent of the employees on the work site would be 457 visa holders. That is causing problems. Up in the Territory we live in the most multicultural city probably in the world—definitely in Australia—and we are all fairly easygoing people; we are not racist. Yet we are bringing in a system here which is causing problems. Australians are definitely losing their jobs.

As was stated earlier, the tiling business is now basically run by one company, which has up to 60 457 visa holders working for them. The Australian tilers cannot compete against them. This company is paying \$17.50 an hour to their 457 visa holders. The 457 visa holder who signs on for 10 hours a day to do a 60-hour week over in his own country comes over here and is now working up to 15 to 17 hours a day. Now, this is rife in the Territory and the proof of that is just in itself. You only have to contact the Northern Territory newspapers—any of them—and you can learn that these sites that are meant to be closed at 5 o'clock at night are open to 9.30 or 10 o'clock at night.

CHAIR—I would like you to clarify something again. Are you saying that some of them potentially work 15 hours a day?

Mr Gibson—Yes.

CHAIR—Let us say the minimum rate on the 457 visa is \$41,800 and there could be a regional implication on that; are they being paid per hour after their 38 hours a week?

Mr Gibson—I do not know.

CHAIR—For example, if they were working 38 hours a week and then working an extra 15 hours they might be getting a lot of money over and above the minimum rate. If they are getting, say, \$14 or \$20 or whatever an hour over and above—

Mr Gibson—I am of the belief that the workers in the tiling industry are working for \$17.50 an hour so I would assume they would be getting \$17.50 for the entire 17 hours.

CHAIR—You could talk about this much more. Because we are running out of time, can I say, Mr Gibson, that you are obviously very passionate and you have taken this up as a cause. I congratulate you for that. However, some of the evidence you have given does need to be examined. I will say at the outset that I understand that the unemployment rate in the Territory is less than four per cent. Is that correct?

Mr Gibson—No, it is growing.

CHAIR—What is it?

Mr Gibson—Over four per cent for the time being.

CHAIR—It is certainly not high.

Mr Gibson—I am from Victoria originally. If you talk to anyone in Darwin you will find they are from somewhere else—New South Wales, Western Australia. We have all travelled to the Territory to find work—to work for three months, which I did 20 years ago. The majority of my friends up there all came up for work and stayed because they loved the climate or the Territory lifestyle. This situation where we are bringing in the 457 visa holder because all the other states are in these big construction booms and everything, is wrong. I have had a lot of phone calls from people in Melbourne and Sydney wanting to come up for work. If we fill all the positions vacant in Darwin, especially in the construction boom that is happening now, with 457 visa holders that means that none of the interstate tradesmen will come.

CHAIR—I get your drift. I am sorry; again I am trying to be brief. Do you believe that there is no place at all for 457 visa holders in the Territory or Darwin?

Mr Gibson—I believe that there are definitely places for the 457 visa holder, but not in the way it is currently being run. It leaves itself totally open to abuse, and that is exactly what is happening in the Territory.

CHAIR—Okay.

Senator POLLEY—Thank you very much for your submission. In your experience, what impact on the industry has been the influx of the 457 visa holders in terms of pay rates and conditions for fellow workers?

Mr Gibson—The rates are going down. There is absolutely no doubt about that at all. As with the tiling industry, Australian contractors cannot quote against people who are paying \$17.50 an hour. An Australian worker is not going to work for that—not a tradesman. At this time in the welding industry what is happening is that the workers are on AWAs, and the company initially

brings in 10 to 20 workers from overseas on 457 visas. They are trained up by the Australian workers in welding, and in other skills in other industries in the Territory. By the time they are competent in their jobs you get to a stage where the company goes back to its workers and says: 'We've got this workforce on this much. You have to come back down to that or you go.' And that is happening to large numbers in a lot of industries in the Territory right now.

The majority of people who have rung me—and I have been rung by people from all over Australia—are workers who want to come to the Territory and workers who have left the Territory. I have three good friends who have left the Territory already who own houses in Darwin and in Palmerston, and they are working out of Western Australia or Queensland. Yet in Darwin at this time we are meant to be in an economic boom, a building boom, but for the last five or six years as construction workers we have earned absolute rubbish. We have been working at rates way below those in every other state in Australia—at times \$10 below Queensland and New South Wales. We are now coming into our so-called economic boom, which the rest of Australia is enjoying, yet the workers in the Territory, especially in construction, have never felt so insecure in their lives. This is all due to these companies being able to bring in large numbers of 457 visa holders, undercut their workers and undercut other construction companies. Instead of workers being brought to the Territory because of its great lifestyle and so forth, and encouraging interstate tradesmen to come up and work, companies jump on a plane and go over to China and get them through a Chinese work company, or go to the Philippines and bring back workers.

If we are going to bring back qualified workers, why are we sourcing from the most lowly paid countries in the world? If there is a skills shortage and you want a top tiler or a top construction worker or whatever, you would go across the world looking for those people. But we are not; we are just going to two or three countries where workers are very lowly paid. We source workers from there because they are the few workers who accept this pay rate and will accept the deductions and everything else we can take from them, because to them it is still a fortune. But the majority coming in are not qualified, especially in the tiling industry. One of the largest industries up in the Territory at the moment is glass and aluminium, and these other workers are definitely not qualified. Australian workers have approached me, and I have had many discussions with them; basically the Australian workers train them up over the first 12 months and as soon as they are trained the Australian worker is pushed out.

Senator POLLEY—In relation to the concerns you raised about underpayment and deductions that obviously one would have to question, how can you see the process being improved? Do you have any first-hand experience about where the lack of English skills has caused any safety issues?

Mr Gibson—There is no doubt that there is a safety issue with a lack of English skills. When you are on a big site there is a lot of machinery going around, and there things being carried everywhere. The sites in Darwin are not the safest compared with everywhere else; there is absolutely no doubt about that. When you walk into any unit that is a high-rise development and tilers and painters on 457 visas are there you are lucky if you have one who can speak English, but the majority of the time there is not. There is usually just one head foreman for the company, and the rest of the crew is spread across the whole floor. If something were to go wrong on that floor, you could walk in and scream your head off and they would all sit there and look at you, dumbstruck.

The next biggest safety issue relates to anything that is tagged off. There is a system in the electrical trades where everything that is tagged off has 'Do not touch.' What happens in the Territory is that the Australian workers do an induction, supposedly, before they are allowed on the site. The companies with the 457 visa holders are taking their men straight up on site—straight up the lift wells, straight up the stairwells and into the site. They are not doing an induction, so they do not even know the safety standards that are meant to be met on these sites. A 457 visa holder will do exactly what you tell him. If an Australian tradesman believes that he is doing the wrong thing, this is where it comes back to the effect of the consumer. There is absolutely no doubt about it. If a company are prepared to sacrifice their Australian workers that own homes and have families to bring in cheaper labour to make huge profits, that company are not going to worry about how well they build your house, and they are not going to care what they are doing to their workers. If an Australian worker is asked to do something that he believes is illegal or unsafe, he will say, 'No way, I am not going to do it' or he will compromise in the middle with the employer. A 457 visa holder will do exactly what he is told. There are two things: either you do what you are told, sit and work for whatever hours you are asked, or you will be put back on a plane. That is common knowledge throughout the whole industry.

CHAIR—I think we get the drift of where you are going.

Senator PARRY—Under the three categories you have indicated for plasterers, what is the unemployment level like in the Northern Territory, to your knowledge? Are there many unemployed plasterers?

Mr Gibson—Yes.

Senator PARRY—How many, percentage-wise?

Mr Gibson—I would not know, to be exact. But when this was raised and I came forward, and a lot of people found I was doing something about the 457 visa holder, I had a lot of plasterers contact me. Basically, everyone realised that our trade was going to be affected. I was contacted by companies and by tradesmen. Over the period of probably the first month and a half that I was into this, I probably would have found 15 people to work for 10 companies, and there are still tradesmen ringing me today looking for work. So I look like I have been working a bit as an employment agency.

Senator PARRY—And you are back plastering, back on the tools again?

Mr Gibson—Yes. I normally run big jobs. I will not be running big jobs in Darwin now. It is quite simple: the big companies will not touch me.

Senator PARRY—I just need a bit more information about this document that we have to consider whether we accept. This is your proposed structure that you have outlined. Is this your reproduction from memory or is this an exact copy of what was provided to you?

Mr Gibson—That is a reproduction.

Senator PARRY—You have reproduced this?

Mr Gibson—That is exactly how it was drawn up. That is exactly the format that we were going to work from.

Senator PARRY—So you redrew this based upon an original document that was provided to you?

Mr Gibson—No, that was an original document that was drawn up while we were in the meeting.

Senator PARRY—A copy from memory, basically.

Mr Gibson—Yes, but that was drawn up within the meeting. We had to come up with a structure of how we would go to China, how we would get them. The thing that probably scared me the most in this—and this was recommended by the company—was that it would bring them in in groups of 15 or 20, so we would not alarm. The company itself would pay \$40,000 up front to fly to China. Three of us would be flown over to China to do a skills assessment on the workers. We would choose 60 workers whilst there, come back to Darwin, then, on the first initial 20 people, we would advertise and say we could not get workers, when we already had workers. This was the worst part. Going into that side of it, I did not stick around long enough to find all that out. But when you advertise in the newspaper for workers, people ring, and you give them a ridiculously low price. That same company can then approach government and say, ‘We can’t get any workers for our huge job that we are going to do.’ In the same instance there are actually companies up there right now underquoting businesses because they believe that it is only a matter of a trip to China and they will come back with 30 or 40 workers and then they go to government and say: ‘We have not got a workforce. We have got this big job to do but we have not got a workforce to do it.’ So the government says, ‘Right, we will okay the 457 visa,’ because it is good for the economy and everything else. But it is not looking at the four or five companies that have Australian workers, that should have had that job.

Senator PARRY—To finalise a couple of things on this: did you have a good relationship with the company prior to walking out in the way you described to us earlier?

Mr Gibson—Yes.

Senator PARRY—So there is no other agenda running here?

Mr Gibson—As I have stated in here, that is what I was offered to do this. I was offered an extremely large amount of money to pull this off.

Senator PARRY—So the company were equally as shocked to see you go?

Mr Gibson—I guess you can say that without me they couldn’t do it. We are talking about a company which basically for the last 10 or 15 years has worked in painting, and which has gone into construction. This is very easily done in the Territory: you can be anything; walk into something else and off you go—you start your business off. I will read one part of the end of this, which will probably clarify part of that.

CHAIR—We are almost out of time. Would you mind providing that to us later?

Mr Gibson—Yes.

Senator PARRY—I have a final question. With regard to the death threats you have received, firstly, who were they from?

Mr Gibson—If I knew that I would have given it to the police.

Senator PARRY—Have you reported it to the police?

Mr Gibson—Yes, although not as in, realistically, the threats. I have told them I have had threats, for sure. I rang the Northern Territory Police. That was before my initial ABC interview. I live in a pretty rough old street in Darwin. I said to them: ‘If there is a phone call from either my mobile or my girlfriend’s mobile or my home phone, it is to be taken very seriously. Can you please attend my address; it will not be just the normal street thing that is happening.’ The Northern Territory Police have taken that very seriously.

Our government seems to believe that all companies and businesses can be entrusted with our future and that they are totally to be believed. I am here to say that that is far from the truth. A lot of these companies are owned by people who are not the nicest people. They are risking losing a lot of money. There are huge profits that can be made from the 457 visa program. It is unbelievable. I am looking at trying to take that away from them and replacing it with Australians, or at least bringing the money for the 457 visa holder up to that for an Australian. So those companies are looking at losing thousands to millions of dollars. As I said at first, I have lived on the streets in Sydney and I have worked in some fairly rough areas around Australia. I know what a life’s worth; it is not worth a real lot of money to a lot of people.

So put yourselves in my situation. I have worked all my life to be able to run big jobs in the Territory, that has been my sole aim, and I can no longer do that. There is no doubt that a lot of these company owners are not the nicest people you are going to meet on the street. So I am definitely risking a lot here. My girlfriend at the time would not even stay in my home because of what I am doing. And I am a single dad. There is no doubt that there is a huge threat to everything through what I am doing here today.

Mr LAURIE FERGUSON—I think you said that one tiling company had been given 60 457 visas; is that right?

Mr Gibson—Yes.

Mr LAURIE FERGUSON—I notice that Minister Andrews, in some correspondence in the file, says that over an 18-month period in the whole of the NT construction industry the department only granted 230. What is the name of this company?

Mr Gibson—TDS.

Mr LAURIE FERGUSON—And they have become the dominant player?

Mr Gibson—Yes. But that company is not even listed on that form. There are three or four companies working out of the Territory that are not even in these figures. All these companies

have large numbers. This is what is amazing—that there is something wrong with the figures being given out. There is absolutely no doubt that—

Mr LAURIE FERGUSON—Is TDS interstate or is it just a Northern Territory company?

Mr Gibson—I assume they are a Northern Territory company.

Mr LAURIE FERGUSON—You gave an example, I think it was in your company, that of the 25 staff only four could do all three of the skills you mentioned. Is that correct?

Mr Gibson—Yes.

Mr LAURIE FERGUSON—Going to the bottom end of the barrel with regard to skills, what level of training would be needed by the lowest skilled in that 25, whom you are saying can do one of the things, to get to what they do now?

Mr Gibson—As I stated before, probably the lowest money should fix it. They are the people who fix the wall boards.

Mr LAURIE FERGUSON—But what would you need training-wise if you were going to fix it?

Mr Gibson—Normally it would be six months before you would be looked at as a proper person who could do it. Realistically, you are looking at a year to two years in the industry before you would be properly looked at as being able to take over any job on your own or anything like that.

Mr LAURIE FERGUSON—Finally, in this whole transaction that you were invited into with this Chinese labour hire company, did you have the impression that the brains trust in the company thought of this out of thin air, or do you think this Chinese company is in the market in Australia in a broader sense?

Mr Gibson—The Chinese company is in the market in Australia, there is absolutely no doubt about it. They are looking at getting \$85,000 from this company. As I said, I do not know the name of this company, but this company is not listed in the Yellow Pages either. It is handed from business to business among those that are interested in larger profits and getting through with the 457 visa.

Mr LAURIE FERGUSON—The point I am getting at is that you are saying that this Chinese labour hire company is in the marketplace in this country, offering this service around?

Mr Gibson—Yes.

CHAIR—I have two quick questions. What has been the response of the Northern Territory government to the range of concerns you have raised?

Mr Gibson—Absolutely none. I have been warned off. I was rung up and told to keep quiet—I am causing racial hatred. I was totally amazed by that. Originally I believed I would be leaking

something to the press and that our politicians would jump up and down and do something about this. I believed in our way of life in Australia and everything. Instead of me leaking something to the press and being able to walk away—I knew that it would damage me and my career in Darwin—I have had to keep going for the last 2½ or three months and keep pushing this because no-one is listening and everyone is pretending that it is not happening. It has been horrific.

CHAIR—Well, if it gets too hot in Darwin you had better come to WA; we are busting to get plasterers. I noticed that when the minister responded to you he said that you could not sponsor non-skilled tradespeople under this program.

Mr Gibson—Well, that is not happening. Unskilled workers are coming over here in droves.

CHAIR—So you would dispute that. Okay, thank you very much. We appreciate your coming so far to give evidence and attending today's hearing.

Mr Gibson—Just before I go I would like to tell you what is happening right now. There are companies that are prepared to do the wrong thing and cannot get Australian workers. Sometimes there is a really good reason that they do not get those workers—because of bad work practices, bad payments to workers and so forth. A lot of these companies should be put out of business. They should close their doors. It happens; this is self-regulation in the building industry. They should be pushed out because they can no longer get workers. The company slowly goes broke and is pushed out. A couple of consumers will get hurt along the way through that; there is absolutely no doubt about that. People might have houses half finished or get really bad products, but that company will be finally pushed out of the workplace. That company now can do one trip to China and come back with 30 to 40 workers and go back into business. They not only go back into business; they undercut the businesses that are doing the right thing. That is what is happening in the Territory right now in huge numbers.

CHAIR—I will have to talk to you afterwards because I have had experience trying to get a baker out here. It took me about six months. You reckon that they can go over and get 30 or 40 plasterers; it sounds too easy to me.

Mr Gibson—We were looking at four weeks to have the first 20 people in, but we were looking at doing the biggest construction ever.

CHAIR—How long was the turnaround?

Mr Gibson—We were told that we were looking at four weeks to have them in the country.

CHAIR—I will have to get some advice. I would be grateful if you could send the secretariat any additional material that you have undertaken to provide as soon as possible.

Proceedings suspended from 12.22 pm to 1.16 pm

BIDWELL, Mr Paul, General Manager, Policy, Commerce Queensland

CHAIR—Welcome. Although the committee does not require you to give evidence under oath, I should advise you that these hearings are legal proceedings of the parliament and warrant the same respect as the proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of parliament. I invite you to make a brief opening statement if you so wish before we proceed to questions.

Mr Bidwell—Thank you for the opportunity to participate. I would start my remarks by saying that Beatrice Booth, our president, apologises for not being here. Skill shortages is one of the biggest issues currently facing all sectors of Queensland business right across the state. Commerce Queensland, as a chamber of commerce and industry, sees skilled migration playing a part in fixing skill shortages. It is not the be all and end all; it is certainly a part of the program. We represent the interests of 25,000 businesses across the state, through direct membership as well as through 130-odd local chambers of commerce. That is as far as I will take this introductory statement.

CHAIR—Thank you, Mr Bidwell. We have received your submission. As a result, we have a number of questions to ask you. You indicate that you support the 457 visa program to alleviate shortages.

Mr Bidwell—Yes, very strongly.

CHAIR—You see many advantages from the use of temporary visas. What specific shortages do you see? I know you said ‘across the board’, but which are the burning issues or areas of need?

Mr Bidwell—As for our membership we are unable to differentiate across the spectrum. It is skilled and unskilled. We are not particularly focused on the higher order skill areas such as those with doctors, judges and lawyers—that end of the spectrum. For us it is the traditional trades across the ASCO codes and skill levels.

CHAIR—A number of witnesses before you today and previously have even gone to the extent of saying that in their industry there should not be any, and I am thinking of what the meat workers union said. So you have one polarised end, as you might say, and you could be described as being at the other end.

Mr Bidwell—Indeed.

CHAIR—How do you relate to the fact that there are allegations of this program driving down the conditions and wages of workers here in Queensland?

Mr Bidwell—Well, we do not. I see two parts to that question. The first is that there is some representation that we do not need skilled labour to address the skill shortage. Is that the first part?

CHAIR—The Australasian Meat Industry Employees Union appeared before us this morning and said that they have a sufficient number of workers in this state and across Australia, in some respects, and that if people were trained properly and put into place, they would not need to have any 457 visas at all or even regional workers who are at a semi-skilled level.

Mr Bidwell—We disagree with that, and we have some objective evidence. I do not have the figures with me, unfortunately. I put them into a previous submission. But, at one point in Roma—and, bearing in mind what you just said, I will talk in a general sense—there were, say, 10 or 15 people on the books with the former CES, the Job Network, but there were 10 times as many jobs waiting to be filled. So there is some evidence. I have not given you any hard data, but I can do that.

CHAIR—If you would, because I understand your membership includes the meat processing firms.

Mr Bidwell—Indeed, yes.

CHAIR—As they have issues, we are interested to hear your possibly contrary views on what the union have raised about fear and intimidation, exploitation and not paying salary at a level commensurate with the rest of the industry.

Mr Bidwell—That is the second part of that comment. Firstly, we would not agree that it is not needed. We argue very strongly that, particularly in regional areas, we do need workers from overseas to fill those needs. Our observations and experience in those areas are that people are paying at the market level. In fact, that is the system that we want in place. We want to go back to where it was, so employers can pay employees the market rate in that area. For example, if you are a cook in St George and the market rate is \$34,000 then that is what you pay the cook in St George—not the artificial \$37,665, which is 10 per cent over the minimum salary level.

CHAIR—I think that was one of the follow-ons. I am not arguing their case for them; I will leave it after this question. The market rate might be above the requirement or the award rate et cetera but the figures used were \$900 to \$1,000 a week as the expected salary for a slaughterman, for example, which is well and truly above the \$41,800 for a—

Mr Bidwell—Yes. Again, our position is that it is whatever is the market rate. If it is above the \$41,000 then so be it. It really does not have any effect whatsoever. I am not across the detail of the meat industry. Obviously some of the bigger and the smaller meat processors—and there are some tensions there—are members of Commerce Queensland, but I would not want to make any comments about the detail of the meat industry. I will leave that to AMH and Teys, who I am sure will appear.

CHAIR—Before going to the deputy chair, I will make one more observation with a question. I understand that Queensland currently has an unemployment level of four per cent, second only to Western Australia, which I am very proud of, at 2.7 per cent. Particularly in areas of construction and tourism, there is a distinct shortage and some businesses would not be able to continue to grow. You would probably agree with that statement.

Mr Bidwell—Absolutely, in fact I probably should have made that comment in my introductory statement.

CHAIR—As a result, you would see a growth in this sector rather than anything else. Do you think that the training of young people in particular has been abandoned or is it some other factor?

Mr Bidwell—A conversation about the training sector in Queensland and Australia could run on for many hours, but we believe that governments at all levels are addressing the training issue—national and state governments. Over time we hope to see some better outcomes in addressing skill shortages. But there is no doubt that overseas workers will always have a role, whether in the short term or even in the medium term, because they add to the skills mix in Queensland and Australia.

Senator POLLEY—Thank you for your submission. You mentioned in your submission that there needed to be better monitoring by DIAC of recruitment by the labour hire firms to make sure that they comply. Can you outline your concerns, please.

Mr Bidwell—We do not see too many examples of exploitation. I am not suggesting that that does not mean it does not occur, but most of the calls I get and most of the issues that come across my desk are about people who are dealing with a skills shortage and are saying, ‘How can we access—

Senator POLLEY—You would not get an employer who is using the visa telling you that they are doing the wrong thing.

Mr Bidwell—That is true, but we understand from what we read in the media that there are examples of exploitation. My view is that it is because of that exploitation that we have some problems which, maybe, led to the inquiry. So we are keen to see the system work properly and for employers to fulfil their obligations. We understand that some of the inappropriate behaviour takes place probably not so much in labour hire but in the so-called agencies that recruit people from overseas. We do not want to see the baby thrown out with the bathwater; we want to make sure that people are not exploited.

CHAIR—You would then have no problems with the increased sanctions, including fines against recalcitrant employers?

Mr Bidwell—Yes.

Senator POLLEY—Do you have any examples of exploitation you can give us that you know of?

Mr Bidwell—No. That is why I made those points at the start; you would not expect people to ring us.

Senator POLLEY—In terms of the department’s performance in issuing the work visas and the way they are processed, do you have any comments or concerns to raise?

Mr Bidwell—Yes. I think it is too slow at the moment, and I think there is almost a political overlay that is holding things up. It is taking months when, really, it should be able to be done in weeks.

Mr LAURIE FERGUSON—What protections do you see to ensure that people essentially coming in here in a skilled category are working in far less skilled occupations? Allegations made to us say that is occurring widely.

Mr Bidwell—To be honest, I do not, but the rules are there. There need to be sufficient resources to ensure those rules are enforced, but if you are telling me that widespread exploitation is occurring then I am not in a position to say that it is not true.

Mr LAURIE FERGUSON—With the exception just alluded to with regard to labour hire companies, the whole report is basically about not having increased training requirements and not making it more stringent for industry. As a person who is defending the essential system at the moment what do you see as protections against that in the existing system?

Mr Bidwell—Clearly we need to have some English language requirements. We are not saying that we do not want them ramped up; we are saying that in any changes be mindful that small business, particularly, might end up bearing significant costs. It may be useful to work through some of those issues. If we have a chance, I want to make sure we cover each of those.

CHAIR—We will just let the questions come and then you might want to return to your submission.

Mr LAURIE FERGUSON—The other point in your document is: you are a defender of the current regional certifying bodies. Other people have alleged that, in general, the kind of personnel on these committees is not knowledgeable in the area of skills matching. It has been put forward that as part of their operation they are required to certify that it matches an ASCO level. Do you have much knowledge of the regional committees and the kind of personnel on them?

Mr Bidwell—In some cases it is the Chamber of Commerce. My understanding is that they do not have to match the skill level; they have to certify that there is nobody to fill that role in this locality. So it is not so much about matching the ASCO skill level with what is being brought in. Maybe that is a deficiency in my understanding of how RCBs operate, but I thought it was pretty simple. An employer says, ‘I want a cook in St George,’ and the RCB says, ‘Well, there are no cooks in St George that can be sourced locally and it’s appropriate to bring somebody in under a 457 visa, if you can find them.’

Senator POLLEY—Is there any assessment done of why there isn’t a cook available, or if there are unemployed cooks available but they will not work in that establishment? Is any assessment done by the board then?

Mr Bidwell—Not that I am aware of. But if there were people available with the skills then I do not think they would be saying that there was a shortage in that area. I do not think they would get down to ‘They don’t want to work in the Commercial Hotel in St George’. That would not really be appropriate anyway. If there is a real shortage—

Senator POLLEY—But there can sometimes be a problem with a company employing people, and that can be the reason they have skills shortages in that area. It is not because there are not people there who are willing to work; they are just not willing to work for that company. So bringing in overseas workers resolves that problem on a short-term basis, doesn't it? But it does not do anything to address the initial problem.

Mr Bidwell—My understanding is that the regional certifying body would not be able to certify that there was a shortage in that case.

CHAIR—Senator Bartlett.

Senator BARTLETT—In your submission, you mentioned labour agreements and supporting them. We looked at those a bit with the meat industry witnesses this morning and will probably do so with our next witnesses. As you say in your submission:

These agreements allow companies to have stable, on-going arrangements ...

And you are talking there about industry sectors and large employers. Is that one way to try to reduce the potential for exploitation—that, if you have a clear, industry-wide agreement, everybody knows what the rules are in that industry and there are standard arrangements rather than all the individual employers doing their own thing?

Mr Bidwell—I have to say I have not given much thought to that. Potentially, yes, but people who are going to rot the system will rot the system. So, whether or not you have an overarching agreement in place that allows all those things you said, people can still do the wrong thing. It is in the detail that people are exploited.

Senator BARTLETT—Okay. You mention elsewhere in your submission:

... some employers seem to be unclear about the overlap between the Department of Workplace Relations and the Department of Immigration and Citizenship ... requirements—

with each employer having to work out what the requirements are. Would it be easier, just in terms of minimising red tape, for want of a better term, to go down this sort of path?

Mr Bidwell—Of having?

Senator BARTLETT—Labour agreements, industry-wide agreements.

Mr Bidwell—I suppose that depends on how the labour agreement works, and I think that is a bit of a movable feast. If the labour agreement were endorsed by everybody then that would be the case, but that is just not practical. There will always be circumstances where a business will want to bring somebody in—and hopefully they will do the right thing—and there need to be some rules about how they do that and they need to be enforced. So the labour agreement is very useful for the bigger parties and for sectors, but it begs the question: are all employers within that sector bound by that labour agreement or is it only those who are party to the labour agreement that are bound by it?

Senator BARTLETT—Thanks for that. In your submission, you mentioned your concern that the system of ASCO codes ‘does not adequately reflect current skill sets’. It always strikes me, when I look at the ASCO list in the context of immigration requirements, that it is really trying to slide people down into a whole lot of really tiny boxes which to me do not seem to reflect terribly well how many workplaces and businesses work. Is that whole system of slicing every occupation down into the tiniest differentiations really just going about it the wrong way? Should we have much broader arrangements? What I am driving at is that you talked about a skills shortage in your submission and in your opening remarks, but your argument has sort of bled across into almost a labour shortage. Is the problem as much that we have a labour shortage in general areas of activity as it is that we have people with only certain levels of qualifications in a particular trade?

Mr Bidwell—Can I answer that question first? Yes, there is. It is skilled and unskilled. It is a labour shortage, broadly. I know that my colleagues from the fruit and vegetable growers—Growcom, who I imagine are appearing—will push that very strongly.

CHAIR—They appeared this morning.

Mr Bidwell—They would have pushed that strongly. One of the points I have addressed in the submission is that there is a need to do something about that. That brings with it a whole lot of interesting challenges, I understand. Taking your first point about the ASCO codes, in some respects they are too broad—I mean they are not sort of split enough. To give a couple of examples, belt splicers for conveyor belts just do not fit. For people who deal with embroidery, a couple of examples have come out of our membership where it is a computer-generated business but they are not in the IT game. They do not actually fit, so it is almost textiles. In that sense the ASCO codes are too broad. If you do not have a critical mass of people, then you do not rate a mention in the ASCO codes. Another is computer game developers. They just do not fit. I am not suggesting that we want to split them all to infinity, but there must be a better way of coming up with some labour market information that does reflect accurately what the shortages are in particular areas, getting down to a regional level.

Senator BARTLETT—One of the reasons this has become a bigger issue in recent years is because there has been a big increase in the number of people coming in through 457. Presumably, that is in large part driven by growing skills shortages, or the skills crisis as you call it. When it gets to the sort of level where temporary skilled workers are outstripping the numbers of permanent migrants coming in, do we need to be looking at expanding the permanent intake where you have somewhat stronger checks and assessments when compared with temporary? People on temporary visas should be filling in temporary gaps whilst you skill up your workforce. A permanent intake would be where there is a more structural problem. Once the temporary thing has reached this size, should we be looking at shifting it across into the permanent side of things?

Mr Bidwell—Yes.

Senator BARTLETT—Long question; short answer—that’s good.

Mr Bidwell—That carries a whole lot with it, though. There is another debate about that. Even though you were not asking questions about migration broadly, we have put in that the

nation's migration policy should be focused, in our view, on the business side of things. That would then need to be cognisant of what the skills shortages are.

Senator BARTLETT—These are people that have been coming in in pretty large numbers, in theory, for two, three or four years anyway on the temporary visa. I know they can then move across. From your membership's point of view, perhaps shifting away from the broader economic and migration theory, to meet skills shortages and labour shortage issues, would it be more workable for your people to have more of these skills, particularly in the skilled area, rather than the fuzzier semiskilled or unskilled labour shortage area and to be going through a more structured, permanent program?

Mr Bidwell—So long as we did not lose that bottom end. That is where we are seeing the shortages right now.

Senator BARTLETT—I am not saying close it down.

Mr Bidwell—I know. Yes.

CHAIR—Far be it from me to lead you, Mr Bidwell, but do remember that this visa can lead to a citizenship outcome.

Mr Bidwell—Absolutely. I have made the point there that many employers are using it as an avenue for that. We are looking for outcomes that will address that skills shortage issue for the long term. Whether that is permanent or three-year temporary visas—

CHAIR—I do not think it is well known that, after four years, permanent residency can result from these visas.

Senator PARRY—Can I come back to your last response to Senator Bartlett about the thrust, from the chamber's perspective, being the economic rationale rather than the shortage. Wouldn't increased economic activity cause problems in the skill shortage area, so that really we need to focus on the skill shortage area first. Don't you think that should be our primary focus? I read somewhere in your submission—I cannot find it now—that you wanted a third of the intake to be on the economic migrant basis.

Mr Bidwell—That is in the broad.

Senator PARRY—Yes, but you are going to create an issue in the skill shortage area. If you end up increasing economic prosperity and jobs growth, you are still going to run out of skilled workers.

Mr Bidwell—It depends on who is coming in under that broader program.

Senator PARRY—Okay. Coming back to a statement you made in response to a question from the chair, you said on the Job Net area there were 15 people—

Mr Bidwell—I was talking orders of magnitude. If you go out to Roma there are very few people available for a whole lot of jobs, is what it boiled down to.

Senator PARRY—Okay. I want to get a broad perspective of the state of Queensland. This is one of the critical issues where we are getting conflicting evidence: skill shortage/no skill shortage. What is your view and how do you validate this view? I want to drill down to a bit of detail. Your comment was, yes, there is definitely a skill shortage. How do you validate that?

Mr Bidwell—With great difficulty. We rely on the intelligence we get from the local chambers, from our members. For some people it is the biggest issue they are facing: there is infrastructure and tax, but it is skill shortage—‘We need the people to do the jobs’—particularly in rural and regional areas.

Senator PARRY—Forgetting ASCO codes, can you name any particular classifications or jobs?

Mr Bidwell—No. It is across the board. For a period it was the traditional trades. If you go up around Innisfail, as a result of Cyclone Larry they were trying to get builders and—

CHAIR—Construction.

Mr Bidwell—Yes, construction. Hospitality and tourism are other areas that are facing that sort of crisis. It goes back to the first point in the submission, that we really do not have an accurate source of labour market information.

Senator PARRY—So the labour market is all anecdotal, as far as you are concerned, through membership. Is it solely through membership?

Mr Bidwell—Yes; membership and the chambers.

Senator PARRY—You mentioned Cyclone Larry. Are there other peaks and troughs that you can identify? Secondly, do you feel as though the cost of goods and services has increased as a result of the skill shortage?

Mr Bidwell—There are no other events that I would point to. I think it is just the boom in the economy and as a result of the resources sector and construction sector in Queensland and in other parts of the country—Western Australia. Yes, there has been an increase in the cost of services, if you look at just construction costs broadly.

Senator PARRY—Can you directly attribute that to a skill shortage—for example, contractors starting to name their own price, knowing that they have got less competition?

Mr Bidwell—Only anecdotally. I cannot point you to any surveys that we have done where we can substantiate that view.

Senator PARRY—But your anecdotal evidence would be, yes, prices have risen for goods and services and, yes, as a result of shortage of labour.

Mr Bidwell—A skill shortage, yes.

Senator POLLEY—Following on from that, could you provide to the committee the figures for traineeships and apprenticeships within your membership over the last decade? What I am looking for is the investment in training and skilling people that has been undertaken by your members to try and alleviate the problems that we are now experiencing, and if you have a figure for the increase in the last 12 months.

Mr Bidwell—I hope I can provide that information. We have got data. I am happy to do that.

CHAIR—Before we conclude, the figures are that Queensland has about 3,860 people on these visas and the state government employs about 660 people on 457 visas, quite often in the medical professions—nurses et cetera. From last year there was a growth of 17 per cent in 457 visas in Queensland. Can you tell me how helpful the department has been to your members in terms of fast-tracking visa applications and finding skilled workers? Have immigration outreach officers played a role in this? What has been your relationship with DIAC, the department of immigration?

Mr Bidwell—The relationship with DIAC is very strong. The department has done a wonderful job in raising awareness about the 457 visa and other available visa options. This is done through the industry outreach officer. That is a separate issue to the time taken to process applications, and I think that can improve. In the first instance, employers need to be aware of what their options are. I have to declare an interest here. We have done a tremendous job in providing that information and helping employers work through the process on how to get them. There is another thing there about whether you can find someone and how long it takes to finalise that process, and that is not as great.

CHAIR—Your evidence is quite conclusive. Is there anything you would like to add? Do you want to return briefly to your original points? Are there any points you want to address before we conclude your evidence?

Mr Bidwell—We cannot take a one-size-fits-all approach to the English language requirements. We appreciate that people working for a business need to be able to understand English from a workplace health and safety perspective. They need to have better than basic skills. But how will making sure that that happens impact on small businesses, particularly those in rural and regional areas? I do not have the answer to that. We are concerned about what might come as a result of the most recent changes to the GSM. It will be interesting to see how that applies to 457 visas. We think that having formal English requirements is going to delay things further. It is going to add four to six months to the process, which really defeats the purpose of these visas.

CHAIR—Realistically, when they are here, this should be part of their training component. Employers should be encouraged to maintain or enhance the English capability of these employees.

Mr Bidwell—A lot of employers are doing that. They are investing in those employees to make sure that they can. But it depends on what bar is set in terms of those requirements.

CHAIR—Given that Queensland is the only state in Australia with the majority of its population outside of its capital city, you would obviously have a view on the regional concessions for both salary and skill levels. Do you want to quickly address that before we go?

Mr Bidwell—Particularly on the salary level, we would like to take it back to the position where it was just a market salary for that region, with some sort of process in place to ensure that nobody is exploiting the system. I made some comments before about the skill levels. They need to be flexible and responsive. There needs to be better labour market information made available.

CHAIR—Given the fact that you have a large tourism industry in Queensland—and this is not directly associated with this inquiry—does the working holiday visa help fill a gap outside the 457?

Mr Bidwell—It does, yes. I will not speak on behalf of the tourism sector in any detail, but I know that they find it very useful.

CHAIR—Any further comments?

Mr Bidwell—No, other than I will undertake to provide that information.

CHAIR—That will be part of my comments to you. Thank you for attending today's hearing. It has been quite conclusive from your point of view. The secretariat will send you a copy of the transcript for any corrections that need to be made. I would be grateful if you could also send the secretariat any additional material you have undertaken to provide as soon as possible.

[1.50 pm]

KEIR, Mr John Robert, Chief Executive Officer, Australia Meat Holdings Pty Ltd

TAME, Mr Neville Bernard, Group Manager, Human Resources, Australia Meat Holdings Pty Ltd

CHAIR—Welcome. Although the committee does not require you to give evidence under oath, I should advise you that these hearings are legal proceedings of the parliament and warrant the same respect as the proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of parliament. Members, is it the wish of the committee that this document submitted by Australian Meat Holdings Pty Ltd be accepted as a submission to the inquiry and be authorised for publication? There being no objection, it is so ordered. Witnesses, I invite you to make a brief opening statement if you so wish before we proceed to questions.

Mr Keir—Thank you, Chair. At the outset I state that AMH supports the 457 visa program as it relates to skilled workers. AMH supports and is a signatory to the labour agreement for skilled workers in the state of Queensland which was signed by the Queensland government and the company on 23 February and signed by the federal government on 28 February. What we do not support is abuse through this program of Australian workers. We do not support the abuse of these workers by some sponsors that continues to go on. We think that the program needs to be skills based. We think it needs to acknowledge that these workers need to come in under skill levels that are appropriate under certificate III of the national training package. We think that the enforcement powers that are in the current document need to be more closely monitored.

CHAIR—Thank you very much, Mr Keir. I am about to leave but before I do I will ask some questions. We had evidence from the meat workers union at the beginning of today suggesting that there was no need to have 457 visas in this industry at all. How do you respond to that?

Mr Keir—I can only speak for Australia Meat Holdings and I will confine my comments to AMH. Our workforce is currently 300 people short. It has been so for a significant number of months. We do not reach our production targets on a daily basis at two of our sites purely and simply because of worker shortages.

CHAIR—The allegation is that you would have sufficient workers if you trained and paid them enough.

Mr Keir—Is this an allegation specifically against AMH?

CHAIR—No, it is against the industry.

Mr Keir—Our wage rates would be amongst the high if not the highest in the industry, so I am sorry but I cannot accept that one.

Mr Tame—I might add that we are also a registered training organisation and we have a significant number of trainees. For nine or 10 years we have been the leading trainer in the industry. Notwithstanding that, we still cannot get sufficient trained people for our workforce to cover the jobs that we need done on a skilled basis.

CHAIR—Have you advertised nationally and at a state level?

Mr Keir—Extensively.

Mr Tame—We have advertised extensively, yes.

CHAIR—How many 457 visa holders would you currently employ?

Mr Tame—We currently employ 129 primary visa holders at our Dinmore establishment out of a total workforce of about 2,300 at that plant. We do not have any others working at any of our other plants at the moment but we have made application to have 457 people.

Under the labour agreement that we have at Beef City, we have to go through a process with the department to satisfy all of the prerequisite requirements of the labour agreement before they will approve a particular plant to access overseas skilled workers. We have also made application with respect to Rockhampton.

CHAIR—And would you consider the number of 457 visa holders that currently work for you to be sufficiently skilled and capable?

Mr Tame—Absolutely.

ACTING CHAIR (Senator Polley)—I might add that the union movement did acknowledge that there are some good employers that are using the 457 visas in the industry. Could you outline to the committee what areas you are finding the shortage in? Are they slaughtermen, boners and slicers or those in unskilled areas?

Mr Tame—There are probably four areas, and there are three skilled areas: butchers or slaughtermen, whatever terminology is used—and it is often used synonymously; then we have boners and slicers; then there are what you would regard generally as the unskilled employees. The labour shortages are in the unskilled areas as well as in the skilled areas. We have problems sourcing skilled labour per se, butchers, boners and slicers, and they are the skilled workers that are permitted to come in under the labour agreement, under the conditions that pertain to that document.

ACTING CHAIR—I notice in your submission that you have 129 Chinese workers coming in.

Mr Tame—That is correct.

ACTING CHAIR—Can you outline to the committee for our benefit the sort of monitoring that is undertaken by the department in terms of the assessment that is done either electronically or through on-site visits?

Mr Tame—Are you talking about the pre-recruitment monitoring or the post-recruitment monitoring?

ACTING CHAIR—Post recruitment.

Mr Keir—Just by way of clarification, is this the monitoring that is implicit in the labour agreement or is this pre the labour agreement?

ACTING CHAIR—This would be pre the labour agreement.

Mr Tame—Pre the labour agreement there has actually been no monitoring on site by the department at our sites. We are aware that they have done at least one audit elsewhere, but we are not privy to the findings of that. That is between the department and that company. As far as we are concerned, we have a very extensive pre-recruitment model that the department has acknowledged as being an acceptable one. We actually have people who are cert IV qualified trainers and assessors. There is one in particular that does the assessment overseas. We also videotape the assessment. We have a digital photograph taken with the person that has been involved in the assessment. By that, we ensure that there is no substitution between the person that is allegedly the skilled person and the person that arrives in Australia.

When they come to Australia, they do need some time to acclimatise to the different situation, because there is a significant difference between the processes that are used overseas—not just in China but in Brazil or any other country you might like to go to—and the particular processes at a plant. In fact, we could move a skilled worker from, say, our Dinmore plant to our Beef City plant, where there is a different process, particularly in the boning room, and they would have some difficulty in picking it up straight away. There would be a period of acclimatisation. That does not denigrate from the overall basic skill that the person has. It is just a matter of getting used to the new system.

ACTING CHAIR—Has the monitoring changed since the new labour agreement has been signed?

Mr Tame—It will. The agreement, as Mr Keir indicated, was signed off by the federal government on 28 February. There is an extensive regime of reporting requirements on the sponsor, namely AMH, going forward, that was not there under the old rules. We would expect as the sponsor that we would meet all of those reporting requirements and we expect both the state and the federal government to ensure that we meet those requirements, and that is what we intend to do going forward.

ACTING CHAIR—There was concern raised out of evidence this morning that in fact a very limited amount of companies have actually signed on to that labour agreement.

Mr Tame—That concerns us.

Mr Keir—That is a very big concern. That is our primary reason, I guess, for being here today. We are the only company in the meat industry that has, and our whole interest in this debate is the fact that we have competitors in the industry who historically, going back over the last three or four years, have been able to import 457 visa holders under the previous regime and

in fact pay them significantly less than what was considered to be the going rate in this business. That is the very reason why we are here.

ACTING CHAIR—Because it is an unfair market advantage for those people.

Mr Keir—Exactly.

Mr Tame—Absolutely, and I think you can see from our submission that we believe that the real area of concern is that if you take the migration legislation, the Workplace Relations Act and the industrial instruments that are currently either the basis on which people can come into the country or on which they are paid, the enforceability by the Commonwealth government is almost non-existent because there is no linking between those particular pieces of legislation and obligations under industrial instruments to bring it all together to enable the program to be enforced. The labour agreement endeavours to bring all of those issues together and then make them enforceable.

Unless the migration regulations and the act are amended, and unless there is more power given to the OWS to enforce the requirements, then the program will continue to be abused. People who want to abuse it will be allowed to continue to abuse it. The fact that people are not signing the labour agreement in Queensland is indicative of that fact, and you can draw your own conclusions as to why they do not want join. It is because it imposes obligations that they do not have and they will not be able to continue the abuse of the program.

Senator PARRY—Going back to the shortage of 300 workers that you have across the country, you mentioned that those positions are both skilled and unskilled. Can you give a percentage breakdown, even just an approximation, of how many would be skilled and how many unskilled of the 300?

Mr Keir—By way of example, right at the moment we are employing 97 backpackers across our plants.

Senator PARRY—I assume you are calling them ‘unskilled’?

Mr Keir—They are, and they are very short-term employees. Quite obviously, that is not a desirable position for us to be in. We want to continue to run a business long term, and to have those people come into our business means that we have to increase our training, even to get those people trained up for a very short stay. They are the depths that we have sunk to in an endeavour to maintain some level of production. We have also got a significant number of humanitarian visa holders.

Senator PARRY—Can you put a figure on that?

Mr Keir—It is in the order of 100. They are of both genders and from a multiplicity of origins. Most of them do not speak the language and there is no imposition for those people to have the English language as a skill in any given period of time, which is an obvious variation from the 457 visa requirement. We refer to that under point 1.1 of our submission.

Senator PARRY—So that suggests that this is how desperate you are.

Mr Keir—Correct.

Senator PARRY—That you are what I would call ‘going down one step in the scale of employment’.

Mr Tame—If you take the skilled employees—being butchers, boners and slicers—as a percentage of the meat processing employees on a plant, you are looking at about 35 to 40 per cent of the total workforce in meat processing. So when we say that we are 300 short or thereabouts at the moment, applying a rough 40 per cent gives you about the top of the figure, which is about 120. The difficulty we have in saying that it is a fixed problem is that, with the current boom in the resources and the economic boom that we have now, we have a higher than normal turnover. If you take Toowoomba, for instance, where our Beef City plant is located about 35 kilometres therefrom, the unemployment level there is about 1.2 per cent. Our Beef City plant used to have the lowest turnover in the group. It now has the highest within the group, running at about 90 per cent turnover per year. So we still have a lot of people who have worked with us for many years, but we are now seeing a move from those long-term employees into other areas because those jobs are now available to them.

Mr Keir—The jobs are being filled by backpackers who may do three, four or six weeks and then move on. So we are turning over some of these jobs 10 and 12 times a year.

Senator PARRY—Following on from that: in your view, what is the major reason for your difficulty in attracting particularly skilled workers but also unskilled workers? What is the main reason that you cannot get workers?

Mr Keir—We are in a fairly unfashionable industry. It is a very high turnover, low margin business that competes with a product out of other countries that is obviously very keenly priced. As a consequence, we do not have the profitability in the meat processing business generally and in this business specifically to compete with the mining companies. It is that simple.

Senator PARRY—So the resources boom is affecting the meat sector.

Mr Keir—Exactly.

Mr Tame—Low unemployment makes it very difficult for us. When we get to this level it makes it increasingly difficult to recruit people that want to stay and continue to work.

Senator PARRY—Who would ever have thought that low unemployment and economic prosperity would cause these problems.

Mr Keir—It does for certain segments of industry, and we are one of those industries. That is the reality of it.

Senator BARTLETT—You mentioned before that you were one of the higher paying employers in the industry. Without getting into commercial-in-confidence, what area would that mean for your skilled section?

Mr Tame—In dollar terms?

Senator BARTLETT—Yes.

Mr Keir—We have no problem in meeting the MSL—

Senator BARTLETT—We heard evidence earlier that the market rate is well above the award.

Mr Keir—The MSL level in this agreement is \$41,850 per annum—that is \$41,850 per year gross. We have no problem meeting that.

Senator BARTLETT—One of the suggestions from earlier on—and I suspect this was directed at employers other than you—from people in the industry was that meatworks that pay people well and treat people properly hang onto them and those that pay people as low wages as possible and have poor work practices are the ones with the high turnover of staff.

Mr Tame—That is an oversimplification. That is not true.

Mr Keir—That is not factual. The fact is that certain abattoirs in this country have a significant percentage of 457 visa holders in their working population and, in some cases, it is upwards of 30 per cent. Some of them are in regional areas and some are of them are in quite small country towns. Obviously, anyone in that situation has got a captive workforce. If you are an individual in a small country town, you own your own home, you have been brought up in that town, your roots are there, you are very reluctant to leave to go somewhere else. The opportunities in this nation, regrettably, are all in the cities and they are all on the east or west coast, and that is the reality of it. That argument cannot be sustained, in my view.

Senator BARTLETT—Evidence presented in the submission from the meat industry union—I am not trying to pit you against each other; I am trying to get this clear—

Mr Keir—Please do.

Senator BARTLETT—in Queensland was that, on balance, they were at least supportive of the labour agreement. I gather you were the ones who signed it.

Mr Keir—Yes.

Senator BARTLETT—So I guess you have commonality there. They said that full practical competency can be achieved within an effective practical training program within six weeks and certainly no longer than three months, assuming the English language capability and that sort of thing.

Mr Tame—No. The union often make that comment. I think you will see in their submission that they have even quoted from a transcript in relation to an unskilled job. The reality is that there are national training packages in Australia, which I think is being overlooked in this whole debate. We talk about skills yet there is very little talk about national training packages. There is a lot of talk about ASCO and ANZSCO occupational codings, which really bear no relationship to employment issues and are there for statistical purposes; yet they are being used by the department of immigration for a completely different and totally unrelated purpose.

If we are going to get serious about 457 visa holders and skills, we should be looking at the national training packages. The national training package for skilled meat workers is a 12-month traineeship for full-time meatworkers at the certificate III level. It is a 24-month training requirement for part-time employees. At our Dinmore and Townsville plants AMH has three workforces. We work from Monday to Thursday day and afternoon, and that is a four-day week. Then we have another workforce that works Friday, Saturday and Sunday, and by definition that workforce is a part-time workforce so when we sign them up to a traineeship we sign them up for two years.

There is a bit more to the requirements and the skill than just being able to hold a knife and cut meat. There are quality assurance issues. The union tends to forget about all those other issues that go hand in glove with the requirements of the industry for food safety and so on. If they have a point to push, then that is their point and they can push it, but whether it is right is another issue. We say that it is not right. The national training package determines what the training period should be to reach certificate III, not only for the meat industry but for quite a lot of other industries. I heard the previous person talking about at the ANZSCO codings and, I guess, commenting on their relevance. When you look at them you wonder where the link is: if you look at politicians, you see they get a level 1; if you look at a brain surgeon or a heart surgeon, they get a level 1; if you look at an actor, they get a level 1. Where is the skill there? One is a skill and one is a talent.

Senator BARTLETT—And which one is the politician's?

Mr Tame—You can make your own judgement.

Mr Keir—We didn't comment on that; we left that to your imagination.

Mr Tame—When you get down further into the ANZSCO codings, you find that they are just absurd. Boners and slicers have always been rated by the Australian Industrial Relations Commission as equal in competency to a slaughterer. Yet the ASCO codings had them down in group 9, which meant that you were not supposed to bring them in. But you could bring in a butcher—butchery historically has had a skills equivalency, albeit a different skill but an equivalence in skills nevertheless. So there is just a total mismatching of ratings in relation to skill. If we start looking at what the national training packages are all about and relating their skill requirements to the 457 program I think we will start to get on a proper basis, because everybody just seems to be overlooking that. That is a very well established basis for skills determination.

Mr Keir—I think that we should put on the public record that we do in fact have a lot of views that are very similar to the AMIEU, and one of them happens to be this agreement which they brokered between three Australian Queensland based meat companies in December. They acted as a broker in that, with the Queensland government and the federal government, and we are a signatory to that. We have just recently renegotiated with them as a participant our Dinmore EBA. So from time to time we do happen to share their views, but in this particular case we do not.

Senator BARTLETT—I know this inquiry is on the 457 skilled visas. It seems that perhaps in your industry you are somewhere on the cusp, at least on my understanding of moving from

skilled to semiskilled into unskilled. You have that labour shortage regardless. You are saying that it takes perhaps a year to train people up fully and get the adequate requirements. Would it not be better all round to use a specific training visa type of arrangement if you just cannot get people locally? You could get them in for that particular period of time, train them up for the whole works and be able to use labour that way rather than scrabbling people together and plugging up the gaps with backpackers and all of those sorts of things.

Mr Keir—I am not sure that I understand. Are you suggesting that we have another visa which allows for the introduction of unskilled labour?

Senator BARTLETT—I am probably not putting forward a specific proposal beyond that it just seems to me that we have backpackers, we have a 457 visa, we have a training visa and we have permanent skilled migration—we have all of these different ones. We have all of the ASCO codes. Everybody is trying to squeeze everybody through these mazes and put them in different boxes in an area where you are really just talking about labour shortages and the ability to skill people up. There has to be a simpler way of getting people in and making them do the job rather than just having stopgaps left, right and centre.

Mr Tame—I guess the danger that everybody faces in this scenario is what is being realised by the abuse of the system. There is no really simple solution, I do not think, to the unskilled part. It is a matter of control. With the 457 visas at the moment, putting a labour agreement aside, the last people who came into the meat industry under the 457 program came in prior to about March or April of last year. Those people—or the last of those, anyway—would have come in under the \$39,100 minimum salary level. With the regional dispensation, if they could get that—and it was just a matter of shopping around until you found a regional certifying body that would do your bidding if you were that way inclined—they could then apply the \$39,100 or the industrial instrument. So it was very easy for employers to have an AWA, use an industrial instrument to drive down the wage rate and then work people a significant number of hours in order to meet the minimum salary level of \$39,100. Given the rate they could drive it down to, it was very economical to then use those so-called skilled employees in unskilled jobs, because the rate you are paying them is low enough to be able to do it. That is the fundamental basis on which the abuses occur.

Because there is no enforceability between the MSL under the gazette notices and the migration legislation, OWS does not have a role to play. Those people can demonstrate to OWS that they are observing the industrial instrument, and that is the limit of their powers. So there is this great gap that everybody can drive a truck through if they want to. They can really do it without any concern about punitive measures other than that, if they get found out, they may not be able to bring anymore into the country. I am sorry, but the ball is over by then—particularly if you have the numbers you need or, in fact, you have numbers in excess of what you need. The other factor is that, under that gazette notice at the time of \$39,100, there is a wage freeze on those visa holders for the duration of their visa. They are not entitled to a wage increase based on the MSL for the duration of their visa.

There was also no linking to the hours of work or an hourly rate. Last year the department put through a gazette notice that at least linked the minimum salary level to a 38-hour week. The enforceability still remains unproven through the migration legislation, and OWS certainly has not got the power under the Workplace Relations Act. Notwithstanding that, we would be the

only company, I believe, because we are a party to the labour agreement, that has been able to bring in 457s since that period. We bring them in under the \$41,850 and all the bells and whistles that apply under that labour agreement.

So there is a totally different set of standards required of us to bring people in to those that brought them in under the old system and continue to abuse it. We are also obliged under the labour agreement to transition those people that we brought in under the 457 program prior to the labour agreement so that they come under the labour agreement, and we have already made application to the department to do that to demonstrate our bona fides of conforming to all of the obligations.

ACTING CHAIR—I would like to follow on with a question in relation to the regional certifying bodies. You have mentioned them a couple of times in your evidence. Have you got any suggestions on whether that process could be improved or do you have any comments at all?

Mr Tame—It should be cut out. It should not happen. We have three plants in regional areas. We have not sought to obtain regional certifying body approval. Under the latest gazettal notice, at least they have restricted the rates to 90 per cent of the MSL and not allowed people to use the industrial instrument; they have to pay the higher of the two. But that still does not mean that that is an equitable situation in relation to people in regional areas being able to undercut the MSL. There is no justification. Mr Keir might like to comment on that.

Mr Keir—We cannot follow the logic of that one. If the argument is that we need decentralisation in the country—and I would support that argument—how that can be achieved if we continue to pay people in these areas at a significantly lower rate than what people can earn in other parts of the country? It does not seem to make a lot of sense to us.

ACTING CHAIR—In my home state the industry has had a lot of problems over recent years with buyouts of companies, putting people off and then trying to re-employ them. So there is not a lot of confidence in the local workforce wanting to go in, although we do not have a huge number of 457 visas. Does your company work 12 months of the year and the seasons do not affect your company?

Mr Keir—We have one particular plant that has a total grain-fed business, and that works for 50 weeks of the year. We have two other plants that have a seasonal closure of one month a year. We have a fourth plant, at Townsville, which is very much impacted by the northern summer wet season, and that plant works somewhere in the order of 40 to 42 or maybe 44 weeks of the year in a very good year.

Mr Tame—At that plant at Townsville we have not been able to achieve our production requirements at that plant. We are suffering a serious labour shortage there. But under the labour agreement and, indeed, under the 457 program these people have to be employed on a full-time basis. Because of the shortened period at Townsville it is arguable as to whether we can employ 457s there even if we met the minimum salary level, which we would be battling to perhaps do if we were not able to achieve those levels of production that would be able to return that to the visa holder.

ACTING CHAIR—In relation to the English proficiency skill level, we have heard evidence this morning that it is not just a matter of health and safety issues but a hygiene issue. How do you overcome that in your workforce to ensure that those on humanitarian entry have the necessary understanding of the work practices?

Mr Keir—We do not accept the argument. It is as simple as that. If we are talking about human safety and food safety, those sorts of issues are generic and they transcend all languages. We would argue that a meat processing worker in a foreign country has a requirement to look after their safety and a requirement to look after the safety of the products every bit as much as one of our workers in our country who speaks English. The sorts of assertions that you have alluded to come from people, I would suggest, who have not travelled the world. I have travelled the world. I have been to quite a lot of countries where English is not the first language. I have been to China. The hygiene standards in the best plants in China are equivalent to our own, bar none. I say that for the public record. The food safety and human safety in China in the very best plants—we have been there and we have three people, as we speak, in China visiting these plants—are every bit as good as in any plant I have been to anywhere in the world. I would like to emphasise that on the public record.

Mr Tame—Supplementing that, we have an extensive induction program. We have interpreters where necessary and where required. We have international signage. We have not had any difficulty over and above the norm, if I could put it that way—that is probably not the right choice of words. It has not proved to be a challenge that we have not been able to meet at this stage, and we expect that to be the situation going forward.

Mr Keir—We have a bigger concern, quite frankly, with our humanitarian workforce.

ACTING CHAIR—That is what I was trying to allude to in my question: how do you overcome the language barriers for those people?

Mr Tame—With a lot of hard work, basically. We have interpreters and we have full-time managed HR offices. We believe that we have good support staff on the production lines and we use interpreters. So we have been able to manage and to cope quite well. We have accepted the English language requirements under the labour agreement. That does not necessarily say that we particularly agree with them, but it is part of an agreement we accepted. The difference between the requirements there and the lack of requirements in relation to humanitarian refugees is obvious. The problem is the same regardless of whether they are a section 457 visa holder or not.

ACTING CHAIR—Would you like to make any further comments before we adjourn today's proceedings?

Mr Tame—No, I do not think so. I think we have probably made our point about the way in which the system is abused. We are hopeful that we perhaps come with solutions more so than complaints because we believe there is a way that this can be done. It requires a combination of issues to be addressed and not just one thing in isolation. It goes to the enforcement powers and the legislative support.

ACTING CHAIR—Thank you both for attending today. I remind you that any additional information to be submitted should be submitted as soon as possible.

Resolved (on motion by **Senator Bartlett**):

That this committee authorises publication of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 2.29 pm