AUSTRALIAN HOTELS ASSOCIATION

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8 May 2013

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 1600
Parliament House
CANBERRA ACT 2600

Dear Secretary,

INQUIRY INTO THE CURRENT FRAMEWORK AND OPERATION OF SUBCLASS 457 VISA, ENTERPRISE MIGRATION AGREEMENTS AND REGIONAL MIGRATION AGREEMENTS

We refer to the submission to the Senate Legal and Constitutional Affairs Committee on the abovementioned inquiry from the Australian Chamber of Commerce and Industry (ACCI). The Australian Hotels Association (AHA) is a member of ACCI and supports its submission. In addition to this ACCI submission the AHA makes a further submission on the following issues of direct relevance to the hospitality and tourism sector.

Overseas Workers are part of the industry's Workforce Development Plan

Access to overseas workers is only one measure in a raft of measures required to address workforce development issues in the tourism and hospitality industry. Whilst this enquiry focuses on access to overseas workers the AHA submits that sourcing overseas workers is a step to be taken only when Australian workers are unable to fill these positions.
The AHA has worked with Service Skills Australia and the industry to develop a workforce development plan. The priority areas were:

- a highly skilled workforce;
- expanding the traditional workforce;
- access to quality workplaces; and
- better workforce planning.

Using overseas workers is included in expanding the traditional workforce. We enclose a copy of the workforce development strategy for your information.

The AHA has had first-hand experience in facilitating apprenticeships in the hospitality industry. Through its participation in the Employer Broker Program the AHA placed apprentices throughout regional Victoria in 2010-11. The program also filled job vacancies with unemployed persons. The results from this program evidenced that regional businesses were unable to fill all existing vacancies. The main reason for this labour shortage was the disconnection with the current employment services and Job Services Australia. This disconnection is unlikely to be addressed until the current Commonwealth employment services terms and conditions are reviewed ahead of the proposed July 2015 contracts. We enclose a copy of the AHA submission on disability employment services and employment services to DEEWR for your information.

We submit that the need for overseas workers in the hospitality and tourism sector is a direct result of the failure of the government-funded employment services to deal with the sector's labour shortages. If the tourism and hospitality sector is further restricted from access to Subclass 457 visas then the current employment services system will need to address the increased labour shortages faced by the tourism and hospitality industry.

There is already sufficient evidence of the labour shortages in the tourism and hospitailty sector.

There is already an up to date body of work on labour shortages in the tourism and hospitality industry.

In 2012 the Department of Resources Energy and Tourism commissioned Access Economics to assess labor shortages in the tourism industry. The results of this 2012 Australian Tourism Labour Force Report backed up the anecdotal information that there was a shortage of labour in the tourism industry and that future growth of the industry towards 2020 will mean that labor shortage pressures will continue. We refer you to the report at http://www.ret.gov.au/tourism/Documents/nltts/DAE-RET-Aus-Tourism-Labour-Force-Report-Pt-1.pdf.

Service Skills Australia annually produces an Environmental Scan identifying the trends and changes to workforce development needs. The most recent work is the 2013 Environmental Scan which also includes information on the use of overseas workers. The report is currently in draft and should be available by mid-May 2013.

The Federal Government has already expressed concern about the impact of labour shortages in the tourism and hospitality industry. As part of Tourism 2020 (formerly the National Long Term Tourism Strategy) developed by the Federal Government a Labour and Skills Working Group, which included the AHA, was established to advise the Tourism Minister on workforce development issues. Through this Working Group the Government acknowledged that it was unable to meet its goals to build the economic benefits of tourism without a policy adjustment on its overseas workers policy. The Federal Government committed to the development of a tourism and hospitality template labour agreement as part of a broader strategy to help the industry deal with its labour shortages and develop its workforce to better cope with future demands.

Previous submissions to agencies on visa categories in tourism and hospitality

The AHA has already made various written submissions to Department of Immigration and Citizenship on matters relevant to this enquiry.

The AHA along with many other stakeholders responded to discussion questions on establishing the template labour agreement for the tourism and hospitality industry. Attached is the submission made by the AHA which identifies issues surrounding the terms and conditions of such a template agreement.

We also enclose a previous 2011 submission to the Department of Immigration and Citizenship for its review of permanent employer sponsored visa categories.

In consideration of the abovementioned conditions the needs of the tourism and hospitality industry require current and future vacancies in chefs, cooks and managers to be filled as these positions are economic drivers of the tourism and hospitality sector. Accordingly any consolidated skilled

occupation list needs to consider the demands and infrastructure requirements of our sector as it gears itself to meet the needs of the Tourism 2020 plan.

Yours sincerely

Des Crowe
Chief Executive Officer

Attachment 1
Submission to DEEWR: Disability Employment Services

12 February 2013

Director,
Disability and Mental Health Policy,
Department of Education, Employment and Workplace Relations
Location: MC50 Level 5
GPO Box 9880
CANBERRA ACT 2601

Dear Sir,

IMPROVING THE EMPLOYMENT PARTICIPATION OF PEOPLE WITH DISABILITY

The Australian Hotels Association (AHA) is an organisation of employers in the hotel and hospitality industry registered under the *Fair Work (Registered Organisations) Act 2009.* Its membership of more than 5,000 licensed hotel businesses includes pub-style hotels plus three, four and five-star accommodation hotels located in each state and territory. The AHA's members are serviced by branches located in every Australian capital city and a Canberra-based national office.

As a member of the Australian Chamber of Commerce and Industry we generally support the submission made by ACCI and make the following specific comments. The Australian Hotels Association believes that all stakeholders can learn from the AHA experience under the Employer Broker program and we provide an outline of the program attached in Schedule One.

We further respond to the discussion paper as follows:

- Employment Services have failed to engage with hotel businesses and accordingly insufficient promotion is being done on employment participation of any groups and particularly not people with disabilities
- The AHA supports the Employ Outside the Box program including the employment participation of people with disability and the business case associated with it.
- The AHA has the capacity with limited financial assistance to ascertain the labour demand of its members and can play a facilitating role to introduce jobseekers with disabilities to employers
- The AHA developed an employment services model through the Employment Broker which should have been extended to the participation of people with disability. By not extending the Employer Broker the agency missed an opportunity to leverage off the demands of our members who were participating in the program. Consequently hundreds of job vacancies were not filled and still remain unfilled from these participating Victorian businesses.
- The hospitality and tourism industry continues to have severe staff shortages and there are currently good employment opportunities in our sector.
- Employments services may have better relationships with our larger AHA employer members but such relationships are non-existent with our smaller members.
- The AHA would be in a position to promote existing Champions from within its hotel ranks.
- For hotel businesses to improve the participation rates of workers with disability the AHA would submit that the AHA Employer Broker Model could be used.

- Without intervention by the AHA our 5,000 hotel businesses are unlikely to have any additional opportunity to place workers with disabilities in their businesses.

Your department, in conjunction with other agencies, is responsible for the procurement of employment, training and business consultancies. Participation could be improved in our sector by imposing conditions on the services which

1. Established specific hospitality employment services.
2. Required these employment service providers to achieve certain quotas of employment outcomes for employing people with disability.
3. Require these employment service providers to network with the hospitality businesses through employers, industry groups including the AHA
4. Require these employment services to provide services to small to medium to size businesses, metropolitan and regional businesses.
5. Require these employment services to consult with industry associations on the requirements for employees being job ready.
6. Impose similar conditions on the registered training organisations. Require the AHA and other industry Associations to promote participation of people with a disability. Nationally, the AHA is currently involved with assisting businesses to prepare workforce development plans related to their funding under the Workforce Development Training Program to train 100 employees to Diploma/Cert 4 standard. The AHA is also assisting approximately 625 hospitality business through the Skills Advisor Program. Currently 27 skills advisors are being trained up to carry out one to one consultation in small to medium businesses. The AHA will ensure under both programs that there is a promotion of the employment of people with a disability.
7. Ensure that relevant government agencies better co-ordinate existing and proposed programs to ensure the promotion in this area is maximised.

Based on funding to industry associations we would also submit that government agencies have downplayed within industry associations the priority of employment of people with disability and employment programs to our sector. This has been evidenced by the AHA receiving considerable funding for such programs as network skill advisors and energy efficiency education but no funding when applied for outside of the discontinued Employer Broker to facilitate job placements in our sector including people with a disability.

Given the chronic staff shortages there is no better time than to promote employment of people with disabilities. Current Employment services have failed to engage properly with our industry and the AHA is willing to assist. Whilst we can spruik the benefits of such employment through public comment and publications a dramatic improvement will only occur by direct consultation with the individual employers.

Yours sincerely

Des Crowe
Chief Executive Officer

SCHEDULE ONE

Background on Employer Broker Program for the Hotel Industry

John Sweetman AM

The AHA National Office was successful in securing a small grant from the Department of Education, Employment and Workplace Relations (DEEWR) for the piloting of an Employer Broker program for the hospitality industry.

AHA's commitment to the Employer Broker role had been motivated by feedback received from Hotel (Pub) and Accommodation members on the limitations of the existing Jobs Services Australia (JSA) system, and the labour market in general, to meet their recruitment needs. The focus of the project was on assisting hoteliers to meet their recruitment needs through creative employment and training partnerships, in part been driven by raising hotel awareness of the realities of the current labour market conditions, and their engagement in their approaches to getting job seekers ready.

The AHA played a co-ordinating role and targeted the efforts of JSA and other employment service providers to match the needs of job seekers with the labour vacancy requirements of the hoteliers.

To develop the brokerage model the following project elements were required;

- Key stakeholders having a good understanding of the local labour market;
- A commitment to the initiative from AHA, AHA members, JSAs, and training organisations;
- The involvement of AHA being committed to achieving outcomes and having the initiative replicated across the industry; showcasing the project to others and helping building relationships between stakeholders;
- Stakeholders, in particular AHA members being consulted at all stages—this includes being consulted about their labour and skill needs, the content of training courses, any work experience component and their general employability needs;
- Establishing a strong business case for JSAs—so they can see there are genuine ongoing employment opportunities for their clients;
- Ensuring the right job seekers are selected—careful screening is the key, with a focus on the right attitude and basic employability skills as indicated by AHA members.

The design of the employer broker model, and the operational framework underpinning involved extensive discussion with the Victorian hotel industry, and representatives from AHA and DEEWR. The model was been designed to encompass a range of issues that needed to be addressed, including;

- The extent of the immediate employment needs of Hotels;
- The need to recruit acceptable good basic customer service skills;
- The need to access support for training or introducing more flexible working arrangements;

- Overcoming difficulties in attracting the right and committed people with the appropriate skills and the time taken to train/retrain recruits in the required skills;
- Recruitment issues which are impacted by external agencies not presenting people appropriate to identified industry needs;
- A need to better engage with AHA Members and promote the opportunities in the industry;
- A need to change 'old-school' industry ways and showcase flexible arrangements;
- A need to address both recruitment and retention issues by reviewing procedures for transition from benefits to employment;
- Opportunities to promote the industry through quality communication;
- The provision of pre-employment support for potential employees.

It was agreed that the operational framework needed to comprise the key elements outlined below.

Identifying industry entry points – Processes needed to be established to understand the skills needed in the regions and to identify vacancies and the competencies required by jobseekers. The AHA took on the role to:

- consult with the Hotels to identify genuine ongoing employment opportunities for disadvantaged ` people;
- demonstrate how the AHA can grow the JSA's share of vacancies and job placements in the hospitality industry;
- enhance how the industry can use the provider of employment services to assist with meeting their recruitment needs and improving recruitment strategies;
- work in partnership with members at a local level to support them to understand their business and recruitment requirements;
- identify and select potential employers and consult with them to;
    - confirm job vacancies, job locations and job structure;
    - develop a profile of the minimum skills needed for the job; and
    - identify the employer needs with a focus on the entry-level employment opportunities.

Customised Screening Processes – All participants in the project must be educated so to improve the match between job-seekers and job vacancies through a defined process aimed at;

- identifying the type of job seeker who would be suitable for industry placement; and
- identifying pre-employment training and support to ensure jobseekers are appropriately prepared to enter the industry, with skills that maximise sustainable employment outcomes

The screening process included gap analysis relevant to each participant's industry entry point and to identify customised pre-employment skills training, mentoring, counselling and other support required by the job seeker to ensure that they make an easy transition into hospitality employment.

Customised Employment Pathways – This involves designing and delivering targeted work-preparation assistance matched to the identified employment opportunities and based on the outcomes of the screening process. Pre-employment training and support has involved preparing job-seekers for the challenges they will face in the job and giving them a clear picture of what it will be like working in the industry - to ensure that participants are job ready. Packages of training and work experience that have been specifically tailored to meet hotel needs were examined in collaboration with employers, GTCs and training providers to provide a menu of support measures (programs and short courses to make participants more readily employable and provide the required certification to work in certain areas within the industry) that can be customised to individual participant needs, identified through the screening process. These programs focus on;

- Work Related/Employability Skills
- Hospitality Customer Service Skills
- Personal Development Skills
- Basic work experience/sampling within the industry sector
- Work preparation/industry orientation;
- On-the-job skills development, mentoring and training;
- Access to recognition of prior learning;
- Accredited education and training (linked to work experience);

Placement Options - The placement of a job-seeker in a confirmed vacancy was determined through the job-seekers screening process. Potential job-seekers will fall into the following categories –

- unsuitable
- those they may be suitable but need some pre-employment assistance to ensure they are appropriately prepared to enter the industry
- those who may be ready for direct employment
- those who may be suitable to enter into a traineeship/apprenticeship

Supported Transition to Work – The project identified the need to focus on intensive support to encourage job-seekers to overcome the barriers they face when initially placed in work. This required greater attention to the quality of the initial job placement with a focus on building hotel capability – through orientation/induction/settling/training processes and providing in-work follow-up support to help ensure a smooth transition to work in the immediate period after job placement.

Support for retention, up-skilling and progression - Closer working relationships were developed between employment service providers and hotels to improve an understanding of the skills and qualities employers are seeking, and to encourage employers to take action to improve retention and help their employees' progress via training, mentoring and access to flexible working opportunities.

Retention Strategies - service providers need to work with hotels to raise their awareness of the benefits of employing a diverse workforce. A major impediment to this is the general level of

understanding among hotels of the work culture of disadvantaged job seekers and of the range of factors that can mitigate against direct assimilation into the workforce.

On-Going Training and Skill Development - improving skills are essential to achieving sustainable employment. The challenge that most low-skilled employees face is that the people with lowest skills are least likely to be trained by employers. Employers will need to be supported and encouraged to provide a combination of formal and non-formal training to vulnerable new labour market entrants in the Industry.

Difficulties finding clients to fill vacancies for Apprenticeships – JSAs have found it extremely difficult to find suitable candidates that meet the entry level requirements for traineeships and apprenticeships. The range of issues that need to be addressed include:

- the ability for young people to access and negotiate support from JSA agencies;
- enhancing education levels which are too low to access Apprenticeships;
- poor self-esteem and low levels of confidence in their ability to cope with education, training or work environments;
- little or no understanding of employers' expectations; and
- personal circumstances, which inhibit their capacity to function socially
- Flexibility to work weekends, split shifts, public holidays and nights is an element of any training arrangement

Transport Issues - A major obstacle to job seekers gaining or being able to access identified job vacancies on an ongoing basis is the lack of a current drivers licence. This is particularly the case in rural or regional areas.

The need for Employer Mentoring - there is a need to improve the capacity of hotels to recruit, induct and retain long-term unemployed or otherwise disadvantaged job seekers. A major impediment to this is the general level of understanding among hotels of the work culture of these job seekers and of the range of factors that can mitigate against direct assimilation into the workforce.

The AHA remains committed to the process of developing a relationship between hoteliers, JSA', training organisations and other stakeholders especially for regional areas where the difficulties in finding and recruiting suitable hotel employees continues to be of significant concern.

A priority of AHA has been on establishing and refining an operational model of best practice that can be replicated throughout Australia by the AHA State Branches, JSA Providers and other labour market intermediaries focussing on;

- increasing the workforce participation of job seekers on income support or registered with a JSA provider;

- developing innovative recruitment, employment and retention strategies;
- establishing strong business relationships between the industry sector and JSAs

AHA has utilised the pilot in Victoria to develop and demonstrate best practice applicability through a sustainable employment model that encourages cooperation between participating AHA Members; Registered Training Organisations (RTOs); JSA and other employment related providers. It is clear that a future *Collaborative Employment Model* will rely upon the combined commitment of:

- ***Hotels:*** being the heart of the success of the program and they need to be able to identify the jobs vacancies and employ the suitable job seekers. The model needs to provide opportunities for hoteliers to improve their capacity to recruit, induct and retain long-term unemployed or otherwise disadvantaged job seekers.
- ***Employment Related Service Providers****:* JSA providers need to commit to work with Hotels to confirm their vacancies and identify suitable job-seekers. This will be achieved through a customised screening process *aimed* to identify barriers to employment and ensure that disadvantaged job-seekers are job ready, can compete effectively in the hotel labour market and can move into and remain in work in the hospitality area. They need to provide both general pre-employment support and support their transition to employment.
- ***AHA State Branches****:* Will be asked to support workplace strategies to ensure the industry is adequately flexible to support disadvantaged job-seekers in their workforce. This includes providing support for specific upskilling measures and mentoring targeted to hospitality industry jobs through commitment, job design and other adjustments in employment arrangements in order to facilitate increased participation in the workforce.

Attachment 2
Submission to DEEWR: Employment Services

20 March 2013

Director,
Employment Services Beyond June 2015,
Department of Education, Employment and Workplace Relations
GPO Box 9880
CANBERRA ACT 2601
Location Code C50MA4

Dear Sir,

EMPLOYMENT SERVICES- BUILDING ON SUCCESS

The Australian Hotels Association (AHA) is an organisation of employers in the hotel and hospitality industry registered under the *Fair Work (Registered Organisations) Act 2009.* Its membership of more than 5,000 licensed hotel businesses includes pub-style hotels plus three, four and five-star accommodation hotels located in each state and territory. The AHA's members are serviced by branches located in every Australian capital city and a Canberra-based national office.

As a member of the Australian Chamber of Commerce and Industry we generally support the submission made by ACCI and make the following specific comments.

Our organisation reflects the views of the 93% of employers not using JSA providers.

On the 5 March 2012 the writer had an opportunity to raise employment services issues with DEEWR at the Employer Consultation Session and these were was duly noted.

Following on from those discussions we would suggest three options be seriously explored in the current considerations for reviewing the employment services.

Option One-Employer Broker Model
In the event that the current Employment Services system is continued without substantial change we would seek that engagement with the majority of employers be engaged through the Employer Broker program. We have previously made submissions on the Disability Employment Services and focussed on the role of the Employer Broker. We attach a copy of that submission and rely on its contents as it equally applies to this submission.

Option Two-Dedicated Tourism and Hospitality Employment Service
An alternate approach would be to establish a dedicated tourism and hospitality employment service which could also cover Disability Employment Services, traineeships/apprenticeships and other Employ Outside the Box programs(indigenous employment, mature age workers, return to work programs etc).There should be scope for this tourism and hospitality employment service to be piloted.

Option Three
One criticism of the current employment services is that that its objectives are employee focused ensuring that the integrity of such job seekers are maintained. If the objectives were reversed and employment services were employer focused then the business needs of the majority of employers would be better served. To maintain the integrity of the disadvantaged worker mentors and pastoral carers could play an employee brokerage role. There should be scope for this to be at least piloted.

Casual Employees
Currently, there is not an incentive for JSA's to place clients in casual work within our industry. Given that approximately 65% of the jobs in our industry ere engaged on a casual basis then no incentives apply to these jobs. Strong consideration needs to be given to providing incentives for the engagement of clients in either permanent or casual employment.

Should you wish to further discuss these options please do not hesitate to contact the writer.

Yours sincerely

Des Crowe
Chief Executive Officer

Attachment 3
Submission DIAC: Template Labour Agreement

Australian Hotels Association

Submission in relation to:

Discussion Paper - Template Labour Agreement for the Tourism & Hospitality Industry

Labour Agreement Section
Department of Immigration and Citizenship
PO Box 25
BELCONNEN ACT 2616

27 March 2012

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About the AHA

The Australian Hotels Association (AHA) is an organisation of employers in the hotel and hospitality industry registered under the *Fair Work (Registered Organisations) Act 2009.* Its membership of more than 5,000 licensed hotel businesses includes pub-style hotels plus three, four and five-star accommodation hotels located in each state and territory. The AHA's accommodation hotel members are serviced by Tourism Accommodation Australia, a division of the AHA. The AHA has branches located in every Australian capital city and a Canberra-based national office.

This AHA notes that separate submissions have been provided by the Australian Hotels Association – Western Australian Branch and Tourism Accommodation Australia (NSW), both divisions of the AHA. This submission supports those comments and represents the collective interests of the hotel industry nationally.

About the Hotel Industry

The hotel industry is a significant employer, with more than 278,000 persons employed between the pub sector (188,000)[1] and the accommodation sector (90,000) [2], and an annual wages and salaries contribution of $5.41 billion. In addition there are an estimated 20,000 employees in the casino sector[3].

Shortages of Labour and Skills

The hotel industry in many parts of Australia is suffering from acute shortages of skills and labour due to low unemployment and the ongoing impact of the mining boom. The recent Australian Tourism Labour Force Report commissioned by the Department of Resources, Energy & Tourism found the tourism industry faces a shortfall of more than 56,000 workers by 2015 in the absence of a change in policy.

Federal Government Response

Through the Tourism 2020 (formerly the National Long Term Tourism Strategy) Labour and Skills Working Group, the Federal Government has acknowledged that it will be unable to meet its goals to build the economic benefits of tourism without a policy adjustment on its overseas worker policy. The Government has committed to the development of a tourism and hospitality template labour agreement as part of a broader strategy to help the industry deal with its current labour shortages and develop its workforce to better cope with future demand.

The AHA congratulates the Government for its willingness to work and consult with industry on strategies to address these constraints.

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[1] PricewaterhouseCoopers (2009) *Australian hotels: More than just a drink and a flutter*
[2] Australian Fair Pay Commission (August 2008), *Accommodation, Cafes and Restaurants Industry Profile, Research Report No.1/09*
[3] Australasian Casino Association, *Submission to the Parliamentary Joint Select Committee on Gambling Reform*, 31 January 2011

Responses to the Discussion Questions

How should employers be identified as belonging to the industry in order to be allowed to access the template agreement?

Hotel industry employers can demonstrate belonging to the industry through membership of the Australian Hotels Association. The AHA is registered under the *Fair Work (Registered Organisations) Act 2009* as the hotel and accommodation industry employer organisation. It is a not-for-profit association with more than 5,000 members across Australia serviced by branches in every state and territory plus a Canberra-based National Office. Membership of the AHA is limited by its registered rules to hospitality employers.

Although many hotels have enterprise agreements which cover terms and conditions of employment, most employ staff under the terms and conditions of applicable industrial awards such as the *Hospitality Industry (General) Award 2010* or the *Restaurant Industry Award 2010*.

Should occupations that are available under the standard program be made available under a template labour agreement? What benefit would there be to such an arrangement?

Occupations covered by the standard program should be made available under a template agreement in addition to additional occupations identified by industry sectors as being relevant and in demand. The template agreement should streamline and simplify the migration process for employers facing shortages of workers. To do this it will need to cover existing occupations and industry-specific additional occupations to create a single interface with the migration system, which is complex, time consuming and costly for employers.

What sources of information are available about labour market conditions in areas where there are shortages of skilled workers in the tourism and hospitality industry?

The Australian Tourism Labour Force Report produced by the Department of Resources, Energy and Tourism is the most comprehensive and recent study of the industry's workforce needs and challenges, and should be the primary source of information for the purposes of creating a template labour agreement.

Stakeholder feedback is sought in relation to this list of occupations, the level of qualification appropriate for these as skilled workers and the nature of any concessions that the industry seeks.

The AHA submits that the template labour agreement includes the following positions from ANZSCO Skill Levels 1-4 relevant to the hotel industry:

- Baristas
- Bar attendants
- Receptionists
- Hotel or motel receptionists
- Waiters
- Cooks
- Hotel service managers
- Gaming workers

The definitions and classifications for these positions are contained within applicable industrial awards such as the *Hospitality Industry (General) Award 2010* and the *Restaurant Industry Award 2010*.

Should only industry-specific occupations (i.e. excluding trades) be available under a template agreement?

A labour agreement for the tourism and hospitality industry is an essential component of implementing Tourism 2020, the National Long Term Tourism Strategy. Since hotels and other businesses in the tourism and hospitality industry are in need of trade qualified workers these positions needs to be included in the template agreement. The labour agreement should be formed to address the urgent skills and labour needs of the industry without being limited to industry-specific occupations. The AHA submits, however, that only tourism and hospitality businesses should be able to access trade-qualified occupations through the tourism and hospitality template agreement.

How should employers wishing to access the template agreement identify themselves as being part of the tourism and hospitality industry?

A hotel can provide evidence of being part of the industry by being a member of the Australian Hotels Association. The AHA is a registered industrial organisation of employers in the hospitality industry and its membership is limited by its rules to hospitality venue employers. Alternatively evidence can be presented on the basis of the nature of the business (ie, is the business a hotel, accommodation venue, casino, restaurant etc?), the instrument under which its employees are employed, and by the specific job titles, classifications and duties of workers employed in the business.

Stakeholder feedback is sough in relation to this list of occupations, the level of qualification appropriate for these as skilled workers and the nature of any concessions that the industry seeks.

From the list of occupations provided in the discussion paper, the following are relevant to the hotel industry:

Occupations	ANZSCO Code	Skill Level	457 Eligible	Salary Comment
Cook	351411	3	Yes	Award/Agreement
Hotel Service Manager	431411	3	No	Award/Agreement
Bar Attendant & Barista	43111	4	No	Award/Agreement
Food & Beverage Attendant	431511	4	No	Award/Agreement
Gaming Worker	431311	4	No	Award/Agreement
Receptionists	54211	4	No	Award/Agreement
Motel/Hotel Receptionist	542114	4	No	Award/Agreement

Should the template labour agreement be available only to regional employers or to all employers in the tourism and hospitality industry?

All tourism and hospitality employers in Australia should be able to utilise the template agreement. Tourism 2020 is a long term strategic plan for the whole of Australia, and there has never been any intention to limit actions to regional areas.

The Australian Tourism Labour Force Report identified Sydney and Melbourne as facing the greatest future shortfall of skilled labour, and the shortages of workers in Perth has been well documented in the context of the mining boom and its impact on the labour market.

What are the market salary rates for Australian workers in these positions in different regions in Australia? What other terms and conditions of employment, including salary packaging are provided to workers in these occupations?

Although the majority of the hotel industry workforce is award-reliant (in most cases the Hospitality Industry (General) Award 2010 applies) there is significant variation in market salary rates between different regions. In line with the two-speed economy, hotels in mining regions are often forced to pay well above award rates to staff in order to compete with the booming resources sector, while those in regions facing depressed trading conditions and high unemployment, such as North Queensland or Tasmania, are simply not able to pay the TSMIT salary minimum for lower-skilled positions.

The TSMIT, at its current level of $49,330 per annum, is not suitable for the hotel industry. It is higher than most non-managerial hotel positions and AHA members advise that the biggest need for workers is in positions where Australians are paid below this level, in positions such as:

- Commis Chef ($45,055 per annum)
- Demi Chefs ($47,870)
- Duty Manager ($47,000-$48,000)
- Supervisor ($45,000-$46,000)

Hotels are often unable to sponsor overseas workers at the TSMIT level due to either the risk of upsetting Australian workers paid at lower Award rates or unfeasibly increasing the rates of pay for all staff. The AHA recommends the salary threshold be set at either the Award rate or some other market reference rate of pay.

Since the purpose of the TSMIT is to ensure overseas workers can support themselves and their dependents in Australia, the AHA proposes that the threshold salary need not be so high in cases where overseas couples are both earning an income in Australia.

Is there room for employers to improve the provision of salary and other terms and conditions to better attract workers?

There are a multitude of factors which contribute to market salary rates, including:

- The Temporary Skilled Migration Income Threshold (TSMIT) which sets the minimum annualised salary for 457 visa holders.
- Regional State Migration Scheme threshold levels as determined by federal and state industrial awards.
- The position and classification of the employee within the relevant industrial award.

- Industrial awards and enterprise agreements allow for salaries to be annualised and for meals and accommodation to be deducted.

Businesses may make a commercial decision to pay more than the award rate of pay for an employee. This is done in cases where there is a shortage of available workers, where there is tight competition for labour between businesses and industries, and where the employer has the financial capacity to do so.

It is important to note that the majority of businesses in the hotel industry do not have the capacity to simply increase wages and salaries as an employment incentive and remain viable. In January 2012 the AHA undertook a survey of its members including questions aimed at determining the impact of the 2011 annual award wage increase on their businesses and to seek views from members in relation to a the 2012 Annual Wage Review. The survey was completed by 643 hotels, including 515 pub-style hotels and 128 accommodation hotels and found:

- 86% of hotels and 62% of accommodation venues pay employees under the terms of the *Hospitality Industry (General) Award 2010*.
- 28% of hotels and 41% of accommodation venues pay some employees above award rates.
- In relation to the 3.4% wage increase of 2011:
    - 77% of hotels and 68% of accommodation venues tried to absorb the increased cost without raising prices;
    - 63% of hotels and 52% of accommodation venues reduced trading hours as a result of the wage increase; and
    - 87% of hotels and 80% of accommodation venues reduced overall employee working hours as a result of the increase.
- 31% of hotels and 24% of accommodation venues do not believe their businesses can sustain any wage increase in 2012.
- Only 33% of hotels and 51% of accommodation venues believe their 2012 turnover will increase from 2011.

These survey results highlight the labour cost pressures facing hotels which are already operating on low profitability margins. There is no confidence in the industry that the market will bear an increase in prices, which means any increase in wages and salaries will have to be met with corresponding gains in productivity to avoid impacting on business viability.

What skill and experience requirements and assessment processes should be set to ensure overseas workers have the right skill set to effectively perform these positions in Australia?

The AHA submits that English language qualifications alone are a poor and sometimes irrelevant requirement and that competency should be relative to the needs of the employee's occupation. Employee's engaged in occupations with minimal customer interaction (eg, in cookery) do not need to be as proficient in English as front of house service employees. Furthermore, an experienced front office manager from an international hotel chain who possesses the required skills should not be required to prove Certificate III competency, especially if they are applying to work at the same chain or hotels.

Workers from English-speaking countries (including the USA, UK and Ireland) should not be required to meet the IELTS or skills assessment if they can point to at least two years' work experience in the occupation they are applying for in Australia.

Is the English Language policy setting appropriate? If stakeholders consider that lower levels of English are justifiable, what measures should employers be required to put in place to ensure that workers are aware of their rights and responsibilities in the Australian workplace, can interact successfully with customers and co-workers, and can participate actively in the community in which they live and work?

Hotel industry employers are already required under the *Fair Work Act 2009* to provide all hotel industry employees, including overseas workers, with the Fair Work Information Statement on commencement. The Statement advises the employee of workplace laws and rights as well as contact information to use in case the need arises to lodge a complaint.

State/territory Work Health and Safety legislation also places a duty of care for all employees on employers which would include ensuring that workers are able to comprehend their obligations, rights and duties regardless of language barriers.

As stated above, the AHA believes English language competency requirements should vary based on occupation and need. In some hospitality positions it is essential to have an excellent grasp of English to provide the level of service required, and many workers become very fluent in conversational English through their experiences in working in hospitality in their home country. However it is not always the case that written English is developed as strongly as spoken English, meaning that an otherwise capable employee may not meet the IELTS standard of 4.5. In these cases the worker should be permitted to work in Australia subject to undertaking English classes.

As above, the IELTS requirements should not apply to workers from English speaking countries where English is their first language.

Are these training requirements sufficient to ensure employers are investing in the up-skilling of their Australian workforce?

Generally, the AHA supports the retention of benchmarks requiring employers to invest in the training of Australian workers. This system rewards Australians who want to pursue a career in hospitality with access to career development opportunities and facilitates skills improvement in the industry.

In addition to the current training requirements In order for employees of small and medium sized businesses and businesses in regional areas to have access to comparable career development and training opportunities, it is important that the training requirements be assessed on an aggregate basis across an identified geographic region. While a small hotel in a country town may not meet the training threshold through its own direct activities, it should be considered to have met the requirements if it is a financial member of an industry association offering a variety of career pathways and relevant training opportunities on behalf of a group of members in that region.

The purpose of the training requirement is to ensure employers continue to focus on Australian workers. Accordingly, if this purpose is being addressed collectively by a group of employers through a bona fide effort to improve training, skills and recruitment of Australian workers, concessions should be given to the region overall.

Are there merits in the inclusion of a permanent visa pathway under a template labour agreement?

The template agreement is being established to assist the tourism and hospitality industry to address its current shortages of skills and labour.

The AHA proposes that there not be a permanent pathway available through the labour agreement and that a maximum of three years can be worked with the sponsoring employer.

There is concern that the 457 visa does not require the worker to remain with the sponsoring employer. The time, cost and energy spent sourcing and relocating overseas workers is significant, especially for small and medium sized businesses, and employers should be able to rely on that worker's services for the visa period unless there are extenuating circumstances.

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Attachment 4
Submission to DIAC

Australian Hotels Association

Submission in relation to:

Review of Permanent Employer Sponsored Visa Categories

Sponsored Skilled Migration Policy Section
Department of Immigration and Citizenship

16 September 2011

About the AHA

The Australian Hotels Association (AHA) is an organisation of employers in the hotel and hospitality industry registered under the *Fair Work (Registered Organisations) Act 2009.* Its membership of more than 5,000 licensed hotel businesses includes pub-style hotels plus three, four and five-star accommodation hotels located in each state and territory. The AHA has branches located in every Australian capital city and a Canberra-based national office.

Employer sponsored migration in the hotel industry

The hotel industry is a significant employer, with more than 278,000 persons employed between the pub sector (188,000)[4] and the accommodation sector (90,000)[5], and an annual wages and salaries contribution of $5.41 billion. In addition there are an estimated 20,000 employees in the casino sector[6]. Although some hotels are large-scale operations with hundreds of employees which form part of national or international chains, the majority of AHA members are small, locally-owned businesses serving their surrounding communities. In 2005-06 only 145 of 65,197 businesses in the ABS Accommodation, Cafes & Restaurants sector employed more than 100 people.[7]

The AHA's members operate highly labour-intensive businesses and as such are significantly impacted by wage increases. The Australian Fair Pay Commission identified that wages amount to 24 per cent of total expenses in the hospitality industry compared to the average across all industries of 15.8 per cent.[8] The average AHA member therefore has relative wage costs which are nearly 52 per cent higher than the average Australian business.

The nature of the hotel industry requires employees to be engaged outside of normal business hours. In most cases, the majority of hours worked in the business are at night and on weekends. This results in significant additional costs through the penalty structures in the award system. The hospitality industry is highly competitive, and competition on price results in "relatively low profit margins… of 5.5 per cent, compared with 10.8 per cent across all industries in the economy."[9]

These factors contribute to a difficulty for the hotel industry in finding labour during periods of very high employment. Shortages of skills and labour are constraining the development of the industry. Attempts to fill positions with local workers are often unsuccessful and sourcing labour from overseas is a necessity for many AHA members.

The unique nature of work in the hospitality industry creates difficulties for hotels in complying with certain aspects of the current employer-sponsored migration scheme. This submission raises issues including English language competency requirements, the need for greater parity between salaries of overseas workers and local award-based employees, and the difficulty for small and regional employers in satisfying training requirements.

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[4] PricewaterhouseCoopers (2009) *Australian hotels: More than just a drink and a flutter*
[5] Australian Fair Pay Commission (August 2008), *Accommodation, Cafes and Restaurants Industry Profile, Research Report No.1/09*
[6] Australasian Casino Association, *Submission to the Parliamentary Joint Select Committee on Gambling Reform*, 31 January 2011
[7] Australian Bureau of Statistics (2007), *Australian Industry 2005-06*
[8] Australian Fair Pay Commission (August 2008), *Accommodation, Cafes and Restaurants Industry Profile, Research Report No.1/09*, p31
[9] Ibid, p40

Responses to the Discussion Paper questions

1. **How can the government best facilitate access to skilled and semi-skilled migrants in the areas they are most needed while maintaining employment and training opportunities for Australian workers?**

   - The AHA submits there should be multiple pathways to sponsor semi-skilled workers from other visas, especially in areas of high labour shortages. The labour shortages in the hospitality industry are more pronounced at the semi-skilled level, and the current pathways are not adequate.
   - There should be greater flexibility with English language requirements. For jobs such as cookery where there is little customer contact and where there is a labour shortage, it is fair and reasonable to accept a lower standard of English competency.
   - Employers are exposed to costs when engaging and sponsoring semi-skilled workers, and time is taken to train these workers to meet operational requirements. The six month limit of working with a single employer serves to both discourage employer participation and create unfairness with an employer potentially reaping the benefits of a worker trained and sourced by another employer. The AHA recommends extending the maximum time for working with a single employer to 12 months.
   - The current threshold promotes the use of 457 visa holder workers for employment on days where additional award penalty loadings apply so as to ensure the "overloaded" salary equates with the visa salary threshold.
   - The salary thresholds for 457 visas are causing problems for hotels in balancing salary expectations with local award-based employees in similar roles, whose award rates of pay are lower than that required for overseas workers. AS a result, the 457 visa has become a less effective tool in addressing hotel labour shortages. The AHA acknowledges that 457 visa holders have some additional living expenses but does not agree that in all cases that these additional expenses equate to the salary threshold.
   - The training benchmarking requirements discriminate against smaller businesses, which do not have the economies of scale or, in cases of regional employers, the access to training that exists in major cities. Training on this sort of scale is simply beyond the capacity of many hotel employers, remembering that these are the sorts of businesses which have the most difficulty obtaining Australian workers. The AHA submits that training benchmarks include flexibility such that employers receive credit for employing a certain percentage of Australian citizens to ensure ongoing employment opportunities for local citizens. This flexibility could be extended to a cluster of employers within a specific region.
   - The AHA believes there is merit in removing the obligation for employers to pay superannuation to the holders of Working Holidaymaker visas. This would remove a significant cost to employers which could instead be allocated to providing training opportunities for Australian citizens.

2. **How can the government ensure that employer sponsored migrants perform well in the labour market and are not exploited? For example, what is the role for English language requirements, skills assessments, salary thresholds and age restrictions?**

   - Skills assessment to meet industry needs;
   - Salary thresholds as per applicable Workplace Relations legislation and Awards;

- Age restriction of 55 years;
- Reduce English testing requirements on proviso the employee attends TAFE or other training;
- Need specific benefits/assistance for employees over the age of 45 years;
- Use other resources to help applicants study English when in Australia (ie, TAFE or in regional areas community group and church groups);
- Responsibility/onus on sponsoring employer;
- Page 12 states: '*Poor English language skills are not necessarily an impediment to a person's ability to do the specific job for which they were selected to enter Australia. These workers have, however, been found to be more vulnerable to workplace exploitation and have limited future employment opportunities*'. The AHA suggests DIAC offer an on-going support program for these workers to ensure there is no exploitation.

3. What concessions or flexibilities are needed to support positive economic and social outcomes in regional and low-growth areas and how could these be implemented.

a) Are lower salary thresholds or English requirements appropriate?

- As per Workplace Relations legislation and Awards;
- Reduce ELTS. More flexibility with English requirements. Should be determined in accordance with Industry needs, for example, consider the level of English requirements for chefs/cooks.

b) Is there a role for provisional visas that require migrants to stay in the region for a set period of time?

- Flexible agreements could be made for different set periods of time;
- If sponsored here, must stay in same industry (can't change visas);
- Switching Employers would need to be done by consent or as a consequence of a genuine dispute;
- Visa options and categories need to be reviewed more often in order to remain responsive to changing labour market (i.e. additional visa options during specific periods including peak seasonal periods);
- One of the objectives for the review is to make it easier for certain skilled temporary visa holders (i.e. 457 visa holders) to be sponsored for permanent residence. If this occurs, there should be a condition that employees who are sponsored for permanent residence must remain with that employer (or that industry) for a specified period of time;
- Page 11 states '*People who are already living and working in Australia for a period of time have established themselves within the local community and are more likely to settle permanently in Australia'*. Could there be an option for working holiday makers who have worked for a specified period of time with an employer (or in an a particular industry) to be sponsored for *semi-skilled* occupations if there is a commitment to on-the-job training (or through an RTO) to get them 'up to speed' rather than the requirement to already possess skills/experience?

c) Would the continued use of local certifying bodies and/or exceptional circumstances provisions provide more integrity when assessing individual applications?

- Streamline process employer organisations. Certifying bodies take too long to process;
- Certifying bodies for the Regional Sponsored Migration Scheme (RSMS) should be based locally and be industry and regionally specific. This would allow for certifying bodies that are familiar with local labour market conditions. Perhaps certifying bodies should also be industry specific?
- Page 15 & 16 outline that the employer sponsored visa programs currently allow discretionary powers for considering 'exceptional circumstances' provisions. The definition of 'exceptional circumstances' is currently subjective and inconsistent. Exceptional circumstances should be defined as per the various circumstances that may apply within different industries (i.e. the definition of 'exceptional circumstances' should be different for hospitality employers than the resource sector);
- Employer Associations should provide advice regarding labour shortages in medium/high demand.

4. How could visa processing be streamlined, particularly for suitably qualified workers transitioning from temporary to permanent residence?

- Increase DIAC staff to accommodation efficient visa processes;
- Various streams of processing (i.e. mining takes up most of DIAC resources – break up by industry);
- Faster visa express applications at premium costs but should not occur if DIAC had enough resources;
- Visa fast-track – RSMS less complex with less responsibility on certifying bodies;
- Paper process an administrative burden;
- Page 17 also states that there are priority processing procedures in place for the RSMS – this should also extend to the ENS for those industries with a critical labour shortage;
- What is the process for DIAC to ascertain the 'market-based salary levels'? This information is almost impossible to obtain for regional areas.

5. Additional Comments

- Use of ABS stats re. high levels of unemployment due to Australians not wanting jobs;
- ENSOL – chefs/cooks and various managers must be on list;
- 457 based on individual requirements where there is a demand (i.e. hospitality);
- Hospitality areas (cooks/chefs/managers) demonstrated experience should be considered;
- DIAC website needs an overhaul. Complex, difficult, not user friendly;
- Those sectors that are draining Australian labour (i.e. the resources sector) should be responsible for somehow contributing to labour shortages in industry sectors that are left with labour shortages;
- Recently announced Enterprise Migration Agreements (EMAs) are to cater to the semi-skilled labour needs of the resource industry. These are a temporary migration initiative

developed to address the specific labour needs of the resource sector. Why aren't these offered to other industry sectors that have critical labour shortages (i.e. hospitality). Surely the resource sector already has an advantage?

- On page 9 of the review it states 'Workers employed in semi-skilled occupations are generally able to develop these skills within a short period of time or through on-the-job training, and therefore it is reasonable to expect that employers will obtain these workers from the local labour market'. This statement is incorrect – often, it is the semi-skilled employees that are difficult to source. Therefore, it should not be assumed that employers are able to obtain these workers locally;
- Page 17 outlines that a total of 46,000 places have been allocated to the employer sponsored visa categories for 2011/12 (16,000 of these set aside for the RSMS). Are these allocated by industry and/or state demand also? If not, they should be to ensure the critical labour shortages are given an adequate allocation;
- Should employers be able to sponsor employees on a contract other than full-time?
- Whilst not a sponsored visa, working holiday maker visas should be granted an extension for hospitality work (and increase the age limitations);
- Having an online process has assisted members;
- More detail needs to be provided around the ANZCO codes (some are very specific and others are very broad);
- Once a hotel has invested into training visa holder staff and has retained that staff throughout the visa set period then provision should be made for further extension on application by an employer without the expectation of a pathway to citizenship.

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