



Growcom is the peak representative body for the fruit and vegetable growing industry in Queensland, providing a range of advocacy, research, and industry development services. We are the only organisation in Australia to deliver services across the entire horticulture industry to businesses and organisations of all commodities, sizes and regions, as well as to associated industries in the supply chain. We maintain strong networks and relationships with our producers and other industry stakeholders and we are well across the outlook, expectations and practical needs of our industry.

Production horticulture is the most labour intensive of all agricultural industries. The industry offers a diversity of skilled and unskilled, permanent and casual employment opportunities. Production horticulture is the only agricultural sector to consistently achieve strong growth over the past five years and currently contributes more than \$2.7 billion to the Queensland economy annually.

It is our daily experience that the majority of our horticulture producers are committed to employing fairly and equitably and in line with legal requirements. We acknowledge that there are some who would breach the law, intentionally or otherwise and those who do so knowingly and willingly should be penalised. But we do not agree that these practices are as widespread as the media and others would have us believe. This view would appear to be supported by the report in The Australian on 10th June in which federal agencies (including DIPB, FWO, and the Migration Council) countered the claims of widespread exploitation and presented statistics which showed a relatively low level of formal complaint, and one which is decreasing. Intensive education, skilling and training around compliance with Fair Work and Work Health and Safety laws and regulations continue to improve outcomes for workers and employers.

The key feature of horticulture work is its seasonality. Horticulture businesses are usually located in regional and/or remote regions where demand for labour is high during peak seasons but this kind of temporary labour supply is limited. Working Holiday Makers (417 visa holders) are the lifeblood of our industry – this large flexible labour force ensure the harvest gets in and product is sold. Without them much product would let left to rot or perish.

One of Growcom's key deliverables to the Queensland industry centres on Workplace Relations and Workforce Development. We deliver a comprehensive Workplace Relations service to our industry, including engagement and advocacy around national issues, advice to employers in all industrial matters, representation in tribunals, and tailored resources. We deliver regular training and seminars to growers to assist them to understand their

obligations and mechanisms to implement good practice around employment and work health and safety and initiatives in wellness programs have taken off in some regions.

As our engagement with this Senate Committee has come at short notice, this submission is necessarily brief and will outline our responses in line with the Committee Terms of Reference as they relate to Growcom's work within the Queensland horticulture industry. As such it is worth noting that not all sections of the Terms of Reference are addressed. We have had limited exposure to 457 visas, though have assisted some producers with employment contracts. Similarly, we have not been involved in the development of regional labour agreements in our industry and so can provide limited comment.

However, further detail can be provided at the heading as required.

Terms of Reference

- a) *the wages, conditions, safety and entitlements of Australian workers and temporary work visa holders, including:*
- (i) whether the programs 'carve out' groups of employees from Australian labour and safety laws and, if so, to what extent this threatens the integrity of such laws,*
 - (ii) the employment opportunities for Australians, including:*
 - (A) the effectiveness of the labour market testing provisions (the provisions) of the Migration Act 1958 in protecting employment opportunities for Australian citizens and permanent residents, and*
 - (B) whether the provisions need to be strengthened to improve the protection of employment opportunities for Australian citizens and permanent residents and, if so, how this could be achieved,*
 - (iii) the adequacy of publicly available information about the operation of the provisions, and*
 - (iv) the nature of current exemptions from the provisions and what effect these exemptions have on the reach and coverage of labour market testing obligations and laws regarding wages, conditions and entitlements of Australian workers and temporary work visa holders;*

Growcom would support the statements made by the NFF in their submission of 1st May around the question of labour market testing, viz:

- Labour shortages in horticulture are well known in the industry, and are not new but this knowledge has no bearing on the requirements
- Information about what standard is required is not easy to find, with some information only available after registration in a particular program (eg Seasonal Worker Program).
- Once labour market testing has been conducted in a region this information should be sufficient for access to other visa programs, at least for a period.

- (b) *the impact of Australia's temporary work visa programs on training and skills development in Australia, including:*

- (i) the adequacy of current obligations on 457 visa sponsoring employers to provide training opportunities for Australian citizens and permanent residents,*
- (ii) how these obligations could be strengthened and improved, and*
- (iii) the effect on the skills base of the permanent Australian workforce;*

Despite a clear commitment and programs to attract local/Australian workers into our industry, horticulture continues to face stiff competition for skilled and semi-skilled workers and it can be difficult to attract and retain Australian workers long term. Low margins also restrict many employers from offering higher wages as an incentive. The reality is that employing all farm labour from the local workforce is unlikely to be fully realized, and international workers will continue to be an integral part of our industry. The challenge for government, industry and employers is to ensure that the visa programs address true industry needs, are flexible, responsive and affordable, and that worker and employer experiences are positive and beneficial.

Rather than reducing our efforts in skilling business owners and existing workers, our efforts across workforce planning and skills development in our industry have significantly increased, and training in our industry is on the rise. Our Queensland Production Horticulture Workforce Development Program has delivered significant outcomes and benefits for growers, employees and students and this is outlined in the attached brochure *"Investing in production horticulture's workforce: good for jobs, good for industry"*. We are in the process of developing both Workplace Relations and Work Health and Safety modules for our well established Farm Management System (otherwise referred to as the industry Best Management Practice programs).

Changing government priorities (state and federal) consistently leave industry uncertain in regards to our capacity to develop and deliver successful programs.

- (c) whether temporary work visa holders receive the same wages, conditions, safety and other entitlements as their Australian counterparts or in accordance with the law, including:*
 - (i) the extent of any exploitation and mistreatment of temporary work visa holders, such as sham contracting or debt bondage with exorbitant interest rate payments,*
 - (ii) the role of recruitment agents, and*
 - (iii) the adequacy of information provided to temporary work visa holders on their rights and obligations in their workplace and community, and how it can be improved; No. 88—24 March 2015 2375*

It remains our position that the majority of horticulture producers are committed to employing fairly and equitably and in line with legal requirements. We are also aware that a number of legitimate Labour Hire Contractors work closely with producers to ensure that their activities are in line with the laws and do not put the grower at risk. Growcom has

written a large number of Labour Hire agreements for both LHCs and growers in an effort to regulate and certify their compliance.

However, recent media (and grower) reports highlight the growing incidence of rogue labour hire operators who have no hesitation in breaking the law and underpaying or otherwise exploiting workers. These operators are the scourge of the horticultural industry and industry is working closely with the relevant agencies to stamp them out. Industry also supports the recently established Taskforce Cadena in pursuing these industry vandals.

(d) whether temporary work visa holders have access to the same benefits and entitlements available to Australian citizens and permanent residents, and whether any differences are justified and consistent with international conventions relating to migrant workers;

Until recently, all workers in Australia were entitled to the same wages, terms and conditions. The recent proposal by the federal government to disallow tax breaks for 417 visa holders means those workers are now identified as non-residents for tax purposes and so will be taxed at the rate of 32.5c for every dollar from 2016. It is not yet clear whether this will act as a disincentive to international workers, though some industry bodies have expressed concerns about the impact of this decision on availability of workers. There is also a concern that this may drive international workers into cash arrangements, thereby making them more vulnerable to exploitation.

(e) the adequacy of the monitoring and enforcement of the temporary work visa programs and their integrity, including:

(i) the wages, conditions and entitlements of temporary work visa holders, and

(ii) cases of 457 visa fraud, such as workers performing duties outside or below the job classification of the visa;

Capacity for Enforcement is key issue

A key element in ensuring proper and legal practice is the capacity for the Fair Work Ombudsman to enforce the provisions of the Fair Work Act, including the capacity to undertake investigations and pursue those who would break the law. While the FWO has wide-ranging powers, and can impose fines and penalties for breaches, the reality is that the level of resourcing is woefully inadequate for the job. For example, we understand that one team of five covers the district from Mackay South to the NSW border. Three of these staff are part-time, and Horticulture is not their only industry. Clearly what's urgently required is a review of the FWO's capacity (resourcing and staffing) to undertake the necessary investigations, identify breaches, prosecute offenders and promote the matters as a deterrent to others.

The information provided on the website, including the new pay calculator, is comprehensive and accessible. Information is available in a variety of languages and interpretation services can be arranged. The DIBP also provides information to 417 visa holders about Australian workplace relations and expectations and all new employees should receive the Fair Work Information statement which also provides key information

about worker rights. It is not the quality of the information available, but its availability that seems to be at issue.

Growcom continues to work closely with the FWO in addressing concerns in our industry. Regular meetings, farm visits and collaboration on a range of activities works to improve knowledge and compliance and reduce disputes and claims, as evidence by FWO monitoring. We also work closely with WHS Qld around safety compliance and good practice.

(f) the role and effect of English language requirements in limited and temporary work visa programs;

There are no language requirements for 417 visa holders, but clearly a lack of English language skills can lead to a lack of understanding, or misunderstandings about wages, entitlements and rights under Australian law. Ensuring that information is available in all relevant languages and available at point of arrival may assist, though this information is often only relevant and required when a problem arises.

(g) whether the provisions and concessions made for designated area migration agreements, enterprise migration agreements, and labour agreements affect the integrity of the 457 visa program, or affect any other matter covered in these terms of reference;

(h) the relationship between the temporary 457 visa and other temporary visa types with work rights attached to them; and

(i) any related matter.

No comment.

Respectfully submitted

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Growcom
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