



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT STANDING COMMITTEE ON MIGRATION

Reference: Temporary business visas

TUESDAY, 3 JULY 2007

CAIRNS

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**JOINT STANDING COMMITTEE ON
MIGRATION**

Tuesday, 3 July 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 Parry and Polley and Mr Laurie Ferguson and Mr Randall

Terms of reference for the inquiry:

To inquire into and report on:

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 9.59 am**WHITE, Dr Christopher Robert, Member, Cairns Chamber of Commerce****WHYTE, Mr Alexander Charles, Executive Officer, Cairns Chamber of Commerce**

CHAIR (Mr Randall)—I declare open this public hearing of the Joint Standing Committee on Migration's inquiry into temporary business visas and I welcome you all here today. The committee is inquiring into the adequacy of current eligibility requirements and the effectiveness of compliance arrangements for temporary business visas, 457 visas and the labour agreements. The committee has held hearings in most capital cities, and we are pleased to be here in Cairns to listen to your experience of the 457 visa and to get a regional perspective on this issue.

I welcome to this public hearing the representatives from the Cairns Chamber of Commerce. Although the committee does not require you to give evidence under oath, I advise you that these hearings are legal proceedings of the parliament and warrant the same respect as the proceedings of the House of Representatives 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. We have also received a copy of additional material on the 457 visa, dated June 2007. I invite you to make a brief opening statement before we proceed to questions.

Mr Whyte—Firstly, welcome to Cairns. It is great to have the committee here. We have a strong belief in the migration programs. They are very important to the business community of Far North Queensland. The Cairns Chamber of Commerce has been a regional certifying body for over 10 years. We are very committed to the programs that we deal with—both the Regional Sponsored Migration Scheme and the regional 457. Our experience with the 457 is very much contained within the regional variation. We do not see a lot of the mainstream 457s; however, the conditions on that also impact upon the regional 457, obviously.

This area has a very diverse economy. Tourism, as you would have noticed, is one of the major parts of this economy. There is also a lot of export that occurs outside of the tourism industry to many parts of the world. Cairns is the best connected regional centre in Australia in terms of air links, with direct flights to Papua New Guinea, Guam, Japan and other parts of Asia. Our economy relies very heavily on that interaction with other countries. At a tourism level it is very much about dealing with the visitors who come to Cairns—some three-quarters of a million international visitors to Cairns and double that for domestic visitors—and there is a lot of international trade that goes with that. A lot of the trade or exports are service related rather than produce related. We do not have a lot of manufacturing of any great substance here, so it tends to be more people services. We have a large international education industry here, worth around \$100 million—predominantly bringing students into Cairns to teach them the English language.

Within the tourism industry itself, some 250,000 Japanese visit Cairns every year. There are also a range of other nationalities. The growing markets are Korea and China—both Hong Kong and mainland. We are also seeing growth in sectors such as India. There are a range of other nationalities in there as well, but the Japanese, the Korean and the Chinese would be the three major ones that require those who have language ability and a cultural awareness in those areas. We see a predominance of applications for the regional 457 based on that—cooks and chefs for

particular countries. There is, for example, a growing market for Indian chefs and we are seeing more applications coming through for that area.

That diversity in our economy is really driving the use of the 457 program and the regional 457. We are also seeing growth in the Regional Sponsored Migration Scheme into permanent residency. We do not see this as a temporary arrangement at this stage. We see this growth continuing for some time. There is a move with employers to look at having the skill set that they are bringing in on a temporary basis transposed into a permanent arrangement. The feedback from employers is very much that that is allowing them to expand their business and employ some more resident workers as well.

We believe the temporary program needs to be reviewed on a regular basis to keep in line with both the national workforce requirements and the regional workforce requirements. One of the recommendations that we would strongly like to see implemented is that there be a regular review process for the 457s. At the moment it tends to be a little bit ad hoc and more in response to public pressure than a regular, structured review process that looks at what the labour requirements are across the country and then tailor makes the conditions of the 457 to suit those.

Dr White—I think one of the important things in this area that we recognise is the regional differentiation. The regional certifying program actually started out of an action in Cairns about seven or eight years ago. Sandy, is that roughly correct?

Mr Whyte—The regional 457s.

Dr White—Yes, the regional 457s. At that time there were changes to the standard 457 system that impacted extremely adversely on the region, particularly with regard to small businesses. I think that is a reflection on this community. It is a small business community. It is a community with a lot of entrepreneurs starting and operating small businesses rather than running branch offices of major companies, major international organisations and so on. There are a lot of small businesses in the tourism industry, for example, and small primary producers and so on.

There were changes made then to the 457 program that would have caused a number of those businesses to close down, because they would not have been able to staff them effectively for the markets that they were dealing with. The Cairns Chamber of Commerce developed a labour agreement to support three industry sectors and three job classification roles. That helped in providing a short-term fix to that crisis situation—as it was at that time—for small businesses in this area. The labour agreement that the chamber had seemed to work quite effectively, and there became a recognition that there were differences in regional areas that needed to be catered for. The regional 457 program almost grew out of that program—I think the previous labour agreement was stimulus for it—developing into the Regional Skilled Migration Scheme, which was originally certified as a visa classification as well. That has recognised some of the issues.

We see the press and we know the issues with regard to the 457s—we know about the bad cases and the situations that arise in some areas—but there are a lot of genuine employers out there who genuinely seek employment of 457 candidates particularly, and it seems that they are crushed in the process of stamping out the few who breach the program. We have no issue at all with the government and the department clamping down on those who breach or break the rules of the program—the program should be administered properly—but it seems that, for a very

small minority who breach it, use it inappropriately or incorrectly and deliberately go out of their way to transgress the rules, the majority of small business are unfairly impacted. Some of the changes that are coming in now are extremely difficult and will create major problems for some of the small businesses in this area.

CHAIR—Could you identify some of those changes that you are talking about and tell us how they are going to devastate the businesses?

Dr White—There are two factors that are of primary concern. One is the minimum salary level. We accept that there may need to be a minimum salary level for 457s in regional areas and, indeed, across the country, but there is a 10 per cent margin between the national average salary and the regional certified salary levels. Compared with the salaries that are paid as standard in, for example, Cairns and more remote areas, there is a far greater differentiation in salaries. So we have employers who are put in a position where they either have a two-tiered salary structure for their employees—one for their locally employed people and one for the imports—or they have to increase the wages across the board. If a small business employing six to 10 people has to pay three of those people \$5,000 more than they were paying a year ago or a week ago, that is an impost of \$15,000—but if they have to pay it for the 10 employees it is a \$50,000 impost, which is a big impost for a small business employing 10 people. They have found that they have to do that because of the differentiation. Their Australian staff will walk out on the job and say: ‘Hang on; this isn’t fair. You are paying this person who has come in externally more than what you are paying us. We are going to leave.’ And jobs are plentiful at the moment, as we know.

CHAIR—Do you think that one of the problems causing a lack of skilled or suitable employees in the businesses here is that you do not pay them enough and the fact that the minimum salary, even with a 10 per cent discount for the regional variation, brings you less than, say, the urban areas, means that if you offered a better salary you would not have a problem attracting some of the employees you are seeking?

Dr White—I agree with that theory but, in practice, a business has to make a profit to remain in existence. A lot of the small tourism businesses here are break-even businesses. They are people who are running businesses for less than a reasonable wage. They own the business but they probably run it at less than a reasonable wage themselves, because they want to be entrepreneurs and they want to run businesses. Yes, it would be nice if they could pay more but, for a lot of these businesses, if they have to pay every staff member another \$5,000, they would simply close their doors. They cannot afford to do it. They would be bankrupt. That is where the issue lies. Market forces set the prices that they can charge and they have to have a wage construct in their business that relates to that. If it is artificially raised, because they cannot get employees in Australia and they need to bring in foreign resident employees, and they then need to increase the wages across the board, it simply puts them out of business and causes those businesses to close.

CHAIR—Before I hand over to the other committee members to talk to you about the minimum wage, which I know is an issue in Cairns, I want to indicate that the integrity of this visa relies on the fact that it provides a fair wage. It is seen as exploiting foreign workers—and you can see all the headlines, can’t you? The unions would take great umbrage at the bringing in of foreign workers, and the catchcry would be that we are driving down wages and conditions.

You place the integrity of the visa in an invidious position if you are suggesting that the wages go even lower. Can you see the flow-on implications?

Dr White—We are not campaigning for cheaper labour, cheaper wages or lower than market force wages at all. We are saying that the wages should be market force wages. We are talking about the minimum wage that is some \$6 or \$7 above the minimum wage level in Australia. We are not looking to cheap labour. We are not looking to a situation of sponsoring cheap overseas labour or bringing cheap toil into the country at all. There are restaurants employing people, for example, on \$32,000 or \$33,000 as cooks. That has been the standard in Cairns for a number of years. People come here and work in those jobs. There is an insufficient number of cooks, particularly in ethnic cuisine. If they have to pay \$38,000, that is \$5,000 more.

Dive videographers, for example, are quite happy to come here and work. The people who work in the dive industry often do it for the love and passion of the outdoors as much as they do it for the salary. Videographers and others in positions like that are consistently paid around \$30,000 to \$33,000. They are gaining experience, they are enjoying their lives and they are out there on the reef every day diving. Businesses cannot sustain these artificially high levels of wages because they also need to employ some people with foreign language skills and other skilled people.

Our exercise in this is not to look for cheap wages. We are not looking for cheap labour to come into the country as cheap labour per se. We are looking for a wage that is commensurate with what people accept and are happy to work for in this region, albeit that there might be some shortages in some skills. It may well be that, if you increase the wage to \$40,000 or \$50,000, you still may not get those skilled people because they simply are not available.

CHAIR—Your contention is that the market should help determine the wage.

Senator POLLEY—In terms of the hospitality industry, one of the problems across the country is that chefs and cooks are not paid a wage that is enough of an incentive for new people to go into that industry. There is real concern from my perspective that ultimately with this you will push the Australian wage down as well, and we are going to continue to have a skills shortage in that area. Do you have any comments on that?

Dr White—The Cairns TAFE courses for chefs and cooks are almost always full. A lot of young people are going into that trade here and accept the wages that are paid. They have the opportunity to go to higher levels, of course. It depends on whether we are talking base level cooks or higher skill chefs. Those who aspire to higher skill jobs earn \$80,000, \$90,000 and \$100,000-plus as skilled chefs. Those who are cooking in small restaurants, cafes and so on earn perhaps more of a baseline salary.

We are not saying that there should not be a minimum. The average wage for skilled people at those levels is much higher in Sydney and Melbourne, for example. Take my occupation, which is accounting, for example. Accountants can go to Sydney and earn probably 25, 30 or 40 per cent more than what they would earn in Cairns. That is the choice that people face when choosing between living in a regional area and living in a capital city. It probably costs that much extra to live in a capital city. Materially, they are probably not much better off at all and they could even be worse off, but they earn the higher salary. We are saying that the differential

of 10 per cent for regional certifying is not great enough. It should be a differential of 15 per cent, and we would aim for 20 per cent. We simply saying that the differential is not great enough. We are not saying that it should be removed entirely. We are not saying that it does not need to be underwritten. We are simply saying that the differential is not great enough to allow for the different salaries paid in remote and regional areas.

Senator POLLEY—The federal government has announced changes to the processing of people who have a good track record of using the 457 visas—companies will be fast-tracked—and there will be stronger and harsher penalties for those who abuse the system. You have indicated that they are a minority. Can you give us any examples from Cairns?

Dr White—No. I am not aware of any abuse cases in Cairns. There was one situation in North Queensland—I am not sure whether it was Cairns; it may have been Townsville—involving a Filipino sewing or tailoring business. That is the only one I am aware of in North Queensland that has been an issue. Certainly, we agree with the sanctions that will be taken against employers who deliberately go about avoiding the rules that apply. We have no issue with that at all. We think they should act in accordance with the rules and the laws that apply. Personally, I do not have any issue with the sanctions that it will impose on employers who breach and deliberately breach those rules.

In relation to the other part of that question, there is a need to recognise that not all employers are in that category. The vast majority—99 per cent plus or at least 98 per cent plus—live by the rules and work within the rules and are happy to do so.

Mr Whyte—There was one case recently where an employer did not use the migration program but was caught up within the migration law—a local crayfishing operation that brought in about seven Fijian cray divers. We saw a preliminary application from that employer around three or four years ago and did not proceed to certify that application, predominantly based on the fact that the divers had no skill set at all. They were just village divers who were brought in. This employer brought them in on a tourist visa and employed them as cray divers. They were caught and they have been prosecuted for that action. They were outside of the migration program because they were not able to get it through the program. It was not a direct abuse of those who have used the program but they have been caught out and there are some very hefty fines associated with that.

CHAIR—The fact that they were fined, sanctioned or whatever demonstrates that maybe the surveillance and punitive system is working.

Mr Whyte—I hope it is. In our role as a regional certifying body, we let employers know that there are compliance issues and that they should expect at least one visit from the department during the period of the visa. A lot of the employers that we see are using the program only once or twice over a fairly extended period of time. They are not necessarily regular users of the program, so their understanding of the program is somewhat limited. If we see issues within their application that may be of concern, we make them aware of it. In some cases, we may even make the department aware of any issues that are outside of our jurisdiction as an RCB. But employers are using a very complicated process and sometimes they are using it as a once or twice in a lifetime experience. So in some cases they will make mistakes in their application process. They do not necessarily fully understand what their obligations are. Generally, the

department deals with those in a very responsible way and assists them as much as it possibly can. If anyone is purposefully abusing the system, they should have the book thrown at them. We have no concerns about that.

CHAIR—We want to talk more about you as a regional certifying body, but I do not think Senator Polley has finished yet.

Senator POLLEY—I am mindful of the time. In relation to your comments about how difficult it can be for employers to understand the process when they are not using it very often, likewise it would be extremely difficult for visa applicants who are coming into this country for the first time. I am a little concerned about your recommendation that there be a waiving of the English standard requirements. Could you comment on that and explain to the committee why you think there ought to be a lesser standard in regional Australia.

Dr White—The English requirement is an issue in some sectors of the industry. For example, you will have walked around Cairns and seen Chinese, Japanese, Indian restaurants and so on, and a number of duty-free stores. It is a factor that, if you stand outside the duty-free strip and watch the tourists walk along, the Japanese tourists, the Korean tourists and the Chinese tourists will walk past the shops and look inside to see whether there is somebody whom they think they can communicate with. If they see nobody there whom they think they can communicate with, they will walk to the next shop and the next shop until they find somebody whom they think they can communicate with. They will not walk in and see, for example, a European face and say, ‘That person can probably speak Mandarin or Japanese, so I will try; and, if they can’t, I will go to the next one.’ They just look inside to see what sorts of faces are there basically. That is just a fact of life. We cannot overcome that.

We accept that there is a need for the English requirement. The levels that have been set are quite high, particularly for the 457 visa. I would say that we have absolutely no issue with it as far as permanent residency goes. It gives people the time—when they are ready to take permanent residency, they should have acquired English to a standard. But in the temporary residency scheme it is far more difficult. We have to bear in mind that these people are coming to Australia for anything from three months to four years. They are only here for a short stay anyway; they are not permanent residents. If they want to go to permanent residency, they need to meet the requirements for permanent residency, which may include English. But, to get authentic Japanese chefs, Chinese chefs, Indian chefs, Thai chefs and so on, unless we give those people an opportunity to be immersed in an English-speaking country, they will never speak fluent English. I, for example, could not learn fluent Mandarin or fluent Japanese from living in Australia. If I had learnt the theory and lived in China or Japan for a year, maybe I would be getting somewhere near the standards that we are setting, in those languages.

The 457 program has enabled people to come to Australia on a short-term basis—bearing in mind that they must return, unless they have a valid reason to stay later on, at the end of their visa—to be immersed in an English-speaking country to improve upon the theoretical skills they have in English. All Japanese, for example, learn English in school to a degree. It is textbook English. They can read it. I could put a page in front of them and they could read it. But to listen to the Australian taught in the language is quite different. Some of them speak quite fluent American English or the Queen’s English, but Australian English—particularly when you get to regional areas—is somewhat different, and yet we are expecting them to pass tests at that level.

I think the 457 has been an excellent pathway in the past. For those people who are prepared to learn English, sure, they have shown that they are committed to it. They have skills to come into the country. They are only here for a short term. It gives them an opportunity to be immersed in the language, to improve those skills and hone them, and then, if they want to go to permanency, they can pass the tests at that stage. I think the standard, again, is too high. I know of Chinese restaurants, Indian restaurants and Thai restaurants here that have closed down because they have not been able to get chefs. They need authentic cuisine chefs. The people here and the tourists coming in can pick the difference between a non-authentic and an authentic meal, for example. They are looking for authentic cuisine experiences, and that is an issue.

You raised the issue before about the fast tracking of applications. We did have a system of fast tracking with the Australian visa system in the past with what were called the prequalified sponsorships, and that worked quite well. In fact, again, we would be very much in favour of fast tracking for credible, reliable, reputable sponsors to enable them to move forward with 457 sponsorships.

An example here at the present time, a real case, is a major accounting firm which is bringing in three accountants on secondment from overseas. We send our accountants, lawyers and so on offshore to second to other countries very freely. There is a free transmission between the countries. But this particular company is trying to get three to four people as secondees to come in for three to six months, and it sends about that number of people offshore for further experience. It is taking months to get those visas processed at the present time. The company has had three people pull out from those positions simply because the process has taken too long.

The other factor is that they need to try to do it for the busy audit season and so on, to top up their staff levels for the audit season. They can only plan that a couple of months out. If it is taking three months, four months and longer to process these visas, they simply cannot use them. They are at the point now of perhaps cancelling this interchange of people because they cannot get the visas processed quickly enough. So the fast tracking is important for reputable, reliable and credible sponsors.

Senator POLLEY—I can see the correlation between English language skills and training, and you also refer in your submission to there being some issues with training. I was wondering if you can add any further comments for the committee about your concerns in the area of training and how that relates to the English language skill requirements.

Dr White—For the training of Australian employees?

Senator POLLEY—For those out on visas there is a requirement to have ongoing training.

Dr White—Yes. All businesses train; it is just a fact of life. Smaller businesses do not document that training. They have a difficulty in producing the documents required for DIAC monitoring and reporting. We have worked with some businesses which, when they have actually prepared their training information, have far exceeded the minimal requirements, but they do not have the standard documentation to do so, and that often takes them six to 12 months to gather. We accept the need for training. The documentation in small businesses can be onerous. It is another impost on them. There must be better ways to identify that they do training. If they are in a business—for example, a small night market stall—that has difficulty

demonstrating training, is there another option to, say, have them fund a training pool to provide for training of Australian residents, as opposed to requiring them to keep a lot of documentation that they cannot effectively use in their business anyway or have great difficulty in keeping in their business?

A business employing two, three or four people—for example, a night market stall—may need a native, foreign-speaking person to work in that business to make it successful, otherwise it may close down. A business employing two, three or four people to maintain extensive training records just does not happen, unfortunately. Maybe we should theorise that it should, but it just does not happen in reality. These businesses are running on very low labour levels. They do not have a lot of administration ability. They have enough trouble keeping up with their taxes and one thing and another. To require detailed training records and training programs to be kept is unrealistic for the small businesses. This is part of the regional problem. If you are in a capital city, you are dealing with a company that maybe employs 2,000, 3,000 or 5,000 people. It has all those training records anyway; that is part of its business. A business employing fewer than 15 or 20 people—and a lot of businesses in Cairns are in that category—does training, but it does not document that training. It does not keep logbooks of it and so on.

Senator POLLEY—We have had a lot of evidence given to the committee in relation to the concerns about attracting people to live in regional Australia. Therefore, I would see it as very hard to have two different standards of requirements—if you are in a major city as opposed to a rural industry. But I will hand over to another member.

Mr LAURIE FERGUSON—Obviously there are personal interests and there are national interests. You tell us that the employers here think it is an invasion of their privacy to be asked too many questions about training, that wages are too high and that the English tests should be liberalised. You also mention on the way through that there is an increasing trend of people who come here on these 457s and convert to permanence. It is a bit of a long lead-in, but the last census showed a decline of English being spoken at home in this country. As you said, there are people who are essentially transferring over, in an increasing trend. Equally, I think it might be put by some people that a lack of English often adds to the exploitation of people. You cite an example, I think, of a Greek restaurant with all Greek employees and that type of thing. I put it to you that, on the balance of what is a national interest, to basically start creating possible enclaves of people not speaking English, basically facilitating an employment process where the whole place speaks an alternative language—I do not know what your English facilities are in this city, to complain that tests can only be taken in one place, for instance. How many restaurants are we talking about that have to have somebody and that basically cannot find a person who (a) is a cook and (b) can speak some English?

Dr White—I think it is important to recognise that we are talking about a minority of people here. Certainly I am sure that, from Sandy's point of view, from his personal point of view and my personal point of view as well as from the points of view of the chamber and the business community, we are not sitting here proposing that there be large numbers of people brought into the country as long-term residents who cannot speak English. Nobody has suggested that, and that is not an intention at all. We are talking about a few short-term people coming here on 457 visas who have no right to stay in Australia long term. They can stay up to four years, and then they must return or have another category. At that point—

Mr LAURIE FERGUSON—They can convert. You said on the way through that you have found an increasing trend of people to do that.

Dr White—Yes, but to get through that permanent residency—

CHAIR—Sorry to interrupt you, but I must correct you on that. The fact is that on a 457 visa, after four years, if you can maintain your employment, you can roll it over, but after four years you can then start to apply for permanent residency which leads to a migration outcome. So these are visas that do lead to permanent residency plus Australian citizenship.

Dr White—Yes, I agree with that. But at that point they should be trapped for English speaking. It gives them the opportunity in the short term to have an immersion in the language.

CHAIR—I see what your contention is. We have had this as evidence before—that they should not be required to have a level of English when they arrive but, by the time their stay has finished, they come to it. That is what you are contending?

Dr White—Yes. It is an opportunity for them to have some immersion in the language. For the permanent residency, we have no dispute with the English requirement at all—no argument about it at all. That is a fair thing. But give them the opportunity to improve their language skills to reach that point. The number of people that we are talking about is also very small, possibly less than 100 in the Far North Queensland region who are needed in these roles. It is a very small thing in the overall migration program, but it has a very big impact on those businesses that need them. For example, I do know of restaurants that have closed down because they have been unable to get the staff they need. Is that a problem—those 50 or 100 people across Far North Queensland? That does not create enclaves or areas of just foreign-language-speaking people; it is an immersion of a few people with less than adequate English and giving them the opportunity to improve those skills if they wish to stay permanently.

Mr LAURIE FERGUSON—Has the chamber done any work in regard to the retention of people post their work experience here and the degree to which they leave Cairns for other cities?

Dr White—I do not know that we have any statistics on this, Sandy, do we?

Mr Whyte—No. In fact, once our certification process finishes, we have no contact with the employer or the employee. We are a third party to the arrangements. We do not even get advised by the department if the applications have been approved. So we could not tell you how many of the certifications that we have done have actually been approved by the department or how many of the visa holders have been approved by the department either. I am not quite sure of the terminology, but effectively we are a third party to those arrangements, so we are pretty much outside the loop.

I know from research with the Regional Sponsored Migration Scheme that something like 90 per cent of employees stay within the region that they are sponsored under. I think the figure is something like 80 per cent that remain permanently with the employer who sponsored them. Given that after that two-year period they can move anywhere, I would have thought that that is a pretty good retention rate. But, in terms of 457s, no.

Mr LAURIE FERGUSON—What is the Immigration presence in Cairns? When we are talking about inspections once a year possibly on employers, does Immigration have any permanent staff here?

Mr Whyte—Yes, there is quite a large presence. You can imagine, with the international airport here as well, that we have one of the few regional centres in Australia that has an immigration office locally.

Dr White—The Cairns office virtually does not do any processing of applications; it does compliance and monitoring. We also get monitoring visits from Brisbane. I will say that the last monitoring visit was very effective. They went and saw businesses extensively and discussed the requirements. It was done as an educative type monitoring program. I do not think all the outcomes of that are available yet, but a very positive approach was made to the businesses to tell them what the compliance requirements were, to assist them and to explain to them that they had to meet the compliance requirements.

CHAIR—Did they meet visa holders or businesses only?

Dr White—They met businesses and visa holders.

Mr LAURIE FERGUSON—Are you going to ask questions about certifying?

CHAIR—We will get back to the certifying. We are just trying to talk more about the salaries et cetera at the moment.

Senator PARRY—Yes, I was going to ask questions about that anyway. Dr White, you mentioned the minimum salary level and the differential. Do you have a model that you think we could implement to meet your requirements?

Dr White—We propose a second salary level differential of 20 per cent in cases to be certified by the chamber of commerce—so the chamber of commerce, a regional certifying body in any area, recognising the need and then being able to certify to that level where they deem it necessary. It is not just a blanket level where all the businesses can come back down to that level, but, where there is a need, where it is appropriate within the local economy, the regional certifying body having the right to certify down to a 20 per cent level below the national level for the 457 visa. There are two levels at the moment: there is the national level and there is the regional level. The regional level is set at 10. We are proposing that it comes to 20.

Senator PARRY—Were you a part of the submission from the chamber of commerce?

Dr White—Yes, we had discussions about that before it was launched.

Senator PARRY—What is the 1196 form?

Mr Whyte—That is the application form for the business.

Senator PARRY—There has been a recommendation that the hourly rate of pay be set, I suppose, along the lines of whatever the industry is paying at that particular time in the area. I do

not understand the bit about the gazettal notices. Is the purpose just to verify what you are paying? It is at the bottom of page 14 of your submission.

Mr Whyte—The gazettal notices reference is to the gazetted rate for the 457 visa, and the regional rate is 10 per cent below the gazetted rate. There is an issue in the form 1196 in terms of the definition of salary versus an hourly rate.

Senator PARRY—So is this what you are suggesting as an alternate? In your opening remarks, you indicated that you felt as though this was an impediment for Cairns in particular and no doubt other parts of Australia. Is it part of your recommendation that you wish to adjust to remove the MSL?

Mr Whyte—No, not at all, but the regional variation—

Senator PARRY—Increased to 20 per cent from 10 per cent.

Mr Whyte—There was almost no consultation on the 10 per cent figure when it was introduced. There was a regional certifying body conference in this very room in February last year at which it was mentioned that they might introduce a minimum salary level with a regional variation. Prior to that, the certifying bodies based their assessment on the award rates for the different positions. Then it changed to being 10 per cent of the minimum salary level. But there was almost no consultation and, in fact, whatever the percentage is should also be reviewed regularly to see whether it is appropriate. The minimum salary level increases generally every 12 months in line with the data collected by the ABS. Looking at the figures that have been used previously, there is possibly going to be an increase of about \$2,000 on that this year. So that is a fairly large increase.

Senator PARRY—Dr White, I probably tend to agree with you about the issue of employers having to pay the differential and having, if you like, Australian employees wanting to leave to go somewhere else because of the parity issue. Do you have direct evidence that this is the case? You gave it anecdotally. Is there direct evidence that this has happened?

Dr White—I have seen it with the videographer business. I have seen it with restaurants.

CHAIR—Can you name a couple of businesses for the record?

Dr White—I do not know that it is appropriate for me to name businesses publicly.

CHAIR—If it is true, it should not be a problem.

Dr White—I do not feel ethically right about naming businesses without speaking to them and asking whether they mind.

CHAIR—Could you undertake to ask some businesses so that we can have concrete evidence of case studies where this has happened rather than anecdotal evidence. It then adds a lot more credibility to your argument.

Dr White—I am happy to follow that up.

Senator PARRY—Basically you are saying that if there was a 20 per cent differential, that would overcome that issue in particular.

Dr White—It would be a 20 per cent differential which is still at the discretion of the regional certifying body. It is not a level that everybody can come back to but, if there is a need, if there is an economic justification in that regional area that it provides for it, in appropriate circumstances, yes.

Senator PARRY—Have you considered the argument of removing the MSL and the differential completely and going to whatever the local rate is, the market rate?

Dr White—It was that way until the MSLs were introduced about two or three years ago.

Mr Whyte—The previous system was that, for the regional variation, the award was the minimum amount that could be paid for a position. That still applies. It is just that in some cases the regional variation may be above the award rate. You can never pay below the award. That is accepted. The difficulty is that identifying the market rate on a position by position basis is a very time-consuming exercise and, in some cases, we might see only one position of a particular kind per year. From what we have seen of applications in general, the 20 per cent seems to be more in line with the regional trend that we see in this area. It may be different in other regional areas but we have not had the chance to review that 10 per cent figure since it was introduced. Even when it was introduced there was no consultation to any great degree. It was just brought in. They said, 'This is what it is going to be,' and there has never been any discussion about it since then.

We are saying that the regional programs have not really had a good review process compared to, say, the 457 program in general. We cannot even tell you how many regional 457s have been approved in Australia. The department does not segregate out that information. We can tell you how many we sign off as a regional body, but I cannot tell you how many have been approved in Australia. Based on what we do and in comparison with, say, the Regional Sponsored Migration Scheme, we think the number is under 2,000, probably closer to 1,000, for the country. So it is a smaller portion of the total 457 program and that is why we believe it should be treated somewhat separately in some regard because it is not having a big impact on the national issues. I agree there are some national priorities that need to be put in place. The interests of the nation are there. But 457 programs should reflect that. There is an opportunity through the regional program to have that regional differential acknowledged and regional development encouraged through having that variation.

Senator PARRY—To reiterate, rather than any wholesale changes you would like to see it go to 20 per cent from 10 per cent and that would be your solution to overcoming the problems in this area in particular.

Mr Whyte—That is what our figure is, but to do it in a constructive manner it should be done in consultation with the department, the RCBs and those who have an interest in the process.

Senator PARRY—Wouldn't it be easier to establish some mechanism for determining minimum market rate?

Mr Whyte—Market rate will vary dramatically across the country. I think that tends to leave it a little too open for abuse.

Dr Whyte—I do not know that we saw any problems with market rate when it was market rate in this area. There were differences struck by the chamber in relation to different types of businesses—for example, if you wanted an engineer, you might have had a different minimum specified than for a chef or a hospitality worker, where the wage structures are quite different. I do not know that we struck any problems there. Essentially it is probably very much the normal old bell curve in that there is a tail end of people out there who abuse the system and who will act illegally irrespective of what the rules state. There are a lot of people caught within the 457 system—a lot of businesses, particularly the bigger businesses—for whom it works very well, but there is a little tail of very small businesses, the microbusinesses, which fall outside the parameters of it. It just becomes too difficult for them. I guess we are coming from that tail end of microbusinesses that are impacted severely, but we are talking about very few immigrants in the overall scheme of things. We are talking about, perhaps, across Australia hundreds or a thousand or so per year. But there is a very big impact on those microbusinesses.

Mr Whyte—One question I have about going to market rates is that potentially it leaves the program much more open to criticism than it should be.

CHAIR—If it does not transgress the award it may not.

Mr Whyte—You would never pay below the award rate; that is a given. You would never get below that and it never should get below that. In saying that, some of the award structures have changed dramatically in the last couple of years and they may not necessarily adequately reflect where things have been. One thing we are very conscious of is that the program needs to be above question. I think the market rate may open the door a little too much for criticism of the regional program. Whatever the regional variation figure is, that is arbitrarily discussed and debated on a regular basis, as is the main program. We may find that regional salaries increase over a period compared to the national figures. That should be reflected within that amount. Market rates? Yes, we could do it.

CHAIR—I ask the committee not to hesitate to jump in with appropriate questions when they arise. With regard to your role as a certifying body, can you tell us how you were appointed, how the arrangement was made, who and how many are on the certifying body, how successfully it is working, what expertise you have and just a bit about yourself.

Mr LAURIE FERGUSON—Whether you were given any training.

CHAIR—Yes, those sorts of things.

Mr Whyte—I have to go back to my previous employment to start this story. I was employed by the regional development board for the gulf savannah area—the area of western Queensland from the Atherton Tableland out to the Gulf of Carpentaria. They were approached by Bob Katter a number of years ago when the RSMS program was introduced. I think we are talking about 12 to 13 years ago. Mr Katter encouraged the organisation to apply to be a regional certifying body, which it did. It was one of 10 in Australia at that point, and I think we were probably the only one in Queensland. At that point we could actually sign off on applications

throughout the state. In that capacity we then wrote to a number of local bodies in this area encouraging them to become regional certifying bodies. One of those was the Cairns Chamber of Commerce and one was the Cape York Peninsula Development Association. They then applied and became regional certifying bodies. My understanding is that the application process was basically a letter to the federal government. I started employment with the chamber about nine years ago and continued that role within the certifying body process.

CHAIR—What is your exact role? What is your title, for example?

Mr Whyte—Executive officer.

CHAIR—So who is the chair?

Mr Whyte—Jeremy Blockey is the chairman of the chamber.

CHAIR—And as chairman of the chamber he is chairman of the certifying body?

Mr Whyte—There is no separate committee.

CHAIR—So the chamber is the certifying body?

Mr Whyte—Correct.

CHAIR—I am just trying to come to grips with your construction.

Mr Whyte—It is an operational process that occurs within the chamber. The Queensland government is also a regional certifying body. Where there is not a local body in Queensland, it picks up where those gaps are, essentially. We have set areas that we deal with. Technically, we can sign off on any application in Queensland. However, we have an agreed area that we deal with because that is where our local knowledge sits.

CHAIR—What is your agreed area?

Mr Whyte—It is the local government areas of Cardwell, Johnstone, Cairns, Douglas and the four Atherton Tableland shires, and then there are other certifying bodies that pick up around that area. Where there are holes further south in Queensland, the state government picks up. It has encouraged a number of groups in those areas to take on the role of RCB. My understanding is that at the moment the state governments basically nominate the regional certifying bodies for endorsement. But our endorsement, I understand, predated that agreement.

Senator POLLEY—What training was given to the organisation to take on that role?

Mr Whyte—On day one, none. We have developed our own processes from day one. Back when I started with the chamber, we were probably doing five to six regional sponsored migration applications per year. It was a very small number, and it has increased since that time. We have attended all of the regional certifying body conferences that have been held. We have also had some joint conferences with the Queensland government and the other regional certifying bodies. We stay in very close contact with the local immigration office here, and there

is a regional outreach officer appointed here who keeps us informed of what the changes are. We often discuss applications with that officer, sometimes in terms—

CHAIR—On that point—if you do not mind us intervening as we go, because time is our enemy—there is an immigration outreach officer appointed in Cairns?

Mr Whyte—He is based in Cairns, but he covers Northern Queensland essentially.

CHAIR—How effective do you see that that program is?

Mr Whyte—Very. His role is on a number of levels. It provides us with an avenue if an employer is unsure of the process, particularly once it leaves us. Our involvement is very much at the front end of this exercise. If employers seem to be unsure of what they are doing, we will often refer them to the regional outreach officer. He can assist them with that process. He is also an excellent point of information. In some cases, we may need to know whether an applicant is on a suitable visa that will allow them to move into, say, the Regional Sponsored Migration Scheme. If they are on a tourist visa, for example, they cannot move into that, so he will check that information for us if we have any doubts. We also feed issues and concerns that we have about the program back in to him. He also gives us feedback on where the department is heading, what some of the thought processes are and so forth.

There are something like 50 regional certifying bodies and about 10 of these regional outreach officers around the country. We have two in Queensland. His role is also working with the other certifying bodies from about Rockhampton north, running seminars for employers. The department offers training for any of the new certifying bodies because, as you can imagine, there is generally only one person, or maybe two, in an organisation who understands this process, and if that person changes then there is a need for training.

We have been fortunate to some degree in that I have been with this for such a long time that we stay on top of things. I train the staff in our office in how to deal with the processes. We have one lady who deals with most of the process applications and then they come to me for final certification. All of our staff are able to deal with any initial inquiries about the program. Our contact with a business relates purely to our certification process. We do not give any information on the process beyond that point. We are not a registered migration agent, so we do not have that legal ability to give any additional advice for other programs or even beyond the certification process. That is where the regional outreach officer is quite useful. Because we have done a number of applications over the years, we get people walking in about student visas and other spouse visas, which obviously we do not deal with, so we will refer those over to the regional outreach officer. We find it is quite useful having that person based here in Cairns, even though he does travel around a lot.

Mr LAURIE FERGUSON—You said you had had an increase from some five or six some years ago. I do not think you said earlier or that the submission said how many you currently do regionally.

Mr Whyte—Regional 457s? It is around 250 a year. I would hazard a guess that we are one of the busier regional certifying bodies in Australia.

Mr LAURIE FERGUSON—I will just ask, although it is not exactly on this subject, but it is related: what is your interface with the TAFE and other training authorities in the town? Do they feed very much into your process at all and that kind of thing?

Mr Whyte—We are involved with the TAFE. We met with the hierarchy the other day about the Australian technical college concept and a marine training college here in Cairns, and we are pushing those agendas quite strongly. We are also involved in some of their strategic planning exercises. It is not a formal relationship. They are a member of the chamber as well. TAFE in Queensland are going through a major restructure under the Queensland Skills Plan, so they are looking to become a lot more commercially focused. We have had discussions with them about the trade skill training visa. We have not had any serious applications on that one here, and I seriously doubt whether we ever will, because of that program. It is just too difficult. We have a very strong relationship with the university as well and work closely with them. We have a very strong belief in international students. They are a great money earner for the community. That is a strong focus at a TAFE level and a university level.

CHAIR—You have quite a number of international students in Cairns?

Mr Whyte—Yes, there are seven English-language colleges in this town. The university, by contrast, has a fairly small number of international students—about 200 a year—at its campus. TAFE does small groups. I addressed a group from Jordan last week that is coming through on a business study tour, but it tends to be more that type of exercise than permanent students. International language has grown from being about a \$5 million industry to about the \$100 million mark. We get particularly Japanese, Korean and Chinese students coming here for anything from a week to six months. Interestingly enough, most of them homestay while they are here, so they get immersed in the Cairns lifestyle, not just the Australian lifestyle.

CHAIR—Homestay is another industry.

Mr Whyte—It is. It has generated a lot of acceptance of international students and other cultures here, because just about everybody you know is involved in homestay. My mother-in-law has one or two students on a regular basis. So it is quite a strong part of the local economy, and it is a great money earner, if you can get into it, as well.

Senator POLLEY—Do you have any comments about whether labour agreements work or whether they are useful?

Mr Whyte—The Cairns Chamber of Commerce had the first regional labour agreement in Australia. There were some significant changes to the 457 program a number of years ago, which Chris alluded to. We entered into an agreement with the department of immigration and DEWR for a two-year arrangement for 75 positions each year. We had some reporting requirements that we had to go through, and we met those requirements. Unfortunately, the local department of immigration did not. When we went to renegotiate that arrangement, DEWR in particular wanted to put all of the immigration requirements onto us, including getting reports from individual employers. We do not have any legislative authority in that area, and we would have been in breach of contract from day one, essentially, so we decided not to go down that path. The regional 457 had just been introduced at that point as well, so we felt that that was a better way to go, even though one of the positions was not covered within that.

Labour agreements, I think, work well where you have numbers of positions that need to be filled. For individual employers, I think it is a very expensive process. While there are potentially areas that can be negotiated through that, including salary and possibly even English language, you need to have a reasonable number of applications. I understand that the new format is a lot more open, in that it could be industry wide, and that may provide some benefit if individual employers who are not part of industry organisations can access those agreements. But I think it is a somewhat exclusive process for small businesses. If you had 20 carpenters that you wanted to bring in then it might be worth your while going down that process. But, if you had a nurse that you wanted to bring in for, say, a small private practice, you would probably go through the main 457 program or the regional group, whichever the case may be. I think that for smaller employers they are not the answer. For some industry sectors, I think it is one of the best things that could have happened to them, because it will get away from some of the criticisms that those industry sectors have had in the past.

CHAIR—With respect to the ASCO codes 1 to 7, the information we have received so far is that 1 to 3 or 4 are generally quite organised or easy to do because they are well defined—for example, a doctor or an accountant. But when you get into the lower ASCO codes—truck drivers et cetera—it seems to be a little more nebulous. Do you have any views on the ASCO codes, particularly the lower ASCO codes where it seems to be more semiskilled than skilled? Should we be taking into consideration how relevant these codes are?

Mr Whyte—ASCO codes as a tool are useful to a point. They have job descriptions almost built in to them in terms of the tasks that are undertaken. When the position matches up closely with them, it is a great asset. What we find with regional employers is that employee positions often cover two, three or four codes and they may vary between the different levels. You may have someone in administration who is doing a number of different areas. The way the documentation is at the moment, you basically have to put one ASCO code in and that has to be about 80 per cent of the position to satisfy the department. It does not really accommodate multiskilling where in a small business you may have several roles that you undertake, particularly in the lower semiskilled range. ASCO is also about 15 years old. There are positions that do not exist in the ASCO classification that exist in the workforce these days. One of the other issues is that the skill sets that ASCO defined 15 years ago are very different to what we would see as semiskilled and skilled positions now.

CHAIR—So ASCO should be modernised?

Mr Whyte—Most definitely. I have not had a look at ANZCO closely enough to see whether it suits, but the department seems to be reluctant to take the ANZCO definitions on completely and is preferring to use ASCO at this stage. It also makes it easier for us as an RCB if we can find an ASCO code that closely defines the position. It is when there is a bit of variation that it makes life very difficult.

CHAIR—I have two quick questions. Listening to you, it dawns on me that maybe your needs could be met in the short term by a lot of working holiday visa people rather than by 457. Would that be relevant?

Mr Whyte—There are a couple of issues in that. There have been changes in the working holiday visa make-up. With a lot of the Japanese positions, which are filled by working holiday

visas, the people are coming here. We see their resume and they may have, over a period of 12 months, almost worked full-time for three or four employers. Now they could possibly do it for two with the extension to the six months, which we think is a very good thing. However, for a lot of the countries where we have relationships with working holiday visa holders, the people who are coming in are often professionals. They are well paid and the exchange rate is such that they do not have to work as much during their time in Australia as they have in the past. So, particularly if they are coming from Europe or the UK, with the exchange rate being quite positive, those people are relatively well cashed up. They do not have to take on positions at the lower end in the restaurant trade, washing up dishes or fruit picking. They can fund their holiday through their own existing income. The need for those people to be in the workforce is not as great as it has been in the past. I think we need to reconsider where those agreements are and which types of people are coming in on a working holiday visa. We see some of them moving straight into RSMS. They are coming in and moving into positions as surveyors or architects. We find that they are a higher skill set than they possibly would have been previously.

CHAIR—You have made a number of comments which we have found very pertinent to this inquiry about 457 visas. Withstanding all that, you see them as a very valuable tool for the Cairns region in particular.

Mr Whyte—Definitely. I think the 457 program has a lot of merit across the country. I just think we need to have it reviewed on a more regular basis so that it meets the changing workforce requirements that we have. We are in a workplace at the moment that is very different to anything that has been here in the past. We have shortages of labour but we have not seen a massive increase in salary levels that go with that, which we have generally seen in the past. So it is a different set of parameters that we are seeing out there, and I think the 457 program should accommodate the workforce requirements. It should not be a static exercise that we tweak every so often when there is public pressure that comes to bear. I think there should be more of a regular monitoring process, and the regional component of that needs to be monitored and reviewed on a regular basis as well. The modal list, for example, does not always reflect the regional requirements, because it is dominated by the capital city numbers.

CHAIR—We might get you to give us some more information on the modal lists, if the secretariat needs it. Thank you for attending today's hearing.

Proceedings suspended from 11.01 am to 11.13 am

BANKS, Miss Helen Mary, Hilton Cairns

GEDDES, Mr Mark Wilson, Managing Director, Indepth Video and Photography

INDERBITZIN, Mrs Franziska, Partner, Swiss Farms

NEAL, Mrs Tarita Helene, Director of Human Resources, Hilton Cairns

SUTCLIFFE, Mr Bruce John, Consultant, Cafe China

WHITE, Dr Christopher Robert, Member, Cairns Chamber of Commerce

WHYTE, Mr Alexander Charles, Executive Officer, Cairns Chamber of Commerce

CHAIR—Welcome. Although the committee does not require you to give evidence under oath, I 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 contempt of the parliament. I understand that you have some experience with the 457 visa in meeting skill shortages in your particular areas. I invite each of you to describe briefly your business and your experience with the 457 visa, before we proceed to questions.

Miss Banks—I am from Scotland originally. I came to Australia in September 1999 on a working holiday visa, so this is my eighth year here. I loved it and got sponsorship in Queensland for a 457 visa. On a 457 visa, I then moved to Brisbane with the same company and progressed onto a de facto visa—which unfortunately de factoed out. Gaining employment with another company, I went back onto a 457 visa and, while still on that visa, I then moved up to Cairns and gained employment with another business. Finally, I was issued with a permanent resident visa for skilled migration in a regional area. Basically, for six out of the eight years I have been in Australia, I have been on a 457 visa. If not for the progression enabled by that visa, I could never have moved onto my present visa. The 457 visa for me has represented a fantastic opportunity to get the necessary experience within Australia to allow me to get to where I am now.

Senator PARRY—How did you cope with the English requirement; did you learn it when you got here?

Miss Banks—I think I am quite easy to understand, but it seems that our French intern does not think so.

CHAIR—What was the skill set associated with your 457 visa?

Miss Banks—I have a hospitality and tourism background and a degree in hospitality management. Unfortunately, my degree did not give me enough points to get skilled migration, so I had to use work experience. I received extra points for being in Cairns, which is a regional area. That gave me enough points to get a permanent residency visa.

Mr LAURIE FERGUSON—When you transferred between employers, were you always able to—

Miss Banks—That was always very smooth. It was only going from the de facto onto a 457 and then leaving the country—obviously that was suspicious; I was out of the country for about 15 hours before coming back in—that immigration in Melbourne did not like very much.

Senator POLLEY—While you were on the 457 visa, did the department contact you personally in order to assess how the visa was working for you?

Miss Banks—No, not at all.

CHAIR—Thank you. We will probably ask you later for some additional views on the program. Mrs Neal?

Mrs Neal—I have been working with 457s in human resources for 15 years. I have seen the changes and the improvements that have occurred. I headhunted Helen. It actually took me six months to get her on board as my assistant. The experience that she brings to Hilton Cairns and Hilton International is invaluable. With her background in not only hospitality but also training and human resources, hers was a smooth transition into the HR department, as most of the team members have seen. She assimilated into the team very quickly—within four weeks. It was also fantastic that she had the maturity that you do not get with graduates. HR expertise is very slim on the ground, especially in regional areas. The 457 visa is invaluable for my chefs. The stability that we have in the kitchen here at Hilton Cairns is quite well known around this area, my turnover is extremely low and the expertise that my European chefs are bringing to our food is phenomenal.

CHAIR—Can't you find local Australian chefs?

Mrs Neal—Absolutely; I have many locals. However, we have a brigade of 27 chefs. This is a 24-seven operation. We have Mondos downstairs, which is a different east-meets-west type of cuisine, and we have Breezes, which is a la carte. Breezes also specialises in Japanese cuisine and kangaroo, emu and things like that—so I also have my bush tucker chefs. We also have 24-hour room service and a team restaurant, where our chefs cook for the 250 team members here. We do have a big brigade.

CHAIR—You have indicated that you have many Australian chefs, so why do you need migrants on 457 visas?

Mrs Neal—We find it hard to get people at the chef de parte level and the sous-chef level. Many of our Australian chefs de parte and sous-chefs leave to go overseas for expat positions and many of those who are European want to come over here for the experience, so it is a two-way situation. I am quite lucky with Hilton because, with 3,000 hotels around the world, we have that sort of exchange occurring. I have noticed that many of the other hotels are struggling. We talk all the time; we have meetings every month and I have noticed that they are always struggling to find chefs. You can see it in the paper. I have been very lucky in that three of my 457s have been here for three years—I am in my second process—and they have decided they would like to stay not only with Hilton but also within Australia.

I have five CRGT—Cairns Regional Group Training—apprentices coming through and learning from these chefs. As CRGT apprentices, they are going into competitions and out into other restaurants. We have just had a swap with one of the restaurants and that apprentice is taking those skills out into the workplace, into other restaurants in hotels. These chefs have impeccable standards and are impeccably trained; they also make excellent trainers. I cannot tell you how much the stability we have helps a kitchen brigade, as does a team's knowing that its supervisors are there to support it all the time. Chefs are not coming in and out every six months, which helps with productivity, food costs and training.

Senator PARRY—Please do not answer this question if you do not want to or if the information is confidential, but are the 457 visa holders paid a comparable salary to that of the Australian—

Mrs Neal—We pay under the award.

Senator PARRY—‘Under’ as ‘in accordance with’?

Mrs Neal—In accordance with the award. The award for full chefs seems comparable with the 457 minimum standard, so we do not have an issue there.

Senator PARRY—Just to clarify: are you paying the minimum standard under the 457 visa?

Mrs Neal—More.

Mr LAURIE FERGUSON—You have spoken of your organisation training others outside. One of the complaints from the chamber and many other employers is about the requirement for training and small employers not being able to meet it et cetera. Can you tell us a little about your internal training here? Can I assume that with 457s you hire a few people other than chefs?

Mrs Neal—Absolutely. We have—and I am so excited about it—an electrician from England who has just gained his electrical licence and been accepted as an electrician. This is his second run, so this is his fourth year with me. He is finally an electrician. I do not know whether you understand how difficult it is to get tradespeople. I lost four electricians two years ago, one to Broome for \$120,000, one to the Gold Coast for \$130,000 and one to the mines for \$150,000. Just to help you to understand: at the end of the day we are hospitality, so we pay \$40,000 for an electrician. That means that we are competing against those types of prices.

Mr LAURIE FERGUSON—Can you speak about internal training?

Mrs Neal—Our chief engineer and our assistant engineer are electricians, so they have fostered him on site for practical training. However, we also have sent him off site to do a TAFE course, which is the Electrical Licensing Board training. That training is in house and external.

Mr LAURIE FERGUSON—Are any of your employees tradesmen who are not involved in the cooking side of things?

Mrs Neal—Yes.

Mr LAURIE FERGUSON—Can you speak of them?

Mrs Neal—Yes. We also have food and beverage supervisors. That training comes through area training and also internal training that I run. We run two different training plans; training here happens all the time and there are departmental trainers. There is an area training plan—my training plan as the director of HR—and departmental training.

Miss Banks—That training happens constantly; it is never ending.

Mrs Neal—We run about six training courses every month, if not more—and I am being conservative.

Senator POLLEY—Do you have any comment to make about the changes to the requirement for English language skills?

Mrs Neal—Before I came to give evidence today, I did some research and found out—please tell me if I am incorrect—that chefs are exempt from this requirement.

CHAIR—That is not my understanding.

Mrs Neal—They are not in a certain category? If what I have said is not true, I would be concerned.

Mr Whyte—I understand that employees in ASCO code positions do not need to meet that requirement if they are from an English-speaking country.

CHAIR—That requirement becomes self-fulfilling if they are from an English-speaking country. We will need to check that.

Mrs Neal—I would be concerned about that, as we have just employed a Japanese food and beverage supervisor who is brilliant. I would also be concerned that my Japanese guest relation managers and my interpreters might not pass the English tests. That definitely does concern me.

CHAIR—We really should move along but we would like to come back to you because there is some other information about the chamber's view on when you should reach that English level, for example. Mr White, we have heard from you so, if you do not mind, we will move on to Franziska. Could you tell us about yourself, Franziska?

Mrs Inderbitzin—I am a partner in a business called Swiss Farms, at Lakeland, which is 250 kilometres north of Cairns and 80 kilometres south of Cooktown. We employ between 80 and 100 people on our farm. We mainly grow bananas, watermelons and other crops. We have been relying greatly on the 457 visas to have skilled people on site. Without them we would have to shut our doors.

The main problem in employing local people is that there is only a small community in Lakeland. There are maybe 150 people. There are other little businesses there, where people are self-employed or they work for the schools. So it is really hard to source staff from our region because there are no immediate towns around us. We run a bus service to Cooktown to

encourage local people to come and work for us. The bus service is run at our cost on a daily basis. We also had to build a lot of accommodation to accommodate people on the farm or even in Cooktown, because accommodation is really scarce in our area due to the mining activity as well. That has put more stress on our staff because, obviously, the mines can afford to pay more money than we can on the farm. We have lost quite a large number of people to the mines. So we have been relying on the 457 visa just to keep our farm going.

One of the major issues we have is that we really struggle to bring in outside trainers onto the farm. We have a lot of internal training, for example, through our own people on site already. We also have consultants who work in conjunction with us on our farm as trainers. Another major issue we see is the English language test for these people. Most of these people have quite good verbal communication but the written test can create great problems for them. We also provide workplace communications training. We pay for a teacher on site at Lakeland to teach people better English and better communication skills. That has helped a great deal.

Because we are in a rural area, our problem is that we can sponsor people with university degrees and all that but that has created problems for us in the past because people usually have the theoretical level but they do not have any practical knowledge at all. We find that the most successful applicants have been people who have come over as rural exchangees. In the beginning, we employed them to work on the farms and, if they were successful and they had the right qualifications, we could then go on to sponsor them. That has been the most successful, because you have already built a relationship with these people—you know their background and you know their personalities. It is very hard to employ somebody you have never met. You see the paperwork and then you interview them. If people have been working for us previously, it has been a lot more successful in the long run.

CHAIR—What skill sets are you seeking on your farms?

Mrs Inderbitzin—We do need more people to work as supervisors in the fields. There are a lot of people out there who need to be looked after. We also employ about 15 Indigenous people. We have worked with the Hopevale community before to see if we could get people from Hopevale and horticultural trainees. I think we started off with 17 and after one week there were two left.

CHAIR—What do you put that down to?

Mrs Inderbitzin—I think it is just the unwillingness of them wanting to attend. It is really in them. You can have a trainer on site provided by the government free of charge who is also looking after them after hours, but, if the real power is not there to be there, what do you do with them? The Indigenous people we have employed now have come by word of mouth. Obviously their friends work there and they asked them. It is just that you have different dealings with them. You have to keep encouraging them to come to work. They need a lot more nurturing than others.

CHAIR—That is another line of inquiry that would be very interesting to follow. Did you say that you have 15 Indigenous people now?

Mrs Inderbitzin—Yes.

CHAIR—That is excellent.

Mr LAURIE FERGUSON—What is the lower end of the skills that you are getting 457s for?

Mrs Inderbitzin—Probably the mechanics.

CHAIR—As an example, where did your most recent overseas mechanic come from?

Mrs Inderbitzin—The most recent one came from Switzerland. They have a program over there for rural mechanics, specialising in agricultural machinery. Mechanics from there seem to have the skills to deal with breakdowns and so forth. We have tried mechanics from Russia, but that just did not work out.

CHAIR—Mr Geddes, would you like to make an opening statement?

Mr Geddes—Yes. My business is in tourism. We do photography and videos for the larger tourism operators who go to the Great Barrier Reef on a daily basis. We have had some expansion in the last 18 months that has brought us down to Cairns. It was fairly evident quite quickly that we needed people who could speak Japanese and Chinese to deal with the demand on board the boats. The language barrier was fairly significant. The 457s have been excellent in that respect. We have been able to source people with diving skills so they can go in the water to film and take photos and also native speakers who can communicate with the people from their country.

We are relatively new to the 457 program. The first people we brought in actually arrived last September. A big issue for us was that, after their applications went in, the wage base was put up to what it is currently, which is about \$38,000. It is not a high-paying position that we run with our business, so what happened was that all my current crew—15 Australians—found themselves in a situation where the people who were just starting to work for the business were being paid more than they were. We had to go back and review our pay structure and the price of our products. Consequently, they have all had to go up to pay for the increase. It was good for our guys but not very good for our bottom line, basically. Once again, the product prices have had to go up so it is all inflationary in that respect.

With the language, we feel that we are getting our people in because they do speak another language. I have had a little bit of experience. I spent some time in Japan myself and found that, as long as you were teaching English, there was very little chance to learn Japanese. I think that will be the same case here. They are out there speaking Japanese or Chinese every day, and there is very little chance for them to mix with English-speaking people. Just because of the nature of the work they are doing, there is very little opportunity to study and learn as fast as they could if they were working and speaking to English-speaking people on a daily basis. I think it would be fair to them if there was some sort of time frame involved—for instance, a couple of years—for them to get those English-speaking skills to a level where they can pass the test that they are required to do.

CHAIR—That is becoming more apparent. Are there any questions of Mr Geddes?

Senator PARRY—I have a question about the increase in costs because of the increase in your salary base. Did that cause a loss in market share?

Mr Geddes—Not significantly. Their price has gone up, so we have had a fair share of people saying that it is expensive now. That is always going to happen, no matter when you put the price up. We have absorbed probably 50 per cent of it across the board, so 20 employees got a \$5,000 base salary pay rise. It is quite a large amount.

Senator PARRY—Has that tended to create a benchmark for competitors? Will people say, ‘We’ll work for you because you pay better’?

Mr Geddes—Yes, we seem to be the highest-paying people in our industry.

Senator PARRY—Are you the largest?

Mr Geddes—We would be the biggest in Cairns and Port Douglas, yes.

Senator POLLEY—In relation to the concerns you have with the language skill requirements, how do you go through the process of ensuring that the visa applicant has a full understanding of health and safety issues and the requirements of the job?

Mr Geddes—I speak Japanese so I have done a lot of the training with the Japanese crew. Fortunately the Chinese person we have working for us speaks very good English; he has passed the test. His application is in at the moment; he has passed the test and he is ready to go. With the Japanese staff—and my brother’s partner also speaks it—we are happy to train them. But, yes, it would definitely be an issue for companies that did not have that advantage.

Mr LAURIE FERGUSON—Have you been using 457s long enough to have a pattern of what happens to people afterwards—whether they take up permanent residence, in your case, or whether they go back?

Mr Geddes—No, our first approval was when people came in during the middle of last year. We are learning as we go and, from our point of view, we are more likely to put people on a working holiday visa to begin with. We test them to see whether they are compatible, because it is very difficult to source someone from overseas and then get them in and find out they are not the right person for the job. It is also a lot to expect them to fly here for an interview. We find it is better to put them on a working holiday visa first and then get them in.

Mr Sutcliffe—My client is basically a catering industry.

CHAIR—Would you tell us a bit about yourself first?

Mr Sutcliffe—I am a consultant to Cafe China. I have a personal relationship with the principals of the company, which was established in 1996. Because of their Chinese background and my Australian background, I have been able to assist them with a lot of their business activities in the realms of interpretation and clarification. For instance, if an Australian uses a phrase or a clause is written in a contract that only we would understand, they would ask me to say, ‘What does that really mean?’ That has been my role. I was involved with assisting them

with the 457 visas in the early days, and I think they have done sufficient of them now. They work through Chris White; it is ongoing. They have not really been involved in the last year or two in the 457 acquisition process, if you like, but I am aware of the side things that are coming into play in the English language situation and the salary levels and so forth.

Senator PARRY—I am not quite sure about the size of this operation. When you say ‘catering’, are you talking about simply owning a restaurant or catering in the broader sense?

Mr Sutcliffe—Thank you for asking that. As an overview, they run a 450-seat restaurant that turns over 100,000 people a year from China and Japan, or from offshore.

Senator PARRY—As in customers?

Mr Sutcliffe—As in customers.

Senator PARRY—It would be a big employment base.

Mr Sutcliffe—That is a significant number of people; that is a significant number of bums on seats, if you like, every day. Because the majority of their clients are Japanese or Chinese, and because they are in tour groups, it is essential that there are supervisors who interpret and cater to the needs of those particular groups. There are a strata of groups, from bulk groups at \$12 a head, for instance—which are not looking for some assistance in what colour the soup was or how it was served—up to your higher level clients who might be paying \$150 a head and want everything absolutely five-star and precise. The majority of the 457 people who are in this operation are there to interpret and assist to ensure that everything runs smoothly.

Senator PARRY—How many of these 457 visa holders are working at any one time within the restaurant?

Mr Sutcliffe—Currently, I think there are nine or 10, and I guess 75 per cent of them would be on duty at any particular time. Just to give you further clarification of how that system works, the offshore tour operators will book their tour groups well in advance. The customer pays at that time offshore. The customer comes to Australia, goes through the routine of visiting here, eating here, sleeping here, then leaves the country, goes back home again and reports or does not report on satisfaction or lack of satisfaction. The tour operator will actually pay for that meal or, in the case of others, a bed or whatever, 30, 60, 90, 120, 150 days later. In the catering business you cannot afford to have a tour group who are upset with the service or the quality of the food, or whatever, on the day, because they will go back home and report that they had a very bad experience at such and such a place. This then translates into an argument about whether they should or should not pay the full tote odds and protracts the payment period—a method of getting longer terms.

Senator PARRY—So it is a cash flow issue as well as an interpretation issue?

Mr Sutcliffe—Yes. There are two points. My client is very reliant upon 457 people in a supervisory position—they do have some chefs, but they are limited in number and are specialists in pastry and so forth—to interpret and look after parties and ensure that everything runs smoothly. Their English requirement, from our point of view, is not as high as their

Japanese or Chinese language requirement, because that is the job they are doing. To have to pay them the higher levels of income that are now dictated becomes a little political internally because the rest of the waiting staff, who are mainly locals, are being paid an award wage that is below the new level. We are not sure what the long-term outcome will be but, when you are employing 60 to 70 people, of which 10 are 457s, and the rest are on local award wages and you get this disparity, there may be some discomfort coming out of that.

CHAIR—Dr White, we met you before, so you do not need to tell us about yourself. The rest of the forum will be conducted whereby we can ask some questions of you. We would appreciate it if you would tell us the positives and negatives of the program as you see it. You have come here to ensure we understand the regional consequences of this visa. Mr Ferguson first has a question, then we will ask you to volunteer some of your views.

Mr LAURIE FERGUSON—Mr Whyte, there has been mention of certification fees and the level of them in reports, not from here but from other areas. What is the certification fee in Cairns?

Mr Whyte—It is \$550.

CHAIR—It is now open to you. Tell us the positives and negatives of the program, as you currently see it, in addition to what you have told us. If not, we will ask you some questions.

Mr LAURIE FERGUSON—It sounds as though your operation has been involved a bit longer with 457s. I asked Mr Geddes this question previously. Do you yet have a pattern of what occurs with these people afterwards? Do they return to China and Japan? Do they go on to permanent residence? What is the general pattern of these 457s?

Mr Sutcliffe—My recollection is that between 90 and 95 per cent of them will do backflips to try to stay. Most of them will go back home because they have the ability to go—to pay the fares and to come back again—but they really want to stay here.

Senator POLLEY—What is the average length of time that they stay here on the 457 visas?

Mr Sutcliffe—To the best of my knowledge they all stay the full four years. In the past there were extensions. I am not sure if extensions are still happening at the moment, but back in the early days there were extensions that were taken advantage of.

Mr LAURIE FERGUSON—When you said that 90 per cent of people are doing backflips to stay, what has been your experience? Is there a pattern of them disappearing or lodging other immigration claims?

Mr Sutcliffe—As far as I know they lodge claims to try to get some other avenue—whether that is residential status or another visa or whatever. If they do not succeed, they go back home but they are frustrated that they have to do that.

Senator POLLEY—Mrs Neal, you said that it took six months to acquire Miss Banks's employment. Was that through the department or was she just playing hard to get?

Mrs Neal—We were waiting for Helen to get on to a permanent residency because I did not think I was going to get her through as an HR officer.

Miss Banks—Also, from my perspective I had been on so many 457 visas and, for my personal satisfaction, I wanted to get my residency sorted out. I wanted to go into employment with the Hilton, in a role that I was desperate to do, off my own bat without any strings attached—on my terms as well as on the Hilton's terms. I spent six years with strings attached, being very much tied to one company and to one position. I was also tied to not being able to progress into a different role because I was on a 457 visa which stated that I had to be in that position. I was at the point in my life where, personally, I wanted to do it off my own bat and move into a role where I could go wherever I wanted and do what I wanted.

CHAIR—The information is that these visas should turn around in 28 days. What is the experience of the group here today?

Mrs Neal—I have been waiting since January for confirmation on the chefs labour agreement for one of my 457s. It is now July.

Mr LAURIE FERGUSON—Are there any peculiarities to the case? Has the person had any immigration interface previously?

Mrs Neal—No.

Senator PARRY—What is your average experience? That is one example.

Mrs Neal—The average is four months. For my OTVs I am looking at 12 weeks. I have not had experience with any other visas. It is basically the 457s and the OTVs. The 457s can take a long time.

CHAIR—Where is the logjam?

Mrs Neal—It depends on which department you are dealing with. I think Canberra has a huge backlog. The people are wonderful down there, so please do not misinterpret this. They continually let me know what is happening; they continually email me. Brisbane seems to get through the 457s—which my chief steward, my electrician and my engineer went through—quite fast, in 12 weeks. But down in Canberra there seems to be a bit of a backlog. I am not sure what the issue is down there.

Senator PARRY—Who determines what is decided in Brisbane and what is decided in Canberra? Where is that determined? Is that by the category?

Mrs Neal—I cannot answer that.

Miss Banks—I think it is the visa category.

Mr Whyte—It is the category.

Miss Banks—I know that my permanent residency was—

Mrs Neal—In Brisbane.

Miss Banks—Adelaide.

Mrs Neal—My OTVs are in Brisbane.

Senator PARRY—Do you lodge everything through Brisbane?

Mrs Neal—Except my chefs labour agreements. My chefs go through Canberra—through the Australian Hotels Association's chefs labour agreement.

CHAIR—Does anyone else have any views on the logjam?

Dr White—Most of the applications here are processed in Canberra. Parent visas are processed in Perth and students to permanents are processed in Adelaide, but 457s are processed in Brisbane, unless they are under a labour agreement. The labour agreements all go to Canberra, to DEWR. But most processing is done in Brisbane.

CHAIR—Does anybody else share Mr Geddes's view that you try them out on a working holiday visa and then look at a 457 option?

Mrs Neal—Definitely.

Mrs Inderbitzin—Definitely.

CHAIR—It is pretty universal, is it?

Mrs Inderbitzin—I think that is the biggest success rate we have had so far.

Mrs Neal—Correct. I agree.

Mr Geddes—They know you as well, which is a very big thing. If they are coming from overseas, it is a massive decision, and if they are here already and they know who you are and enjoy working for you then they will want to stay.

CHAIR—That would also cut down on a lot of requirements about getting them here from an overseas destination—the fees involved, the agents fees et cetera. Would that be right?

Mr Geddes—Chris will be out of a job! Yes. From my experience, if they are here already, the process is far quicker than if they are overseas waiting. We have had issues. One was with a medical that went missing down in Canberra or somewhere and they had to start from scratch so that took a considerable amount of time to correct. If they are here on the ground, certainly the process is much quicker and easier to go through.

Mrs Inderbitzin—I think for us, in the isolated region where we live, it is very important for people to want to live there, and that has been a huge issue. One of the sponsored people had a partner as well and she could not cope with the isolation. She had not been here before. She is

living in Mareeba at the present and he is living at Lakeland. Obviously, that is not going to be a long-term arrangement, is it? So that is a big issue for us.

Senator POLLEY—What is the average length of time that you are able to keep your visa holders?

Mrs Inderbitzin—I think with all the 457s there has only been one unsuccessful one, when we had to terminate his employment. But the others have stayed for the full year. Some have gone on to permanent residency and have actually started their own businesses. I know of three cases now where they are successful in their own right. People tend to want to stay and then go on to permanent residency. I do not know anybody who has returned.

CHAIR—On that issue, when you terminated this person, did they find another sponsor?

Mrs Inderbitzin—Yes, he did. He is now in Mareeba.

CHAIR—As you know, if the relationship breaks down, it is your cost to send them back.

Mrs Inderbitzin—Exactly.

CHAIR—Do you have any experiences there, Mrs Neal?

Mrs Neal—No, I have never had to terminate a 457. They have always been very successful.

Senator POLLEY—I am very interested in that, because Cairns has a very vibrant tourist industry and it is obviously a beautiful location. What is the long-term solution to the labour shortages here?

Mr Whyte—We see that there are four options, even in the shorter term. We have created an organisation or a group called CLASS, Critical Labour and Skill Shortages, with the whole range of players. There are some state government agencies, some federal departments, the likes of us as the chamber of commerce, Commerce Queensland and the area consultative committee. The four key areas—and we have just started this in the last few months, so some of these strategies are yet to be put into place—include getting the unemployed here back into the labour force and working with the schools to encourage people into the trade areas in particular. Those are the two longer term parts of the four-pronged approach. The two shorter term ones are attracting workers from out of Queensland—and some of the businesses here have been going to the Work and Play Expo that the Queensland government is organising in Sydney and Melbourne to try and attract people up—and using the skilled migration program. So we see the four as the future for where we need to go.

Attracting workers, whether they are from out of Queensland or from overseas, will provide a short-term solution. It will fluctuate depending on what the local labour market capacity is. The other two are the longer term strategies. They are not going to fill the vacancies straightaway, particularly with those coming out of the schools or by getting the unemployed to take on the higher skilled positions, but we have to get them back involved. We just see some issues with the process of bringing the unemployed into the workforce. It has been a very government-orientated process and business has been reluctant to get involved because, if you are going

through some of those programs, there is a lot of paperwork involved, as there is with the migration program essentially, but with migration you get a skilled employee. If you look at some of the others, such as with trainees, you are getting someone who is very unskilled and your requirements may be for a higher skill set. Some of the smaller businesses that we deal with have been a little bit reluctant because they just do not have the administrative capacity to take on that skill set. So we see four long-term solutions—four parts to the whole strategy. That is just for Cairns, but you could replicate that pretty much across the country, I suspect.

Senator PARRY—I would like to throw two statements at you that we commonly hear—and I am not suggesting that I agree with them. The first one is that 457 visas are used for cheap labour. The second one—in relation to what you are talking about—is that there are plenty of local residents who are available, but there is no training offered. Do you have any comments about those two statements?

Mr Whyte—Sure. I will take the second one first. One of our group training schemes here has over 1,000 apprentices and trainees at any one time. The TAFE's chef program is constantly filled. If they could do night-time courses, they would offer them for chefs. They just have some legislative constraints within the TAFE structure that does not allow them to operate training programs during the night. There is lots of training out there—there are no two ways about it. The unemployed pool can be broken up into a couple of categories: there are those in that pool who are genuinely looking for work but find it difficult to get into the labour market, and that is the group that we want to deal with; there is another section in there that is quite happy to stay unemployed, for various reasons—it is a choice that they make.

Senator PARRY—Do you think it is because we have made it too attractive for them to be unemployed?

Mr Whyte—It is not attractive for me, so I really cannot comment—

Senator PARRY—Fair comment.

Mr Whyte—on where they would go. Different people have different things that make them happy. Some people use it as a lifestyle choice. If you look at the tropics, it is a relatively low-cost place to live if you are unemployed, because you get certain benefits that flow to the unemployed. You may just feel like sitting under a tree for a while; that might be a choice that you have for a period of time. We want to deal with the group that generally wants to work. There are training options out there—there are no two ways about it. What was the first question?

Senator PARRY—It was in relation to cheaper labour—the myth that bringing in a 457 worker is cheaper, or underpaying —

Mr Whyte—Underpaying in terms of what? You cannot pay below the award, so it is not low-cost labour. The fees involved in the process are not insignificant in the scheme of things. The time involved in going through the process is not insignificant, particularly if you are dealing with delays. If it is a 28-day turnaround then it is not too bad, but if you have someone ready to start, you have work ready to go and you are being held up, it is constraining your business. There are additional obligations that you have as an employer sponsoring some of these folks

that you would not have if you had a permanent resident doing that work. So there are additional costs, separate from the salary arrangements, that would make it more expensive, in fact, than employing local labour.

Senator PARRY—So the bottom line is that, if local labour were ready and available, they would be sourced first?

Mr Whyte—I would not see why you would not do that. The other issue, particularly in regional areas, is that, if you took someone from a foreign country and transposed them to a regional area—Lakeland Downs is a classic example of where you do not have a lot of other services and they do not like it—they would go very quickly. You do not want to have that cost imposed upon you. It is even difficult for employers to find workers. If you cannot find them locally, where do you go? For a small employer to actively recruit overseas because they cannot find someone domestically is a very big expense, and a lot of them will not do it. In Cairns we have—

CHAIR—This is where the immigration outreach officers are meant to work—

Mr Whyte—We discussed this briefly the other day. It is my understanding that that is not the role of that officer at all. They are there purely for information purposes.

CHAIR—I will not debate this, because I am not necessarily on good grounds in doing so, but I can assure you that, with the ones we have in Western Australia, it is their job to not only source the person from overseas but also organise their visa. So there must be a nuance here—a difference.

Mr Whyte—There are two types of outreach officers: ILOs and ROOs. Regional outreach officers were put in place about three years ago. There are two in Queensland: one based in Brisbane and one in Cairns. Industry liaison officers work with specific industry sectors, like the mining sector—Growcom, Commerce Queensland and so forth. Their role may accommodate that particular part of the program.

CHAIR—So you are saying the regional ones do not do that?

Mr Whyte—No, not in this case.

Senator PARRY—Do you have more ROOs than ILOs up here?

Mr Whyte—I think there are more ILOs than ROOs. There is effectively one ROO in each state, and I think Queensland has two.

Senator PARRY—Interesting.

Mr Whyte—It is a subtle variation. It is expensive to use the migration program. There are no two ways about it.

CHAIR—Does anyone want to add anything to that comment?

Mr Geddes—With respect to the tourism industry, with the new wage structure came a 38-hour-a-week requirement. To give you an idea, if you are working in the tourism industry and you are out on the reef in a dive boat taking tourists for a dive, it is very difficult to structure a 38-hour week around whether the tourists are here or not. There is very little flexibility in what they have asked us to do. So basically you are just paying them for a 38-hour week, week in, week out, no matter what sorts of hours they are actually working, because that is how you comply. At the end of the day, if there are no tourists in town, there are only so many times you can ask people to clean the bus or do other things that may not be related to what they are employed to do.

CHAIR—Do you think there should possibly be averaging over a month or six months?

Mr Geddes—Some weeks there might be 30 hours of work and other weeks there might be 50 hours. It depends. If the weather is bad, for example, you cannot go out and do your job. There are other factors involved. It is not like doing a trade where you can just go to the workshop, do your 38 hours and leave work. Here it is sometimes day and night that you are required to work. There needs to be some flexibility so you feel like you are actually complying or doing the right thing by immigration.

CHAIR—That is a good point that you make, and that is certainly something that we will take on board.

Mr Sutcliffe—I would like to back that up. It is a very valid point.

Senator PARRY—To clarify, would you be satisfied with a 12-month period to average the 38 hours over?

Mr Geddes—Absolutely.

Senator PARRY—Or a shorter period? Six months?

Mr Geddes—As soon as you go to a longer period of time you have bigger administration issues. If you did it on a monthly basis you could work out a maximum. Probably quarterly would be good because you are doing a quarterly BAS and dealing with all the rest of the tax issues, super and things like that. So if it were quarterly it would probably make sense.

Senator PARRY—Does everyone agree with that? Should it be averaged out quarterly? It is good for us, if we have recommendations, to feel as though they are supported.

Mrs Inderbitzin—Our people are employed under the fruit and vegetable award. That does not state 38 hours; it states 40. They can also apply for additional hours, which has been very successful, because our farm starts at 7 am and goes to 4.30 pm every day, five days a week. So there is always more than 40 hours, but we cannot afford to pay the overtime, so people in their own right can apply for additional hours and work at the same rate of pay, which goes on one of the agreements we have. So if these people are only employed for 38 hours that causes great conflict in our workplace as well.

Mrs Neal—Under our award we can do a cross-exposure multihire. What happens is that they can work their 38 hours, but then they can be paid casually to do some shifts. That is under the hotels, resorts and gaming award. I am not sure if that is in any other award. Full-timers and part-timers are allowed to multihire on a casual rate on their days off.

CHAIR—This is all good stuff.

Mr LAURIE FERGUSON—Could a few of the employers comment on the monitoring by the department. What has been your experience? How many visits have you had?

Mrs Neal—I have had two surveys this year already.

CHAIR—Face to face?

Mrs Neal—Email. One nationally and one locally.

Senator POLLEY—But no person-to-person contact with the department?

Mrs Neal—I am talking to them all the time.

Senator POLLEY—We are asking about site visits: coming here and talking to those on the visas.

Mrs Neal—Just email.

CHAIR—Other employers?

Mr Geddes—There have been no site visits, but there have certainly been audits to check whether we are paying the right things et cetera.

Mrs Inderbitzin—They have done a survey but they have never been on our site—and they would be welcome to come and have a look.

CHAIR—It is probably a bit far away. What about you, Bruce—what is your experience?

Mr Sutcliffe—We have had a recent audit. I am not sure if Harry has informed you of a prior audit. I am only aware of the recent audit in April-May—after about nine years.

Senator POLLEY—But no site visits?

Mr Sutcliffe—What do you mean by ‘site visits’?

Senator POLLEY—I mean an officer coming out to the restaurant and talking to the employer as well as those on the visas.

Mr Sutcliffe—That was part of the recent visit. Two people came out—one looking to talk with the employees and one looking to talk with the employer.

Mrs Neal—Are you talking about the local office that has offered to come out and do seminars?

Mr LAURIE FERGUSON—Obviously there is a question of whether people are getting the right wages, whether their hours are right, whether you are doing training et cetera. We are talking about that kind of oversight by the department.

Mrs Neal—The local department has come in twice and addressed all of the HR managers here in Cairns. Garry Chaston has come through.

Mr LAURIE FERGUSON—I understand that, but I am going more to whether they have been investigating to see if things are being done the right way. I am talking about that kind of inspection.

Mrs Inderbitzin—We had an inspection on site because there was a local complaint about us employing illegal immigrants. I think that has to do with people being slightly racist in a small community. Two police cars showed up with five or six officers. We were able to show them the paperwork and they said, ‘There are no problems here.’ They did not even talk to anyone; they just left.

CHAIR—That is interesting.

Mr Whyte—Generally speaking, we do not hear a lot of reports from employers about compliance monitoring—actual face-to-face monitoring.

Senator POLLEY—They are some of the issues that have been raised throughout the hearings.

Mr Whyte—I think it would overcome some of the concerns that people have about the program if we had more monitoring. It is a resourcing issue, but I think it is an important role that the department has to undertake. If it is going to be in the migration game it has to also be involved in the policing arrangement. You cannot keep issuing visas without actually checking on things at the other end.

Miss Banks—As someone who has been on the 457, I can say that no-one has ever checked with me or asked me whether things were okay. I do not know whether the companies that I have worked for have been audited. I certainly know that two of them were never audited in the time that I was there. If they were audited, they would not be able to sponsor people.

Senator POLLEY—When you first arrived in the country and you were on the 457 visa, were you given a package of information that outlined to you the terms and conditions of your employment, health and safety issues or whether or not you could belong to an organisation like a union or a professional organisation?

Miss Banks—I received absolutely nothing. I arrived on a working holiday visa and then progressed onto the 457. I have never received a thing from Immigration.

CHAIR—Senator Polley’s question is quite relevant. In their submission, the chamber said that a checklist, highlighting their obligations et cetera, should be sent to the employers a month after the applicant’s visa is approved. Do you agree with that?

Miss Banks—Yes, absolutely.

CHAIR—Are you happy to see that as a way of making sure people understood their rights and obligations?

Miss Banks—I think there should also be a checklist sent to the employee. When working for one company I actually ended up causing havoc because they deleted on the paperwork that they sent me what I should have actually been paid and paid me well over \$10,000 below Immigration’s expectations. When I found out from an immigration lawyer what I should have been paid and spoke to the department that was in charge of that, the company, which employed an enormous number of people on 457 visas, had to increase everybody’s wages because they had been breaking the law. That was a big company. They knew they were breaking the law but erased the details. But I believe there is a minority that do that. It is cheap labour for them, but the majority of people obviously do the right thing.

CHAIR—Was that addressed in the end?

Miss Banks—Yes, eventually.

Mr Whyte—One trend we have noticed with some migration agents is that they are actually acting on behalf of the employee and not the employer. We have raised this with the department and made them aware of those circumstances. Our concern is that we are not convinced that the employer has been fully advised of their obligations. We deal with the migration agent because that responsibility has been signed over by the employer. So that is who our primary contact is. Any amendments or changes to the documentation we request must be on letterhead from the employer and not the migration agent, so at least we feel that we have given the employer an opportunity to see what is there. The documents we send back go back to the migration agent who then lodges them. I still feel employers in some cases have not been advised of their obligations. This is not in a lot of cases, but it is in some. I think the changes where the employer actually has to pay the fees may start to address that concern we have. It is the opposite of what you have said: I think in some cases the employer is not fully aware of their obligations because of that arrangement with an agent. In other cases the employee may not be aware of their rights.

CHAIR—So it works both ways.

Mr Whyte—It does.

Mrs Neal—Maybe three people should be given the documentation.

CHAIR—Absolutely.

Mr LAURIE FERGUSON—We have heard the view of the chamber and others about the English stipulation being perhaps too high. Has anyone had any experience of people they have received as employees whose English was less than they might have expected, since they had

passed the requirements? Has anyone come across that at all? In other words, has everyone's level been what you would have expected?

Mr Sutcliffe—Sometimes it is a little difficult to actually analyse that because they may in fact be talking through fellow country people in the same language, who are in turn translating in English back to you—or broken English and Japanese and Chinese; in other words, multilingual at the same time. There is the assumption by the listener that everybody understands what is going on.

Mr Geddes—The only person we have had do the test is not what you would call fluent by any means, but he can certainly communicate, and that is the key. I think the level the test is at—

Mr LAURIE FERGUSON—What I was getting at was people sitting tests for other people—that type of thing that has occurred overseas.

Mr Geddes—Oh, I see.

Mr LAURIE FERGUSON—You have not come across that kind of problem?

Mr Geddes—No, not at all.

Mrs Inderbitzin—Most of our sponsored people have come through a trainee organisation already which has filtered some of these initial problems. They have to have basic English and so forth. I think that has helped a lot with the language problems.

CHAIR—I want to go back to something Mr Whyte said about attracting other Australians. It is slightly relevant. Are you aware of the program where there is a \$5,000 relocation allowance for unemployed people from areas of high unemployment elsewhere in Australia? For example, the main city in the seat of Gilmore—in Joanna Gash's seat—is Nowra. That area has a 15 per cent unemployment level compared to, say, Western Australia, which has an unemployment level of 2.4 per cent. Are you actively looking in those areas where you can get a \$5,000 relocation allowance for someone without a job?

Mr Whyte—No, we haven't. What is the skill set of that group?

CHAIR—You would have to get a local Job Network to deal with. I was just wondering whether, firstly, you were aware of it and, secondly, if you were, whether you had used it—but you obviously have not.

Mr Whyte—I was aware that the idea was floated but did not realise it had been put in place.

CHAIR—It was a pilot scheme and in last budget I understand it was financed more fully.

Mrs Inderbitzin—There are huge problems. We have employed a large number of unemployed people out of the Rossvale area, where there are no businesses at all. Some of the school leavers have come to our farm for one year and then have gone on to TAFE or university, which we have been very happy about.

We have found that one of the major problems is that if you employ unemployed males, especially those between 25 and 40 years old, often they are fathers from broken marriages. They travel all around Australia and they turn up at your doorstep looking for a job. You give them a job. Then you find, 28 days later when your child support letter comes, they are gone. In the rural industry that is a huge problem. Yet these people have quite good skills. Sometimes alcoholism is another problem attached to all that, and you are dealing with all these social issues in a small community. For people who want to work—there are a lot of unemployed people around Cooktown and Rossvale, of course—there are jobs there for them, but are they willing to do them?

CHAIR—As Sandy said, there are people who choose not to work. This might be a bit pointed, but what is your relationship with the regional certifying body? You have two of your members here. It might be hard to answer that, I suppose.

Mr Whyte—I am happy to leave the room if you want!

CHAIR—We are interested in the role of the regional certifying body. How have you have worked with the chamber in their role as the regional certifying body?

Mrs Neal—I do not use migration agents. As HR, it is my role to process all the paperwork, and without the regional body I do not think I could have done it. They—whether that is the administration girls or Sandy—are always there to help. They give me advice, if I need advice on what is happening, and keep me up-to-date. But the local office of the Immigration department here has also been very good with keeping us up-to-date.

CHAIR—You have received a tick; that is very good. I have a couple more questions. Firstly, new arrangements have been announced by the minister recently, with stronger sanctions, putting them into the same category as the Office of Workplace Services, and there are greater investigative and sanctioning powers et cetera. What is your view on that? Secondly, employers are required to guarantee private health insurance for people on 457 visas. Are you aware of that? What sort of impact has that made? These questions are to everyone.

Mr Geddes—On private health insurance, if I employ someone from the UK where there is a reciprocal arrangement and they can get a Medicare card, does that still apply in that case?

CHAIR—I am not aware of that, to be frank.

Mr Geddes—My understanding is that if they are from a country which has a reciprocal arrangement with Australia they can apply for a Medicare card, but if they are from a country where there is no reciprocation, then they definitely need private insurance.

CHAIR—I am learning on a daily basis, and I have just learned something.

Mr Geddes—I was worried for a while there!

Miss Banks—I have always had a Medicare card, but it is a different one from the one normal Australians have. It is a reciprocal health agreement only. If I were to be rushed to hospital in an

ambulance, mum and dad would get a bill for the ambulance but I would be covered for the emergency treatment that I required.

CHAIR—Well, I have learned about the reciprocal agreements. How about a Filipino worker?

Mr Geddes—They would probably need to have private insurance.

CHAIR—They have to have it under the newly announced arrangements.

Mr Geddes—We are liable if they do not have it; it comes back on us if they are in hospital. So we have just made it a rule that they have to have private insurance that covers them if they are hospitalised.

Mrs Neal—Immigration advised me that, even if they are on a working holiday visa and you are transferring them onto a 457 visa, the day you lodge the 457 they must be covered by private health insurance. So we cover everyone immediately.

CHAIR—That is good. There being no further questions, can I say that this forum today has been a very valuable interface with business and employers. I think the general consensus is that you are all quite happy with the system but that a little tweaking of it could be done and you would like us to take that on board. We have also received some very valuable information on local initiatives, such as using the working holiday visa to ‘suck it and see’, to be crude. But it probably is a good method of doing that. So I take it from you all that this is something you want to see continue, that you want to see the integrity of the system continue, and that this has been an initiative that has been very valuable to business in this region. That is a bit of a motherhood statement—

Senator PARRY—Can we record in the *Hansard* that there were lots of heads nodding in agreement? We cannot pick that up on tape.

CHAIR—That is right. Thank you for attending today’s hearing. The secretariat will send you a copy of the transcript for any alterations that need to be made. I would be grateful if you could also send the secretariat any additional materials you have undertaken to provide as soon as possible.

Proceedings suspended from 12.20 pm to 1.30 pm

KAY, Ms Gemma, Vice President, Filipino-Australian Affiliation of North Queensland

HAMILTON, Mrs Thez, Client Service Officer; Coordinator, International Women's Group; Migrant Resource Centre

CHAIR—Welcome to this public hearing. Do you have any comments on the capacity in which you appear?

Ms Kay—I am representing the Filipino community in Townsville.

CHAIR—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 houses themselves. 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 the submission from the FAANQ, and it has been authorised for publication. I invite you to make a brief opening statement if you wish before we proceed to questions. Do you have a brief opening statement?

Mrs Hamilton—As I said, the Migrant Resource Centre is not funded for any treatment of or any dealings with the 457 visa holders. But in situations where they walk in our door we cannot just send them away, because there is really no assistance on anything at all for the workers. They have nowhere to go. Because the words 'resource centre' are right in front of our office, they think we are the place to go. So we try our very best to assist them with the best knowledge we can. But there are some instances where we cannot really spend that much time because we are funded for dealing with our own clients, for which we only have limited staff as well. So we try our very best, but we just cannot do everything for them. There are a lot of things that happen where they just do not know where to go, so they always come to us.

Ms Kay—Where we fit in as an organisation is that we become like the safety net for these contract workers. As Thez said earlier, the Migrant Resource Centre are not funded and it is not part of their job to help these 457 guys, so we as an organisation are there to assist them as much as we can with whatever resources we have in the community to help these people.

CHAIR—That is your submission so far?

Mrs Hamilton—Yes.

CHAIR—We will proceed to questions now, unless you have anything else to say.

Mrs Hamilton—We are the Migrant Resource Centre. We are not dealing just with Filipinos but with all different 457 holders. The Koreans, the Chinese and the Filipinos are our main clients who walk in our door.

CHAIR—We will go to questions now, if that is okay. Gemma, you just said 'these guys'. Are they mainly males you are dealing with?

Ms Kay—Yes, mostly males.

CHAIR—You say ‘these 457 visa holders’. What sorts of occupations are you talking about?

Ms Kay—The occupations or the skills that we are talking about here are the auto mechanics, auto air-conditioning mechanics, spray painters, panelbeaters, carpenters, chefs—

Mrs Hamilton—Welders.

Ms Kay—welders, boilermakers and fabricators.

CHAIR—That gives us a good overview. You are saying that they are concerned about making complaints because their employment could be jeopardised—is that correct?

Ms Kay—Yes.

CHAIR—Or the status of their visa?

Ms Kay—They are worried about things they do not know about which could jeopardise their visa or their stay in Australia, yes.

CHAIR—You say that you have been in contact with about 100 of these workers. How many of them would be unhappy?

Ms Kay—I could cite two workplaces where a lot of people are not happy with the work conditions. Is it all right for me to name some?

CHAIR—Yes. Just let me, for the record, let you know that this inquiry has parliamentary privilege. As I read to you before, this committee has the same proceedings and respect as the House of Representatives and the Senate, so whatever you say attracts privilege.

Ms Kay—Okay. We have helped a group of carpenters who are working in Townsville in a construction company. The concern is that there is bullying at work. They have been called names like ‘reffos’, and they have been asking me, ‘What does it mean, being called “reffos”?’ I did not even know myself what ‘reffos’ meant, but someone told me that it is a short term for refugees. So I explained to them: ‘You’re not refugees. You are here legally. You were issued a visa, and your particular skill in the Philippines is recognised in Australia. It is not welcome in Australia for people to call you names or classify you as such, because you are not.’ Accommodation is an issue for them as well.

CHAIR—We will get onto some of these more specific details about complaints in a moment.

Mr LAURIE FERGUSON—Did you say initially that there were two employers and then only talk about one? Did you say two?

Ms Kay—I said—

Mr LAURIE FERGUSON—I thought you said you had two examples. There was only one, was there?

Ms Kay—I said there were two examples.

Mr LAURIE FERGUSON—You mentioned carpenters. What was the other one, sorry?

Ms Kay—Carpenters and welders.

Mr LAURIE FERGUSON—From the same company?

Ms Kay—Different companies.

Mr LAURIE FERGUSON—What is the problem with the welders, sorry?

Ms Kay—Accommodation as well.

Mr LAURIE FERGUSON—Thanks.

CHAIR—As I said, other members of the committee will have other questions of you. I just want to go back to the beginning, about the 457 visas and the 457 visa holders. On the sort of work that they have received their visa for: they were obviously happy to apply for these visas and they were happy with the conditions—or did they know the terms and conditions that the visa brought to them?

Ms Kay—I think what happened is this: they applied for a visa, but it is not actually them who is processing the visa; it is actually an agent, so the agent has a direct contact with the employer in Australia. It is the agent in the Philippines and the employer in Australia who are actually communicating. It is these guys' job to apply. It is the agent who is then going to process the visa application and everything. I could say that what has happened here in some cases is that there is a mismatch of the skill of the applicant and what the agent has told the employer in Australia. So when they come to Australia there is a mismatch of the skill of the employee and what the employer expected that person to do.

CHAIR—But can the holders of these visas do the work? Are they capable of doing the skilled work that they have a visa for?

Ms Kay—Yes. They said, 'We know the work.' I will give you an example of an auto mechanic. His job is as an auto mechanic. He applied for that visa. He was given the visa to come to Australia as an auto mechanic but when he came to Australia he was assigned to work in a forklift. So he was actually used as a forklift operator.

CHAIR—Are you aware that that is an abuse of the particular visa?

Ms Kay—Abuse? You mean—

CHAIR—It is an abuse of the use of that visa to employ them on one premise and then use them in another role. Does this particular person know his rights under these visas?

Ms Kay—Those guys are not aware, and we are not aware either. They learned that it is an abuse only after this person was sent home, because the feedback was that he was not fit to become an auto mechanic or he is not an auto mechanic.

CHAIR—So he was sent home?

Ms Kay—He was sent home after three months.

CHAIR—We might get you to give us that name privately, if you do not mind. I have received some advice that it might be better if you give us that name privately. We will be in contact with you, if that is okay. You can talk about the case and the person involved, but it is probably best not to name the company at this stage because it might have more of an impact on him currently. I will not dominate this conversation; I will go to Senator Polley and then other members.

Senator POLLEY—In your opening comments you said that there have been some issues relating to accommodation. Can you elaborate for the committee on the experience and knowledge that you have?

Ms Kay—We are not aware of whether, when Australian employers sponsor skilled workers to come to Australia, part of the recruitment is to provide them with accommodation. Some of the employers in Townsville are providing these skilled workers with accommodation. In Australia, if you rent a three-bedroom house, you pay weekly; it does not matter how many people are inside the house. What was happening to some of these guys was that there would be six or seven of them sharing the house and paying \$150 per head for a two-, three- or four-bedroom house.

Mrs Hamilton—That includes—

Ms Kay—Yes, but what I am saying is that they are not given the option to find other accommodation which they are happy to rent and about which everything is explained. Because they are new, they cannot ask for a private room to stay in.

Mrs Hamilton—They cannot say—

Ms Kay—It is normal in Australia. I do not think that it is normal to pay \$190 for a shared bedroom.

Senator POLLEY—Would you—again, in private—give us the name of the company that has organised this accommodation?

Ms Kay—Sure.

Senator POLLEY—From your experience and that of the people you have tried to assist, have any of those visa holders had their rights and conditions of employment explained to them or documented for them so they understand fully what coming out here on these visas entails for them?

Ms Kay—In my dealings with the 457 visa holders, there was no-one who was able to tell me that they were given a proper work induction or mentoring at work.

Mrs Hamilton—They are not really aware of the real contract that they sign. We know this because when the 457 committee of the Filipino-Australia Association tried to talk to the office and get together to assist them—again, as I said, we are not funded for that, but we are really the ones who could assist in doing that certain job related to what they are asking for—and we asked them if they understood this and that in their contracts, they said, ‘Oh!’ When we asked if they could show us their contracts, they would say, ‘I have not got a copy.’ When we asked them: ‘Where is your passport?’ they would say, ‘It is with our employer.’

I really do not know if the passport should be kept in the hands of the employer. As far as I know, if something happened, with the suspicion going on now all around the world, and if, say, they were walking down the road, they could be asked by a policeman or whoever: ‘Who are you? Give me your identification,’ and they would have nothing at all to show. I do not know the policy there. They were just some of the issues that came up when we attended the meeting.

We do not know the policy because we really have no idea what, under the 457 visa, the employers are capable of doing. So we said to the employees, ‘We will look into it and see what your rights are’—because we cannot say something that we do not know. I have been ringing people in Brisbane and Cairns because there are a lot of things that we just do not know the answer to and that the employees do not know the answer to. We have been working hand in hand with them and asking about it.

Senator POLLEY—Have the concerns you have in relation to what I consider to be very expensive accommodation been reported to the department?

Ms Kay—I have been liaising with the Immigration business monitoring unit and I have given them some information as to how these people are being treated and what they have been through at work. As a matter of fact, there is one place of accommodation that I have been to that might be suitable for a person in a Third World country to live in, but definitely not in Australia. The ceiling is falling in, the stove is not working and the floor is breaking down and you are scared to walk on it because you might fall through if it starts breaking. So it is not suitable for humans to live in.

Mr LAURIE FERGUSON—You said before that you had come across employers holding the employee’s passport and you alluded to international terrorism, security and those problems. I think one of the other issues is the degree of the employee’s independence if the employer is holding the passport the whole time. How prevalent is this?

Ms Kay—When we found out that some of the passports were kept by the employers, I told them that it is actually illegal for anyone to hold your passport, unless they ask you whether you are happy for them to keep your passport and you have given them authority to keep your passport. With some guys in Townsville, their employers are keeping their passports, but they have given consent. Others were not asked whether they were happy for the employers to keep the passports.

Mr LAURIE FERGUSON—Are you aware of any employers actually taking money out of people's wages for transport or for accommodation?

Ms Kay—Yes, I am aware of that.

Mr LAURIE FERGUSON—What else are you aware of besides accommodation?

Ms Kay—I am aware of a situation where employees are paying \$190 a week for a four-bedroom house and \$50 a week for one car which five of them have to share. When one of them challenged the arrangement he was kicked out, so he is back in the Philippines now. The night before he was about to leave I said, 'Has he paid you this week's wages?' He said, 'No, he told me that he is going to pay my wages on Friday.' But he was leaving on Thursday. I said: 'That's not the way to go. If he owes you money, you should get it before you go. When you are back in the Philippines, there's no way you will get your wages back. So you're not going without getting your money and you tell your employer that.'

Mr LAURIE FERGUSON—So this person's contract was still current when they were kicked out? They still had a time period?

Ms Kay—Yes, he was working but before he left his contract was terminated. He was given one week's notice that he was leaving.

Mr LAURIE FERGUSON—I understand how the Migrant Resource Centre is funded. How are you funded?

Mrs Hamilton—There is no funding. That is what they are working out now. If we can work together and get certain funding, we might be able to really handle the cases. As I said we are only funded for a certain number of clients and 457 is not on the list. In two cases out of 10, we cannot say no. It is so urgent that they walk in our door and say: 'This happened and I don't know what to do. Apparently I am to be sent home.' We then go through it and say, 'You can't be sent home unless you get a written note and what have you.' That is when we persist. We tell them: 'You have 28 days to look for a job. If you get sacked, you can look for a job for that length of time. It has to be the same job as you are doing now.'

Senator PARRY—Your submission appears to be a wish list. I do not want to be overly critical but it goes to a lot of things that you desire for Filipino 457 visa holders. What is different for Filipinos compared with other visa holders? For example, you mention things such as improved transportation. That is a fairly general thing. How is your ethnic group disadvantaged through transportation compared to other groups such as the Japanese, Chinese, Swiss, English or Scottish?

Ms Kay—We had an info session one night and asked the 457 guys to put up whatever they wanted to tell us. That was one of their comments. That is only what they think.

Senator PARRY—It is commentary.

Ms Kay—Yes.

Senator PARRY—So a lot of this we could disregard as being isolated just to the Filipino community simply because it is across the board?

Ms Kay—Yes.

Senator PARRY—I need to get that on the record so that the evidence is given the weight that is required. Some of the other things that you have mentioned are the orientation issues and there are a few references. In fact, I think you have doubled up a few times in that list on page 31 and 32 with orientation issues. Is it your direct evidence from people whom you have spoken to that there has been no orientation whatsoever given to any of the Filipino 457 visa holders?

Ms Kay—Yes.

Senator PARRY—Has that been reported to anyone?

Ms Kay—No.

Senator PARRY—Did you not see fit to bring that to the attention of anyone in authority?

Ms Kay—We mentioned it to Garry, who is from Immigration in Cairns.

Senator PARRY—Has Garry taken any action concerning that?

Mrs Hamilton—Yes. Every time we ring Garry, he does something. I am not quite clear on the orientation. The people who rock into our offices are not really aware of their rights and what have you. One instance I am aware of, from the meetings that we had with the FAANQ, is that a person arrived on a Friday and then on Monday they started work. A person coming from a different country, not being familiar with the place or how the boss will treat them, must have butterflies in their belly. They go to the workforce on a Monday and, if they were lucky to arrive on a Friday, that gives them two days to sort of refresh. They are picked up from the house they have been booked into or they walk into the office or workplace where they start on a Monday, not knowing anybody, not knowing the area—they would be very nervous—and then they are told: ‘This is your job.’ I cannot tell you the full details, but that is how we found it.

Senator PARRY—It is the same for any ethnic group starting work, arriving on a Friday or a Saturday and starting work on a Monday.

Mrs Hamilton—I know, but—

Senator PARRY—I am just looking for what is extra peculiar or what is different for the Filipino 457 visa holders?

Mrs Hamilton—It is not just the Filipinos; it could be the Chinese or the Koreans. What I am saying is that, from my point of view—and I have been here long enough—in any job that I go to, there is always two or three days orientation. Whether you are doing housekeeping, housemaid, or sales assistance in a shop, there is always a formal orientation.

Senator PARRY—Or it is ongoing.

Mrs Hamilton—That is right. It is like: ‘This will be how we deal with customers’; ‘I want you to do this’; ‘You have to be very efficient’; ‘In hospitality, you have to be very polite with customers’—that sort of thing. The way it was presented at the meeting, as I said, was: directly from the house, straight to work and start on the first day. They must have butterflies in their bellies. They are scared to ask questions. Because they are scared, they say, ‘Okay, Sir.’ So the employers could throw whatever at them, like: ‘I want this done in such and such a way’—I do not know the terminology. The person could easily say yes to please them and because they are too scared to say, ‘No, I have questions.’ In the Philippines, the employer could say to you, ‘Jesus, mate, I employ you. You are supposed to do the job.’ Because the person is afraid that will happen, they will not ask any questions. They will come home on the very first day so upset and stressed out. They will talk to their workmates and say, ‘Gee, I think I did the wrong thing. I’m sure I did the wrong thing.’ Whoever has been working there for a long time, would say, ‘You should have asked.’ But they are scared to ask. These are the issues that I saw.

Senator PARRY—Is this particularly a cultural thing?

Mrs Hamilton—Yes, it is a cultural thing.

Senator PARRY—There was another issue in your submission, and you just touched upon it as well. There was something about sport: ‘Workers want to know if sports injuries will jeopardise their job security.’ Again, everyone has that same problem. Any worker would have that same problem. Another issue was: ‘learning Aussie English.’ Do you mean Australian terminology—not so much as a language, but Australian terminology?

Mrs Hamilton—Yes, terminology.

Senator PARRY—You used the word ‘reffo’ earlier. It is a similar reference.

Mrs Hamilton—Yes.

Senator PARRY—On the surface, there does not seem to be a lot of complaint. I do not think you have really demonstrated that there is a lot of complaint that is peculiar to your workforce that cannot be remedied through the current procedures and offices that we have within the government system. Are things reported when things go wrong or are not quite right in the workplace? Are they reported to authorities?

Mrs Hamilton—The question here is: who is going to report? Who is in authority to report what they have been through? We could only report on what we know; we could only report on what they have told us. I ring Immigration about things that I know about. If there are some things that I need to know, I ask them: ‘What is the go here? What is the legal way of doing things? If someone is terminated, can that person stay in Australia? Is it standard procedure for an employer to give an employee a notice of termination?’ I was told that it is not standard; that it is not even necessary.

Senator PARRY—Do you get a positive response every time you contact Immigration? Do they answer your questions? Are they sympathetic towards you?

Mrs Hamilton—Yes.

Ms Kay—I am quite happy with the answers, yes.

Senator PARRY—So your avenue of complaint is quite well established, and you can use that if you wish to. Has anything been reported and investigated, with action taken against an employer?

Ms Kay—I think there has been some investigation going on. I am not aware if there has been a result.

Mrs Hamilton—Apparently—this is again from the FAANQ report to us—there are some workers who do not actually get paid because of the weather and what have you. That has been a problem. Just last week Garry was telling me everything has all been fixed.

CHAIR—When members of the Filipino community come to Australia, do you think it would be helpful if they received an information sheet in the language of the Philippines?

Mrs Hamilton—I think that would be a very big help, yes.

CHAIR—In English and in Filipino?

Mrs Hamilton—Yes.

CHAIR—And that is not happening now?

Mrs Hamilton—I am not quite aware of that. Most of the 457 visa holders that come are skilled. We have some nurses and engineers arriving now, and they have no drama with the English language. The welders, panelbeaters and what have you are the ones who have communication problems. Again, there is a cultural problem, culture shock. In the Philippines that sort of job is a low job. Carpenters practically salute to any supervisors on top of them, and say, 'Yes, yes.' There is no such thing as, 'No.' These are the people who are having problems with the language difficulty. But we get a lot of engineers and nurses from the Philippines coming on 457 visas now who have no problems with communication at all. It is not just the Filipinos who have problems but also the Koreans and the Chinese. Chinese mainly speak Mandarin. They find it very hard. They are scared.

I am handling a case now where some people, when they were sponsored by this company, did not ask if they could bring their wives. Now they see some of the people working with them on 457s who brought their families along, so they now want to bring their family. So they ask us, 'How do I go about it?' I say: 'Look, we can't do anything with that. You have to talk to your sponsors.' The other fellow who brought in his family was given accommodation for his family for the first two or three weeks and after that they had to look for accommodation. This man we are talking to has a wife and three kids, ranging from five to eight years, which is school age. The wife and the kids have no English. It makes it very difficult for this man to assist the wife to go out and look for help, because he is working on working days, from Monday to Friday. Luckily, this person happened to bump into some Chinese and these Chinese just brought their family to us. This person would like some assistance for the kids to be able to go to school, with no English at all. Had we not been there, where would these Chinese people bring this family—the mother and the three kids? They have to go to school. They have to learn English, because

their visa is for two to four years. It is not right for her to stay at home with the three kids; the kids have to be educated. So what happens to these people? They will have nowhere to go, so they come to us again. A little help—ringing the schools and what have you—is a big help for people who do not understand where to go and who to contact.

CHAIR—I hear what you say, and it is correct that you are assisting at a community level through your support group. But, for the record, children of 457 visa holders can attend state government schools.

Mrs Hamilton—That is what I am saying. We assist them. But for someone who cannot speak the language, who has no English, who does not know where to go and how to enrol, it is very difficult. These are the cases where it should be clarified by the sponsors. They should say: ‘This will be the case. We will be assisting you. We will have people helping you.’ Otherwise they could be stuck at home for the next two or three months.

CHAIR—That is the point we have made. I cannot say what our recommendations will be, but I would be surprised if one of the recommendations did not go to saying that all 457 visa holders, no matter what their nationality is, should receive, in their language of origin, an outline of their obligations, rights and entitlements, and the person employing them should receive one as well. That is something we are taking on board for all holders. The final thing I would like to say is: when you said that these people had to go home, it was not completed. If they were told they had to go home, did you know, firstly, that they had 28 days to find another sponsor; and, secondly, that the cost of their going home is borne by the person who sponsors them. I do not know whether that was the case. You might want to finish telling us the story. They obviously did not get somebody else to sponsor them. Did they get paid to go home by the person who sponsored them originally?

Ms Kay—I learnt a lot regarding the case of the first casualty of the 457 who was terminated from work. I was not able to help because I simply did not know what to do or who to call. When he was terminated he was sent home—

CHAIR—Can you stop there. When he was terminated, did he go and look for another sponsor?

Ms Kay—At that time we did not know that he could, so he had to go home. He did not have a domestic ticket. When I read the contract it actually said that, on his initial arrival in Australia, the employer should get him a return ticket, but that was not the case. I took him to the airport and, when I checked his ticket, he was told, ‘You have a booking but it’s not paid,’ and I said, ‘What is going on here?’ He had a ticket from Brisbane to Manila but no ticket from Townsville to Brisbane. My advice to him was to use his own money and buy his own ticket; otherwise he could not go. I did not know during that time that he could stay for another—

CHAIR—You have pointed out some flaws in the system that obviously need to be addressed. I am sure that your evidence to the committee will go a long way to doing that. Do you have any further things you would like to say before we conclude?

Ms Kay—I just want to give you a brief background as to why we think there are some problems concerning Filipinos who are here on a 457 visa. One thing that I believe is an issue

here concerns the clashes of expectation between employer and employee and the lack of awareness of employers of the educational level of the people who are here on a 457 visa. In Australia skilled workers do apprenticeships and are highly educated. They finish year 10 or year 11 and, if it is not their option to go to university, they then go to TAFE college to learn skilled work or a trade. In the Philippines it is different. If you are a carpenter or if you are a welder it is because you have no option; you specialise in things that are easy for you. When these people apply to come to Australia they are not aware that they are expected to communicate in English. Mechanics have to do reports in English. When customer surveys are done in the Philippines, it is fine because they speak the same language but in Australia the surveys have to be in English. Those sorts of things are issues. I believe that a lot of employers are not aware that the people they have are good workers. They are skilled in their particular trade but not as highly educated as some employers expect.

Mr LAURIE FERGUSON—You mentioned 100 people—and you might not be able to comment because your contact with some of those people might be very limited. With regard to your description about people who had very little to do with the entry to Australia—that it was essentially through middle people in the Philippines who organised the whole thing—how prevalent was that situation in respect of those 100 people? Was that how most of them came or has it varied?

Ms Kay—I would say that 80 per cent of skilled workers who are now working in Townsville came from one agent. There are also some loopholes that we learned about from accounts by disgruntled workers regarding how this particular agent is operating. She is an Australian citizen, she works for the government and her husband is also an influential person in the Northern Territory.

CHAIR—Would you give the secretariat the name of that agent?

Ms Kay—I will.

Senator POLLEY—I have a pet question in relation to site visits and whether or not the department has been to sites and spoken to visa holders. Do you think the Filipinos who are out here would welcome a site visit and feel comfortable talking to departmental people about their concerns, or do you think it would be a disadvantage?

Mrs Hamilton—We have organised that before. We invited Garry and a lady to come. We asked people to feel free to ask questions. If there was any language difficulty, I put it into words for them. They did get some answers. Some were a bit hesitant to ask questions, so I tried to explain to them that employment in Australia is very different from employment in the Philippines. I said: 'If you want to ask questions, you get up and ask them. It does not matter if you are in front of the president of the company. If you are asked if you have any questions, don't be scared or hesitant. Try to express your question in the little English that you have and they will understand you.' It is just that they are scared. So the Filipino 457 visa holders, the Migrant Resource Centre and immigration officers have had meetings. We have also organised meetings with people from the Taxation Office and what have you, just to let them know what things they should know about. They are very happy with that. Unfortunately, we cannot really target 100 per cent attendance because of transport problems.

Senator POLLEY—We heard some evidence this morning that perhaps the expected English language skills in regional areas like this might be too high. Would your view be that the better English skills people have when they come into this country the better opportunity they will have to understand the terms and conditions of their employment?

Ms Kay—I would say yes and no. Yes, because if they have a better understanding of and a better ability to speak English they could then make complaints or raise issues that they are not happy with. However, on the other hand I would say that it does not matter because, if you are injured or whatever and if your employer is unhappy with you, they could terminate you.

CHAIR—Thank you for attending today's hearing. The secretariat will send you a copy of the transcript for any corrections that need to be made. We would be grateful if you could also send as soon as possible to the secretariat any additional material that you have undertaken to provide.

[2.09 pm]

ARENS, Ms Natalia, Registered Migration Agent and Managing Director, LanguageHelp Pty Ltd (trading as ImmigrationHelp)

LANZA, Mr Frank, Migration Agent, Frank Lanza Migration Services

RYAN, Ms Fiona Margaret, Migration Agent, Migration Plus

SHIPWAY, Ms Carol, Private Capacity

VAN VOORST VAN BEEST, Mr Nicolaas Hendrik, Registered Migration Agent, Coral Coast Migration Service

WHITE, Dr Christopher Robert, Director, A-Counting Plus Pty Ltd

YOUNG, Mr John Preston, Private Capacity

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 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. I now invite you to make a brief opening statement before we proceed to questions.

Ms Shipway—We are basically concerned about the regional programs. Our major shortage is in occupations which, in our view, do not require the level of 4.5 on the IELTS test in order for a visa to be granted. That is our main concern because it is going to preclude a lot of people from applying, and therefore sponsors are obviously not going to be able to recruit the staff they need for a lot of positions they have on offer and cannot fill.

Mr Young—As an extension of that, we are concerned about the current waiting period for 457 visa holders, the requirement for an English test and the difficulty of applicants undertaking the English test overseas. These issues were raised in the submission by the Cairns Chamber of Commerce, and I endorse a lot of what they said. I am a bit surprised that an English test is being introduced on 1 July given that your terms of reference was to look into this. I thought you would be reporting back to government, but now it is being implemented on 1 July, which is a bit of a shock to all of us.

CHAIR—There are two parallel inquiries. There is our inquiry and there is a COAG inquiry—and we look like reporting before COAG. In addition to that, the department and the minister have had observers at most of these hearings. We have found that, as evidence has been given, the minister in particular and sometimes the department have initiated changes well before we report. I do not know if that necessarily reflects what you are saying.

Mr Young—The industry was asked to comment. The MIA has provided detailed comment and so has the chamber of commerce here. I do not think enough has been taken into

consideration in terms of the regional area, including the need for skilled workers in this area and the fact that a number of restaurants employ Greek chefs who cannot speak English but can converse with their employers in terms of health, safety and other matters. So why is there such a requirement to have English? Why do we not have some waiver provisions either through the regional certifying body or through Immigration allowing waivers in an area where there is such a shortage?

CHAIR—We will shortly talk to you about the evidence that has been given on that.

Ms Arens—I have prepared a little speech. It reflects exactly what the other migration agents have said, which I think is a concern for all of us here. I know that the minister has said it is a privilege for an employer to sponsor overseas employees on temporary business visas, but we in Cairns consider it a necessity due to the uniqueness of Cairns. You have to understand that Cairns is special. We have a major export market here, the tourism industry, and 40 per cent of that market comes from Asia—Japanese, Chinese and other overseas visitors to Cairns. Basically the industry here is catering for them.

It is a well-known fact that the tourism and hospitality industry is affected by the skills shortage and has been for many years. You only need to turn on the television to see that every single island resort and remote location in Queensland is trying lure young Australian employees to come and work in those destinations. They are begging them: ‘Come and work. We just don’t have enough staff here.’

Another factor affecting the skills shortage in this region is the boom in the resources sector. For instance, it is drawing a lot of skilled workers away from the agricultural sector to work in the mining industry—for example, mechanics, diesel fitters, and so on; the list goes on. So the agricultural sector is struggling as well.

There is also obviously an ageing population in Australia. No matter how we would like to wave it away and say we will be okay, unfortunately we do need skilled employees in Australia, and immigration is obviously the way to go—unless we are going to have more children. I already have three, so I have already contributed to the population of Australia.

CHAIR—Well done!

Ms Arens—Thanks. I am from a non-English-speaking background, so I am very sad to see that the English language requirement has been brought in—out of the blue—for this particular visa program, because 457 visa program participants were coming here to find out about the Australian way of life, build up their language skills, share their own skills with Aussies and have the English language around them 24/7, which they cannot have in their own country.

Cairns is unique because it relies on the tourism industry and we—Cairns residents—are kidding ourselves if we think we can survive without it; we cannot. We only need to look back at the pilots strike, the Asian crisis, September 11, SARS and the fall of Ansett. This town was empty because we just did not have the Asian tourists here. I am sorry, guys, but that is true. The economy of Cairns thrives on overseas tourists, especially those from the Asian markets such as Japan, Korea and China and those from the European markets—Germany, Italy, Russia—and

many other non-English-speaking countries. They travel across the world to come to the Great Barrier Reef and our ancient World-Heritage-listed rainforest.

Cairns relies on having employees with the highest skills, and non-English-language skills too, because of the visitors we service here. These include hospitality workers, dive instructors, chefs, cooks and holiday representatives, just to name a few. These employees work very hard on a daily basis to generate export dollars for Australia and they share their skills with Aussies.

What would Cairns be now if the Italians had not made the sugar industry here? They did not have English-language skills in the 1920s, and yet they could deal with occupational health and safety issues, if that is what the issue is. From my experience, a 4.5 IELTS score is a relatively difficult mark to pass if you consider that the applicant is tested on four things: writing, speaking, understanding and listening. I would encourage all Australians to sit that test. You would be surprised how many Aussies would not pass 4.5, because some of them cannot read and cannot write. I know this because I have provided the interpreters to transcribe exams for building industry workers because they just do not read and write. But they do work.

I understand the issue at stake here for occupational health and safety. How can a person from a non English speaking background alert emergency services in case there is a fire or a person drowning on a reef or a person having a heart attack in an Indian, Italian, Chinese, Thai, Greek or Vietnamese restaurant—

CHAIR—That is a lot of heart attacks!

Ms Arens—Okay, but how did the Italians and Punjabis who built the sugar cane industry, who I have already mentioned, alert emergency services? How can those Australians who can speak English but cannot read or write it be on a construction site if they cannot pass IELTS? Do you understand the issue here, if the question is occupational health and safety? For me, it is an excuse. Occupational health and safety equals English language requirement 4.5 IELTS. That just does not stack up, I am sorry.

I believe that our unique region will suffer greatly if we do not have a waiver on English on the 457 visas in place. We would have to say no to Chinese, Japanese and other cuisines—and, by the way, most authentic chefs cannot write English. They might be great chefs and great cooks, but they cannot write English. I agree that we must train young Australian chefs to cook Chinese, Japanese and Indian cuisines, but the cuisine will never be authentic. This is just one example. I am sure a lot of employers in the region will agree that English language is not an issue if the person can work well and use and share their skills.

Let us look at the example in reverse. Yesterday there was an ABC program—it was fantastic—on Australian forces in Afghanistan training Afghanis in carpentry. Do they know the Afghan language? I do not think so. Would they get an Afghani IELTS score of 4.5? They would not. But they can use their skills to train Afghanis in carpentry so that the trainees can develop their own skills. It is the same thing in reverse here in Australia. If somebody is a great chef or cook, or if somebody is a great agronomist, they can show Aussies how to apply those skills here in Australia.

I believe the announcement that the English language requirement will take effect from 1 July was a little premature and unnecessary in the case of Cairns, which, of course, is in the immediate region. I propose to deliver our concerns to the minister and the government and ask them to allow waivers of the English language requirement, especially in regional Australia and places like Cairns. These waivers could be certified by the original certifying bodies, which are gazetted by the minister, as they are aware of the skills shortages in those areas and of how unique those areas are. Cairns Chamber of Commerce is the certifying body in Cairns and that would be a great organisation—a respectable organisation—to certify those waivers.

What would be wrong with allowing applicants and sponsors in regional Australia to substitute English language testing upon arrival with commencement of English language study? People could bring their skills and they could study here, after-hours if they had to, to build up their English language skills. Just imagine a person in the middle of China. He has to go and get his IELTS done on the other side of the country so that he will be able to come to Australia. What about those people in the centre of Russia, the Yakuts, for instance? You have to buy an airline ticket to Moscow to sit an IELTS test. It is impossible. It just does not stack up. What would be wrong with allowing sponsors to create occupational health and safety manuals in languages other than English and conduct occupational health and safety training workshops in languages other than English?

Having come from a non-English-speaking background, I am simply in despair. The skilled employees from non-English-speaking backgrounds bring so much to this vibrant city. They work very hard to make this city, and Australia, prosper. They bring authenticity that we cannot create by instilling it in young Australians. They bring their skills with them and share those with Australians, even in English at less than 4.5 IELTS. These employees make our visitors welcome, as they speak their language, and that is important to Cairns. I am sure that everybody in Cairns would agree with me on that.

CHAIR—That was a great bit of feedback. We will come back to some of the specifics shortly. Frank, do you wish to make some remarks?

Mr Lanza—My concerns reflect what the chamber of commerce has already submitted to this committee. I contributed some ideas for that submission. I share the concerns expressed by Natalia about how IELTS testing will affect applicants here in Cairns, in particular how it will affect the local businesses. We are an economy primarily based on small businesses, and an enormous portion of that relies upon tourism, so I think that will have a profound effect on our economy. My other concern is the salary level, but I understand that there has been ample discussion of that this morning. I am willing to answer any questions you have.

CHAIR—Thank you. Fiona, would you like to say something?

Ms Ryan—I also have a concern with the minimum wage increase, especially for semi-skilled occupations. The minimum of \$37,665 with the regional certification is not justified for the semi-skilled positions in that in some of them the award wage is lower than the set minimum. I share Natalia's concerns about the English levels. I was shocked that this has come in. I think 4.5 IELTS is very difficult. I lived in a regional area of China for two years and it is very difficult. They do not have access to the resources. They have reading and writing opportunities but the speaking opportunities are not there. We represent a lot of Chinese restaurants, which bring

skilled chefs across. It is very difficult for them to have the 4.5 level IELTS. But they are very skilled and they are transferring their skills across to Australians. I think the English level is going to have a huge impact on it.

CHAIR—Dr White, do you want to add anything to what you have already said?

Dr White—No, other than to say that we have been advising Cairns businesses for over 20 years and have seen the transition of various visa classes. We call Natalia ‘Natasha’, so if you hear ‘Natasha’ it is referring to Natalia.

Ms Arens—It is my diminutive name. That is the beauty of being from a non-English-speaking background: not many people know that Natalia is actually the full name for Natasha. Trying to prove it to the immigration department was a bit difficult. It is the diminutive of Natalia.

CHAIR—You do not mind if we call you Natasha?

Ms Arens—No. Natalia is good, too. It is one name, but a lot of people have an issue with it.

CHAIR—What is your background?

Ms Arens—I am originally from Russia.

Dr White—I rather thought Natasha might get a standing ovation there for a moment, because she is saying things that a lot of us are thinking and she has put it forward very eloquently.

CHAIR—I agree with you.

Dr White—It is the fringe that we are looking at here. The 457 system works pretty much fine with the bigger businesses and the midrange businesses. It is the small and microbusinesses—the small end businesses—and the tourism businesses that are most affected by these changes. That is where my concern lies particularly.

CHAIR—John, waiting times are a universal expressed to this committee so far. You can rest assured it will be part of our recommendations. The evidence taken has made it quite clear that waiting times have blown out and this is causing a lot of problems not only for people such as yourself but also your clients and the businesses they are going to. I suspect we will be making some pretty strident observations and recommendations on that.

Mr Young—Brisbane has 3,000 applications at the moment. That has caused a blow-out in delays. It is three to four weeks even to initiate a case officer.

CHAIR—Do you believe that is the resourcing of the department or is there is some other ulterior motive?

Mr Young—The processing was always very fast from Brisbane. Certainly occupations in demand were treated very quickly. Other occupations were put down a bit. We were getting approvals very fast, but lately, no. There must have been a huge influx of applications.

Ms Shipway—I received an email from a departmental officer saying they had had an increase in the number of applications but they had not increased their staff numbers since 2005.

CHAIR—So it is a resourcing issue.

Dr White—This might be linked to Brisbane with the 457s. Six months ago we were getting a turnaround of two days to three or four weeks on eVisa—electronic applications—for 457s. It was absolutely excellent service. I think everyone would agree with me here that the people in Brisbane are very cooperative and offer a lot of assistance. But there have been a lot of staff changes and there are new people in the office. They are receiving training but they are not fully trained at this stage. They have had a number of departures and it is just a total work overload. I think that is where the problem lies. It is not a lack of cooperation from the department—unless anyone has any other cases? We have had a great relationship. They are great people who try to help. They just do not have the resources to adequately cope at the moment. It is not an endemic thing. It has not been there for a year or years; it is a fairly recent thing—probably the last six months.

Ms Arens—Having obviously come from the former Soviet Union originally, I deal with a lot of countries of the former Soviet Union. They all speak the Russian language, so they tend to approach me easily in that respect. I have noticed that the delays are from the countries that have some kind of security issues on a different level, say, to the departmental level of the immigration department. So the delays I have noticed with some of the 457 visa holders that go well above six months—nine months in a particular case—are due to the delays that are created by another department, which the department of immigration is not disclosing, that deals with the security issues.

CHAIR—That is a good comment.

Ms Arens—It is not the department of immigration that is delaying the process. They have done all the ticks. They have ticked all their boxes and they are happy to grant the visa subject to the security clearance on the 457.

CHAIR—I suspect it is the offshore post quite often that is required to give accreditation.

Ms Arens—It affects even those that are currently onshore.

CHAIR—If that is not picked up, I will deal with it at the end.

Mr LAURIE FERGUSON—You say that people on building sites seem to manage, despite problems with language. We might have different standards. For me, the fact that one worker in the building industry in this country dies every week might indicate he is not completely happy there. I put to you that maybe the department did not move towards this English standard for fun or because they walked down the road one day and thought it was a good idea. I put to you that it might reflect some of the evidence from previous witnesses, because you are not the first to give evidence. Whilst you have your side of the debate—and I understand it very much; the niche market of restaurants and catering is probably well understood by us—the alternative is a group of people who come to this country lacking basic English skills, lacking nuances of the culture, not knowing where they can complain and in some cases having very little access to forms of

complaint. What is your response to that other side, which has probably driven the department to look at this?

Ms Arens—The complaints affect not only overseas skilled employees; they affect those from non-English-speaking backgrounds who live in Australia. Most of the government departments have developed multilanguage materials for lodging complaints. I do not see the problem if this information can be made available to these particular overseas skilled employees in their own language.

Senator POLLEY—The problem that is coming forward is that, if those coming from overseas do not have English language skills, they are not getting the information in English and they are not getting it in their native language either.

Ms Arens—That was discussed at a meeting with the chamber of commerce and a regional representative from the Department of Immigration and Citizenship here in Cairns. There is some debate going on that there should be improvements to the monitoring of the 457 visa holders. We discussed at our meeting—and some of the migration agents will agree—a formal letter upon arrival. The department of immigration know when the client comes onshore, because they can see it on their computer system. Perhaps there could be a program or a code that could be written so that, once the person comes onshore, within two weeks a monitoring team can contact the employer and the person who came onshore. Even a posted pack in the applicant's particular language could be delivered to the applicant—as part of the increased monitoring in this area. For instance, the Cairns office do not do that; they just do monitoring. For Cairns, this could be a unique solution.

Mr Young—Mr Ferguson, I agree with some of your comments, especially about building sites. In my opinion, it has not been very well thought through. With regard to the issue of English in such places as restaurants, where you need highly qualified chefs—an example is a Greek restaurant here in town—

Mr LAURIE FERGUSON—There is one Greek restaurant that is going to get a good run! It is actually in the submission.

Mr Young—It was in the paper as well before you guys came, because we wanted to try to beef it up a bit. It should have been worked through properly to look at the issue of the businesses, because the primary concern here is the survival of business in the Far North and being able to bring in skilled workers. There are so many that need to have the overseas skilled workers. They can still communicate in the Japanese restaurant, the Greek restaurant, the Chinese restaurant and so on, but I do accept what you say about building sites.

Senator POLLEY—But how do they assimilate into our communities?

Mr LAURIE FERGUSON—I want to speak for the department. I think another thing that has driven this is the perception that people who came in through two- and four-year visas had expedited processing for permanent residency—and the growth of the number of people getting permanent residency.

Mr Young—I believe that the regional certifying body, as we put up in the past, should be the people to monitor and to make sure that the applicants have enough material before them. Immigration can come later and do monitoring, but the RCB should be able to do all the conversing with the applicants, if they are from non-English-speaking countries, and advise them of their rights, health and safety regulations, and so on. Then, sure, the employers can sign off on the undertakings—the employees have already signed the undertakings—to make sure that health and safety regulations are implemented.

CHAIR—I am not sure that the RCB would have the resources to do that.

Mr Young—It may not—

CHAIR—Particularly language resources.

Mr Young—but it is a better solution than the one we have.

Senator POLLEY—From the evidence we have heard, most visa holders come for four years and then many of them want to stay on. How do you help them to assimilate into our society if they do not have an adequate level of English language skill? It is more than just what happens at the work site. As to the incidence of dismissive comments about health and safety, you will find in my home state that, in a number of industries, a lot of Australian workers have been put off because they do not have adequate reading and writing skills. That is a poor reflection on us as a nation. I do not see that as an excuse, because the reality is the evidence that we have heard—that is, there are problems with health and safety for people who do not have adequate English skills.

CHAIR—That is the other side of the argument.

Ms Shipway—At the moment, we are focusing on Cairns and the restaurant industry or the tourist industry. Regional Australia is a very huge part of Australia—the whole of South Australia, including the city, and all the regional areas—and it has been government policy, as I understand it, to create programs to attract people to the regional areas. I do not think this is just about Cairns; I think it is about the whole of regional Australia and building on that. That is my first point. My second point is that there is a huge range of occupations and varying levels of health and safety. My third point is that, from my experience, people with a level III or under can still communicate. They have been here for six years. They can assimilate into the community quite well. My next point is that there are obvious pathways to permanent residence. Currently, the 4.5 level for the regional programs for permanent residents is in place. So it would be assumed that, if people come here and work on the temporary business visa and then follow that pathway, they would know that they would have to pass their English when they apply for permanent residence. They are doing that while they are working here.

CHAIR—Some of the intention of the previous evidence has been that, rather than require this level of English before people get here, by the time their visa has finished, they would have that level. That is not currently the situation. I find what you say to be true. The recent legislation about the English test for new migrants does not require them to have it until they apply for permanent residency. It is interesting that you raise that, because it does not seem uniform.

Ms Arens—I have just printed out an ASCO for a carpenter, for instance. To nominate an occupation, you have to have some kinds of requirements. At the moment we are on the ASCO code. Most of the building occupations, especially in Queensland, require licensing. To get to the licensing, you have to have English higher than the 4.5 IELTS score. Mr Ferguson, if you are talking about other states where licensing requirements might not be needed, perhaps that would apply—but not in Queensland. I have not come across an occupation in the building industry—my colleagues might correct me here—where a person did not have to have a licence to be on a construction site. To have a licence, you must have English. So the issue of the construction site in Cairns just does not work.

Mr LAURIE FERGUSON—I am not debating the skill level of building entry. It is just that before you said, ‘In the building industry in general, people work there and blah, blah, blah.’ I only refer to the building industry from the point of view of safety in this country. Language problems in this country are part of the reason why one person a week is dying.

Ms Arens—The engineer who does not have English skills cannot get a licence to practise as an engineer. It basically goes with the licensing requirements. If the 457 requires skills recognition for the clients to come here, onshore, for the licensing requirement, why not have that? That would solve an issue if they need a licence, of course.

Mr Lanza—I would like to make some comments. I appreciate Senator Polley’s comment about assimilation. May I say this: if knowledge of English language is a measure of the worth of a person then perhaps Einstein would never have made it to the USA, yet he was able to live there and be assimilated and contributed with what he did. As far as the safety aspect is concerned, let us not forget that safety is more the employer’s responsibility than the employee’s responsibility. There are cases where, in effect, the employer would be remiss in his responsibility if he did not take this into consideration in a different context. For example, we have operators who do scuba diving or skydiving for tourists. If we had an instructor who could only give instructions to those tourists in English, they would be placed at great risk. Instead, we want Japanese or Korean speakers who say, ‘Hey, do you understand what I’m telling you? You shouldn’t be doing this. It’s too dangerous; you might die.’ In fact, we had cases in which people died. So I think we should take that into consideration as well.

CHAIR—You make a good point. Senator Parry has not had much of a say!

Senator PARRY—I will not ask questions—we are out of time—but I need to correct—

Mr Lanza—Perhaps I should say this: I do not mean to push my own cart, by any means, but I came to this country when I could not speak English. Now I am a barrister; I graduated. I came to this country when I was 23 years old, without English. I think I have contributed somehow to this country.

CHAIR—Absolutely.

Senator PARRY—Mr Lanza, I just need to take you to task: it is not an employer’s responsibility. An employer has the obligation to provide a safe workplace. An employee has an obligation to work safely and obey lawful directions. If an employee cannot comprehend English or safe instructions, then we have a dilemma.

Mr Lanza—I could not agree more.

Senator PARRY—I am leaning towards the fact that there may be a need for an exception in some circumstances, but there are only two categories that I could find, basically from the evidence presented today: the tourism industry has some unique issues in relation to interpretation; and also the restaurant industry has some issues in relation to quality, genuine national chefs of origin.

CHAIR—Speciality chefs.

Senator PARRY—But I think it ends there, provided some occupational health and safety issues are implemented within that. I agree with other evidence presented today that the best way to learn English is to assimilate into a country that speaks English. There may be a need for us to examine that issue. But that does not excuse the issue that we must look after employees and employers in relation to occupational health and safety. That is something we need to overcome. We are out of time, so I will not pursue it any further.

CHAIR—Dr White, do you have a closing word?

Dr White—Senator Parry, could I just ask you to keep in mind the remote and rural farming community regarding those exceptions because they are a special case outside the norm, I think.

Senator PARRY—Yes. Thank you.

CHAIR—We are out of time, unfortunately. Your contribution has been very worth while. Thank you for attending today's hearing. I would be grateful if you could send the secretariat any additional material that you have undertaken to provide as soon as possible. Thank you.

[2.46 pm]

McCONAGHY, Dr Bruce James, Chief Executive Officer, Advance Cairns Ltd

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. I invite you to make a brief opening statement, if you wish, before we proceed to questions.

Dr McConaghy—I am probably going to cover things which have already been said by 20 other people, but let me put the position from Advance Cairns's point of view. Advance Cairns is the peak economic development agency in tropical North Queensland. It will therefore come as no surprise that migration and the 457 visa program are matters which are high on our agenda. To put my comments in context, the committee might note that this region is currently experiencing rapid economic growth and, like many other parts of the nation, is suffering from a lack of skilled tradespeople. It would be fair to say that the shortage of workers extends across virtually every sector of the regional economy and that the problem is increasing in magnitude as labour moves south to large, high-paying mining projects.

The skilled migration program and migration generally are essential requirements for this region. The program, however, suffers from a number of deficiencies, to which I would like to address my remarks briefly. While the 457 visa system is not intended to be an avenue for accessing cheap labour, and nor should it be, the reality is that in this region the minimum salary requirements make it a very expensive option. Salaries in the region are about 75 per cent of the average of those applying in capital cities and the major conurbations. The prescribed regionally adjusted minimum salary level is in many cases above that applying at the individual enterprise level. The consequence is that employing skilled labour under the 457 visa scheme ceases to be an option, or, in many cases where labour has to be acquired, there develops a resentment among other employees who feel that they are being underpaid. Where profit margins are tight and competition is strong, businesses cannot resolve this latter issue by increasing compensation generally. Often, from what I have been told by businesses, the consequence can be a decline in enterprise productivity and a decline in profitability. Taken to its logical economic conclusion, the long-term outcome of this dynamic would be the closure of the business altogether, but of course employers do not allow their businesses to reach this endpoint.

Nonetheless, the system needs to be adjusted to provide for equity at the enterprise level. Ideally, one could legislate for compensation under the 457 visa to be at the arithmetic mean of comparable jobs. But, in the absence of data and a verification process, this is not feasible. Notwithstanding, the essential requirement is for individual employers to be able to access skilled migrants on terms which are appropriate at the enterprise level but do not represent exploitation. With a monitoring regime already in place, this should be readily achievable.

I will comment briefly on three other issues. The first is the processing time for applications in the region. I have been told by some businesses that they experience an eight-week processing time for applications in situations where their need is immediate and for a very short duration. In

cases where these conditions exist, a more flexible, largely self-regulatory regime should be available, since the duration of the need would necessarily curtail abuse of it. From my vantage point, I cannot see any significant downside in adopting such an approach where urgency is the driving factor.

The second issue is the need to accommodate situations where skilled workers are required for only part-time activities. Where eligible activities are involved, there needs to be a pooling arrangement which allows the sharing of skilled migrant services across a number of enterprises. I would recommend to the committee that labour hire companies be permitted to fulfil this role, where they pay the appropriate salary and are bound by all the monitoring requirements that apply to any other employer.

Finally, I would like to suggest that exemptions on the English language requirements be provided to enterprises where communication is effectively in a language other than English. There is a need to ensure that workplace health and safety standards are maintained—for the benefit of the employee and for the benefit of the employer. However, in situations where a language other than English prevails and employers are fully apprised of their duty of care to the employee, there seems to be little merit in having the English language requirement.

I have tried to cover a multitude of issues with as much brevity as possible. I hope my observations are pertinent to the committee's inquiry. I am available to answer any questions you might have.

CHAIR—The issues that you have raised do reinforce much of the evidence given here today in Cairns, and previously, but they particularly relate to the regional issues that have been highlighted in Cairns today. Would you agree with one of the previous witnesses, who said that this is something that should be taken on board for all of regional Australia—not just Cairns and North Queensland?

Dr McConaghy—I think so. The conditions in regional Australia are quite different and separate from those in the major population centres. However, I think that we have to recognise that different parts of regional Australia have different conditions. If we are trying to get reasonable compensation, it needs to be region-specific. For example, the average level of wages and salaries in Darwin is much higher than in Cairns. I do not know that one size fits all. I think it has to be tailored to the specific requirements of each place.

CHAIR—How do you administer something as flexible as you are advocating?

Dr McConaghy—The data on the salary bases is available. The ABS has it, albeit with a delay. And I think you do it on a region-specific arithmetic basis. I think it can be done. With agents in each of the centres, I would imagine the department would know what the appropriate base for each region would be.

CHAIR—So would you suggest it be done by a government agency such as the Department of Immigration and Citizenship, or are you suggesting it might be done by a regional certifying body like the one you have in Cairns?

Dr McConaghy—I would prefer it was done by the regional certifying body, like the one we have in Cairns, but I have to say, from my knowledge of bodies around Australia, that I would not think they would all have the same level of skill and merit.

CHAIR—So that creates a further dilemma.

Dr McConaghy—It is a further dilemma but that goes back to the choice of the regional certifying body in the first place. If a uniform standard of capacity and ability were applied across the board to those bodies, then the subsidiary problem would not arise.

CHAIR—I have said I will go to Senator Parry next, so I will come back to some of my own questions later.

Senator PARRY—Thank you, Chair. Dr McConaghy, just on that last point, wouldn't a regional certifying body have a vested interest in marrying a wage, maybe lower? I am just being devil's advocate on this, because I can see regional bodies would have a greater vested interest in, if you like, manipulating and weakening the strength that the MSL currently provides.

Dr McConaghy—I think there are two responses to that. Firstly, I think the unions would have something to say about that. Secondly, the monitoring systems that are in place would pick that up fairly quickly. The temptation might be there, and I acknowledge that, but I would hope that if you had regional certifying bodies with the integrity of the local one here, it would not be an issue.

Senator PARRY—I suppose I am declaring a bit of an interest here, in that I feel that that is a better method than the current MSL; it is just the administrative wrangle that you would have with that. If it were administered nationally, and with local input, then would it be indexed from then on or reviewed on a wholesale basis?

Dr McConaghy—I think it would have to be reviewed on a wholesale basis because there is no uniformity in the changes from region to region. The dynamics of regions change dramatically and, whilst today in this region salaries might be 75 per cent of those in, say, the south-eastern corner of Queensland, that is not to say that, with new development here, that dynamic would not change. So I think you need a wholesale review periodically to make sure that you are achieving the objective of the program, which is to get people at a fair price without it being an undue burden on enterprises.

Senator PARRY—Would you consider an annual review to be sufficient, or do you think it would need to be quarterly?

Dr McConaghy—I do not think it would need to be quarterly. I think that would be cumbersome and actually rather pointless, because wages do fluctuate from time to time. A quarterly snapshot does not reflect trends. In fact, I would think you would be looking at more than a year because trends emerge over a period; they do not emerge quickly.

Senator PARRY—Thank you. And with the exception for English—something on which we have had a fair bit of discussion today, and here more so than in any other area where we have received evidence—how would you propose parameters for discerning whether this group of

people, or these particular people within this group, do not require English? I think the words used earlier were, 'where it could be proven', I think, 'in their own environment where English was not critical for their day-to-day operation'. That is still fairly broad. Would you narrow it to occupational sectors, or would you come up with some form of definition that would clearly articulate what the parameters were? Or would you just leave it open to discretion?

Dr McConaghy—No, I think it should be enterprise-specific. I think it should be incumbent on the enterprise to demonstrate that the predominant language is other than English. I noted the comments earlier about the building industry, and I think it would be fatal to have exemptions that applied to an industry such as that and, indeed, to an industry generally. But if you had an Italian building company where everyone spoke Italian, then I would see no reason why that enterprise should not be exempted.

CHAIR—Or a Greek restaurant.

Dr McConaghy—Or the famous Greek restaurant. But I would shy away, and I would urge you to shy away, from industry-wide exemptions because that is a recipe for disaster.

Senator PARRY—So not occupational specific—but?

Dr McConaghy—But enterprise specific.

Senator PARRY—Thank you.

Senator POLLEY—In relation to the classifications currently available for 457 visas, evidence was given at other hearings that we should be looking at introducing lower skilled jobs. Is that something you would support for your area?

Dr McConaghy—Very much so. In this region we have labour shortages right across the board, and I think anything that will entice labour into this region is a plus.

Senator POLLEY—We have heard a lot of evidence about the restaurant and hospitality industries; an argument could be put that part of the problem in attracting people to those industries is the low pay, and that is why there is a need to have 457 visas. We hear constantly about the mining boom, but not everyone is working in the mining industry. Couldn't the lack of attractive salaries in fact be part of the problem for a tourism area like this?

Dr McConaghy—My members will probably slaughter me for saying that is part of the reason, but the salary level is an issue. Traditionally, the tourism industry has been able to get by with lower salaries because of the amenity of the area in which the jobs exist. There is an understanding that if you work in Cairns you have plenty of time to go to the beach or the reef, or to go scuba diving or whatever. There comes a point where you need to pay more to attract staff but I have to say that, whilst we are probably at that point, in my own enterprise, attracting skilled staff by offering more money has not worked. That is of particular concern to my members. So I think there are two issues at play here: one is the tourism industry, which is a case in itself, but there is also the broader issue that almost no amount of money will attract people here while there is a shortage of skilled labour in other centres as well.

Senator POLLEY—What do you see as a long-term solution for the area? Is it in education and training and ensuring that future Australians are bilingual? Would that help in the longer term?

Dr McConaghy—I think that, as a social policy, encouraging bilingual capabilities is desirable. I do not think that it is employment related. The interesting issue is how long we can possibly run the country on a 457 visa scheme. The answer is that you cannot sustain that, because competitive advantages change, cultural issues become important and social cohesion can be threatened. The only answer is that we have to train people ourselves. To the extent that we do not have enough people, Peter Costello has suggested that people undertake one course of action. It probably will not produce the outcomes that we need in the time frames that we need. I think that it goes to the heart of the broader migration issue—that is, the numbers will have to increase.

If you consider that this region, tropical North Queensland, has more people than the Northern Territory and has one very valuable resource in abundance—that is, water—it is easy to predict that the population is going to move into this area and that it could, with irrigation on the tablelands, become an exporter of food to countries like China, which is my goal. To do that, you need a vast amount of labour—and it not all skilled labour. A lot of it is unskilled labour. The basic fact is that the country is not producing enough people to achieve that outcome. Somehow we have to get a system in place so that we can achieve that outcome.

CHAIR—I hear stories about the use of and the employment opportunities for Indigenous populations. Do you see that as being a potential source of semi-skilled labour?

Dr McConaghy—I would think so. There needs, though, to be a will on the part of Indigenous people to enter into skills training. I am fearful to say it, but I think, as with the unemployed, there are the wrong drivers in place to achieve that outcome. I will move to the unemployed, because it is a slightly less touchy issue. I think there are a number of people who are unemployed who are not capable of being employed. But I think that we have the wrong social welfare system in place to put the right drivers in there to get people to work—the people who are capable of working. So I think there are fundamental issues underlying that.

The same applies in the Indigenous community. Where I think employment is going to be generated there is not in the semi-skilled or skilled labour market but in the Indigenous businesses in this region where there is so much potential to be tapped. This is anecdotal, but I had a discussion recently with a person who was representing a business in Okinawa. He was talking about the spiritual values of the residents there and how aligned they were with the spiritual values of our Indigenous population. I immediately detected that there was a business opportunity there. I think it is going to be those sorts of opportunities that will help Indigenous Australians and not the broader industry.

CHAIR—Dr McConaghy, in relation to the issues that you have raised on behalf of this region in terms of future demographics, you seemed to come to the conclusion that migration continued to be the only plausible outcome. Am I correct in interpreting it that way?

Dr McConaghy—I think the growth in the region is going to occur at two levels. One is going to be by migration from outside the country and the other is going to be by migration from

within the country. If I were a farmer—and thank goodness I am not—down in the Murray-Darling Basin, I would be seriously thinking about buying some land on the tablelands where there is water and where there is going to continue to be water rather than hope that there is not going to be another 10-year drought down south. So I think there is going to be a flow of population to where the water is, and I think we are going to need migrants to support the growth that is possible from that.

Mr LAURIE FERGUSON—I apologise as I was out of the room when you spoke about the demographics. Returning to Sandy Whyte's submission, he said that the chamber had a four-pronged policy with regard to what they were doing. Despite him not mentioning that it occurs, do you have a loss of young labour as well to Brisbane or is there no real problem in that sense? Do people leave town in a big sense?

Dr McConaghy—It is a huge problem, and it affects the community in two ways: one, it causes a shortage of labour and, two, and more importantly, it breaks up families. The social cost of this is greater than the economic cost, quite frankly. My job and Advance Cairns's job is to try to drive this economy so that those opportunities exist within the region and people can stay here. But it is a huge problem at the moment.

CHAIR—One of those drivers would be educational opportunities. I understand that you have quite advanced tertiary opportunities and there are further tertiary opportunities coming.

Dr McConaghy—We have a first-class university in James Cook. We have a body of tropical expertise in that university and in the TAFE and other educational institutions around the place which could be the catalyst for new industries and very high-paid, significant employment opportunities. What we need to do—and what Advance Cairns is going to try to do—is commercialise that expertise and create the industries that will flow from it.

CHAIR—So, like many others giving evidence today, what you are essentially advocating here—not to over simplify it—is that Cairns and its surrounds have a unique set of conditions and mitigating factors that should be taken into consideration when considering the requirements for this visa. Is it basically your proposition that we address that?

Dr McConaghy—It is not that Cairns has a unique set of conditions; it is that Cairns and the surrounding region are different from other regions. Each region needs to be considered as an entity and the visa needs to accommodate the needs of each of the regions. That means differentiating between classes of visa, I suspect.

CHAIR—Thank you for attending today's hearing. 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 as soon as possible any additional material that you have undertaken to provide.

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

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 3.13 pm

