

17 December 2015

Migrant Intake into Australia  
Productivity Commission  
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Dear Madam/Sir

**UnionsWA response to Draft Report: Migrant Intake into Australia**

UnionsWA is the governing peak body of the trade union movement in Western Australia, and the Western Australian Branch of the Australian Council of Trade Unions (ACTU). As a peak body we are dedicated to strengthening WA unions through co-operation and co-ordination on campaigning and common industrial matters. UnionsWA represents around 30 affiliate unions, who in turn represent approximately 140,000 Western Australian workers.

UnionsWA thanks the Productivity Commission for the opportunity to respond to its Draft Report. We support the ACTU's positions in its response to the Draft's recommendations, findings, and information requests.

UnionsWA has made a number of submissions on the subject of temporary work visas to inquiries and reviews initiated by the Australian Parliament and by the Australian government directly. The most recent submissions have been to

- Joint Standing Committee on Treaties examination of the *Free Trade Agreement between the Government of Australia and the Government of the People's Republic of China*
- The Senate Education and Employment Committees Inquiry into the impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders
- The Independent Review of Integrity in the Subclass 457 Programme ('Azarias Review')
- The Department of Immigration and Border Protection's (DIBP) Proposal Paper *Simplification of the skilled migration and temporary activity visa programs*

UnionsWA would like to bring to the Commission's attention the concerns we expressed to these inquiries and reviews which we believe are relevant to the Draft Report. We are particularly concerned about the use of temporary work visas and their impact on worker rights.

**Free Trade Agreements and Foreign Workers**

While the Draft Report does consider 457 and other temporary work visas, there is little discussion of Free Trade Agreements (FTAs) and their impact on such schemes.

The Australian government has entered into a number of trade agreements which prohibit processes such as LMT from applying to employers seeking to bring in nationals of parties to those agreements. For example the recently enacted Korean Australian Free Trade Agreement (KAFTA) will permit employers in Australia (both Australian and Korean firms) to avoid their obligations to seek qualified locals to fill vacancies in the skilled trade, nursing and engineering occupations before 457s are approved for Korean workers. LMT is now permanently banned in all other 457 occupations under this agreement. The more recent Japan-Australia Economic Partnership Agreement (JEPA) has same blanket LMT exemptions as KAFTA.

More recently, the China-Australia Free Trade Agreement (ChAFTA) includes a new clause on 'temporary employment entry' which requires Australia to *not* apply labour market testing for standard skilled 457 visas to all Chinese citizens entering Australia 'in order to temporarily work under an employment contract.'

In our view blanket 457 visa concessions should not be in FTAs at all, as they have nothing to do with international trade. The Final Report should include consideration of the impact of FTAs on Australia's migrant intake.

### **The emptiness of employer commitments to training**

The Draft Report's *information request 5.1* states that

*The Commission seeks evidence and information on whether investment in skills by incumbents and firms has been negatively affected by immigration and, if so, the size of the effect.*

UnionsWA contends that the private sector's enthusiasm for temporary work visa programs are not matched by its commitment to training local workers - that is, citizens and permanent residents of Australia, regardless of their background and country of origin. One such example is the resources sector.

In 2010 the National Resources Sector Employment Taskforce published its report *Resourcing the Future* which found that the resources sector

*employs considerably fewer apprentices than would be expected from its share of trade employment. In fact the sector would have to double its number of apprentices to be on par with other industries.*

The National Centre for Vocational Education and Research (NCVER) has data which shows that the 'in-training' numbers (of the workforce currently undertaking an apprenticeship or a traineeship) for automotive, engineering and construction jobs declined between 2010 and 2014 (-2.4% and -17% respectively), while the general technical and trades category only increased by 6.3% (see **Table 1** below). This is a poor performance for a state which has been supposedly experiencing a resource 'boom' in these years during which the overall numbers of employees in these occupational groups increased (see **Table 2** below). The mediocrity of WA's performance is further highlighted when we look at the training rates for those occupations, which are derived from the number of apprentices and trainees in-training as a proportion of individuals employed (see **Table 3** below).

**Table 1**

<b>WA: In-training as at the end of quarter by selected training characteristics, June 2010 &amp; 2014 ('000)</b>			
	June Q 2010	June Q 2014	% Change
Technicians and trades workers	22.5	23.9	+6.3%
32 - Automotive and engineering	7.4	7.2	-2.4%
33 - Construction trades workers	4.6	3.8	-17.0%

**Table 2**

<b>WA: Employee numbers at the end of quarter by selected training characteristics, May 2010 &amp; 2014 ('000)</b>			
	May Q 2010	May Q 2014	% Change
Technicians and trades workers	168.6	192	+13.9%
32 - Automotive and engineering	51.3	63.4	+23.6%
33 - Construction trades workers	21.2	28.1	+32.5%

**Table 3**

<b>WA: Training rate at the end of quarter by selected training characteristics, June 2010 &amp; 2014 (%)</b>			
	June Q 2010	June Q 2014	Difference
Technicians and trades workers	13.3%	12.4%	-0.9%
32 - Automotive and engineering	14.4%	11.4%	-3.0%
33 - Construction trades workers	21.6%	13.5%	-8.1%

Sources: NCVET Apprentices and trainees 2014 - June quarter: state and territory data tables; ABS 6291.0.55.003 - Labour Force, Australia, Detailed, Quarterly, Nov 2014 Note that since ABS does not publish employee numbers in occupation for the June Quarter, the May Quarter figures are used to derive the training rate.

UnionsWA is concerned that the resources boom period saw a squandering of opportunities to develop a skilled local workforce. A key reason for was the lack of commitment by major private sector employers to employ and train local workers. The 400 series visa program has become an enabler of this anti-social behaviour.

#### **Decent treatment for Workers on 457 visas**

UnionsWA maintains that both 457 visa workers and local workers should be well treated, should receive their full and proper entitlements, and be safe in the workplace. If this does not occur, 457 visa workers are entitled to seek a remedy just as Australian workers, including by accessing the benefits of union membership and representation.

As such, we regard the Commission's *Draft Recommendation 9.3* as inadequate to this task

*The Fair Work Ombudsman should commission the development of a smart phone app that would provide temporary immigrant workers with information on their work rights and responsibilities, and with links for lodging complaints about abuses or exploitation.*

An allegation of serious abuse of the 457 visa system and workers comes from our affiliate the Construction, Forestry, Mining and Energy Union (CFMEU) concerning the Roy Hill iron ore project.

The CFMEU received a detailed complaint in 2014 from a whistle-blower on the project alleging that

- There were between 150 to 200 white collar 457 visa workers employed by the contractor Samsung C&T on the project, about half of whom are Korean nationals.
- Most 457s were young workers, under age 30 or so and many are female workers.

- The 457 visa workers were working excessive hours – over 84 hours a week – and were grossly underpaid, with rates of only around \$16 an hour.
- Many 457 visa workers were not working in the occupations approved for their visas – a breach of the sponsoring employer’s obligations.

UnionsWA argues that, where workers have come to Australia legally in response to genuine skills shortages, their rights should be respected and protected. In the above case described, it is hard to see how a ‘smart phone app’ could be a substitute for collective representation as provided by a trade union. As the ACTU suggests, the onus should not be on the workers to get an ‘app’ (assuming that they have smartphones and can access workplace apps). At the very least, employers and sponsors should provide information on workplace rights directly to workers in writing before they start employment, and the Fair Work Ombudsman should be properly resourced to carry out a strong inspection role.

In conclusion, UnionsWA argues that a legitimate temporary overseas labour program should:

- *ensure that employers are not able to exploit FTA provisions and go down the 457 visa route, without first investing in training and undertaking genuine testing of the local labour market.*
- *maximise jobs and training opportunities for Australians*
- *ensure that the overseas workers who are employed under the 457 visa program to meet genuine skill shortages that can’t be filled locally are treated well*

UnionsWA and its affiliates appreciate the opportunity to respond to the Draft Report. Please contact me if you would like to discuss matters further.

Yours sincerely

**Meredith Hammat**  
**Secretary**