



The Australian Workers' Union (AWU) SUBMISSION - Senate Inquiry into Temporary Work Visas

The AWU writes this short submission in the form of a letter in support of the substantive submission made by the ACTU. Our submission will seek to highlight a few important points for emphasis. However, we rely upon the substantive arguments put forth in the ACTU submission.

The AWU represents over 100,000 workers across the country. More importantly our Union represents sectors of the economy that have been hit by the side-effects of the mining boom and the persistently high dollar, particularly in manufacturing and tourism.

STATE OF AUSTRALIAN ECONOMY AND EMPLOYMENT MARKET

The Australian economy is in a very different state to the one that first demanded the need for temporary skills migration.

Unemployment has risen sharply since the Global Financial Crisis (GFC) and particularly in the last twelve months to crisis levels. Yet despite this, the calls for more temporary migration from certain business interests continue unabated.

This year, unemployment surged to a 12 year high.

The most recent employment data shows that there are some 768,600 Australians looking for work, a figure that has increased by 60 per cent since the GFC. Thus far, we are reliably told that there are no Australians to fill vacancies.

The rate of long-term unemployed has increased significantly and now nears 300,000 people while youth unemployment is at record highs. These figures are further exacerbated in regional areas where job opportunities are scarce.

The lack of moderation in the requests for temporary work visas seems to defy logic and the state of the employment market, which only strengthens the need for a strong, independent overview of the need for such visas. Relying on applications as proof of a supply shortage rather than vigorously testing their veracity is a naïve approach that ultimately lets down Australians looking for work.

A thorough review of all applications for temporary work visas should be conducted in the form of Labour Market Testing.

LABOUR MARKET TESTING (LMT)

As we have written before in previous submissions, Labour Market Testing is vital and should be strengthened, rather than weakened. This is particularly the case, given the above points we have raised regarding the domestic employment market.

LMT is the logical underpinning of any temporary labour migration, namely that the Australian economy has a *temporary* shortage in labour that requires filling from an overseas labour market.

Testing this proposition seems a logical step in proving the rationale for the program. It is imperative that domestic programs are designed to fill genuine vacancies rather than simply facilitating domestic labour substitution.

Without adequate LMT it is impossible to substantiate whether a genuine vacancy exists, thereby undermining the rationale for many of the arguments put forward for the watering down of the LMT system.

Most importantly, given that the economy is forever changing it is vital that regular LMT is undertaken. Temporary migration satisfies a '*point in time*' need in the Australian economy, and thus it can only be justified by a test conducted temporarily to an application. Any attempts to create a 'rolling' approval process would undermine the rationale of temporary migration as the economy will no doubt have changed and a once required temporary skill-set, may find itself oversupplied domestically in a relatively short time frame.

It is our position that such circumstances must already exist in the economy, given the strong uptick in unemployment recently witnessed.

LOCAL SKILLS TRAINING POLICIES

The facilitation of skilled migration does not serve as an effective substitute for well-crafted policies aimed at improving the skills of the domestic labour force. For example, the proposed short-term mobility visa, and the temporary and permanent skilled visa, weakens existing protections and safeguards for Australians and 457 visa workers. These programs also fail to fill genuine vacancies in the absence of LMT.

The Government's deregulatory agenda places too much emphasis on a simplified visa framework, which has been driven by employer pressure in particular sectors. This focus on global labour mobility neglects proper consideration of the public interest and improvement of employment potential within the Australian economy.

The skills training agenda has been bypassed in pursuit of short term "fixes and patches" addressing perceived shortages of skilled labour. This fails to respond to the long-term need for improved domestic skill sets aimed at enhancing productivity.

The AWU seeks to ensure that the focus of Australia's skilled migration programs is supplementary to the primary aim of investing in the skills of the Australian workforce and providing Australians with quality jobs. Development of the local workforce serves to enhance the productive potential of the Australian economy. Short-term visa measures are no substitute for this continuing investment in the skill sets of Australian workers.

The range of policy parameters and rationale put forward by the ACTU show that any supplementary need for temporary workers in the economy must be moderated by a rigorous and well maintained system that favours permanent migration, Australians seeking work in the first instance and domestic skills development.

APPENDIX A - AWU

Location: Victoria

Key Union Contact: Liam O'Brien, Assistant Branch Secretary

Contact details: [REDACTED] / [REDACTED]

Summary:

- [REDACTED] Farm Worker - AWU, Victorian Branch

[REDACTED] is a recent Food Technologist Graduate from [REDACTED]. He has two years previous experience working in the Agricultural/ Farm sector in [REDACTED].

(Note: the terms and conditions and rate of pay offered in [REDACTED] are considerably better than those offered in Australia)

[REDACTED] paid the sum of USD \$9,000 to an outsourcing company in [REDACTED] to participate in the VisitOz 416 Cultural Exchange Program. This fee included - Airfares, VisitOz's Fee (including AUD\$1,000 Bond payment) and the [REDACTED] Company's Commission. At the time of signing up for the program the AUD to USD was comparatively equal.

VisitOz's joining Fee was approx \$4,900 and includes a Bond of \$1,000. Their fee has since increased and is now listed at AUD\$5,300.

VisitOz Guarantee a choice of employment opportunities (In reality, this choice is limited and program participants are encourage to take what every is available at the time of induction).

Participants to VisitOz programs are offered induction training at their Spring Book Farm on the coast of Queensland. Whilst undertaking basic training and waiting to be assigned a job/ employer, participants pay the costs of hostel accommodation approximately AUD\$30 to \$40 a night plus food and medical insurance.

[REDACTED] was offered employment at a Dairy Farm based in Victoria. He had to pay for the cost of his airfares and travel from Queensland. VisitOz helped arrange transport and the purchase of his ticket.

The terms and conditions of the job were set at the Level 1 (FHL1) - Unskilled Labour. On arrival, he was told that he would be expected to work overtime at the base rate with no penalties for public holidays and/ or overtime loading. He could take it or leave it.

There was no contract or formal agreement other than an undisclosed contract between VisitOz and the nominated employer.

As a skilled worker, [REDACTED] should have been on a higher Award Level (FHL5) and entitled to paid award rates and appropriate penalty rates.

[REDACTED] was required to work fixed shifts which included Weekends, Public Holidays, Christmas Day, New Years Day and overtime without penalties or loadings.

Employee's salary were paid fortnightly and a deduction of \$280 made for accommodation and shared use of a vehicle (*shared by four workers who had to pay the cost of fuel*)

Accommodation was in a caravan located inside the Farms tool shed adjacent to chemicals, fuel storage and poor ventilation.

██████ was considered to be an excellent worker and often worked unsupervised.

The Farm manager/ supervisor was undergoing treatment for Cancer and was absent for five (5) months. Workers during this time worked on their own with limited management provided by the farm owner. Workers were required to contact the farmer via telephone if they had any problems.

Accidental damage to a farm Gate:

Whilst driving a tractor ██████ had accidentally damaged a farm gate which blew shut as he was crossing the gate. The tractor caught the edge of the gate and bent the pipe framing of the gate leading edge. The farmer tried to impose a \$120 fine for the estimated costs of the gate damage and repair. In refusing to pay this cost ██████ was told that he could leave and that his visa would be cancelled and his \$1,000 bond payment would not be returned.

It was later arising from this dispute that ██████ was told that there was no more work for him and that his replacement worker was arriving the following week.

VisitOz initially informed him that as he was sacked from his position of employment that his bond would not be refunded. It was only following complaining that VisitOz agreed to refund his bond in full on 5 April 2015.

The Fair Work Ombudsman is currently investigating this matter.

NOTE: ██████ has recently left Australia to return home to the ██████. He is eager to give evidence at any hearing but would require a video to be organised.

APPENDIX B - AWU

Location: Tully Sugar Mill - Tully Queensland

Key Union Contact: Peter Gunsberger

Contact details: [REDACTED] / [REDACTED]

Summary:

- Tully Sugar Mill wrote to the AWU seeking agreement to enter into a Labour Agreement to source overseas workers to undertake work at the sugar mill.
- The positions they were seeking to fill included Payment Laboratory, Process Attendant, Fugal Operators, and Sugar Boilers Assistant.
- All these positions are start-up positions where employees new to the industry commence their career within the Process sector of the industry. To use overseas labour in these positions would stymie the career path opportunities for locals, in particular create an inequity in a community where unemployment is high in the region.
- It was clear that the company didn't attempt to fill these positions locally – this would have created a damaging precedent in the industry and the community.
- The AWU strongly opposed this from the beginning
- AWU delegates held several meetings to discuss their course of action and AWU members held a mass meeting in town.
- AWU members and delegates immediately started a process of seeking Resumes from locals who were seeking work at the mill to prove to management that there was an adequate local workforce.
- AWU Wrote to the company advising that Tully Sugar had a social responsibility to hire workers in the local community and that the alleged impediments put forward are inaccurate and disingenuous (Tully Sugar claimed that Australians only wanted full time work).
- Tully Sugar subsequently decided they no longer needed to enter into a Labour Agreement to source overseas workers.

Further information:

- AWU Flyers members distributed locally
- AWU Media Release



AWU Media Release: TULLY SUGAR NO LONGER VALUES LOCAL COMMUNITY *3 December 2013*

Revelations that Tully Sugar is seeking to import foreign workers to take local jobs have shocked workers and the Tully community.

Australian Workers' Union Queensland Branch Secretary Ben Swan has slammed the move as a cheap and nasty proposal that will put the future of this sugar mill, its workforce and the local community under question.

"Why can't these positions be filled locally? This is an area that has a long history of sugar mill workers and with two recent closures there are plenty of people looking for work" Mr Swan said.

AWU Far Northern District Secretary Peter Gunsberger holds grave concerns about the future of the local workforce.

"The positions Tully Sugar are seeking to fill with foreign workers are positions that people usually start in to begin a long career in the sugar industry" Mr Gunsberger said.

"We have seen the Mourilyan and Babinda mills both close in the last 7 years, so many local families rely on the work they can get at the Tully Mill".

"By filling Process Attendants, Fugal operators and Sugar Boilers Assistants positions with foreign workers would put a stop to the career paths of many young people. This will drive a wedge through the local community, already struggling with high unemployment".

"To use the fact that these positions may take a week of training each season is a poor excuse to import foreign workers to take local jobs".

"This issue isn't about the seasonal work; it's about the Mill's commitment to the local community and its workers".

"For nearly 100 years this mill has relied on local workers from Tully and the surrounding areas and Tully Sugar now want to cut and run from a community that built their lives around the mill".

"Tully Sugar's social contract with the community is under serious breach here and they need to have a good look at themselves".