



Australian Government
Productivity Commission

PRODUCTIVITY COMMISSION

INQUIRY INTO MIGRANT INTAKE

MR P LINDWALL, Presiding Commissioner
MS A McCLELLAND, Commissioner

TRANSCRIPT OF PROCEEDINGS

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INDEX

	<u>Page</u>
MIGRATION ALLIANCE CHRISTOPHER LEVINGSTON	212-224
AUSTRALIAN COUNCIL OF TRADE UNIONS TIM SHIPSTONE	224-238
TRANSPARENCY INTERNATIONAL MICHAEL AHRENS	239-247
SETTLEMENT COUNCIL OF AUSTRALIA ANDREW CUMMINGS KAT O'NEILL	247-260
UNITED WHY YAO-TAI LI SOHOON LEE TINA DAVIS SUN CHOI	261-275
AUSTRALIAN PRIVATE EQUITY AND VENTURE CAPITAL ASSOCIATION YASSER EL-ANSARY DR KAR MEI TANG	275-285
KIKI TSOLI	285-286

5 **MR LINDWALL:** Good morning. Welcome to the public hearings for the
Productivity Commission Inquiry Migrant Intake into Australia. My name is
Paul Lindwall, I'm the Presiding Commissioner and my fellow
Commissioner is Alison McClelland. The inquiry started with a reference
10 from the Australian Government in March and covers the impacts of
immigration on Australia and the scope to use alternative methods for
determining the migrant intake, including through greater use of charging.

15 We released an issues paper in May and have talked to a range of
organisations and individuals with an interest in the issues. In August we
held a workshop on the economic modelling used to inform the inquiry. We
released a draft report in November and have received about 80 submissions
since the release of the issues paper. We're grateful to all of the
organisations and individuals who have taken the time to meet with us,
prepare submissions and appear at these hearings.

20 The purpose of these hearings is to provide an opportunity for interested
parties to provide comments and feedback on the draft report. Hearings were
held in Melbourne on 7 and 8 December and in Canberra on 15 December.
We have held hearings in Sydney yesterday, Wednesday 16 December and
wrap it up today. Formal submissions to the draft report are due tomorrow
25 on 18 December. We will then be working towards completing a final report
to be provided to the Australian Government in March 2016. Participants
and those who have registered their interest in the inquiry will be
automatically advised of the final reports released by the government which
may be up to 25 parliamentary sitting days after completion.

30 We like to conduct all hearings in a reasonably informal manner, but I
remind participants that a full transcript is being taken. For this reason,
comments from the floor cannot be taken. But at the end of the day's
proceedings I will provide an opportunity for anyone who wishes to do so to
35 make a brief presentation. Participants are not required to take an oath but
are required under the Productivity Commission Act to be truthful in their
remarks. They are welcome to comment on the issues raised in other
submissions. The transcript will be made available to participants and will be
available from the Commission's website following the Commission
40 hearings. Submissions are also available on the website.

45 While we do not permit video recordings or photographs to be taken
during the proceedings, social media such as Facebook or Twitter may be
updated throughout the day, although we do ask that all members of the
audience ensure their mobile phones are switched to silent. For any media
representatives attending today, some general rules apply. Please see one of
our staff for a handout that explains the rules.

(Housekeeping matters)

5 Participants are invited to make some opening remarks of about five minutes. Keeping the opening remarks brief will allow us an opportunity to discuss the matters in greater detail. I would like now to welcome Christopher Levingston.

10 **MR LEVINGSTON:** Thank you, Commissioner.

MR LINDWALL: If you wouldn't mind saying your name and the organisation you're representing.

15 **MR LEVINGSTON:** Sure, thank you.

MR LINDWALL: And then give us an introductory statement, that would be great.

20 **MR LEVINGSTON:** Thank you. Commissioners, my name is Christopher Hugh Levingston. I am a solicitor and accredited specialist in immigration law, registered migration agent since 1993 and I am the treasurer of Migration Alliance. Thank you very much for this opportunity of addressing this Committee.

25 As you are aware, Migration Alliance has put on a submission in respect of certain matters arising under the Terms of Reference, but I would like to take this opportunity to raise some additional matters. One of the fundamental challenges facing Australia as it continues down the path of skilled migration is the lack of harmonisation in the assessment of overseas skills qualifications. The assessment of overseas skills qualifications are absolutely critical because what they do is they signpost the road towards the likelihood that the applicant is going to be successful in their nominated skilled occupation, and will make a successful transition from being a migrant to a permanent resident, and then ultimately a citizen.

35 The appointment of multiagency assessment authorities, without any harmonisation, really creates a scheme whereby it is extremely difficult for a person other than an individual who has been qualified in the United Kingdom to obtain skills assessment through a coherent and, quite frankly, sensible process. This denies the applicant the opportunity of pursuing their occupation and it does this society no good at all to have taxi drivers who have PhDs in areas where their qualifications would ordinarily be in demand, but who are unable to get their qualifications recognised in Australia. The barriers include cost, they include a lack of transparency in the skills assessing authorities and there does not seem to be a coherent process whereby applicants can be certain that they're going to get a genuine and proper consideration of their qualifications on their merits. This acts as a

significant break upon the Australian economy.

5 In recent times there was an announcement in relation to cap and cease
which saw 16,000 applicants who had previously been in Australia, who had
obtained Australian qualifications, who spoke English but, by reason of the
delay in the processing of their applications, found themselves in the situation
where their occupations no longer appeared on the Skilled Occupation List.

10 That list, of itself, is broadly indicative of what skills are required in the
Australian community. It is not like the Ten Commandments, as they say,
engraved in stone, it is a broad indicator. Migration Alliance feels that the
opportunity that was denied to these 16,000 applicants really will ultimately
15 have an impact upon the successful implementation of the skilled migration
program, to the extent that these are people who had already been in
Australia, who had already complied with Australian law, who had already
obtained Australian qualifications, who already speak English, even if their
occupations came off the Skilled Occupation List, there is no indication that
they would have been unable to find employment or unable to make a
20 successful transition. In fact, there is some suggestion that those people who
were so committed and driven to the process of migration invariably make a
successful transition.

25 That is in direct contrast to the refugee applicants who come to the table
with all sorts of additional baggage relating to the stress and trauma
associated with coming from a place of conflict.

Those are my introductory remarks.

30 **MR LINDWALL:** Thank you very much. The point you raised about
recognition of skills from overseas qualifications is pertinent and we raised
that in our report that it's a fairly low level of recognition.

MR LEVINGSTON: Yes.

35 **MR LINDWALL:** Would you like to give us some guidance how that could
be improved. Obviously the Australian people and government would like to
be assured that the qualifications are indeed genuine and that they are of a
high level that's equivalent to something that could be obtained in Australia
or the UK or the US.

40 **MR LEVINGSTON:** I have been in practice for a very long time so I have
seen all of these skills assessment processes in their evolution. The
Consolidated Skilled Occupation List nominates against the relevant
occupation in the ANZSCO Code, the assessing authority. Private assessing
45 authorities, that is apart from TRA and VETASSESS, really do make their
own rules and change their rules without any consultation.

5 A very good example of this is the Australian Computer Society. The
Australian Society saw fit to change the goal posts in relation to the
assessment of overseas qualifications and experience, and it was in the
experience component, and then that subsequently made it very difficult for
10 people who were qualified in IT to then obtain a positive skills assessment.
The default to complexity is a huge problem because at the end of the day the
proof of the pudding is in the eating. There is no need to be registered if
you're an IT expert but you do need to have a skills assessment. Those skills
assessments should be framed in very broad and consistent terms and if there
15 was a requirement for English language, that English language requirement
should be harmonised with the migration program. After all, it is simply a
skills assessment for the purposes of migration to Australia.

15 The tendency toward the private associations and organisations to require
a higher level of English than that required in the migration program, just
simply reflects that lack of harmonisation and introduces, with the exception
of school teachers and registered nurses, introduces into the system additional
complexity and additional hurdles that have to be climbed over by the
20 applicant. The need for a school teacher to speak English of a higher
standard is reflected in the migration program, and the need for nurses to
speak good English and have good calculation skills and the like, are also
reflected in the migration program, but also with the assessing authorities.

25 But overall it should be harmonised. So the impulse should be towards
harmonisation. The impulse should be to recognition with the applicant, of
course, bearing the onus of proof to satisfy the relevant assessing authority
that the claimed work experience is true.

30 **MS McCLELLAND:** I suppose just following that up a bit, particularly in
relation to English, I mean through the course of our consultations with this
inquiry, we have had a lot of groups wanting to have their separate tests on
English. A lot of them are saying that they want to be able to have a lower
level of English.

35 **MR LEVINGSTON:** Yes.

40 **MS McCLELLAND:** Would it do any good to say that - all right, well just
say everyone just has to have the same level of English, but what if your job
does require a higher level. You know, does it do you any good if you can
get in but you can't get a job because you don't have that higher level.

45 **MR LEVINGSTON:** Yes, well the capacity to be able to effectively
communicate in the workplace is, of course, critical but it rather depends
upon the job that you're doing.

MS McCLELLAND: Yes, yes.

MR LEVINGSTON: I think that the idea that IT experts, for example, don't need to speak fantastic English, because they've got all these other communication skills, really points to an assessment that perhaps English could be at the standard sort of average level. Clearly a nurse in a hospital setting has got to be able to effectively communicate, not only with the patient but also with the staff and ensure that they can read the notes and then implement. So I really do think it's horses for courses.

The difficulty associated with the English language requirement was the rather unhealthy monopoly which was enjoyed by IELTS. That has now been traversed and, of course, we've got TOEFL.

MS McCLELLAND: Yes.

MR LEVINGSTON: Which seems to have a completely different way of approaching it and is likely to have a significant impact upon the English language testing market.

MS McCLELLAND: Yes.

MR LEVINGSTON: I am expecting the arrival of TOEFL and the promotion of TOEFL as an alternative will allow people who have been stuck within the IELTS testing regime and been unable to make any progress when faced with a different test in a different regime will perform hopefully better, rather than worse.

MS McCLELLAND: Yes.

MR LEVINGSTON: But I do accept that English is critical to (1) an understanding of the culture in Australia, (2) the capacity to be able to carry out your work and, (3) understand what your obligations are with respect to the wider Australian community. So English is critical but English has always been part of the skilled migration program since the decision was taken way back in 1988 to move the emphasis away from family migration to skilled migration. So I think that that's a coherent and sensible policy.

MS McCLELLAND: Yes.

MR LEVINGSTON: My view is that it would stay benchmarked at the same level, because there are significant advantages to be enjoyed by migrants who then in a system of total immersion then become exposed to English language, the nuance, the Australian idiom, all of those things, and they pick up those skills as they go along.

MS McCLELLAND: Would that be a high level so that everyone can - - -

MR LEVINGSTON: No.

MS McCLELLAND: You're saying the same level for everyone.

MR LEVINGSTON: I say the same.

5

MS McCLELLAND: Would it be a higher level than that?

MR LEVINGSTON: My recommendation is that the level would stay more or less the same but consideration could be given to a lower level in regional Australia. Now regional Australia has a terrible problem attracting migrants, full stop. There is specific migration programs which are dedicated to supporting regional migration and there are regional authorities who - regional certifying boards. Their assessment that there is a need for that particular occupation should be conclusive in my view, rather than advisory, so we can avoid a situation where there are too many people at the table and there are too many competing views and then to have Immigration come in and in effect veto the appointment. That's problematic, but I think that a lower standard of English regionally could probably be sustainable because it is very likely that the applicants in that community are going to get the total immersion, rather than being in the CBD or in Sydney where you can, in effect, operate within your own community and never pick up any of the language skills.

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MR LINDWALL: Did you have anything more on that topic?

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MS McCLELLAND: Not on that one.

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MR LINDWALL: Okay. There's a range of issues we could discuss but what are your thoughts about the fact that - the interaction between temporary and permanent or the migration program and the fact that we have quotas on the migration program and no quotas mainly on 457s, working holiday makers, et cetera, on the temporary programs.

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MR LEVINGSTON: Yes.

MR LINDWALL: How do you think that works?

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MR LEVINGSTON: Well I think that it works - I think it works in this particular way. Nobody in their right mind under the age of 50, because of the cut off on 50 for skilled migration, would say, "I'm thinking of coming to Australia for a period of three years. I am going to work here and then go back to wherever I have come from". I don't believe that that's the impulse. I think that temporary residence on a 457 visa, for example, is a step on the road towards a permanent visa, and the rules really do support that because what the rules do is encourage you or allow you, by establishing the conditions precedent, to make the transition into the employer nomination scheme and thereafter to a permanent visa.

That's a good thing because I think that it taps back into something that was said by the Honourable Scott Morrison when he was Minister for Immigration. The temporary visa system gives the Australian community the opportunity to look at the applicant, assess their capacity for integration and their employment and the way that they fit in. It's really a "try before you buy", and that people who make that successful transition, without committing any crimes or being involved in any character concerned behaviour, they're the sort of people that we want and they make that transition easily because of the temporary residence program.

Students form part of that process and the graduates through the visa subclass 485 also form part of that process. What this does is this confers upon the Australian community a significant benefit, because what we are doing through the 457 visa and through the student visa program, is acquiring people from other countries who have already got high-level skills and they've been brought to Australia. We don't pay for them. We don't pay for that education. We accrue those benefits, and it's on that basis that skilled migration is very competitive internationally. And so Australia needs to compete because we are a small country, a long way away from the centres of power.

MR LINDWALL: Some people have expressed concern that in the youth labour market, for example, or in exploitation of temporary workers who may not have sufficient English in some cases or are worried about having their visas withdrawn, that they tend to take jobs that - and be subject to exploitation by unscrupulous employers. Have you got any comments on that and how best to guard against those problems?

MR LEVINGSTON: Well, I think that it comes down to a question of monitoring. That is, does DIBP, or Border Force, and in consultation with Fair Work, have the resources available to them in order to be able to assess what's actually happening in the workplace. There will always be criminal entrepreneurs who swirl around the outside of the migration program and find their particular targets. I don't believe that there is systemic abuse of the migration program or temporary residence or the conditions of employment for employees. I think that they are the exception, rather than the rule. Notwithstanding the fact that various unions might seek to promote a different view, but I think that they are the exception to the rule.

The implementation of the most recent legislation on 14 December which, in effect, bans the paying of moneys by applicants to employers in circumstances of duress or whatever, the fact that that banning of the payment of money for a migration outcome, is a very, very positive step. That space has been dominated by employers who can be related to their own community and then exploit those individuals within their own community, and so that is completely unacceptable, because it really is just criminal

behaviour. That behaviour is now sanctioned. As to whether or not those sanctions actually play out positively in favour of applicants remains to be seen, because applicants by being party to that transaction, irrespective of duress, in effect after the fact, would invite Immigration to cancel their visa.

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So there really needs to be a regime which provides some measure of protection. The 7-Eleven cases were a very good example. When there was a claim by the 7-Eleven applicants, "Well, we'd love to participate in this analysis of the conduct of 7-Eleven but we're afraid that you're going to cancel our visas", Immigration gave them no assurance at all. What they said was "Well, we'll consider it on a case-by-case basis", which means that you're going to be picked off. Immigration has really taken on a role of the organisation that comes on to the battlefield after the battle and starts bayoneting the wounded. It's not such a good look and I think that the protective function of the Migration Act is very underplayed and very poorly understood.

If you're going to have a migration program, then the Migration Act and migration officers should be able to offer the vulnerable, and they're consumers and will ultimately be members of the community, they really do need to be able to offer some protection to those vulnerable members of the community. There should be significant discretion in deciding not to cancel a visa where a person has, in effect, come forward. It's very unfortunate that the protective role of migration is very, very under - it's not well understood and really the only place that you can go is to the Minister at the end of some disaster and say, "Look, I'd like you to intervene", after having made an unsuccessful application, and then you're in the hands of that process. Criminal justice stay visas don't solve the problem because they lock you out of all other visa applications, and they're really punitive in their regime and sanction.

MS McCLELLAND: A couple of questions. You talked about the skill - how you get the skilled list. Do you have comments on the process for the development of that list and the updating of that list and how that might be improved?

MR LEVINGSTON: Well as a user of the list and I lecture to about 1500 migration agents a year, over the course of the year, there's often amazement expressed about the occupations that appear on that list. Now that list has to come from somewhere. In the old days when it was DEET and TRA and all of those organisations, what they used to do is they used to look at the advertising that was appearing in the newspapers and say, "Well, on that basis that there's been an increase in that particular occupational set, we can say that there is a labour market shortage". And so it's driven by what I would regard as being a very opaque process of assessment. But the capacity of a public servant sitting in Canberra to assess in a coherent kind of a way what occupations are in demand, I think is very limited.

5 I think that it's probably driven by a whole range of factors that I wouldn't understand, but I would really like to see somebody outside the public service - I think somebody like Access Economics, for example, could form part of a process of informing the government as to where these skills shortages lie.

10 The skills shortages also exhibit themselves in very different ways regionally and also in the Territories. In the Territories you might have a Skilled Occupation List for that particular territory which does not reflect overall what's happening in the eastern States. I think that's just part of our national development, that you've got that lack of continuity. I think the list should be flexible and I think that a case should be made for other occupations. Unfortunately, what migration agents do is they open the list and say, "Well, where does my applicant fit on that list".

MR LINDWALL: Yes.

20 **MS McCLELLAND:** Yes.

MR LEVINGSTON: So it becomes a bit of a search for the nomination of the relevant skilled occupation, and I think that that leads to distortions. And that leads to, quite frankly, circumstances where square pegs are being tried to be fitted into round holes.

25 **MS McCLELLAND:** Can I just ask you a little bit about your organisation, Migration Alliance, because I hadn't heard about it.

30 **MR LEVINGSTON:** Yes.

MS McCLELLAND: We've got the Migration Institute that many migration agents are members of.

35 **MR LEVINGSTON:** Yes, no problem.

MS McCLELLAND: Can you tell me a bit about - - -

40 **MR LEVINGSTON:** So Migration Alliance is an organisation which was set up about five years ago. It's an incorporated association. It provides services to migration agents. It has, I think at last count, over 4300 migration agents. It has no membership fees and it's a loose association, an industry group, and some of its membership shared with the Migration Institute of Australia that has been around I think since - well, not since Adam was a boy but certainly sometime after that.

45 **MS McCLELLAND:** So how do its functions differ then from the Migration Institute?

MR LEVINGSTON: Migration Alliance is a political lobby group as well in its statement of objectives.

5 **MS McCLELLAND:** I see. Yes.

MR LEVINGSTON: But also is primarily interested in promoting the interests of migration agents. See, because the view is that migration agents form the gateway to a large number of applications. I've got 800 active files
10 which is a lot, a lot of things can go wrong in that. I've got 800 active files and would open over 150 files a year. The average migration agent opens between 50 and 100 files a year. Every migration agent is this portal to all these clients. So communicating with migration agents is a great way to find out exactly what's happening on the ground, because they are listening posts.

15 Migration Alliance has sought to protect migration agents against the slings and arrows of the department who, quite frankly, don't like migration agents and the Minister, who is sometimes uninformed about what migration agents do and confuses the fact that if a person is engaged in some criminal
20 enterprise and it relates to migration, that that person is a migration agent. That's not the case. Migration agents are on the whole highly regulated, highly responsible and of a population of about 5300, there are only about two or three people deregistered in any year and it's a very rigorous regime.

25 **MS McCLELLAND:** Thank you.

MR LINDWALL: Do you think though, in general, migration agents give reasonable expectations to their clients about what life in Australia is going to be and about their opportunities for a job and all the rest of things, or do
30 some clients come with unreasonably high expectations.

MR LEVINGSTON: That's a very interesting question. I don't know but I always take the precaution of asking my client, "What is it that you want?" If he says, "I want a permanent visa", now that's either going to be "I'm going
35 to get a permanent visa. I maybe want to get one or perhaps I'm thinking about it, or I don't care, I just want to migrate". It's very difficult to understand what it is that will drive an application. I would think that the availability of resources on the internet and the whole range of information sources, including some from the Australian Government, will inform the
40 choices made by people who want to migrate to Australia.

I think that the vast majority just want to get out of where they are now and come to some better place with a brighter future. It's often the opportunities that are presented for the family and the children that will drive
45 that behaviour. Certainly if I was sitting in the UK and I had my wife and my children with me and we're looking for a brighter future with better weather, then I am looking at migration to Australia. It's a great place to be. It's nice

and safe. It's a long way from a lot of strife and trouble and seems to be a coherent and well-organised society with the rule of law and it's safe.

5 **MS McCLELLAND:** But you did mention, just following that up, you did mention that we're in a competitive situation.

MR LEVINGSTON: Absolutely.

10 **MS McCLELLAND:** Particularly in relation to skills.

MR LEVINGSTON: Yes.

15 **MS McCLELLAND:** So how would you see that competition and our position unfolding into, say, the next 10 years?

20 **MR LEVINGSTON:** If I had qualifications in IT and I was a top performer, then why would I be coming to Australia? I would looking to the US where there's a huge market and different opportunities. But there are different pressures in that society. Why would I be looking at migration to Canada? Well, without wishing to upset the Canadians too much, I would think that one problem would be the weather. Australia has got great weather and we've got great opportunities. We've got a small population. So I think that people choose Australia because they've got it in their minds that that's the place that they want to be. Safety is an important consideration.

25
30 One of the objections to migration to the US appears to be that people from - who are migrants, don't feel safe and that may be because of the way that the media portrays America. As a traveller to America I feel safe and I find the Americans courteous and helpful, but then again, I've never been on the receiving end of anything unpleasant. But people do focus on the negatives and they look at Australia and they say, "Well that's a great place, great opportunities, albeit being a long way away, but it's a great place to be".

35 **MS McCLELLAND:** So you think we will be strong competitors going into the future?

40 **MR LEVINGSTON:** I think that we will - we're always going to have that share of the market and we can lift that market and lift investment by having a dynamic economy where the rule of law is respected. Just one other thing as an aside, just in relation to the Significant Investor Visa and the sourcing of those applicants coming out of the People's Republic of China, there's a problem - at least I regard it as being a problem. The problem is that all the enquiries about those individual applicants are being made by what's called
45 "integrity officers" at the overseas posts. These integrity officers are not Australian citizens. They are recruited directly out of the People's Republic of China and, in fact, as an integrity officer you can't be an Australian

citizen.

5 It seems to me that poses some significant risks in terms of national
security because after all, if I was an intelligence organisation, I would be
pushing forward my people who spoke great English, who were native
speakers of Chinese and who have got all sorts of great qualifications but are
not Australian citizens. They would occupy those roles. I am not saying the
current occupants of those roles are spies but I think that there's a risk which
needs to be met and those people being placed within the Australian
10 Embassies and Commissions creates a problem. It also means that the
government of the People's Republic of China is kept in the loop about
people who are thinking about migrating. I don't think that that's optimal.

15 **MR LINDWALL:** Does that mean that you would support our
recommendation to abolish the Significant Investor Visa?

MR LEVINGSTON: I think the Significant Investor Visa was always a
waste of space and that Immigration was never fully behind it and did
everything they could to stifle it, so I agree.

20 **MR LINDWALL:** Did you have any more questions?

MS McCLELLAND: No.

25 **MR LINDWALL:** The only other question I might ask, if you don't mind,
is in our previous report or a previous report I was involved in on
international education, it seemed that a number of students, international
students, went and studied courses for which they had less chance to get a
good job, than some other courses where they'd have a much higher chance
30 of having a good job. That seems counterintuitive. Why wouldn't you go to
study something where you increase the chance of having a job? Is there any
systematic reason for that?

35 **MR LEVINGSTON:** Probably stupidity. That's the only commodity in
vast oversupply in the universe. But there is another issue which arises, why
would a person who is coming to Australia to study, not study something
which is going to be on the Skilled Occupation List. It doesn't make any
sense, but then again, people don't always make great decisions.

40 **MS McCLELLAND:** I just want to ask about the people that you
mentioned, the cap and cease group.

MR LEVINGSTON: Cap and cease, yes.

45 **MS McCLELLAND:** You mentioned that a lot of them, they were in
Australia. Were all of them in Australia?

MR LEVINGSTON: Yes. All of them had come through this process of having Australian qualifications and then they left Australia. So there are three - - -

5 **MS McCLELLAND:** So most of them weren't residing in Australia now?

MR LEVINGSTON: That's right. There are three groups. There are those that applied offshore, after having obtained an Australian qualification. There are those that applied onshore and remained in Australia. Now that
10 was a group that received some criticism but they held on. Then there's the other group who have got applications which are unresolved. They're in the capped situation, so they're waiting. This total group is about 16,000 people. Interestingly, when the Minister - when the Assistant Minister signed the legislative instrument, there was an explanatory note which attached to it
15 which said there'd been internal consultation, which means speaking within the public service, and external consultation. As it turns out, there had been none.

20 **MS McCLELLAND:** How many of that 16,000 would be residing in Australia now would you guess?

MR LEVINGSTON: Well the majority are overseas. So it's over 14,000 overseas.

25 **MS McCLELLAND:** Thank you.

MR LINDWALL: You mentioned the Skilled Occupations List. What do you think about the Consolidated Sponsored Occupations List used through the employer nominated scheme?
30

MR LEVINGSTON: I can't comment on that. I don't know about it.

MR LINDWALL: Did you have any more?

35 **MS McCLELLAND:** No.

MR LINDWALL: Did you have any final points, Mr Levingston?

40 **MR LEVINGSTON:** No, I just want to thank the Committee for listening to what I've had to say.

MR LINDWALL: Pleasure, thank you.

45 **MR LEVINGSTON:** And to wish you all the very best for Christmas and the New Year.

MS McCLELLAND: Thank you, and you too.

MR LINDWALL: Thank you.

MR LEVINGSTON: May I be excused?

5

MR LINDWALL: Yes. Thanks for attending.

MR LEVINGSTON: Thank you, my pleasure.

10 **MS McCLELLAND:** I don't think we have the ACTU.

MR LINDWALL: Yes, I think if our ACTU representative is here, that would be - - -

15 **MS McCLELLAND:** I don't think they're here yet. I don't think they've arrived yet.

MR LINDWALL: They're not here yet. Well that's all right. We'll wait a couple of minutes.

20

ADJOURNED **[10.32 am]**

25 **RESUMED** **[10.33 am]**

MR LINDWALL: If you wouldn't mind giving your name and the fact you're representing the ACTU and then perhaps give us a brief introduction.

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MS McCLELLAND: But maybe give yourself time to get - - -

MR LINDWALL: There's no hurry. I mean, we're a bit early.

35 **MR SHIPSTONE:** That's okay. I'll just get my things out, then might as well get underway.

MR LINDWALL: You would have missed the earlier conversation when we said that a transcript is made and it would be put on our website within a while.

40

MR SHIPSTONE: I can - - -

45 **MR LINDWALL:** Please. Just say, if you want to say your name and organisation and then give a brief introduction.

MR SHIPSTONE: Yes, okay. It's Tim Shipstone, Australian Council of

Trade Unions. I'll make a few comments to start with. First of all, thanks for the opportunity to appear here today before the inquiry. Just briefly by way of background, the ACTU is the peak body for Australian unions made up of 46 affiliated unions who, together, represent around 2 million workers across the country and their families. The ACTU and affiliated unions are active participants in debates around the skilled migration program on behalf of our members and we're long-standing supporters of a strong diverse and non-discriminatory immigration program and we very much embrace the many benefits that migration has brought our country.

As you know, the ACTU made a written submission in response to the initial issues paper. In that submission we rejected the central proposal which is under consideration by the Productivity Commission. It's a misguided proposal, in our view, to use high-entry charges and capacity to pay as the primarily basis for determining migrant intake. I hasten to add we do understand it wasn't a proposal that originated inside the Commission, it was something you were asked to examine.

In any event, we were pleased to see it in the draft report the Productivity Commission has now itself rejected that proposal. It was a proposal that would have effectively outsourced decisions on the migrant intake to the highest bidder and removed important national interest considerations such as the need to support Australian jobs and address genuine skills shortages as the basis for determining the migrant intake. Of course, the draft report goes well beyond that single proposal and certainly a comprehensive examination of migration in Australia. We do acknowledge the work that's clearly gone into the report and the effort that's been made to grapple with these important and often complex issues.

We're just in the process of finalising our written submission where we'll respond to those draft findings and recommendations where we have a particular interest. I guess today the key overarching point that we'd like to emphasise or reinforce is the urgent need to address the problems with the temporary work visa program. That's clearly, in our view, where the problems lie. It's become apparent for some time that the problems of exploitation of temporary overseas workers are systematic and well-entrenched in many sectors of the economy. Many of these problems were laid bare in the Four Corners expose earlier this year and again more recently with the 7-Eleven scandal of gross underpayment of international students.

These are just the highest-profile cases that have gained media attention. In the experience of our affiliated unions and other networks, these things are happening day in, day out. The cases that are reported are just the tip of the iceberg. So there's a real problem which we outline in original submission about relying so heavily on a temporary work visa program that's beset with these problems and problems which we believe are, to a large degree, inherent in the very nature of a temporary work visa program where workers

are reliant on their sponsoring employer for their future prospects in Australia.

5 I guess at what point do we say, “Enough is enough”? The cases have been going on for far too often and far too long for them to be dismissed as a few isolated cases in an otherwise well-functioning program. At 10 per cent or more the total Australian workforce, the size of the temporary migration dwarfs the permanent migration program, yet it’s subject to very little in the way of scrutiny and oversight by comparison. One of the things we highlight
10 is there’s no consideration given to the potential impacts such a large and growing temporary work visa workforce could be having on employment opportunities of Australians, particularly at the lower-skilled end and in the youth labour market.

15 That’s why we do say that we need a fundamental reassessment of the skilled migration program that places such emphasis on temporary and employer-sponsored forms of migration without proper recognition of the inherent flaws and dangers in doing so. In our original submission we set out a package of recommendations to help address these issues and ensure that
20 the temporary work visa program operates in the best interest of all workers. I won’t go through those recommendations again now, but just to briefly highlight the three key things or priorities which run through them.

25 They are support for Australian jobs, support for Australian training opportunities and then fairly very much focused on ending the exploitation and supporting vulnerable temporary migrant workers. I might leave it there.

MR LINDWALL: Thank you very much. You’ve given a draft submission we have a copy of. It’s quite detailed. Thank you very much. If that’s the
30 basis of the final submission, well, that’s very well placed and we appreciate it. Would you like to perhaps say are there any aspects of the – say between 457s, working holiday makers and student visas which have particular concern or your concerns are more broad than that?

35 **MR SHIPSTONE:** Our concerns go across the spectrum. I guess they’re all characterised – obviously the 457 visa is a sponsored visa and so there is a framework around sponsorship and the others aren’t sponsored. But I guess they’re all characterised by the fact that they’re temporary forms of visa and that many of the people on these visas do have the goal of staying in
40 Australia and achieving permanent residency, which, in our view, creates many of the problems where workers have that goal in mind. That leads to problems where they face mistreatment in the workplace or exploitation, underpayment and they’re unwilling or unable to raise their concerns for fear of jeopardising those longer-term prospects.

45 It’s fair to say probably over a number of years the 457 visa had been very much the strong focus of the union movement and almost – in the wider

5 sort of public sense of what the program was about. The 457 visa program
was virtually synonymous with temporary work visas. I think though more
recent times the problems with the working holiday visas and international
students have obviously become more prominent. I guess they're
10 characterised by the fact – and this separates them a bit from the 457 – is that
they're operating at the lower end of the labour market. As your draft report
highlights, that's where there is a potential for some impact on Australian
employment opportunities. But they're all uncapped, essentially. So there's
no caps on the size of the programs. They're just determined by employers,
15 essentially, which is one of our concerns.

MR LINDWALL: Of course, you could cap them, hypothetically. An
alternative way or one that might supplement that might be to question how
the enforcement of the rules are and sanctions against employers, for
15 example, who exploit – who are unscrupulous and so on. Can we talk about
the latter first? Is there anything – do you think the sanctions are sufficient or
perhaps are not applied sufficiently? If you had a good regime it surely
would address some of the concerns you've just raised.

MR SHIPSTONE: Yes, it would. We'd always support, I guess, stronger
penalties on employers on who do the wrong thing, more resources into
compliance. That goes without saying almost. But I guess it still doesn't
address the root causes of why exploitation happens in the first place. Again,
20 going back to that issue about the fact that workers are in this vulnerable
situation with goals of staying in Australia and so on, so you might increase
the penalties, but whether that stops the exploitation – it's important too that
penalties are applied are made public. Sometimes we have a concern that –
and it seems to be a reluctance a bit in the past on actually sort of naming and
25 shaming, which can be a useful mechanism. The Fair Work Ombudsman has
done some good work in that area in more recent times. Increased penalties
and better enforcement are part of the response but they're not the full
response in our - - -

MR LINDWALL: But even if you went – if the concern principally is that
35 people are more vulnerable because they've got a goal of becoming
permanent residents, ultimately citizens many of them, which I think is not an
unreasonable goal, that transition is fine. Having quotas would also not solve
that because it would just reduce the numbers of people involved perhaps, but
whoever is still coming in direct quota would still be desirous of reaching- - -

MS McCLELLAND: Because there's a cap on permanent and so they're
40 still going to be trying to - - -

MR SHIPSTONE: Yes, some of the problem though – I mean, that may be
45 true to some extent. Some of the problem though is exploitation is actually
tied to the fact that it's uncapped. Some of the evidence which we've heard
from working holiday visa makers who have been exploited is that when they

raise concerns the response of employers is, “Well, if you don’t like it, there’ll be another batch coming through next week.” So the fact that this supply is on tap essentially can create problems in itself, the fact that there’s no caps or controls over the size of the program.

5

MR LINDWALL: Let’s explore a cap then. How would you implement a cap, apart from the obvious that you just have a physical cap, but how should the cap be set? How would it be for different – so you obviously have working holiday makers, students, you have the 457s. Would you have different caps for different types of occupations or jobs?

10

MR SHIPSTONE: Yes, sure. Look, all those options – I guess our first priority, which we’ve outlined, is a cap on the size on the working holiday visa program. Across these different visa types there’s different approaches which you can take. Labour market testing, in our view, is – I mean, in ideal world you’d have labour market testing across all visa types. But at the moment it applies to 457s and, realistically, it’s unlikely that the government would apply labour market testing across each and every working holiday visa maker. So we’re looking at other responses you can have to have some sort of control over the numbers so that they’re more responsive to the labour market conditions.

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Obviously some work needs to go into it. We, haven’t come out and given a number ourselves, there’d be a process which you would need to undergo. We’ve said that’s something which the Ministerial Advisory Council on skilled migration could have a role in. Our concern has just been that there’s been no consideration given to labour market conditions in Australia at the same time as the number of working holiday maker visas have been increasing. We cite some of the figures in our written submission in terms of youth unemployment rising at the same time as working holiday makers visas have been increasing.

35

The evidence too – and this is evidence which I think the department gave in Senate Estimates – is that it’s very much driven by the economic conditions in the home countries where the workers are coming from. I think we say clearly that it should be determined by labour market conditions in Australia, not labour market conditions overseas.

40

MS McCLELLAND: Realistically it’s probably the difference between here to there, the (indistinct), you know what I mean, the better conditions here compared to there.

MR SHIPSTONE: Yes.

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MS McCLELLAND: As that balance changes, one would expect the numbers to change, basically.

MR SHIPSTONE: Yes.

5 **MR LINDWALL:** In our report we did note that youth unemployment has risen since say the global financial crisis and the numbers of temporary workers have been increasing, although, of course, they've come off in 457 since the mining boom has abated, collapsed. So temporary visas have been responsive to the economic cycle in Australia. But we said that these are correlations, not causalities, so we couldn't – there's no conclusive evidence is what we said. Do you have any more evidence you could present that 10 might persuade a view that there is some level of causality there rather than just mere correlation?

15 **MR SHIPSTONE:** Yes, it's a good question. On an aggregate level it is difficult to find conclusive evidence to that effect. Certainly there's evidence which our affiliated unions have and their members have of situations, for example, where Australian workers are made redundant and then 457 visa workers are brought in, cases where 457 visa workers have actually been brought in to train Australians who – Australians have been – who are about to be made redundant have been asked to train workers who are going to 20 move into their jobs, those sorts of cases.

25 But our argument is not that each and every temporary visa holder is taking an Australian job. Clearly that's not what we're saying. But just that there's been no examination of the issue at all over a number of years and that there needs to be some rigour and process around that. As I said, we don't have the answer today in terms of a cap. But all those options you mentioned, caps in particular regions, caps in particular occupations, is all in the mix.

30 **MS McCLELLAND:** In the meantime we didn't recommend the cap but we did recommend a public inquiry into the employment effects of those two particular programs as a way of trying to get some more information about it before we would be comfortable in recommending a cap. That might lead to some more data or some more debate about it. So your reaction to - - -

35 **MR SHIPSTONE:** Look, I guess in the broad we'd agree with that recommendation. There needs to be some work done around that obviously. We can't just pluck a figure out of the air. But that's an option which we strongly advocate, some form of cap, which is – I mean, other countries do 40 have caps. One issue which I might just – just on the issue of whether – of temporary forms of migration following the economic cycle. That's certainly the argument made in relation to it. I guess we'd raise some issue with that in terms of the evidence - - -

45 **MR LINDWALL:** You did say that.

MR SHIPSTONE: About 457 visa numbers which were increasing as job

ads were decreasing and unemployment was going up and also the trends with the working holiday visa numbers as well. I guess we'd also point to the evidence that – I mean, in some cases employers clearly do prefer to use overseas workers. There's some survey evidence which came out of the Migration Council of Australia which had some quite illuminating findings in terms of employers – some of the figures, just from memory, 15 per cent of employers saying they had no trouble finding workers in the local labour market, yet preferred to use overseas workers. You had employers saying that only 1 per cent would think of higher wages as an option to attract workers, whereas 33 per cent would look at the option of overseas workers. Around 20 per cent liked the idea of having more control over overseas workers.

They're signs, I guess, or some indication, in our view, that it's not just a simple case of employers exhausting all possible local options and then going down the track and employing overseas workers.

MR LINDWALL: The BCA which hasn't appeared but did make a comment I think – I don't think I'm verballing here – but it was along the lines that employing someone from overseas is a costly – compared to employing someone locally. So you're effectively, I guess, saying that even despite that increased cost of bringing someone in from overseas, that some employers would find that preferable than employing someone locally.

MR SHIPSTONE: Yes, that point is certainly true and we'd make that point. But as well as that, I think the argument about cost is sometimes overblown because it assumes that all these workers are overseas and there's all these recruitment costs of going overseas and finding workers, whereas the reality is that a large number of these workers are already in Australia on some other form of visa and they may already be working for that employer. So you may have a working holiday maker visa and you then sponsor them as a 457 visa worker and they're right there often in your workplace.

MR LINDWALL: What are the types of reasons that an employer might prefer someone from overseas than from someone locally? Is that because they've got – even at the margin chance of – they're a bit keener because of the risk of their visa being taken away or something like that?

MR SHIPSTONE: In some cases it is that, we think. From our jaundiced view of the world as well, often it's about keeping unions out of workplaces and greater control over visa workers. Yes, very much we think they're some of the factors at play.

MS McCLELLAND: I'd like to just explore the exploitation issue before we move off this thing. In relation to exploitation, there's two issues about how you can get some information about what's happening, one, and also what you can do to prevent it. We had a recommendation that you're

seeming critical of which was our app. You say it's really employers' responsibility. But we would – wouldn't the response to that being you don't want to rely on employers to giving the information about rights because they're going to only give certain information. We wanted – you could say there's certain things that employers are responsible for. But we wanted to give the actual worker a bit more independent information so that they could assess it for themselves. So that was the point of that app.

MR SHIPSTONE: Our response to that point, if it's not clear in the response as it is, we'll have a look at how we frame it. But it's not that there's any problem in itself in having information. That's fine. It's just that clearly it's not the only response. I mean, clearly it's important for workers to have some knowledge of their workplace rights and responsibilities, both in a general way but also to know what their specific pay and conditions at that workplace are. That information should be available and if it's available through an app, that's fine.

I guess the issue is that it's not only about having the information about their rights, it's also being in a position to exercise those rights, and that does not cover that.

MS McCLELLAND: Yes, and that is another point and that relates to both the degree of enforcement and to what extent the Fair Work Ombudsman can actually investigate all this, given what's happening. But it also relates to the reluctance of the visa holder to come forward. One suggestion that's been made to us was that the Fair Work Ombudsman should not disclose to Immigration. So if he didn't disclose to – he should try and keep them separate to protect the visa holder, do you know what I'm saying?

MR SHIPSTONE: Not disclose information about - - -

MS McCLELLAND: To Immigration - - -

MR LINDWALL: Breaches of - - -

MS McCLELLAND: About individual visa holders. So if the Fair Work – on the Fair Work side, if they weren't allowed to tell Immigration about individual visa holders there might be greater - - -

MR SHIPSTONE: Yes, okay, I can see the motivation behind it and it's a good motivation. I guess in the situations where it's a 457 visa holder and Immigration does have responsibilities there, they should know about it and they should be taking action as well. They need to know that information because if they're breaching industrial laws, then they're most likely breaching – well, they would be breaching their sponsorship obligations as well under migration law. So they would need to know.

5 Just on that issue about having information. I mean, again, it's not that we're critical of the idea itself about having information on an app, it's just there's other responses. But I guess it does sort of put the onus on the workers themselves. Obviously the worker does have an onus to know, hopefully know their rights and conditions. I was thinking about it earlier. It's similar to the debate in the VET sector and all the exploitation that's happening there with the dodgy training colleges and so on.

10 The response is often made that if we ensure that students have the right information about different colleges, then they can make the choices. But it just puts the onus back on – well, in that case on 17-year-old kids to make the right decisions about colleges, training colleges they don't have all that much knowledge of. So the onus shouldn't be solely on the student or the worker.
15 There's onus on the regulators to make sure that the right things are happening. And there's probably a scope for – at that point where workers start to have some sort of – I mean, unions – clearly we're trying to organise in workplaces where they can.

20 But to have some sort of role for unions and other non-government organisations to have access to these workers at the point where they start so that they know what some of their rights are, where they can go to for help and so on.

25 **MS McCLELLAND:** I think you also said to reduce – that accommodation should be provided separately, shouldn't be provided by the employer. Was it the ACTU? Someone said that. I just wondered - - -

30 **MR SHIPSTONE:** No, that's not - - -

MS McCLELLAND: Because I just wondered about that because it seemed to me that there's a lot of advantages having the accommodation provided by the employer in some of the remote areas where it's not – so I wondered how realistic that was. It wasn't you?

35 **MR SHIPSTONE:** It's not our submission, but there are issues with the sorts of accommodation which workers are put in.

40 **MS McCLELLAND:** Yes, there are.

MR LINDWALL: Any more on the - - -

MS McCLELLAND: No, not on exploitation.

45 **MR LINDWALL:** I'd like to ask a bit about the program itself, so the permanent visas and migration program. The quota for that, do you have anything – how it's set, is it too high, is it too low and the interaction between

the temporary and the permanent visa classes?

5 **MR SHIPSTONE:** Our position on the permanent migration program – and we make submissions on that each year and there’s a process which you’re aware of which goes through. Our position at the moment is that it should remain as it is at the current level. This is sort of a point I think which you make in one of your findings or recommendations is that it is difficult to be precise about these figures. In making our submissions on the program I don’t know if there’s much value in us saying, “Instead of 128,000 it should be 131,000 or 126,000.” It is hard to be precise about these things.

15 I guess, in general terms, it has been approached where economic conditions are sufficiently bad there have been – governments have made cuts to the intake. In fact during the GFC there was a cut. So that’s something which we’d look at in those sorts of circumstances. But at the moment we’ve said it’s about right. I guess our issue is with the balance is that you’ve got 128,000 in the permanent skill stream, some more for family reunion, which is something we support as well, and the humanitarian component, so makes up about 190,000. But that’s just dwarfed in comparison to the size of the temporary migration program.

20 I guess our view is that it’s a bit out of kilter. It’s not a position which we’re advancing as such and it’s not a public position of ours. But just speaking in general terms, I mean, you could potentially – if you had some greater control and rigour over the size of the temporary migration program you could look at having a larger intake for the permanent migration program.

25 **MR LINDWALL:** Do you have anything to say about the level of English that’s required for the different programs?

30 **MR SHIPSTONE:** Yes, look, our position is – I feel the English language is very important for a number of reasons and we’ve outlined in this submission or in other submissions, in any event, for health and safety in the workplace, in terms of ability of migrants to interact in their community, in terms of employment mobility it’s very important. I think in our draft response we’ve outlined some of the cases which happened where workers don’t have the required level of English and it can be quite - - -

35 **MS McCLELLAND:** Increased vulnerability.

40 **MR SHIPSTONE:** Yes. Increased vulnerability for the workers themselves but also for patients in nursing situations. I think there’s a case - - -

45 **MS McCLELLAND:** Yes, that’s true.

MR SHIPSTONE: - - - of our labels being read incorrectly and so on. But

there is this continuing push to lower English language standards which employers make that push. It's something which we resist. At the moment, the 457 visa program is IELTS 5 which is functional English. We said it shouldn't go any longer than that and we do raise a question of why it's not IELTS 6 in line with the permanent migration program.

MR LINDWALL: It makes a fair point, Tim. We did say how important English language ability was for successful integration.

MR SHIPSTONE: Yes, that's right.

MR LINDWALL: And obviously good outcomes for immigrants.

MR SHIPSTONE: It runs through your draft report quite a bit. I noticed some of the report was - - -

MR LINDWALL: What about the provision of settlement services which are provided at the moment to humanitarian intake people but not to family members of skilled immigrants, for example, do you see that as something that could be more broadly applied and what are the – how it could be improved?

MR SHIPSTONE: It's not an area which we have a lot to do with, the settlement side of things. But just to say, I guess, the settlement services are very important. At the moment, as far as we understand, there aren't settlement services in relation to the temporary work visa program. That would be a large exercise given the size of the temporary migration program. And you probably don't need a settlement service for every backpacker who comes over here. But when you're looking at the 457 program, for example, and workers coming over here for four years and then often it becomes longer, there is a case for whether there should be some settlement services available to those temporary work visa holders. I mean, cost is obviously an issue. But whether employers as part of their sponsorship obligation should be required to bear some of that cost.

MS McCLELLAND: I've got a couple of – first of all, going back to your concern about temporary, you didn't mention students. We didn't talk about them so much and the work rights of students. Do you have any sort of concern about what's happened there either with the – because they're often working at the lower end of the labour market. And also in relation to the graduate visa.

MR SHIPSTONE: Look, it's a huge issue the international student issue and the examples of exploitation. The 7-Eleven scandal of underpayments essentially with international students – and there's problems there with the – I mean, I think the work right for 40 hours a fortnight is probably about right. But it just creates all those sorts of problems where if the students are looking

for more work than that or they're not being paid enough or being underpaid and they work more hours, then they're in breach of the visa conditions. So that creates all these problems.

5 In relation to the temporary graduate 485 visa program, we do have concerns with that program as well and some ideas on how that could be improved. The main issue we have is that it's a visa designed ostensibly to give the student further work experience in their field of study. It's part of
10 marketing tools for the tertiary sector, I guess, as well. We understand that, that to market courses and sort of potential for further work and visa opportunities after that. But there's no requirement for the work to be in that field of study.

15 Again, those 485 visa holders are working in the lower-skilled ends of the labour market. Just last week there was a case reported of some people on a 485 visa who were being paid \$10 an hour at a petrol station. There's just – except for the employer, there's no one winning out of that scenario. Those 485 visa holders aren't working in – they're not getting any further work experience in their field of study obviously at the servo. I mean,
20 they're being underpaid. At the same time potentially there could be young Australian out of work who could take up those opportunities.

25 So there should be a stronger requirement enforcement around the fact that it should be work in their - related to their field of study and where that occupation is in shortage. We also think that labour market testing should apply to that visa and that could be done. You've got Australian university graduation figures of around sort of 65, 70 per cent employment for people who've graduated in the last four months. Our position sort of across the board is that Australians should have the first go at available jobs. Labour
30 market testing could work given the size of the temporary graduate visas, it's about 20,000 at the moment.

MS McCLELLAND: Moving away from that, my other question was this whole issue – we've got an information request and, of course, you've given
35 quite a bit of thought to it over the years is the whole issue of encouraging disincentives for employers to invest in skills that can happen with a migration program. So it's just how you would – how we will get some understanding about what that disincentive – how that disincentive is operating now. As I say, we've got an information request on that. But also
40 what you would do to make sure that employers were investing sufficiently in training and skills development.

MR SHIPSTONE: We've said a bit about that and that's one of our most important issues for our unions and our members, the provision of training
45 opportunities. At the moment – and it's going to differ across different visa types. But certainly with the 457 visa program where there are nominally some training benchmarks attached to that – but at the moment there's no

evidence – if you wanted to find out what employers who are using the 457 visa program are doing in terms of training, there's no information collected on that.

5 An employer employing five welders and five mechanics and five
carpenters or whatever it might be, there's no evidence on what they're doing
to train Australians in apprenticeships in that same field. At the very least
there needs to be some information on what's happening and what the
training effort is. We have put forward some proposals in terms of what
10 training benchmarks could look like. I mean, the requirement, first of all, is
that there should be a requirement to be training in the occupations where
you're using 457 visa workers, which at the moment doesn't – there's no
such requirement. There's a requirement to have a certain percentage of
payroll expended on training - - -

15 **MR LINDWALL:** But it could be on anything.

MR SHIPSTONE: We are also attracted to the idea of having some form of
ratio. So if you're employing visa holders, then you should have a certain
20 number. If it's in the trades area you should have a certain number of
apprentices. If you're employing workers in the professional, technical fields
you should have a certain number of Australian university graduates. And
we put some figures around that in our submission. Also, some sort of
investment into a training fund, which is a proposal which was put forward as
25 part of the Azarius review, which is something we agree with in concept. We
just think the rates that they're talking about are too low.

We suggested in relation to the trades area that if you're employing 457
visa workers in the trades occupations, then you should be required to make a
30 payment of \$4000 into a training fund, which is equivalent to what you
would receive if you did actually employ an apprentice.

MS McCLELLAND: Can I just ask just in relation to this whole issue,
given what's happened with the whole training area and the concerns about
35 the private providers, is there a case for a major review of our skills
development in Australia generally? We seem to have – you know, could
you combine something like the concerns about what the employers are
doing with immigration with the concerns about what's happening with - - -

40 **MR SHIPSTONE:** It's all very much tied together I think.

MS McCLELLAND: Yes, it is, isn't it?

MR SHIPSTONE: Yes, that's right. At the moment, MACSM, the
45 Ministerial Advisory Council Skilled Migration, has a reasonably limited role
in migration matters. But if you had a body which was able to look across
the different areas, which, to some extent, is what the Australian Workforce

5 and Productivity Agency had a bit of that sort of remit to work across skills and migration. But that was abolished a couple of years ago. So some standing body with responsibility for oversight across skills and migration area. I work across both policy areas myself and there's clearly strong links in what's happening.

10 **MR LINDWALL:** As an aside there, I should put a plug for our infrastructure inquiry of last year where we recommended an inquiry into apprenticeship provision and so forth.

15 **MR SHIPSTONE:** As with all these things, there's been reviews in the past obviously. I was involved in one a few years back with the apprenticeship system and we made some recommendations and, as happens, a lot is still left there on the table. But they're there for anyone who wants to pick them up.

20 **MR LINDWALL:** On labour market testing, clearly if we had greater use of labour market testing you'd want it to be efficient and not too time-consuming. Have you got a model in mind that would meet that type of criteria?

25 **MR SHIPSTONE:** Yes, well, we've put forward some proposals in our submission for how the current system could be improved to make it a bit more rigorous I think. I mean, our concern is less the employers arguing about how time-consuming it is. We want something rigorous which ensures that there's some evidence that the labour market has been tested properly. So we've sort of put forward some suggestions around information that should be required in terms of those local recruitment efforts and some time periods around advertising and so on.

30 Again, as with the training side of things and the extent of training effort by employers, again, unfortunately, there's no information. Labour market testing has been in place for a couple of years now and there's no information publicly available on how it's going, what sorts of evidence the department is getting from employers, how they make their decisions, cases where they're
35 knocking back visa nominations because they haven't shown evidence. So it'd be good as a starting point to have some information on the operation of labour market testing since it was reintroduced a couple of years ago because clearly we think it's a good thing. If only to send a message or a signal that – a signal as part of a broader issue of engendering community confidence in
40 the program that there is an onus, a legal obligation on employers to show evidence that they've tested the local labour market before going down the route of using overseas workers. So it's important that it's there. But we would like some more information on how it's going so far, I guess, because most of the arguments you hear from employers is just that it's too hard or it
45 doesn't work. But I think we need to do more than just rely on concerns that there's a bit of paperwork required.

MR LINDWALL: When you say advertisement, it doesn't have to be a physical paper any more, I'm assuming it can be electronically.

5 **MR SHIPSTONE:** That's right, yes, and different industries will have different means of – not only prescriptive in that sense but there should be some basic requirements in terms of information that should be in job ads. The UK sets out some basic information that should be in job ads. It's fairly obvious sort of stuff.

10 **MR LINDWALL:** Have you got any models from overseas? You mentioned the UK. Is that the Canadian system or - - -

MR SHIPSTONE: Well, the UK, as I said, just sets out some basic information that should be in job ads.

15 **MR LINDWALL:** Was that in your submission? I don't remember reading that.

MR SHIPSTONE: Not in great – it is in the submission.

20 **MR LINDWALL:** If you could add in something about the UK method would be useful. Thank you.

MR SHIPSTONE: Yes, we can do that.

25 **MR LINDWALL:** Did you have any final things you'd like to say, Mr Shipstone?

MR SHIPSTONE: No, look, we'll finalise our written submission and make any final comments there. Thanks for your time today.

MR LINDWALL: Thank you for coming.

35 **MS McCLELLAND:** Thank you.

MR LINDWALL: Thank you. There's coffee at the back and we're actually due to have a morning tea break now. So, please help yourself at the back there, anyone. Thank you.

40 **MR SHIPSTONE:** Thanks, again.

ADJOURNED [11.14 am]

45 **RESUMED** [11.34 am]

MR LINDWALL: Michael Ahrens, you can sit at any of these seats here and your name and organisation and then perhaps give us a short introduction.

5

MR AHRENS: I've got a small piece to read if I might.

MR LINDWALL: Certainly.

10 **MR AHRENS:** I will give you a hard copy. I am Michael Ahrens. I am Executive Director of Transparency International Australia. That body, Transparency International, has about a hundred chapters in the international network, dedicated to combating corruption in all its forms. We are non-partisan in political terms, pro bono, and we make submissions, periodic
15 submissions to government in matters relating to corruption, in matters of law reform and enforcement to various agencies, such as Attorney-Generals.

The first point from us, and we are not consultants and we deal with the general issues, so the most important thing is that we're not dealing here - I
20 am not going to talk about any particular cases. We endorse recommendation 10.3 in the draft report to abolish SIVs and PIVs. The basic point is that when the integrity of funds used under these visas are examined, we believe that the Commission's conclusion understates the risk associated with SIVs and PIVs and this consideration strengthens the reasons to abolish the visas.
25 Essentially, we agree with the report that no level of screening and vetting can provide complete assurance as to the integrity of the source of funds accessed by the applicants for those visas.

Monitoring and surveillance of overseas fund flows in relation to these
30 visas is complex, we recognise, and involves extensive and challenging work by Austrade and other agencies, and is expensive. It is, in our view, a diversion of specialist resources and limited funds. In this context, it is necessary to consider the issue of the effectiveness of enhanced due diligence. That task is essential, as it is acknowledged. It is complicated, not
35 just by tracing the flow of funds which may often be involved, but also by the different and sometimes emerging situations in the countries from which the applicants may come, as much as their personal circumstances.

We stress - I stress - here that, regardless of the country of origin,
40 whether it be China, India, Mexico, Fiji or anywhere else for that matter, the ability of our authorities to fully discharge the burden of enhanced due diligence in any case, with the possible linkages of people and fund resources, is onerous and may often be impossible. A considerable and unrecouped cost has to be involved in each process of cross borders agencies
45 in the private sector. While we are not privy to the details of the screening process, we consider that despite the best intention of government and the professionalism of the agencies, that no level of screening can assure

Australians of the complete integrity of the source of funds used by SIV and PIV applicants.

5 We recognise the government's commitment to maintaining the highest
standard of vetting of the source of qualifying funds and monitoring the flow
of funds. But in any event, quite apart from the cost, the risk to our integrity
from dirty money and money laundering, in our view, completely outweighs
any benefit of the special visa categories. The risk of sometimes getting it
10 wrong or incomplete are, in our view, not the sort of risks that relevant
Australian authorities should be asked to take.

15 The second point, real estate investment. With such a sustained appetite
in China and other countries for Australian real estate, we in this country
have no need to provide this special visa incentive. Indeed, we run the risk of
providing safe haven to the proceeds of corrupt transactions offshore. We
recognise that Australian property investment does not constitute qualifying
investment for the 5 million for SIV or 15 million requirement for a PIV,
20 however it is very significant that once the permanent resident visa is
granted, the holder is thereafter exempted from the need to obtain FIRB
approval for purchase of residential or other property, using other funds
introduced by them. For the wealthy, this is an important advantage,
including in being able to shelter the proceeds of corruption, if that is the
case, which you never know.

25 You will have noticed the press attention of the issue of property
purchases because of the recent extensive checking processes finally put in
train by at least the ATO and the FIRB and I think also AUSTRAC. I think
they are now devoting quite a lot of attention to it. I will only mention one
episode, which came to our attention via the media, to highlight this. It
30 concerns the reported purchase of an alleged inflated price of a block of flats
in Melbourne, paid for by a group of Malaysian officials or a government
agency itself and the remit of the very large amount by sham invoices to
connected parties in Malaysia. That's in the Financial Review of
23 June 2015. I put details in here.

35 We don't know if this sort of case has been investigated closely by the
authorities, nor do we suggest that those involved held any SIV or PIV status
at all, but a rigorous, independent check of relevant checking process to
provide transparency, is what we call for. It's enough here to note, in general
40 terms, that in Australia the House of Representatives Standing Committee on
Economics last year, reporting of foreign investment in residential real estate,
concluded that detailed information on the degree of foreign ownership in the
residential property market is not available, far less the detail.

45 In the UK, the issue of the massive property purchases by overseas
parties has gained attention at the highest level of government. The issues we
flag here have been described in their official reports and by our chapter in

the UK in a report just come out, closing down the safe havens.

5 In conclusion, we endorse the recommendation of 10.3, but submit that your final report should deal more extensively with this issue and our call for an independent review of the processes involved in these visas.

Thank you.

10 **MR LINDWALL:** Thank you, Mr Ahrens. Is there anything you can talk to us about overseas? You mentioned the UK, but other countries perhaps in terms of these types of visas, investor visas, or something similar.

15 **MR AHRENS:** I noticed in your report that you - I was really quite surprised about Austria. I must say that really surprised me. They give citizenship for money brought in, which is curious and curious to us also because we understand now that Switzerland is getting tough on the black money that a lot of people are moving to Austria, but I don't know. I also notice that the Canadian abolition of these visas, they don't talk too much about this issue, listing all the points for abolishing them. They don't talk about this issue and maybe that's understandable for the public. I think it is a big concern. Canada and Australia is following the pressure from the US and UK to toughen up in relation to these in the money laundering matters.

25 **MR LINDWALL:** Essentially you're saying that by virtue of giving away a permanent visa for this investment purpose, that it helps the potential money launderer or source of corrupt funds to be using other funds, not just the funds through that visa, but potentially other funds and going around the normal FIRB-type rules which would have otherwise applied?

30 **MR AHRENS:** Absolutely, and that's the point often overlooked. It's not the money that's brought in to qualify. That can sit there in investment. If you've got that sort of money, usually you've got those sort of connections. When you see houses being bought for 40 million on the harbour front here, then you realise what sort of money is now looking to Australia for investment in real estate. When you look at the videos they say, "That's because we like to take holidays here", but there are a number of reasons. It can happen from any country.

40 Now, the whole question of how do you rank countries is dealt with in our annual corruption perceptions index. I would certainly refer you to that to get an idea of how countries are ranked by us. Also, in terms of illicit outflow, the latest report from the GFI, the Global Financial Integrity group, based in Washington DC, has a similar sort of ranking. It actually gives numbers to that sort of outflow. So while it's only dealt with in a couple of lines in your report, this is an absolutely huge issue because they are talking about illicit outflows in this report I just read of billions of dollars annually coming from countries where wealth has been accumulated through various

means.

MR LINDWALL: Can you give an example of the types of nefarious means that are used to accumulate these types of funds?

5

MR AHRENS: It usually comes from dealing with politicians, what in AUSTRAC's terms are called PEPs, politically exposed persons, and that in some countries are government-owned entities who may be engaged in trading, but connections to those.

10

If I could just go back to those rankings, by the way, in terms of outflow, China, Russia, Mexico, India, Malaysia, Brazil, they are the countries that are incredibly - incredible amounts of money are documented here in terms of annual outflows to the tune of a trillion dollars a year, if you go through the whole list of 20 countries, down to Poland.

15

MR LINDWALL: One of the alternatives since people - well, let me go back to the original purpose that proponents of the SIV and the PIV would claim for the visa, that it attracts investment into Australia which otherwise would not occur. I guess that's the essence of the claim, although in our draft report we dispute that. Do you have any sympathy for that or is there an alternative means to attract investment which might be more efficacious and less prone to such risks?

20

MR AHRENS: No, I am not an economist, nor a banker, and I don't really - I am not qualified to answer that. I don't know why you need a permanent resident's visa for this, particularly when it's not allied to English language fluency or anything like that. People who have accumulated this large amount of money may have other skills that may be useful. But if they've got that sort of interest in Australia, the question is why do we give away a permanent resident's visa as a prize for so doing. After all, if the investment is good enough, I suggest it would be made.

25

30

MR LINDWALL: You don't believe that people invest in Australian assets via this scheme for philanthropic reasons?

35

MR AHRENS: No, not at all. It never would be.

MR LINDWALL: It never would be. In chapter 13 of our report - - -

40

MR AHRENS: Nor necessarily risky investments. This is the interesting thing. That 10 per cent can be invested in small companies as well as start-ups. You know, the risk of start-ups, as I am sure this government will find out, has already been announced. It's like one in 10 are successful. The linkage, in our view, is all outweighed by the failure to be able to know what sort of money it is.

45

MR LINDWALL: In essence, you don't think that Australia should give away a valuable asset, in other words a visa, for people just buying assets in Australia.

5 **MR AHRENS:** That's right, because I don't think there's a logical connection.

10 **MR LINDWALL:** We asked in our report to analyse a pricing option to sell visas, right, and we rejected that. But in chapter 13 we included various alternatives that might - we wanted views upon - one of them which is more relevant or pertinent to this particular one as an alternative would be a small addition to the permanent quota which is allowed for people to pay a large amount of money directly to the Australian Government consolidated revenue fund, if you like. So as an alternative, and we're not proposing this
15 by the way, we're just exploring it, would it be an alternative or something that's useful to consider.

20 Let me expand on this, would be under such an option, there would be a quota of whatever that may be. There would be a high price. It might be a million dollars. It might be two million dollars. It doesn't really matter. It would be a very high price and people would still go through the normal criteria of character checks, security check and health check. No other criteria would be involved and that amount of money would go directly to consolidated revenue and then the government could use it for its normal
25 purposes of governance. My question really is, would that be less risk of the corruption issues that you mentioned that are in place for the SIV or similar types of risk?

30 **MR AHRENS:** It just deals with the cost factor to my mind.

MR LINDWALL: So rather than people investing in various assets which, as you say, they won't do it for philanthropic reasons, they do it because they expect to get a return from it, this would actually be a price that we would charge.

35 **MR AHRENS:** With no monitoring on what is then done. I mean that's the question.

40 **MR LINDWALL:** Well the money would go to the taxpayer.

MR AHRENS: Yes, but no monitoring about what sort of investment thereafter.

45 **MR LINDWALL:** Well no, the person would then have a permanent visa.

MR AHRENS: Yes, but he could then invest without monitoring.

MR LINDWALL: Well, like any - - -

MS McCLELLAND: Yes, he could presumably do the same thing that you've been talking about that they can do when they get in.

5

MR AHRENS: Our view is that it is going to be a huge challenge, not just for this country, but for a lot of countries, to monitor the inflow and who is behind it, of funds. Already there are big businesses operating in this country that have come from very strange PEP connections in some countries and nothing will be done about that historically. But this is not going to go away, this issue, and very little is being done to know who is behind various investment people here.

10

On your question, I don't know the answer to that but I am just concerned. I would be concerned about any of this incentive. If people don't think they can otherwise value the case, the idea of putting up a million or two dollars paying for a visa, I don't - it doesn't attract me at all.

15

MR LINDWALL: Are you generally supportive of the immigration system which is based upon getting skilled people into Australia, and what you're effectively saying is that having a large amount of money to pay for something is not necessarily a good guide to getting skilled people into Australia?

20

MR AHRENS: That's right. I think it's a distraction and it's just so costly. I mean the amount of bureaucratic time and valuable - I call it diversion of resources, it's really - these are top people trying to find out where the money has come from and so on.

25

MR LINDWALL: Why do you think governments are attracted to these types of schemes, given all of those risks and the negligible benefits one could argue?

30

MR AHRENS: No idea. I have ideas but I think in some cases there may have been inducements but I don't know.

35

MR LINDWALL: I should let Alison ask some questions.

MS McCLELLAND: Well I don't know whether you have had a chance to look at our report, but because we - - -

40

MR AHRENS: Not overall. I was just concentrating on that one thing.

MR LINDWALL: Yes, yes.

45

MS McCLELLAND: Because we make a recommendation, 10.2, that the government should review the Business Innovation and Investment Program.

Do you know anything about that program?

MR AHRENS: Not too much. That's the one where you've got to show that you've got an active business?

5

MR LINDWALL: Yes.

MR AHRENS: That sounds to be okay but you've got to develop the business. You've got to have the skills to do that and presumably the English.

10

MS McCLELLAND: A concern here is that there's not information that's collected about what's done with that program.

15

MR AHRENS: That's right.

MS McCLELLAND: And that, you know, we're suggesting that there must be a better collection - bringing together data about that program. But I just thought that you might know something about that.

20

MR AHRENS: No.

MS McCLELLAND: I think that's the main area.

25

MR AHRENS: I think one of the benefits of these visas is providing more work for immigration agents. There's no doubt this must be propping up a market. If you abolish them, there might be people looking around to concentrate on other things.

30

MR LINDWALL: You can be quite sure that there are people who may be appearing later today that seem to favour the SIV, if you look at the points that have been sent through to us. The upshot of it is that you support our recommendation. You think that we've understated the risks of the money laundering and the corrupt sources of funding.

35

MR AHRENS: Potential, potential. There's no doubt that there are some excellent sources of funds generated by good people in proper ways. There's no doubt about that. It's a question of what are these big numbers about illicit flows. What's happening about that?

40

MR LINDWALL: A trillion dollars you've said, yes.

MR AHRENS: Yes.

45

MR LINDWALL: You also said quite clearly that the cost to the taxpayer of trying to verify the sources of funds is quite high. We probably have understated that and that in any case it's impossible to fully rid yourself of

that risk.

5 **MR AHRENS:** Just think of what happens if one of these countries suddenly pop up and say, “Hey, that guy, we’re putting him in jail for vast corruption”, and he’s been given a visa the previous year by us. That’s going to look awful. That’s likely to happen. I mean some of these countries are now bearing down on illicit outflows and, in fact, one country, China, is asking the Federal Police to assist them in so doing. Now for whatever reason, that government takes action against someone to whom we have recently given a visa, it will maybe run into the anti-terrorist laws, you know, that problem with dual citizenship. But you can imagine that. I mean I just don’t know why there’s not enough attention given to this.

15 **MR LINDWALL:** If other developed countries follow a similar policy of trying to tighten it up and reduce the opportunities for it, well then clearly that money which is awash has to find some home and it will reduce the options for it and make it more expensive for that money to find a home, I would suspect. It’s just standard economics, that is.

20 **MR AHRENS:** You’re the economist. I wish I was, but I mean I imagine the flow of funds but it is just the scale of it.

MR LINDWALL: It is quite phenomenal, yes.

25 **MR AHRENS:** To see the UK toughening up heavily on this is really quite interesting, under the present Prime Minister.

MR LINDWALL: Did you have anything?

30 **MS McCLELLAND:** No, no more, thanks.

MR LINDWALL: Thank you, Mr Ahrens. Did you have any final comments you wanted to make?

35 **MR AHRENS:** No, our anti-money laundering procedures are heavily criticised by the FATF. I mean it’s not as if we really have our game. We’re not playing it at a very high level. The new regime at AUSTRAC is improving that rapidly under Paul Jevtovic, but it’s still - - -

40 **MR LINDWALL:** We’re behind the game, is what you’re saying?

MR AHRENS: Behind the game. Sorry, that’s a tennis term, is it?

MR LINDWALL: I guess so. I don’t know. Thank you very much.

45

MR AHRENS: Pleasure.

MS McCLELLAND: Thank you.

MR AHRENS: Thank you very much

5 **MR LINDWALL:** Is Mr Andrew Cummings here by any chance? No. We might have to stop for a few minutes then until our next witness, the Settlement Council of Australia.

10 **ADJOURNED** [11.57 am]

RESUMED [12.10 pm]

15 **MR LINDWALL:** Welcome. If you could give your names. It might be better over here because there's a microphone over there. If you give your names and the organisation and you're welcome to give a short introduction, if you like, and then we can have questions and answers.

20 **MR CUMMINGS:** Thanks very much. I'm Andrew Cummings. I'm Acting Executive Officer with the Settlement Council of Australia.

25 **MS O'NEILL:** I'm Kat O'Neill, and I'm the Membership Services Officer with the Settlement Council.

MR CUMMINGS: Thanks very much for the opportunity to appear before you this morning, or this afternoon. Can I start firstly by congratulating the Productivity Commission on the report. We believe it's a very balanced assessment of the migration in Australia and the current state of play and think that the recommendations take a really good kind of broad view at the issues, so it was great to see.

35 I would start by saying that the Settlement Council supports continuing the migration intake at similar levels to we're currently seeing in Australia, and I have heard that many people are arguing for a decrease in that program. So we would want to support a continued level around the current rate. We would also like to see and support calls by other organisations for an increase in the humanitarian program because that is the area that we most strongly align with and support.

40
45 One of the recommendations in the draft report that we would like to endorse is the one from the Migration Council of Australia, where they propose the idea of a percentage of the overall migration program being assigned to the humanitarian program. I think the figure that they suggested was around 12.5 per cent, or one in eight of the migration program, and we would support a move in line with that.

5 I guess one thing that we wanted to argue for that we didn't see in the report would be a minimum number and a minimum number around the current intake of 13,500 per year. But we think the idea of a minimum cap and then a percentage of the overall program above that would be a good way to increase the humanitarian program and to demonstrate Australia's commitment to humanitarian issues and to international conventions.

10 One of the things that we would like to see in the report, and in the migration program overall, is a greater emphasis in the program and in the research associated with migration around the social impacts of migration. Whilst we can see that there are both financial and social issues, we believe that there's more work needed to actually investigate and capture evidence around the social impact that migration has, and that the migration program and the different components of that contribute to making up and creating an
15 Australia that would be a positive Australia.

20 One of the things that we have been talking about in our organisation lately is how the humanitarian program specifically, and the migration program overall, can help in a kind of nation building way. So how can they contribute to building the kind of Australia that we want to develop in the coming years? We believe that there could be a greater emphasis on using the humanitarian program as a part of that kind of nation building approach to planning and designing an Australia and using the migration program as a
25 part of the process for addressing some of the areas in Australia that we would like to see further development and further investment.

30 I think one of those examples is in development in regional and rural areas. There's some really good examples and some good research that we've been involved in and our member organisations have been involved in, of exploring regional settlement and some of the benefits in various towns. There was some reference to that. I think AMES Australia, their submission, the Migrant Resource Centre of South Australia, both have been involved in very good and very well evaluated programs. We believe that there could be
35 more of that, that we need to do a better job of actually I guess describing and creating a picture of the Australia that we want, and then start looking at how the migration program and the humanitarian program can contribute to building that.

40 Although we obviously wouldn't want to promote some kind of social engineering that meant that people were forced to go and live in rural areas that didn't want to live in rural areas, or that were unsuited to that kind of life. We believe that more could be done to explore the opportunities. We know from the people that settle under the humanitarian programs that there
45 can often be great attractions to living in rural and regional areas, with cheaper housing, access to employment that often isn't available in the cities. Some of those research reports show particularly areas like abattoirs, for

example, where they have employed large numbers of people from refugee and migrant backgrounds and had a great impact, social impact, as well as an economic impact in those towns.

5 One of the things I guess that we would like to emphasise as well is that the humanitarian program is one of the few areas that is helping to address the ageing population issue in Australia. The humanitarian program has a mean age much lower than the Australian average and something in excess of 10 60 per cent of people who come through the humanitarian program are aged under 30. So again, we believe there is an opportunity for exploring further the benefits that that has in terms of helping to address some of the social issues in Australia around the ageing population and the financial burden that that's creating, and looking at ways that we can use the migration program and the humanitarian program, in particular, to address that.

15 I think it's important to point out that when we're talking about people coming in through a humanitarian program, that it's vital that those people are supported, particularly in the early years, to address the three Es, English language, education and employment and provide the right kind of support and timely support to help people to attain good levels of English language and to get the education they need. Often, as well, to address the - there are 20 many barriers around people having education qualifications from overseas recognised and accepted here in Australia. I think a lot more work could be done to actually overcome some of those barriers and burdens that mean - I know it's a bit of a cliché but the number of times you get into a taxi in 25 Sydney and are driven by an engineer or an architect that can't get their qualifications recognised in Australia is beyond a joke. We need to be doing far more to actually tackle and capture some of that expertise that is in there in our community that is being undervalued and underutilised at the moment.

30 Just very quickly, a couple of other points I wanted to make, one is that in doing more to focus on the social impact of migration and of the humanitarian program in particular. We would like to suggest looking beyond the short term. So we need to be looking at long-term analysis of that 35 and we would even suggest beyond one generation. What we often see is that the research shows that in the early years, people that come through the humanitarian program may be in low-paid jobs and may not be contributing significantly to the economy of the country, but over the longer period, and certainly when you look at second and third generations, that that has a huge 40 positive impact in Australia.

45 Finally, I would like to finish by saying we would also like to have a thorough debate around looking at broadening out the settlement support services that are available. At the moment, the focus is very much on very narrow definitions of who's actually eligible for settlement support and we believe that that should be broadened out because it would have a great social and, in the end, an economic benefit for Australia too.

Thanks.

MR LINDWALL: Thanks very much. Did you want to start, Alison?

5

MS McCLELLAND: Yes. So you've raised a number of issues. I might start with your last one and then go backwards, if that's all right, because as you know, in the report we talk about the importance of the settlement services and we talk about how we can look at their effectiveness. We do
10 recommend that we, at the very least, look at a better labour market service for some of the people coming through the other programs. It might not be in the labour market. Particularly we were thinking of the spouses of skilled migrants who we have been told will often find difficulties.

15 **MR CUMMINGS:** Yes.

MS McCLELLAND: So how we could do that, we would be interested in more information that you might have about how, given the budgetary situation, we have to be clear about how we would target that well to people
20 who would benefit. So that's one issue that maybe you can respond to. But related to that, it's interesting that we have had two presentations at our public hearing that have questioned whether the settlement services are being delivered appropriately. Both of them have been really focused on it seems a requirement to spend money on certain areas of equipment that families may
25 not need or want.

MR CUMMINGS: Okay.

MS McCLELLAND: As I say, two quite independent presentations to our
30 hearings have picked on the same thing. One in Melbourne talked about things being left in the - new things being left in the - - -

MR LINDWALL: Like beds.

35 **MS McCLELLAND:** - - - front yard because the family wouldn't sleep on the bed.

MR CUMMINGS: Right.

40 **MS McCLELLAND:** And a similar - you know, another comment was made about that the families didn't always need what they were being given. So I suppose I am interested to know how flexible is the funding given. Are the organisations required to tick a box and give something, regardless of
45 whether the family needs it? How flexible are the services and can we talk about the broadening out?

MR CUMMINGS: Sure. It's interesting you ask that because yesterday we

had in a meeting in Canberra of organisations in our network that are providers of the HSS pack in the Humanitarian Settlement Services program, which is primarily that what you're describing.

5 **MS McCLELLAND:** Yes.

10 **MR CUMMINGS:** Interestingly, a lot of the comments were around the rigidity of the program and the fact that the funding is very much like you say, itemised, and has to be spent in certain ways. People were describing a high level of micromanagement around the delivery of that program.

MS McCLELLAND: Yes, right.

15 **MR CUMMINGS:** It's interesting that Ernst and Young just did an evaluation report for the Department of Social Services on that program and although it was overwhelmingly positive, there were some areas. Employment was one that was identified and one that it talks about the idea of creating an innovation fund to free up and loosen up and look at different ways of kind of delivering those services. One of the issues that was
20 identified in that meeting was that there's a problem for government departments, on the one hand encouraging innovation and on the other hand being very concerned with risk management, particularly from a financial point of view.

25 **MS McCLELLAND:** Yes.

30 **MR CUMMINGS:** So we identified that as being a conflict of interest for the department and something that organisations like the Settlement Council can have a much stronger role in. What the service providers at that meeting were recommending was a move towards a much more fluid funding, so that organisations are recognised for their expertise in delivering those services.

35 Instead of describing to them, you know, someone was describing the fact that they have a checklist of how they're supposed to provide case management services. It's like these are people with four-year degrees in social work who don't need to be told how to do case management, you know. So it's crazy that the department is emphasising that kind of
40 management, rather than encouraging a much more creative and innovative approach that allows organisations to use their expertise and their local knowledge and connections to look at new ways of providing employment opportunities, social enterprise and a whole lot of other things.

45 We would very much like to see, you know, a different way of thinking and looking at that funding and to open it up so that there is that opportunity to innovate. So that one of the things that I said yesterday is that innovation can only work when people or organisations are actually allowed to make mistakes and learn from their mistakes. That's not something government

departments are good at encouraging. But if we want to see new approaches, if we want to see things work, we have to allow for that creativity to actually be allowed to happen.

5 That's something that organisations like ours can encourage and support. We do already by captured case studies, by sharing and providing opportunities for service providers to come together and look at more innovative ways of doing things.

10 **MR LINDWALL:** Then in the occasional audit to make sure there's no abuses and these sorts of things.

15 **MR CUMMINGS:** Absolutely, and we're all for accountability. In fact, we've just launched this year the National Settlement Service Outcome Standards which are all about that. It is all about making sure that the providers are consistent in the quality of their service delivery and their accountability. What we are saying is, you know, the department that funds the programs needs to allow us to push the implementation of those standards, so that all of our members can say that they are abiding by those, 20 but at the same time free up some of that kind of micromanaging so that people can get on with doing the job of being creative and being innovative in their work.

25 **MR LINDWALL:** Your other question was to do with settlement services for family - - -

MS McCLELLAND: The labour market assistance to the broader - - -

30 **MR CUMMINGS:** Yes, I mean it's certainly something that's come up a lot lately and I guess one of the things is it's important to recognise that settlement services currently aren't provided to - sorry, funded to provide employment support.

35 **MS McCLELLAND:** Yes.

40 **MR CUMMINGS:** And that that is something that's funded. You know, the jobactive program in particular focuses on that. There's been a lot of comments from our members around the new jobactive program. Obviously it's only a few months old and so there's a number of sort of teething issues. But one of the problems or a couple of the problems that have been identified in the early implementation of that program, one is that there's the mutual obligation approach means that people who have arrived as - you know, very newly arrived refugees and humanitarian entrants, are now expected to be registered and to be with Centrelink and to be actively seeking employment and applying for jobs very early on, at the same time that they're taking part 45 in the AMEP program, the English language program.

5 What we're seeing now is that because of that pressure to be meeting the obligations of the jobactive contracts, that people are missing their English language classes in order to fulfil the requirements in looking for jobs, when they're not yet job ready. So we're really concerned. The research shows that having a good foundational level of English language is probably the most important thing in people being able to gain and sustain suitable employment in Australia.

10 **MS McCLELLAND:** Attending the English language classes isn't regarded as sufficient and - - -

MR CUMMINGS: It no longer - no. It used to be - - -

15 **MS McCLELLAND:** It used to be, okay.

MR CUMMINGS: - - - under the old JSA program, but under the shift to the jobactive program.

20 **MS McCLELLAND:** Yes, okay. So that's been the change, okay.

MR CUMMINGS: We're concerned about that because what it means, of course, is that people are missing - they're going to appointments with a jobactive provider, or they're spending time applying for jobs because they need to do that, and there have been examples of people being breached for not living up to the obligations because they didn't understand the requirements.

30 We have met recently with Minister Cash's chief of staff and her policy adviser to start to iron out some of those issues. Yesterday at the meeting that we had, there was a presentation around a new program that's about to be launched by the Migration Council of Australia, in partnership with the Department of Social Services. The Settlement Council is one of the partners in that project too - with a much stronger focus on employment and on looking at new models of working with the corporate sector to start to look at ways of creating jobs and helping newly arrived people into suitable employment. I guess the key difference there is that the Migration Council will take a lead role in building the relationships with the corporate sector to start to build that bridge, I guess, and to identify people and communities that can fill job vacancies with particularly some of the larger employers, but also with small enterprise as well.

40 **MS McCLELLAND:** There's a number of things of things to follow up. There's the regional one too.

45 **MR LINDWALL:** Regional is one I wanted to talk - - -

MS McCLELLAND: You go. You go with that.

5 **MR LINDWALL:** Yes. I am highly sympathetic to the point you make that people - you want to have more of the humanitarian intake immigrants having a job and so on, but I mean the data shows that they have had low participation rates and high unemployment rates and relatively low wages when they do get a job. I was wondering if there's something more that could be done to get them employed. As you say, going to regional areas may help there, although there needs to be jobs there as well obviously.

10 **MR CUMMINGS:** Yes, there does.

15 **MR LINDWALL:** And whether there are any cultural issues that could be better addressed. For example, the understanding that we have gender equality and that we have respect for people who have - for gays, lesbians, transsexuals, et cetera, different genders and so on and how the people identify, which might be for some people arriving in Australia a bit challenging.

20 **MR CUMMINGS:** Yes, those issues are covered as part of the orientation in the HSS program. Of course, presenting information is not necessarily the same as people sort of taking it on board. But I think certainly ensuring that there's a good level of social orientation and cultural orientation is really vital. That's one of the reasons that we would argue for expanding some of the settlement service provision, particularly around that orientation to
25 Australia, because it only at the moment happens for people coming through the humanitarian program and some narrow stream of the migration program. For example, spouses that come in with skilled migrants wouldn't necessarily be eligible for any of that.

30 **MR LINDWALL:** Exactly.

35 **MR CUMMINGS:** Often that that's where their issues are. A lot of the evidence shows that, for example, that the high rates of domestic violence with newly arrived communities are often the wives of men who have come in as skilled migrants who aren't getting any of that initial support and that initial orientation and they're often very isolated. So that would be one argument.

40 **MR LINDWALL:** Hence their participation rates are quite low, the females in particular.

45 **MR CUMMINGS:** Absolutely, yes. So I do think there's a range of things that can be done and that certainly two of the things that we are doing around those that the Settlement Council have taken up, one is around employment and looking at how do we gather evidence about what works and how to be more creative, and using different models and different approaches. We are just about to launch a discussion paper that highlights several case studies of

different organisations that are doing work in that space.

5 The other one is a discussion paper around regional settlement and looking at examples of where that's working well and some of the things that are needed to make sure that people - that the support structures are there if people do move to regional areas because that is one of the barriers to people being able to move. Again, that would be one of the reasons that we would recommend there needs to be investment, if we believe that that's a useful thing for Australia, that we start to build regional Australia and that we use the migration program as part of the building blocks for getting to there. But there needs to be investment in the types of services that provide orientation, that provide linkages to people around employment and around community services and so on. It's a bit of a chicken and egg thing at the moment.

15 We were in Western Australia a few weeks ago consulting with our members there and I was asking the Office of Multicultural Interests if there was any regional settlements planned in the next few months and they were saying, "Well no, pretty much all the settlement in WA is in metropolitan Perth", even though there are towns that in the past have taken in groups of newly arrived migrants and humanitarian entrants, because there aren't the sort of services. So it's this vicious cycle where we're not investing in those types of services and then people aren't moving to those areas, and so I think it's something that we need to do some more planning and research around.

25 **MS McCLELLAND:** I also wanted to follow up your point about understanding the social impacts more. Did you want to ask more about the regional before we went on to that?

30 **MR LINDWALL:** Well this is certainly a point that I think we saw more in Melbourne, the comments you made earlier about people wanting lower quotas for the migration intake. I get the sense a lot of it has to do with their feeling of congestion and so on in cities like Melbourne, and so obviously if people move to regional towns, that reduces that particular issue. So, as you say, it's a chicken and egg situation. People won't move unless there's a job.

35 **MS McCLELLAND:** The examples of the successful ones you've cited and we've got ones where a relatively large employer has needed a group.

40 **MR CUMMINGS:** Yes.

MS McCLELLAND: And so I think that's both Murray Bridge and Nhill.

MR CUMMINGS: Yes, so there was the Limestone Coast.

45 **MS McCLELLAND:** So you've been able to have a group come in and get the jobs.

MR CUMMINGS: Yes.

MS McCLELLAND: It's about how many regional areas have that kind of nature that can make it work, I think.

5

MR LINDWALL: You can't do it in every regional area, that's right, yes.

MR CUMMINGS: Although interestingly we do hear a lot - I think yesterday in the meeting someone quoted the mayor of Dalby in Queensland saying that he wanted 1500 of the increased Syrian intake coming from the humanitarian program.

10

MS McCLELLAND: Yes.

MR CUMMINGS: They needed 1500 people in Dalby. You know, it's highly unlikely Queensland will get 1500 of the Syrian arrivals, let alone Dalby. We hear anecdotally there are several councils and lots of mayors that are saying "We would love to take people". I mean Kat has done a lot of work on this area.

20

Do you want to add anything to that from the research we've done?

MS O'NEILL: Most definitely. It is I think around the structures the Department of Social Services has where they have their set regional areas and they continually look into that. But as Andrew said, anecdotally we do hear, and there are local councils that can sign up to be a refugee-friendly area and they continually sign up. It is there. It is making sure that the support services are there. We do find as well that people will move on their own to those areas, which means that that happens on a case-by-case basis, but that if there is a little bit of research done into what is drawing people to those areas, to understand those pull factors and the retention factors, you will find that there are a lot of areas in local government areas across Australia that would suit to be regional settlement areas. It's just a lack of knowledge.

25

30

35

MS McCLELLAND: You think the DSS areas are too narrow, are they?

MS O'NEILL: I think that you can expand those areas.

40

MS McCLELLAND: Okay.

45

MS O'NEILL: I think a lot of local government areas will fit that criteria. There will be employment. There will be services. There will be less housing. There will be transport options, but it just has not been expanded yet into those places. So there is research needs to be done into looking into those areas which are most definitely out there, with that culture of welcoming which is most definitely out there. At the moment we only have

anecdotal evidence and that can be, most definitely.

5 **MR CUMMINGS:** I think too in the research you quoted from South Australia, for example, it was showing that it is the idea of a kind of critical mass. You need enough, and what that early research is showing is around 100, 150 people from one community moving to a town, which is actually quite a large number if you're talking about a fairly small town.

10 **MS McCLELLAND:** Yes.

15 **MR CUMMINGS:** But that creates enough of a sense of community and enough of - I guess it creates enough momentum to actually then start to provide some services in those towns and to look at both changing the way that that community responds, but also the way that the individuals that are moving to the community, ensuring that they have good family supports and good community supports, as well as being able to tap into things that are in those communities.

20 **MR LINDWALL:** The incumbents there see that there are benefits for themselves.

MR CUMMINGS: Absolutely.

25 **MR LINDWALL:** Because they're new services that would otherwise not be available.

30 **MR CUMMINGS:** Yes, exactly. I think it takes leadership. It means that - I think the big difference is if you've got a mayor or someone in the local community of high standing saying, "This is something we need. This is good for our community", and it's seen as happening in a planned way, then it overcomes some of that initial hostility or uncertainty that might be there. I think that's where the benefit of planning comes in. The other thing I think that we should be looking at is that sometimes the evidence shows that where rural and regional settlement works well is when it's a secondary settlement location, rather than the initial settlement location. So what's happening a lot is people are settled in city areas and then two or three years later start looking at where else can they live, and often that's to do around affordable housing and employment, are the two things.

40 **MR LINDWALL:** Yes.

45 **MR CUMMINGS:** And so providing that kind of support at that point, when people are saying, "Well, I feel like I've got a bit of a sense of Australia, Australian culture and workplace practice and so on, and now I want to settle down and sort of set some roots somewhere", that we make sure that we make that as easy as possible for people. I think it would be useful to have some more research around - obviously it's quite costly to take

people and place them in an initial settlement place and then have some relocation to a rural area. So whether there could be more done to actually create those regional initial settlement spots and to see whether that works better.

5

MR LINDWALL: Who should undertake this research or is there an institution in Australia at one of the universities that are quite - - -

10 **MR CUMMINGS:** There are a number of universities that are doing good work. We have certainly done a lot of work. Very sadly Dr Graeme Hugo was a leader in this work and he died a year or two ago.

MS McCLELLAND: Yes, he was indeed, yes.

15 **MR CUMMINGS:** The Settlement Council had worked with him on several projects, including that Limestone Coast research. There are other emerging academics and some of them who worked with Dr Hugo, for example, who are trailblazing in that area now, and there are other universities. I know that the University of Western Sydney, for example, and there's the Centre for
20 Refugee Research at University of New South Wales who we also have really strong links with. Although often they're more looking at the patterns of migration for refugees but they are also interested in settlement issues too. So we are lucky that there are some really great institutions working in that area too.

25

MS McCLELLAND: I think we're almost out of time. I just wanted to ask you about - you said we could have had a greater emphasis on social impacts, so I was wondering whether you thought there were areas of social impact that we didn't look at because we tried to look at what research there was
30 available and pull that together, so it was what you felt was missing there that we should have done or we could do in a final report.

MR CUMMINGS: Kat, do you want to talk about that?

35 **MS O'NEILL:** I think one of the areas that could be expanded upon which was touched upon a bit was looking at the family migration program and some of the impacts, social impacts around that. Understanding that there is research out there, understanding some of the social benefits that they do bring, even if it isn't into the workforce, the labour force benefits, but
40 understanding that they do things like provide childcare for the family members that are here and carer roles and things like that.

MS McCLELLAND: I think we had made the point that can have it but I think we lacked any significant evidence.

45

MS O'NEILL: Yes.

MS McCLELLAND: So if you think there is significant evidence there, we would be very grateful if you would let us know and we will follow that up.

5 **MR CUMMINGS:** I think my point was more about the lack of the evidence, rather than the lack of emphasis of that in your report. Sorry if that wasn't clear.

10 **MS McCLELLAND:** Yes, well I wondered whether that was and I think one of the issues there, I mean we're finding continually in comments about this is the lack of evidence about the impact of migration generally.

MR CUMMINGS: Yes.

15 **MR LINDWALL:** We need more data, yes.

MS McCLELLAND: We need more data and better longitudinal studies. I think that's very clear and we might pick up more things like this if we did.

20 **MS O'NEILL:** It is mentioned in here but the consideration of linking data in with other government population data from other departments.

25 **MR CUMMINGS:** Yes, I think we're often not very good at capturing - so like actually identifying what data we need and then making sure - because it can be built into things like ABS, the census statistics and so on, if we ask the right questions.

MS McCLELLAND: Also the admin data and making it available. The PC has been very big on that.

30 **MR CUMMINGS:** Yes, and I think you mentioned the settlement database that I think is now on the DIBP website rather than - it used to be the Department of Immigration and Citizenship. It's a really useful tool but I think the idea that was recommended in your report about linking that up and cross-referring to a number of other government databases.

35 **MR LINDWALL:** There's a lot more than can be done. I have just one question about social cohesion. We have been fairly good over many years. What can we do to continue our good record in Australia of having good social cohesion and people respecting each other from different cultures?

40 **MR CUMMINGS:** Yes. I mean I really believe that's another area that requires leadership and that we need leaders, both our official leaders and the informal leaders in communities, to actually be standing up and making the case for what it is that makes Australia great. I believe one of the things that
45 makes Australia great is our multiculturalism and our diversity. When you unpack that, most people would agree that we like living in a country that's got a huge range of foods and all the cultural benefits of the migration

program that we have, but I think sometimes that needs to be spelt out to people.

5 I think too providing - my background is in working with young people primarily and a lot of it with multicultural young people, and I think that making sure that we provide positive opportunities, particularly for young people to develop at that time when they're developing their social awareness and their sense of belonging in communities, that we provide positive opportunities for young people to do that.

10

I believe that where we see problems like radicalisation is where there's a vacuum. You know, if you look at social media, the people who are doing a good job with social media are not the positive organisations. It's the ones that are trying to attract people into more extreme kind of behaviour. I think making sure that we have a whole range of things that actually counter that and that channel people into positive community participation. I am amazed at how much benefit you see for a very small amount of investment that actually ends up lasting a lifetime, if we do it at the right times.

20 **MR LINDWALL:** Yes.

MR CUMMINGS: I think having those kind of programs is vital. It's probably only one of the things but it's certainly one that I think is really critical.

25

MR LINDWALL: All right, I think that - did you have any final comments that you'd like to make?

30 **MR CUMMINGS:** No. Thank you. I really appreciated the opportunity to speak with you and again, congratulations. It's a very well rounded report and it was great to read. I'm sometimes a little bit nervous opening a report like that and thinking, "What's it going to say?" and I thought what you said was very balanced and a very good analysis of where things were.

35 **MR LINDWALL:** Thank you, Andrew and Kat.

MS McCLELLAND: Thank you.

40 **MR CUMMINGS:** Thanks very much.

45 **MR LINDWALL:** I think now we're supposed to have a lunch break; is that correct? Then after lunch we're due to recommence at 1.25 with United WHY and then at 2 o'clock with the Australian Private Equity and Venture Capital Association, following which we as usual offer a chance for anyone else who wants to testify for a short period and then we will adjourn for hearings totally. That's the closure of all our hearings.

MS McCLELLAND: We will.

MR LINDWALL: Thank you. Let's have lunch.

5

LUNCHEON ADJOURNMENT [12.50 pm]

10

RESUMED [1.23 pm]

15

MR LINDWALL: Welcome. If you don't mind just giving your names and the organisation which you're representing and your position in the organisation, if you have one, for the record, then, if you don't mind, also if you want to give a short introduction, five or so minutes, about what you want to say to us, and then we'll ask you some questions. It's all very informal.

20

MR LI: Thank you very much, Commissioner, for giving us this opportunity to make a submission.

MR LINDWALL: It's a pleasure.

25

MR LI: My name is Yao-Tai Li. I'm here on behalf of T-WHY, Taiwanese Working Holiday Youth.

30

MS LEE: My name is Sohoon Lee. I'm from KOWHY, Korean Working Holiday Youth.

MS DAVIS: My name is Tina Davis, and I'm with KOWHY.

MS CHOI: My name is Sun Choi. I'm also with KOWHY.

35

MR LINDWALL: Thank you. Welcome.

MR LI: On behalf of - we coordinate and we decide to call our organisation United WHY. I'm here to make a very brief statement, our submission.

40

MR LINDWALL: Thank you. It's a very detailed submission, too.

45

MR LI: Yes. Thank you. Our submission is mainly targeting subclass 417 working holiday visa. Also, some recommendations may also relate to subclass 462, working holiday visa. We know labour force is a core element of industry or productivity. To make sure all workers are satisfied with their work and they can consistently create productivity, we should make their wages are paid correctly and they have enough time, rest time, and we should also be - all the legal and friendly working condition.

5 Currently, working holiday makers are performing crucial work, largely
fills the labour shortage in the Australian labour market, especially in the
agricultural and horticultural industry. So let us urgently to take care of the
working holiday maker's right, in order to maintain productivity and continue
to attract young workers. Young workers can have some rights in a
workplace, also influence how people see Australia as a place, a country, to
work or stay, with more concerns emerging about exploitation of migration
workers and how to create appropriate measures in protecting migrant
workers' rights.

The United WHY here will address three aspects specifically.

15 First of all, we have concerns - current enforcement mechanism and the
protection of the right of working holiday visa holders. As the media
constantly shows, issues of underpayment, extremely long working hours,
precarious working environment, injuries and even sexual harassment are
common the workplace. So, we recommend that the enforcement of labour
standard is a priority. There needs to be a much higher risk involved for
employers who breach existing labour regulations, to clamp down on the
business of labour exploitation. We propose that the Fair Work Ombudsman
should monitor compliance with federal awards and the criminal law - the
routine inspection, outreach support services and a national hotline where
workers and employers can report and get relevant support.

25 The second aspect of our policy recommendation is to remove obstacles
for 417 and 462 visa-makers to seeking justice and right protection. The
six-month regulation for a single employer has limited working holiday
maker's work choice to certain jobs in which they are easily replaceable.
Therefore, we recommend the regulation of six months to be adjusted or
extended. This could benefit employers in a way that they don't need to
frequently recruit or retrain people or engage in illegal employment, and
allow a more stable working environment to save the business costs.

35 Another significant issue is the second visa in the 417 program. The
second visa increases the vulnerabilities of the working holiday makers
because workers can only be granted their second visa when employers verify
and sign a form about 88 days. Given that employees might choose to leave
the work due to unfair treatment, the evaluation of the 88 days should be
calculated from multiple sources, rather than from the single workplace. So,
we propose the government to establish a system that allows the time served
with one employer to be carried across to another employer or recognised by
the government.

45 United WHY also proposes that the government should establish a register
system for 88 days of original work. The system we propose would allow the
government to have better control over employment practice and of migrant

visa status. Furthermore, under the system, the government can also provide an official platform for both employers and employees to share information and experiences regarding their work.

5 The final aspect is about proposed changes to working holiday visa next year. United WHY propose to reinstate tax-free threshold for working holiday makers and continue to consider them for residence for tax purposes. The reasons are:

10 Firstly, removing the tax-free threshold is unfair. Most working holiday makers belong to low-income brackets and are already excluded from a wider range of services in health, employment and other social services.

15 Secondly, the proportion of workers who are paid cash in hand is already very high, and removing the tax-free threshold will encourage growth in cash-in-hand job market. For this reason, it is likely that removing a tax-free threshold will result in increased tax revenue for the government.

20 Regarding the White Paper on Developing Northern Australia, we think that, without regulation and regular inspection, the incentives provided when migrants move to Northern Australia could give way to exploitation, deteriorating employment conditions and vulnerabilities to physical, psychological and sexual abuse of young workers. Therefore, we recommend that the Fair Work Ombudsman should include a scope for implementation enforcement and inspection to make sure the plans are realistically feasible on the ground.

25 The results of our research and more-detailed measures about policy recommendations are written in our submission paper. We have writers of the report here, as well as our members who have experience of being unfairly treated in a farm or were exploited by the recruitment agency, and they are happy to share their experience if the Commissioners are interested in knowing more about the details.

35 Thank you for your attention.

40 **MR LINDWALL:** Thank you. I might just ask about - firstly, on the tax side, one of the issues that was raised with us was concerning the seasonal working program, where tax is paid at a rate of 15 per cent from the first dollar. I think that any tax-free threshold for working holiday makers should bear that in mind as well and maybe the seasonal workers should be similarly aligned, I don't know but I take the point. Have you seen a reaction in terms of the numbers of potential working holiday maker visitors to Australia - in reaction to that policy that was changed?

45 **MS LEE:** The policy was announced mid-this year and the changes are only taking place in July next year, so we haven't - although there have been

media reports among recruiters seeing the decline in the number of potential working holiday makers who would like to come, and that has concerned the seasonal agricultural recruiter because they are so dependent on the workforce from working holiday makers - but I think it's reasonable for anyone to assume, if your wage has dropped from \$20 to \$13, that's going to make an impact as to how you behave in Australia.

I have to add, it doesn't just apply to a seasonal work but overall working holiday makers. The wording of the ATO website is that working holiday makers are no longer considered residents for tax purposes. So, anyone is a resident for tax purposes if the residence is maintained for more than six months. Working holiday makers are specifically excluded from that "residents" definition. They can live up to two years, with the Northern Australia White Paper coming in. There are increasing ways in which they can live here for up to two years but non-residency status applies, regardless of how long they live in Australia, and the ATO makes it very specific on their website.

MR LINDWALL: The status quo, in other words, the current - before the change, does that mean that you would be treated as a non-resident for the first six months and then, afterwards, you get treated as a resident?

MS LEE: No. If you have maintained residence for more than six months, you are treated - - -

MR LINDWALL: You're intending to maintain residence, you mean, or you have maintained?

MS LEE: In any fiscal year, if you have maintained residence for more than six months. I have to check the details on that but, now - - -

MR LINDWALL: It was more that - you arrive today and your six months is not for another six months, by definition.

MS LEE: Right.

MR LINDWALL: Does that mean for that six months you're treated as a non-resident and then, afterwards, you get treated as a resident?

MS LEE: I think the important thing is, they're treated - the "residents" definition of "working holiday maker" currently is like everyone else, including other temporary workers and international students in Australia, whereas the proposed changes in 2016 single out and exclude working holiday makers specifically and renders them non-residents, regardless of how long they stay here, or how long they plan to stay here.

MR LINDWALL: Do you know how the interaction of the tax rules work

with the various countries, depending upon - we have dual tax agreements with Australia, so that, if you're treated as a resident in Australia, that would mean, I guess, you're not subject to taxation in the country we have a dual tax agreement with anyway.

5

MS LEE: Again, that would apply to broader tax agreements and a broader tax law system. What we're (indistinct) here is specific exclusion of a working holiday maker from that broader, well-established - you know, established with reasons and rules and history - but they're making an exception in 2016, which we think will have detrimental, quite drastic, consequences.

10

MR LINDWALL: Did you want to ask any more on the tax?

15

MS McCLELLAND: Not on the tax.

MR LINDWALL: How about we move onto - because I think that's quite clear - it's straight economics, isn't it?

20

MS McCLELLAND: Yes.

MR LINDWALL: - - - about exploitation and, in particular, for example, could you start by saying whether people who get employed by labour-hire companies are more vulnerable to exploitation than those that are not?

25

MR LI: We've got a member here today, so maybe Sun can share about her experience of labour-hire contractors.

30

MS CHOI: I came to Australia in 2013 as a working holiday visa - from South Korea, and then to obtain a second visa I had to work at an agriculture job for more than 88 days. I just found this job through this company, which is second-year visa jobs, and then the job description I got was that the citrus-picking, per bin - it was \$22 per bin but then, when I got there, the first month and a half, I couldn't see the citrus trees but I was working at the wine-grape farms. Then it was worth 50 cents or up to, like, \$3 per bucket. That was someone - any - like, incorrect job description I got. Then, most of the backpackers I met in Loxton also came to Loxton with that incorrect job description, as well.

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40

The thing that stressed me out the most was the hygiene problem in the hostel. When I got the job description and - also, the condition at the hostel was really clean and everything is perfect but, when I get there - - -

45

MR LINDWALL: Like a hotel.

MS CHOI: - - - there was, like, a bed-bugs problem and then I've seen more than five people who were suffering from it, and I was one of them. It was

5 really painful to sleep fitfully - and then, like, scratching all my body until
it's just like bleeding out and everything, so it was really painful. When I
talked to the hostel owner, he just gave me the ointment cream and gave me
some plastic bag so I can wrap the - mattress bag, but that was only the
further - there was any further reaction for that - and then it wasn't even
covered by my health insurance because it was a skin pigmentation problem.
They barely offered to change the room because I might transmit the bed
bugs to another room. So, it was the most painful - for four months in
Loxton.

10 Then I found the hostel owner also used the backpackers for his personal
needs. On Sunday morning, everyone is having the day off and then
suddenly the hostel owner, like, knocking the door for the backpackers - and
then they drove three or four backpackers to the winery-grape farm to pick
15 some grapes out. Then they made some backpackers make some wine for his
needs. Then I think I heard later on that he signed their second visa form for,
like, two extra days or something. Yes, so there was some, like,
discrimination and then some incorrect job description when I was on the
farm.

20 **MR LINDWALL:** The employer in question, did any of the people working
there report the employer to the Fair Work Ombudsman, for example?

25 **MS CHOI:** I don't think they took any further action for that. One of my
friends I met in Loxton, he did some kind of petition but - that's what I heard
but I don't know how if that's still - yes, so - - -

30 **MR LINDWALL:** Do you think it's an issue that the working holiday
maker visa holders don't understand their rights or is it that they're afraid to
exercise their rights?

35 **MS CHOI:** I think they're more, most likely, afraid to take action because it
affects our wage because the hostel owner is also the contractor of the farm.
So, how I perform at the farm or at the hostel, it affects our wage and the
farm that we go - because each farm has a different wage - it starts from, like,
50 cents to, like, \$25, so - - -

MR LINDWALL: This is piece rates, right, rather than hourly rates?

40 **MS CHOI:** There isn't any tax rates.

MR LINDWALL: Piece, as in rates per unit of work.

MS CHOI: Yes.

45 **MR LINDWALL:** That's typical, I think, isn't it, rather than hourly rate,
which is a bit more transparent?

5 **MR LI:** Yes. Before they're getting a job, probably, the contractor or even
the middle man will tell them, "You can transfer this piece rate to your
hourly rate and, if you work very hard, you can get 15 or 16 dollars; depends
on your ability," but, as Sun just said, she found that in lots of work -
backpackers - they found the situation doesn't fit quite well with the
advertisement, and also, like Baiada's case, as well. As the ABC Four
Corners program just released - Baiada actually - they subcontract - they have
lots of complicated systems. They subcontract all the labour contracts to four
10 or five - instead of direct hire of the backpackers. It's also related to the
skills issue we've been talking about this morning.

15 The big companies try to save the cost of training and they hope these
labour-hire contractors can recruit people from overseas who already have
these skills but without checking or inspecting whether they really are skilled
workers. So they hire these backpackers to do, for example, boning, the
meat-packing, meat-processing industries. So I think they are - and there are
lots of problems that could happen during the process because the system is
complicated. The big companies seldom spend time to check if they pay this
20 - these labour-hire contractors pay the workers right, or not.

25 **MS DAVIS:** It's almost like it's outsourcing of the labour rights as well as
the work that's been happening, especially in the Baiada case. I think there's
also - which was illustrated in the Four Corners program, there is a difference
between, maybe, European working holiday makers - and that's cultural.
They will not necessarily - they might find it easier to oppose some of the
employers' lack of meeting their rights than some of the - a lot of the
working holiday makers coming from South Korea, Taiwan, Hong Kong. I
think, if you look at the nature of how these groups come and how they're
30 organised, they're also different; you know, the Europeans often come
individually. Also what was illustrated through the Four Corners program is
that some of these recruiters from South Korea or Taiwan will bring groups
over and they will keep groups in houses. So, they will operate as recruiters,
as landlords.

35 **MR LINDWALL:** It's not really working and holidays; it's working, no
holidays.

40 **MS DAVIS:** Yes. The program is then used - - -

45 **MS McCLELLAND:** I was going to ask, do you think that there are far
more problems when the recruitment is from overseas, rather than when
someone comes here and tries to get a job when they arrive? Is it more likely
that the problems will be - when you do the external recruitment - who goes
to Taiwan or goes to Hong Kong and you do it from there - is that when most
of the problems arise?

MS LEE: I think the underpayment and exploitation - exploitative aspect of working holiday makers is quite widespread, so it's not just workers from Asia that are subject to exploitation; it's quite widespread. They might have different ways in which employment is organised or how the recruitment is organised that could create differences in terms of how much they're underpaid and what kind of housing or accommodation they're put under and how they're recruited, but, in terms of - overall exploitation and underpayment of piece rate is quite widespread. I know, because Sun, for example - I'm sure she can speak for herself later, in addition. She wasn't particularly recruited by a Korean recruiter, she didn't stay in Korean accommodation, but she shared work, accommodation and recruitment agency, or whoever was labour-hire, with other backpackers from around the world.

15 In terms of overseas recruitment, we think the lack of regulation of recruitment and labour-hire agencies - it's a substantial problem that needs urgent - we need to address it right away. When it's done overseas, it's much harder to regulate them than it is here. We're already having a problem regulating recruitment agencies here, never mind overseas. The transnational aspects make it a lot more difficult for you to regulate. I do think, when the labour-hire agencies are involved, it makes it much harder to ask for accountability. When something is - when the wage is underpaid, it's harder to find who is responsible.

25 **MS McCLELLAND:** Who's responsible, yes.

MS LEE: In the report, we also detailed another dimension, which is regional, and that's the lack of accommodation. Usually, that regional work would have done by locals but, because of inflow of migrants from overseas who have no contact with that particular community, they're usually put in impromptu accommodation that's not appropriate for housing a large number of temporary stayers, and a large number of temporary stayers will have no connection with the community. That's exacerbated by the fact that these people who run the accommodation are involved in employment purposes. So they work as labour hire or a broker or some kind of agent and sometimes they send workers who stay in the hostel to different farms and it creates this rent-seeking(?) behaviour. When you want to be put in a good farm, then you have to make friends with your landlord, and that limits your ability to complain about the conditions of your bed or complain about the conditions of your accommodation.

45 Another aspect is the fact that this is regional, so you really don't have anywhere else to go if you're not happy with the particular hostel. That also limits your ability to seek justice. When you say workers are hesitant to come forward, or workers are afraid to come forward, there are all these sort of more rational, if you will, reasons as to why that's the case, other than just, say, it's cultural or something done in their country. The fact is, this has been

going on for some time and the industry has been shaped by illegal practices, so it's quite hard for any workers, especially one who's new to Australia, to seek a decent job, although they have to if they want to stay here for a second year.

5

MR LINDWALL: The points you make are well-made. What are the expectations you have in Korea before you arrive in Australia; why do you choose to come to Australia as a working holiday maker, what visibility do you have, what type of outcome is likely to be achieved? I assume what you're saying is what actually happens is not what you expect to happen.

10

MS LEE: I think it's impossible to convey exactly what's going on here to people in Korea, without having experienced what it's like, what the cost of living in this country is or what the general work conditions are. General difficulties are that a lot of people who come here are young and they may not have had previous experiences working anywhere or living on their own. That makes it a lot harder for them to imagine what it's like.

15

In terms of publicity, living in Australia - negative sides of living in Australia have been quite widespread in South Korea at the moment. In 2014 there were a couple of murder cases, as well as general underpayment and exploitative aspects of working in Australia, especially in places like a farm but also restaurants - have been on mainstream media quite substantially. I think there would be many reasons as to why the number of working holiday makers from Korea dropped quite dramatically compared to last year - in the recent two years. We think one of the reasons is because of this bad publicity.

20

25

MS McCLELLAND: We met with the National Farmers' Federation and they have sent in a submission because, the regional areas of farmers, this was a very important program for them; they get - it was after the Four Corners program. They said that there is a new arrangement, and I don't know whether it was a new Act or a new - I'm just trying to remember what it was, Paul. It was a new platform, I think, that was going to give working holiday makers more information about the farms that they were going to. You've talked about the need for a platform. What information is currently available to the working holiday makers so they can make more-informed choices about poor employers, poor recruitment, or is your platform to redress that? Can we talk about what you wanted out of your platform and what's missing now?

35

40

MR LI: I think the Fair Work Ombudsman recently tried to make some changes because they also realised the seriousness of this problem.

45

MS McCLELLAND: Yes, for the industry.

MR LI: Yes. So, I think, now, when they approve a visa, they will try to

5 give them, like, a small card, or some menu - like, there are some legal access
or some agents - information or some contact number if they have - but I
think, as Sohoon just said, now there is the problem that is, even the migrant
workers that are working holiday makers, know they are exploited and they
try to seek help but, in reality, they are still afraid that their employers will
10 get upset and they will lose the job, particularly if they are situated in
regional Australia and they don't know where else they can go - or they
might just go back to their original country or - so, I think, in that kind of
situation at (indistinct) mostly they think - they will probably try to find
another job or they just bear with it until they accumulate 88 days, and then
they leave for another job.

15 The Fair Work Ombudsman does try to create some systems to provide as
much information as possible but, in reality, migrant workers rarely use that
or benefit from that, so I think there is probably a gap.

MS McCLELLAND: You talked about an official platform. Can you say a
bit more of what you wanted out of the official platform?

20 **MR LI:** The platform we are thinking about is more like a system that
people can share information, like, if these employers are good or not, or
some - - -

25 **MS McCLELLAND:** Yes.

MR LINDWALL: It's like an Uber-type of application, where you rate the
employer and the employer rates you, I guess.

30 **MS LEE:** Yes. There are a couple of different aspects on a platform system
that we're suggesting, and it comes from a number of problems that exist
now. One is, it's not the individual worker's problem, in other words, not the
problem of individual workers not coming forward and seeking redress, it's a
problem of what a - industries that are dependent on migrant labour but it's
so unregulated that it allows unscrupulous labour-hire companies and
35 underpayment practices to occur. So, we need to - one of the objectives of
the online platforms is to generally help maintain the integrity of the
agricultural industry in Australia. One reason - it also comes from the
problem of the current second form system being quite primitive. Literally,
you just walk up with a piece of paper to a farm owner and the farm owner
40 has to sign it. That creates a number of vulnerabilities, that - you have to be
good to the farm owner and it's not clear what happens if the farm owner was
not good to you or exploited you or underpays you. That has to be addressed.

45 The online platform that we're - sorry, one other problem is that the
farmers find it difficult to reach out to workers, without recruitment agencies,
so it's quite difficult, and we're sympathetic that it's realistically difficult, if
you're a farmer living in the outback, to reach out to workers in Taiwan and

Korea. The online system would allow employers to identify what their needs are and to recruit workers.

MR LINDWALL: They could bypass the labour-hire companies?

5

MS LEE: Yes. That would formalise the industry, formalise the system of hiring. Also, workers would be able to see employers there and would be able to see correct information. We've heard a number of stories where you go through a labour-hire company and they say they'll pay you \$25 a bucket, and you go there, there's no bucket or - - -

10

MS DAVIS: (Indistinct)

MS LEE: Yes.

15

MR LINDWALL: The thing is, really, isn't it - there are two sides to this: one, the regulation and the enforcement of the regulation, which is fine, or not so fine, as it is, that's one issue, but, with the availability of technology and the ability to spread information about an employer who's not a good employer, if that is sufficient, then, no employee would want to work for that company and therefore they would not have any employees and therefore they would collapse under their own - that would give a very strong incentive for good practices because, otherwise, you won't get any of the employees.

20

MS LEE: Yes, and it's suitable for young people that the working holiday visa program targets and, also, the geographic nature of how widespread they work. An online platform would be quite convenient, I think, for people who would benefit from it.

25

MS McCLELLAND: I guess one of the issues is, who is responsible for developing such a platform, really.

30

MS DAVIS: I also think we need more than just relying on good practices because, I think, there are already good practices that are not functioning that would go a long way, and it could work - I mean, there are other, similar, sort of tech platforms today where you do rate both ways, and that is successful.

35

We have also proposed licensing of recruiters because, the thing is, brokers and agents are not going to go away in this, they are an intrinsic part of the labour-supply chain already, so then it is how to address that problem, as well. I think the licensing is really urgent because a lot of the exploitation that is happening is happening because of this triangular relationship between employer, recruiter and the workers.

40

MR LINDWALL: Who should license for - is this the Fair Work Ombudsman?

45

MS DAVIS: Yes. It could be the - we have suggested the Fair Work Ombudsman licence, like in the UK, they have a - we have used that as an example in our submission. They have what they call a Gangmasters (Licensing) Act, and the Gangmasters Licensing Authority that goes with it.
5 This could come under the Fair Work Ombudsman, so that no recruiter, labour-hire company in Australia could actually operate without a licence. With that, it would also secure - I mean, employers could check for licence and workers could check for licence.

10 **MS McCLELLAND:** So it's particularly the recruiters and the labour-hire companies we're talking about here being licensed, not the employers necessarily?

15 **MS DAVIS:** Yes.

MR LINDWALL: I sympathise with a lot of things you've been talking about. I want to ask about the point about employers being landlords. I can understand in some areas that wouldn't be a problem but in some regional areas, where a farm is dozens of kilometres from the next farm, it's unlikely
20 that the accommodation would be provided by a third party, I would have thought. How could you enforce that?

MS DAVIS: Sorry - - -

25 **MR LINDWALL:** Say, here's a farm and the next farm is 100 kilometres away; it's likely the accommodation would be provided by that farmer, not by some other party.

30 **MS DAVIS:** Yes.

MS McCLELLAND: In the submission, you say employers shouldn't be allowed to be landlords. We're just wondering how realistic that was, really.

35 **MS DAVIS:** Okay. There is some kind of regulation there, too, so that if you want to hire out you can only hire a certain amount of beds before you have to comply with some kind of regulation - - -

MR LINDWALL: Occupational health and safety, I guess.

40 **MS DAVIS:** Yes, occupational health and safety. I think there are, within occupation health and safety, regulations already but they don't seem to be enforced when it comes to having 20-plus people living in a house.

45 **MR LINDWALL:** And how the accommodation is set out and so on, and the number of bathrooms and all the rest of it.

MS DAVIS: Yes.

MR LINDWALL: Yes. There would be regulations on all of that; cleanliness and - - -

5 **MS DAVIS:** That could also be part of licensing, if it is a recruiter or, you know - so there are - - -

MR LINDWALL: Yes.

10 **MS DAVIS:** Yes.

MS LEE: In most of the cases that we observed, it wasn't actually the employer, the farm owner, that provided accommodation; it was often the recruiter and labour-hire - - -

15 **MS McCLELLAND:** Which is slightly different, because, I think, in your submission you say "employer", but I might have that wrong.

MS DAVIS: I think we've mentioned both.

20 **MS LEE:** Right, the employment.

MS McCLELLAND: You mentioned both.

25 **MS LEE:** There's ambiguity as to who your employer is, right, because it really is whoever signs the form. It comes down to whoever signs the form.

MS DAVIS: As a worker, your employer will be the one that signs your form. In, often, cases that would be the - - -

30 **MR LINDWALL:** What type of sanctions have you seen imposed upon employers, at all, who have been exploitative and have acted appallingly?

35 **MR LI:** We try to, because currently - the current legislation is just to give them a fine, even - it's \$1000 but that can get paid out from the salaries, extract from their employees. So, we think, instead of just giving them some sanction or criminal - we still need to even ask the company to shut down or even - like, back to licensing - - -

40 **MR LINDWALL:** Be not allowed to employ working holiday makers?

MR LI: Yes, like other cases that have actually happened in 2013 - - -

MR LINDWALL: For some period. Yes.

45 **MR LI:** Yes, but the problems just keep coming back, so I think the government should enforce it more strictly.

5 **MS DAVIS:** With a special unit - we suggest a special unit within the Fair Work Ombudsman that deals directly with working holiday makers. There can be a transparent system there of who is licensed, there can be blacklists, so it will be easy for everyone, whether you are in Australia or you're thinking of coming here, to actually check. That could be one crucial aspect towards enforcement that doesn't need to be necessarily that complicated. It also will take away unserious actors within those industries because it will be more difficult for them to exploit. Some people do use this as a business model.

10
15 **MR LINDWALL:** Yes. We don't have much more time but could I ask one more question, and that's about - everything we've heard today is about the negatives and solutions to some of those negatives. You'd better tell us some of the positive sides. Otherwise we might recommend that we shouldn't have working holiday maker visas at all.

20 **MS McCLELLAND:** One of the issues for us is the possible displacement of local people. You might have seen in our draft, we've recommended an inquiry into what are the employment - you know, the - so it is an issue and we have had large increases in that program, so we need to think about that.

25 **MR LI:** Yes. I think working holiday visa program, this program, is very good, especially for Asian young people to come to Australia and to have a sort of cultural experience. If they can benefit, like, they can save money from work, then they have more time, more energy to travel around and to enjoy a totally different culture and to get experience of doing these jobs which they might be able to do in their original countries. I think this visa still has its positive aspects and should not be shut down. I also don't think it's actually increases the competition with local Australian young people because I sort of feel the job market is segmented, so lots of local Australian young people actually don't want to - they may not want to go to a farm to do that job, so I think it does fit the labour shortage.

35 **MR LINDWALL:** Okay.

40 **MS LEE:** We have a group of people that are willing to spend, consume, and enjoy Australia, and they're much more able to do so when they're paid properly, when they have good working experiences, when they're treated fairly by the workplaces. What we've focused on in our report is removing the barriers that are currently out there that prevent them from doing so.

MR LINDWALL: That sounds very good.

45 **MS McCLELLAND:** Have you operated for very long as your separate groups and have you been lobbying government for long, and have you had any success?

MS LEE: We're a very new group.

MS McCLELLAND: A very new group, are you?

5

MS LEE: Yes.

MS McCLELLAND: How long have you been - - -

10 **MS LEE:** KOWHY, we just came about last year.

MR LI: Probably around 2013; for, like, two years.

MS McCLELLAND: Okay.

15

MR LINDWALL: You'll be officially on the transcript on the website, the government website, so there you are. Thank you very much for coming and all the best. We very much appreciate your testimony today.

20 I think we're now ready for Yasser El-Ansary. Hello. Nice to meet you. Please come up. If you could both come up here and give your names and organisation, et cetera, and then perhaps give a bit of an introduction about what you want to tell us, and then we'll ask some questions.

25 **MR EL-ANSARY:** Thank you. Thank you for the opportunity to join you this afternoon. My name is Yasser El-Ansary, I'm the Chief Executive of the Private Equity and Venture Capital Association, and I'm joined by our head of policy and research, Dr Kar Mei Tang. I will just start with a couple of high-level pieces by way of context-setting, really, in terms of the particular
30 inquiry that the Productivity Commission is working through right now. I'll start by just explaining a little bit about our industry because we know that, in some context, private equity and venture capital can sometimes be conflated and there's not always a broad base of understanding in the way that perhaps there ought to be about our industry.

35

Private equity and venture capital are essentially the same type of investment model, equity investment model, into businesses. Where they differ, though, is in the parts of the market and the scale and segments that they are focused on. Private equity tends to invest equity capital at a later
40 stage in the life cycle of a business, when businesses are more mature and, typically, the equity investments are larger, in an absolute dollar sense, and venture invests typically at an earlier stage in the life cycle of a business.

MR LINDWALL: And they're smaller.

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MR EL-ANSARY: And they're smaller. Absolutely. Whilst we think of them as one industry, and clearly it's one industry from an industry-body

perspective, they are quite different in terms of mechanics, in terms of features, in terms of the types of businesses that they allocate capital into.

5 For the purposes of this inquiry from the PC, I know most of the focus in this context is around the significant investor visa and the requirement to allocate capital into a registered venture capital limited partnership, or a registered - - -

10 **MR LINDWALL:** Or some of the capital into it, \$500,000.

MR EL-ANSARY: Yes. That's right, yes, a portion of the minimum \$5 million threshold - either into a registered VCLP or a registered early-stage VCLP. We'll focus our energy in that context, which is directly relevant.

15 Our industry, right at the moment, has about a total of \$25 billion in funds under management, and that's invested across around about five or six hundred businesses, predominantly Australian-based businesses, of course, and right across market segments, from the large sort of end of business right through to very early-stage start-up companies, effectively.

20 In that context, the work that we have been doing with the government, with institutional investors who allocate capital into private equity and venture funds, is to ensure that, wherever there's a roadblock that's getting in the way of capital formation being readily available and accessible for businesses that need that equity support, that capital support, we identify whether those roadblocks relate to policy and regulatory settings or whether they relate to market dynamics. Clearly, market dynamics are a little bit harder to navigate from an industry-body point of view but, where there's a policy issue at play, that's something, naturally, we're going to be interested in.

25 A little while back, in our dialogue with government, we identified that the significant investor visa that was introduced first in 2012 was delivering to the Australian economy what seemed to be a great injection of offshore capital into our market. I know, in the PC report, the draft report, that you've made a number of observations about the impact of that framework as it existed. On that front, the message from our point of view, from an AVCAL perspective, is that we entirely agree that the design of the original significant investor visa program, as it was first introduced in 2012, didn't deliver to the economy, we think - and clearly we have a particular perspective that we want to try and promote in saying that but we didn't think that it was delivering the sort of impact in the market that it ought to have been. Investing further capital into public equities or public bonds wasn't necessarily adding a lot, in a net sense, to our economy.

45 **MR LINDWALL:** We argue that it probably didn't add anything to the

economy but - - -

5 **MR EL-ANSARY:** I think you guys were able to be a little bit more blunt than perhaps we were. To take things forward, we took the discussion with the government, you know, one or two years after that, of course, into where we thought there was a better opportunity for the program to deliver some real value. Before I explain further much on that front, I'll just pause for a minute and deviate on a separate path, because it's relevant to the point I'm about to make.

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What we have struggled with here in Australia for the past 10 years or so now is a capacity to create a deep-enough pool of capital to be able to invest later-stage equity into high growth-potential businesses that require equity support in the vicinity of, say, a 5-to-10 or 20-million-dollar sort of band. So, businesses that get up off the ground, start-up businesses that emerge, that do all of their early formative work, around market testing, around product testing, validation and identifying opportunities, domestically and internationally, to grow their business, when they get to that critical point where the business has matured to a level where they now are ready to scale up, as we think of it, to really hit the accelerator, in other words, and employ teams of people to drive this business forward, sales teams, marketing teams, all the rest of it, all of the infrastructure that then allows them to propel themselves forward, is typically the point in time where those businesses require access to more-significant amounts of capital than what they would have accessed to get that business to that point at that stage, you know, seed-stage funding, as we refer to it. They require later-stage venture funding in many of those cases and it's typically in that sort of band of \$5 million to \$20 million.

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Over the last 10 years, the data that we compile on behalf of the industry - and through our membership we require all of our venture capital managers and our private equity managers to provide us with data that we then aggregate and slice and dice and publish publicly a couple of times a year. We can see from that trend data, which goes back a decade - or more now, in fact, that over the years our capacity to raise capital in that later-stage venture market has diminished, quite considerably. I think, in the last financial year, the period to 30 June 2015, to put some numbers and context around this, the amount of later-stage venture money that was raised in Australia, according to our analysis of the market, was around about \$85 million.

45
In the scheme of a market and an economy the size of Australia, that's a fraction of a fraction of a fraction of what it ought to be. We know from historical data that the availability of capital for later-stage venture has historically been much higher than that. The reasons for that are varied - and I'm happy to get into that, if that's of interest, this afternoon, or we can do that through our submission and provide that to you, but there's a number of contributing factors as to why that decline is observed.

5 Having said that, having said that the availability of later-stage capital is
one of our single biggest challenges here in Australia right now, to come
back to the point about the SIV program and the redesign of the program
from 1 July this year, our position on this, which we've advocated the case
for with government over the past 18 months or so now, is that we needed to
recalibrate the design of the SIV program so that it was delivering a flow of
capital, a more reliable flow of capital, on a regular basis, into those parts of
our economy that need support that otherwise weren't getting access to those
10 pools of capital that they require. So, naturally for us, one of the logical
points that we made on this front was to say that later-stage venture was
critically important and should feature prominently in the design of an SIV
program. So, let's recalibrate this, let's ensure that we get a little bit smarter
about how we direct the flow of capital, given that this is a valuable program
15 to the market, and to the applicants especially, I think. So, let's get a little bit
smarter about where we want that capital to flow. For us, one of the primary
motivations was to ensure that there was an availability of capital that could
flow from the SIV program into later-stage venture.

20 The redesign of the program from 1 July this year addressed this - to be
frank, not entirely to the extent that we wanted, we would have preferred that
the government mandate 20 per cent of the overall \$5 million amount to flow
into this area, but in the end we were comfortable accepting that 10 per cent
was a good starting platform, and the government indicated a preparedness to
25 revisit that down the track, once data is there that can be drawn upon to reach
some conclusions about the market efficiency of it. This is a step in the right
direction, from our point of view. It's still very early days, in the context of
the redesign of the program, the evaluation of its market efficiency, in my
view, and I think we need to be mindful of that.

30 The macro point that is relevant - and I'll ask Kar Mei to add some of the
detail around this now, as well. The macro point that's especially relevant to
the work of the Productivity Commission in this inquiry is that there has
been, we have seen from the draft, a conflation of two very separate and
35 distinctly different concepts here, because in the PC's draft report there's a
reference made to the fact that the total amount of capital available to be
invested in private equity and venture capital in Australia at the moment is
somewhere around about \$18 billion - - -

40 **MR LINDWALL:** Or whatever we said, yes.

MR EL-ANSARY: Yes - and that's drawn from ABS data. That number is
wrong, and we have to be really honest with you to say that. That number is
wrong. The analysis behind that number is absolutely flawed and wrong.
45 It's not the case, and it can't be the case, in this analysis by the PC, that you
would conflate the concepts of private equity and the availability of capital
for private equity with the efficiency of the SIV program delivering capital

through to venture capital. They are two distinctly different data sets.

5 The relevant sort of context to give around venture is that, for the year to 30 June 2015, the total amount of new venture money raised in Australia was around about 756 million.

DR TANG: 756 million in the last - I'm sorry, no, that's just dry powder. In the last financial year, I think, they raised 350 million in real commitments.

10 **MR EL-ANSARY:** Yes. That's right. 350 million, that's probably the number that is the more relevant and appropriate number for the PC to be using when you're assessing whether or not an injection of capital - and I think you made some estimates in the draft report around what the potential number of applications under the SIV program might be; 300 rings a bell.

15 **MR LINDWALL:** Yes, something like that.

20 **MR EL-ANSARY:** When you work through those numbers, 300 applications at \$500,000 each gives you around about \$150 million. Based on that sort of context, when you put \$150 million into a venture market where the total amount of new capital raised for the last financial year was around about \$350 million, all of a sudden we think the dynamics of what this program might mean to venture capital in Australia look quite different from the assertion that's made in the draft report.

25 **MR LINDWALL:** All right. Did you want to add any more? That's great, but I wanted to explore a couple of things with you. Firstly, aren't we conflating the amount of availability of capital with the availability of investment opportunities? There are so many venture capital opportunities in Australia and, in our business entry and exit report, we found that - firstly, 30 the finding was that there was no shortage of capital flowing in but there's a very big shortage of investible opportunities. In fact, from 1985 to 2008, the average annual return on VC, of the 37 funds, was minus 5.4 per cent per annum. Meanwhile, the All Ordinaries Index increased by 13.5 per cent per 35 annum.

40 I'm an investor, you're an investor, we're all investors; we choose investment opportunities that match a risk-and-return profile that we want to take. We diversify our investments. Australia has had, for 150 years, capital inflows of no shortage - you look at our balance-of-payment stats. The point then, isn't it, that it's not that there isn't availability of investible funds, it's 45 that there are not a very good investible opportunities? Why would I invest in something where I don't expect to get a good return? I'm not a philanthropist for that purpose. Should we expect SIV people to be philanthropists?

MR EL-ANSARY: Yes. Exactly. That's an entirely reasonable point to

make. Let me unpack that for a moment.

5 Let's be really clear about what the right sort of framework is to analyse some of these perspectives and conclusions. In terms of the point that you make about investible opportunities, that's quite a separate and distinct issue again from what the returns profile has been for particular periods of time.

10 To deal with that issue first, when we were working with the government, 12/18 months ago now, around the redesign of the SIV program, the question of whether or not a significant flow of capital coming through the SIV program could be deployed in a market-efficient manner was asked, naturally, by the government and by other parts of the government that we were working with at the time. We went away and spoke to almost all venture managers in Australia about this point and asked them the direct question about investible opportunities, which is effectively what is at the heart of that.

20 The response from all of the venture managers we engaged with was that, in any given year, here in Australia, for a venture manager, they would be presented with around about somewhere between 200 and 400 potential business opportunities, to review, assess, filter, undertake due diligence on, throughout the course of that period, which is quite large. When you extrapolate that out across the number of venture managers, and there are around about, let's approximate the number at, say, 20, you're starting to look at, potentially, a very significant number of investible opportunities. Not all of the 100, 200 or 400 documents that come across people's desks on an annual basis are genuinely investible - some of them are great ideas, some of them are just mediocre ideas, some of them are terrible ideas - but, when asked the question, "How many of the 200 [let's say, to be conservative] are genuinely investible opportunities that, had you the amount of capital available to invest, you would?" The answer, invariably, from all of those discussions was "Around about 10 of the 200, we'd get it down to about 10 seriously-good business opportunities." Of those 10, the next question was, "Of those 10, how many can you invest in at the moment, based on the availability of capital to draw upon that is there in the market?" The answer was, "Probably numbers 1, 2 and 3 on the list, if that - maybe even 1 and 2." So, numbers 3 to 10 are missing out on investment because there simply isn't a deep-enough pool of capital.

40 We were very confident then in going back to the government, armed with that information and all of the evidence around that, to say, "The answer to the question about are there enough investible opportunities is 'Yes, there are.'"

45 **MR LINDWALL:** That's not what our Business Entry and Exits Report found. It found quite the contrary to that. There is insufficient scale, perhaps, but it did say there is a trend that it might be increasing. It may be

also the case that this long series of negative returns has scared people off. I wouldn't be surprised at that.

5 **MR EL-ANSARY:** Yes. There's another discussion, clearly, around the returns profile. Yes, the data is clear that, historically, the returns from venture in Australia, because of scale, because of the infancy of the industry at a much earlier point in time, were not fantastic but things have changed since then and the returns profile of venture in Australia now is significantly different. In fact, the numbers that - we also run data around benchmark performance and the numbers are exceptionally strong.

10
15 **MR LINDWALL:** Let's, for the sake of argument, assume your argument is correct that there are investible opportunities and there's some other barrier. Let's assume it's correct - I don't, necessarily, but let's say it is. Then you have to argue, "Why is the SIV the best way of ensuring an increase in capital, given open capital markets of Australia? Are there more-efficient ways of doing it?"

20 **MS McCLELLAND:** Why do you need a visa to encourage someone - if it's a good - you know, if it's something worth investing - why do you need a visa to - - -

MR EL-ANSARY: Good question.

25 **DR TANG:** I can address that very quickly but, if I may, I could just go back to the opportunity point, as well.

MR LINDWALL: Please.

30 **DR TANG:** Why do we need a visa? Basically, there are impediments to institutional investors going into venture capital funds because currently they're scaled too small for a typical super fund to invest in, and also there are structural issues around the cost versus benefit of investing in a relatively high fee yet small fund, vis-à-vis other investment opportunities where they could deploy more money easily, potentially with lower returns, but, if you're
35 a big super fund, a small investment in a high-performing fund isn't really going to move the dial anyway; so, it's more of a cost-benefit analysis.

40 **MR EL-ANSARY:** Sorry to jump in on that and go back to that point. It's often referred to as the cheque-size issue, which does get a little bit of airplay in the public arena nowadays. The super funds are simply too big. A minimum investment threshold for some of our industry super funds, let's focus on that market segment because that tends to be where the flow of capital comes from, is significantly higher than what an average-sized
45 venture fund - - -

MR LINDWALL: Yes, but there's more money in SMSFs than there are in

industry super funds.

MR EL-ANSARY: Yes.

5 **MR LINDWALL:** They're flexible to invest in whatever they want.

MR EL-ANSARY: Yes.

10 **MR LINDWALL:** Why doesn't the market provide opportunities for SMSFs to invest in venture capital?

15 **MR EL-ANSARY:** Yes, it's another good question, and that is an area that we are devoting some energy to at the moment. The simple answer to, again, what is a very complex issue embedded in that is that it is difficult to aggregate individual super funds to invest into venture funds through
20 platforms and through the mechanisms that most SMSFs and their advisers, their financial planners and the financial institutions that tend to be closely working with them can get access to. So, it's not that there isn't a potential there, there is and, clearly, the scale issue starts to become less problematic at that end of the market. There are, nonetheless, a range of hurdles that still need to be jumped over to make that reality a possibility but, in the medium term, we do envisage that the availability of capital, the flow of capital from the self-managed super sector may increase over time.

25 **DR TANG:** Yes, and I think the dispersion of SMSFs is quite skewed because you've got a large number of relatively small SMSFs which tend to invest via platforms and then a big concentration of really large ones, and the small ones probably won't find it easy to invest in private equity via a platform because they don't offer the liquidity and portability options, and
30 the larger ones - I mean, there's only just so many of them, so, again - - -

MR LINDWALL: But you can see what I mean, there are lots of different investment people that - people who can invest - and we can go back to the returns, I mean, risk and return is vital here, but, in the end, the permanent
35 visa is an asset, right, people value it.

MR EL-ANSARY: Yes. Absolutely.

40 **MR LINDWALL:** What we're doing is giving away - some people might say selling but I'd say giving away - a visa for people who buy some assets. Persuade me on why the Australian Government should give away a visa to people who merely buy assets? Do the people who buy assets choose the assets as to - are they sacrificing anything? I mean, surely they're wealthy people, they're not going to buy assets that are not going to provide an
45 expected return that's relevant to the risk they're willing to take on.

MR EL-ANSARY: Absolutely.

MR LINDWALL: They're going to invest it wisely.

5 **MR EL-ANSARY:** Yes. My answer to your direct question is, it's not our
role to prosecute a case for the existence of an SIV program - I'll let others
do that, others who are more qualified to talk about immigration policy and
the rest of it - but if we are to have a significant investor program, or
something akin to a significant investor program, we are very clear in our
10 view that we need to be as smart as we can be about how we direct the flow
of traffic, or the flow of capital in this case, into those parts of our economy
that need that support. Our view is clear, we said this to the government for a
number of years and we said it in the last little period as we made the case for
changes that came into effect from July this year, that the original design, or
the SIV program, was inadequate and inefficient, so it needed to change.

15
Our role, really, in this context is, having accepted that the government
has made a decision to put a program in place, "Here's what we think it ought
to look like," or at least, "Here's what part of it ought to look like." We're
not immigration policy experts, so I'm not going to sit here and try and make
20 the case for the existence of an SIV program.

MR LINDWALL: Would you be concerned, for example - earlier today we
had Transparency International saying that the source of funds is highly
25 dubious in many of these in SIV sources and we can't know - there are
potentially a trillion dollars, I think he said, of very dubious money flowing
around and some of it would be coming through the SIV, some of it through
the world, of course, and that's - and did you know - I'm not sure if you're
aware that they've linked tax data with immigration data and they found that,
on average, humanitarian entrants pay more tax than significant investor visa
30 holders.

MR EL-ANSARY: Yes.

35 **MR LINDWALL:** Are we arguing that they're making a contribution to
society?

40 **MR EL-ANSARY:** I haven't seen any evidence about the source of funds
being an area of concern. I know, conceptually, clearly, it's a question that
should be asked but everything we've seen thus far tells us that the vetting
processes and the checking and the diligence processes that are embedded in
the machinery around the SIV application and nomination steps seek to try
and address that. Clearly, it's an area that you can never be 100 per cent sure
on, in the same way that - - -

45 **MR LINDWALL:** Which is what we basically said.

MR EL-ANSARY: - - - there are a number of other foreign investment

channels where we can never be 100 per cent sure of the source of funds either, but I haven't seen any evidence to suggest that there's a major issue there. I'll have to leave it to others, again, to speak to the detail.

5 **MR LINDWALL:** The upshot of it is, you're not greatly defending the SIV per se, you just think there's an opportunity to get more capital into venture capital and that it's being under-resourced for a number of reasons, some of which may be historic, some may be due to scale?

10 **MR EL-ANSARY:** Yes. That's right. There is probably a macro point which Kar Mei may talk to now, as well, which is around the fact that, from a global competitiveness perspective, I think, there is a case to be made from a capability perspective, in terms of how we as Australia compete for entrepreneurial talent, who we compete for capital and how we compete for
15 ideas - there is a case to be made for us to be mindful of what other jurisdictions are doing and how attractive their frameworks around things like what their equivalent to the SIV program might be.

MR LINDWALL: Don't you think that's a bit of a mercantilist argument?
20

MR EL-ANSARY: Why?

MR LINDWALL: Exports are good, imports are bad.

25 **DR TANG:** It's not just about exports and imports; it's about the broader benefits as well because it's generally recognised that venture capital is transformative, from an economic point of view, because you're actually capitalising the take-up of new technologies, cancer therapies, diagnostic equipment, and things like that, which I would argue is - - -

30 **MR LINDWALL:** Sorry. No, I understand that.

DR TANG: Yes - all a social good - - -

35 **MR LINDWALL:** Alison, did you want to - - -

MS McCLELLAND: No. Thank you.

40 **MR LINDWALL:** Sorry, I think we've run - you've got, if you want, 30 seconds or something to - - -

MR EL-ANSARY: No. We're here, really, to answer your questions.

45 **MR LINDWALL:** Thank you. Sorry, I've kept on - I've asked too many questions, sorry about that.

MR EL-ANSARY: No problem. That's okay. Thanks for the time.

MR LINDWALL: Thank you very much for turning up.

MS McCLELLAND: Thank you.

5

MR EL-ANSARY: We'll forward a submission.

MR LINDWALL: That's it.

10 **MS McCLELLAND:** We need to give the opportunity to anyone from the floor to make - up to five minutes - - -

15 **MR LINDWALL:** Yes. I do give the opportunity for anyone who wants to appear now to do so. Please state your name and organisation, if you represent an organisation, and then just give us a brief comment on what you want to say.

20 **MS TSOLI:** My name is Kiki Tsoli. I represent myself, not necessarily an organisation. I would like first to congratulate you on this tremendous inquiry and the results of the draft report that you have put in. Thank you very much.

25 I would like to make a few comments and perhaps some suggestions that are personal suggestions. The first - - -

MS McCLELLAND: Excuse me, would you tell us your background, because I think your background is relevant?

30 **MS TSOLI:** My background?

MS McCLELLAND: Your current job.

MS TSOLI: Of course.

35 **MS McCLELLAND:** I think it's relevant to what you're going to tell us.

40 **MS TSOLI:** Of course. The first thing I would like to say is I am a migrant of Greek background who arrived in Australia 24 years ago. I work in education. The field I work in is teaching English to migrants and refugees who have recently arrived in Australia. Particularly, I'm connected to the health aspect. I would like to perhaps connect some of my experiences also through my profession to that.

45 The first comment is possibly that this year we've had a number of disruptions because the newly-arrived refugees have had to attend the Job Network appointments that they've had. Perhaps we could alert the relevant organisations that this is happening, because there is a bit of a conflict of

interest there in terms of attending both the English-language lessons and the job appointments.

5 Then what I would like to perhaps suggest is the induction program that needs to occur at all levels. I'm not aware of what happens at all levels of entry, whether it is a temporary entry or whether it is a permanent entry, whether it is a spouse of a skilled migrant, et cetera. I think there is a significant need for an online induction, if possible, cost-effective, if that's part of balancing the sheets of the whole program. That would need to target 10 certain things, whether it is drug, alcohol and road safety, that affects the whole community, whether it is sexual health and safety of the whole community, and what happens in Australia, whether it is environment, for example, the illegal rubbish disposal that the councils have a lot of trouble with and it creates a lot of cost to tidy up. This is a general sort of thing that 15 perhaps needs to be included as an induction, as well as a list of the services, whether it is according to the service or according to local area, double(?), online that can be easily accessible to all levels of society. That's an important thing.

20 The next thing I would like to perhaps suggest is that our libraries are a significant contact point for our newly-arrived people and perhaps we need to plan for 21st century Australia, where libraries with new facilities - for example, Bankstown library has a new building - can plan for an ESL-trained librarian to perhaps extend the provision of English at times when the new 25 arrivals need it, on top of the 510 hours that they get, at a cost-effective way. If you have someone trained on the facilities, they can run perhaps some lessons at that time, depending on the community needs.

30 Thank you very much.

MS McCLELLAND: Thank you very much for that.

MR LINDWALL: Thank you. I appreciate it.

35 **MS TSOLI:** Thanks a lot.

MS McCLELLAND: Thank you for your attendance.

40 **MR LINDWALL:** That's the last of it. I adjourn the proceedings. This is the conclusion of the hearings for the Migrant Intake Inquiry, and I thank all the participants.

45 **ADJOURNED**

[2.37 pm]