



Submission to the Department of Immigration & Border Protection

Changes to the Temporary Skilled Migration Programme

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1. Introduction

Following the announcement of the Government's new temporary skilled migration framework and our discussion, we are writing to you outlining specific feedback from Tourism Accommodation Australia (TAA) and Australian Hotel Association (AHA) members on the 457 visa reforms that were announced by Government in late April.

TAA is the peak industry association representing the hotels, motels and serviced apartments in Australia's \$7.8 billion accommodation sector, and is a division of the AHA. Together, AHA and TAA represent over 5000 employers of labour in the hospitality and tourism industry spread through branches in every state and territory across Australia. Our members employ 270,000 workers, generate over \$12 billion of economic benefit and support in excess of 50,000 community groups.

The tourism accommodation sector supported some 184,110 jobs in 2015-16 (85,710 jobs through direct impacts and 98,399 jobs through flow-on impacts). This accounts for 18.3% of jobs supported by the tourism industry as a whole and 1.8% of total jobs supported by the Australian economy. Jobs supported by the tourism accommodation sector contributed over \$11.7 billion to Australian household incomes. Temporary skilled migrant workers represent roughly 6.2% of the accommodation sector workforce¹.

2. Background

a. Requirement for Skilled Labour

Employing Australian workers is always the first priority of hospitality businesses because it is the most efficient and cost effective way of sourcing labour, including skilled labour. However, restricted labour market mobility, seasonality of demand particularly in regional areas, considerable growth in consumer demand, labour competition from other sectors and a lack of appetite for careers in hospitality and tourism² all combine to create substantial labour market gaps across the industry.

As a result employers in the hospitality and tourism industry continue to need access to a flexible and affordable temporary skilled migrant framework responsive to the sector's specific needs.

b. Projected Labour Shortages

In October 2015, Deloitte Access Economics' Australian Tourism Labour Force Report estimated that the actual labour and skills shortage in the tourism and hospitality industries was 38,000 positions. It forecast a skilled labour shortage of 60,000 positions by 2020. This report did not account for policy changes, meaning that the changes to the skilled migration programme could exacerbate this forecasted skilled labour shortage. Additionally, it did not account for the huge growth in accommodation rooms projected to 2022 (consisting of more than 100 new hotels and 30,000 rooms in the pipeline) which will increase the industry's demand for skilled labour.

¹ Tourism Accommodation Australia, *Labour Trends in Accommodation Survey* (2015)

² Colmar Brunton, *Tourism and Hospitality Careers Report 2016*



Occupation	Accumulated Demand for Skilled Workers (2015-2020)	Accumulated Skilled Labour Shortage (2015-2020)
Café and Restaurant Managers	5,365	3,432
Chefs	7,603	3,356
Hotel and Motel Managers	2,243	1,535
Total	15,211	8,323

Source: DAE Australian Tourism Labour Force Report

Additionally, TAA (NSW)'s *Hotel Labour Benchmarking Study 2015* demonstrated that, regarding cooks, the accommodation sector is already experiencing skills shortages and moderately-high staff shortages. For chefs, there is a very high skills shortage and a high staff shortage. In addition, there is a moderately-high staff shortage of restaurant managers.³

The Department of Employment's *Occupational Skills Shortages* report analyses the current availability of chefs on a state by state basis. Please refer below.

Existing Nationwide Shortage of Chefs

State/Territory	Current Labour Market Ranking	Notes
ACT	Regional and Metropolitan Shortage	Employers seeking chefs had significant difficulty attracting suitable applicants, with half the surveyed vacancies unfilled in 2016. Just 0.8 applicants per vacancy were considered suitable. Shortages of chefs have been evident for most of the past decade.
NSW	Regional and Metropolitan Shortage	Shortages of chefs are evident across New South Wales, with around 60% of surveyed vacancies remaining unfilled and employers considering 0.5 applicants per vacancy to be suitable.
Northern Territory	Regional and Metropolitan Shortage	The Northern Territory continues to experience a shortage of chefs. In 2016, 39% of vacancies were unfilled. The most recent research shows there were not sufficient number of suitable qualified applicants with the skill sets and experience to fill vacancies.
Queensland	Regional Recruitment Difficulty	40 per cent of vacancies for chefs remain unfilled, with the majority in regional areas. Some regional employers found it difficult to fill vacancies due to issues such as remuneration, shifts, and relocation or commuting arrangements.
Victoria	Recruitment Difficulty of positions in fine dining establishments	The most common reason for unfilled positions was a lack of applicants with either suitable skills or experience. Almost 20% of non-metropolitan employers advised they did not consider any applicant suitable for their advertised vacancy.

Source: Department of Employment

³ Tourism Accommodation Australia, *Labour Trends in Accommodation Survey* (2015)



The Department of Employment acknowledges that shortages of chefs are evident in New South Wales, Queensland, the ACT, Northern Territory and Victoria. The Department has determined that shortages of skilled food-trades labour at present are likely due to the low increase in labour supply with apprenticeship and traineeship completions at their lowest since 2008-09.⁴ The Department also determined that food-trades labour shortages will continue to persist 'given the projected employment growth and the low number of completions from food trades apprenticeships.'⁵

c. Australia's Tourism Strategy at Risk

In response to research that showed that great food, wine and local cuisine is a major factor influencing holiday decision making for 38% of consumers across 15 of Australia's key tourism markets, Tourism Australia's *Restaurant Australia* campaign has become a key driver of international visitation to Australia. In terms of marketing Australia to international visitors, the food and wine strategy is as much of a strategic advantage as Australia's aquatic and coastal offering. Australia's growing shortage of qualified chefs and cooks is placing this key element of our tourism strategy at risk.

Since the start of *Restaurant Australia* in December 2013, food and wine spend by international visitors has grown by 25%, or more than \$1 billion. Food and wine consumption accounts for one in every five dollars spent by international tourists in Australia, clearly demonstrating its contribution to the visitor economy and Australia's overall tourism exports.

The demand for chefs and cooks is directly influenced by consumption within the tourism and hospitality industry, with increased visitation providing greater opportunity for direct and indirect employment opportunities. To capitalise on the extraordinary potential of the food and wine strategy to increase international visitation and economic growth, Australia needs to be able to attract, develop and retain qualified chefs and cooks from all available labour sources – locally and overseas. In addition, if Australia's food offering is to remain innovative and competitive we need to access chefs who can prepare food that is appropriate for all cultures.

⁴ Department of Employment, *Labour Market Research – Food Trades* (2016)

⁵ Department of Employment, *Labour Market Research – Food Trades* (2016)



3. Response to the New Temporary Skilled Migration Framework

TAA and AHA support the new temporary skilled migration framework in principle, particularly the policy intent to ensure that the use of the 457 visa (and the Temporary Skills Shortage Visa from March 2018) continues to allow employers sustainable and immediate access to fill genuine skilled workforce shortages without becoming a de-facto permanent residency programme. However, we do have ongoing specific concerns regarding the revised skilled occupation lists, the wording of particular occupation caveats, the operation of the Skilling Australia Fund and labour market testing.

a. Changes to Skilled Occupation Lists

TAA and AHA appreciate the intent of differentiating the two skills streams – Short-term Skilled Occupations List (STSOL) and the Medium and Long Term Skilled Shortage List (MLTSSL) – with the former used to temporarily fill immediate shortages while the latter addressing chronic shortages by retaining a pathway to permanent residency.

Short-term Skilled Occupations List

Two areas on the short term list where we have significant concerns around the lack of pathways to permanent residency are Café and Restaurant Managers and Cooks. In both these occupations, demand far outstrips the local supply of available skilled labour, primarily because it is very hard to attract people into the industry (for the reasons canvassed in Colmar Brunton's *Tourism and Hospitality Careers Report 2016*). For the ongoing productivity of Australia's tourism and hospitality sectors, it is of critical importance that these occupations on the STSOL remain able to attract a high quality of temporary skilled migrant labour. It should be acknowledged that the removal of permanent residency eligibility for occupations on the STSOL has the capacity to exacerbate existing labour and skills shortages in the tourism and hospitality industries.

Cooks: We understand that Cooks remain the most nominated occupation within the 457 programme accounting for approximately 7% of visas issued and that the Department has significant concerns at the high turnover of this occupation.

It is important however for government to note that the removal of the pathway to permanent residency will decrease the number of cooks seeking to work in Australia as temporary skilled migrants. Many temporary skilled migrants employed as cooks become, post-approval of permanent residency, valued long-term employees in the hospitality and tourism industries and transition into chefs, an occupation with well-documented skilled labour shortages. Please refer to Attachment A which outlines the distinction between a chef and a cook.

With employment expected to increase in all food trade occupations, chefs are expected to account for the majority of new jobs. Shortages are likely to persist, at least in the short-term, given the projected employment growth and the low number of completions from food trades apprenticeships.

An adequate supply of cooks is important to sustaining the availability of chefs to fill senior and fine-dining roles over the medium and long term. To support the growing demand for chefs in Australia's hospitality and tourism industries our primary recommendation is that the occupation of cook is



provided with a pathway for permanent residency. The simplest way for this to occur is by including the occupation on the MLTSSL.

If the Department determines that the occupation of cook should be maintained on the STSOL, TAA and AHA would appreciate an alternative pathway being available for cooks to access permanent residency. One such pathway could be that a temporary skilled migrant employed as a cook on a two-year TSS visa who completes a relevant Diploma during this initial visa period be permitted to make a new on-shore TSS application to be employed as a chef under the MLTSSL and be granted visa eligibility of up to four years.

Recommendation:

- The occupation of Cook to be moved to the MLTSSL.
- In order to ensure a sustainable labour supply, temporary skilled migrants employed as cooks to have access to a pathway to permanent residency.

Café and Restaurant Manager: Demand for café and restaurant managers is expected to increase by 21.4% to 2020, requiring an additional 15,000 workers in this occupation. The accumulated skills labour shortage over this period is estimated to be 3,432. This is despite the occupation providing an attractive avenue for career progression for hospitality workers, offering multiple career pathways, well-remunerated competitive salaries and consistent pay increases⁶.

In conjunction with a number of tourism and hospitality industry associations, TAA provided a submission to the Government in November 2016 which strongly advocated for the inclusion of café and restaurant manager on the Skilled Occupations List, now the MLTSSL.

Recommendation:

- Given the well-documented existing labour shortages and the anticipated exacerbation of these shortages over the medium and long-term, the occupation of Café and Restaurant Manager to be moved to the MLTSSL.

Medium and Long-term Skilled Shortage List

Chefs: As outlined in Attachment A, the position of chef is clearly distinct from the position of cook. There is a wealth of data outlined in Section 2 of this submission demonstrating both the existing and projected shortages of chefs in the tourism and hospitality industries. The continued availability of adequately skilled labour to fill chef vacancies is fundamental to the growth opportunities of the tourism and hospitality industries. TAA and AHA commend the Department for recognising that the occupation of chef needs to be included on the MLTSSL. TAA and AHA would like to take the opportunity to reaffirm the importance that chefs remain on the MLTSSL and have a pathway to permanent residency.

⁶ National Restaurant Association Educational Foundation, *Do the Math: The Restaurant Industry's Equation for Career Success* (2014)



Recommendation:

- The occupation of Chef to remain on the MLTSSL until there is both empirical and anecdotal evidence base proving that the local supply of chefs is sufficient to meet industry's requirements.

b. Caveats

TAA and AHA believe that placing caveats on certain occupations is an effective means of guaranteeing integrity in the temporary skilled migration programme. However, two separate caveats that apply to a total of four positions are broad to the point of excluding those occupations altogether.

The caveat placed on Café or Restaurant Manager, Chef and Cook positions excludes roles in 'limited service restaurants', including 'fast casual restaurants'. The term 'fast casual restaurant' is a predominantly American term referring to establishments without full table service but offering higher quality food (i.e. less frozen or processed ingredients). It is an intermediate concept between casual dining and fast food, and typically priced accordingly. The emergence of this type of restaurant is a reflection of changing consumer preferences. Because it is not a well-recognised term, TAA and AHA are concerned that 'fast casual restaurants' could unintentionally exclude positions in a suite of casual dining restaurants where there is skilled food preparation, such as Roadhouse Bar & Grill at Atura Blacktown or Oak Bar & Grill at Alpha Eastern Creek.

Recommendation:

- The definition of 'limited service restaurant' to be tightened to highlight the importance of food preparation instead of food delivery by including the statement "*A limited service restaurant is one where there is minimal quality food preparation on site*", followed by examples of excluded premises such as fast food, takeaway premises, cafes, and pizza restaurants.
- The term 'fast casual restaurant' to be removed from the list of examples of a limited service restaurant.

TAA and AHA are also concerned by the caveat on Hotel or Motel Manager positions that exclude roles '*which predominantly have responsibility for managing hotel or motel staff*' from 457/TSS visa eligibility. This caveat ignores the reality of hotel and motel management positions, particularly in light of the increasing centralisation of business functions within the head office of a management operating brand. The responsibility for organising and controlling the operations of a hotel or motel is underpinned by effective management of staff.

Recommendation:

- The caveat on Hotel or Motel Manager to state: *Excludes positions that do not have a combination of operational and staff management responsibilities.*



c. Skilling Australians Fund

In the 2017-18 Budget, the Government announced the Skilling Australians Fund. We appreciate that the annual contribution to the Fund, based on the number of sponsored overseas employees, is a much more objective criterion for assessment purposes than the current Training Benchmark requirement. We commend the government for direct hypothecation of the amounts collected to a Fund that invests in apprenticeships and traineeships.

However as outlined in our submission of July 2015 in response to the 457 Integrity Review, most accommodation chains and larger accommodation businesses have existing brand requirements to invest a minimum of 1% of annual payroll costs on internal training and often more. These businesses have a demonstrable commitment to up-skilling employees in order to deliver higher levels of service and remain competitive.

We believe that an employer's direct and identifiable training costs, including the costs of employing apprentices and registered trainees, should be recognised and that those businesses already heavily investing in their future workforce should be rewarded through a tiered contribution system. Businesses already making sizable contributions to attract, skill and retain labour should not be required to make the same contribution to the Skilling Australians Fund as businesses that have no existing commitment to attracting, skilling and retaining labour.

This would recognise and reward existing and effective training being undertaken by employers. It would also serve as an incentive to employers to hire more apprentices and trainees. TAA and AHA are concerned that given all businesses operate with finite training budgets, monies extracted by Government for the purpose of a generic training fund become monies not available for training current employees. It defeats the policy intent of the employer training contribution if the Skilling Australians funds are collected at the expense of existing internal training programmes.

Recommendation:

- The employer contribution scheme to be tiered in recognition that businesses making demonstrable investment in internal training programmes ought to have a lesser contribution to the Skilling Australians Fund than businesses making no investment in Australia's future workforce. The alternative is that revenue for the Skilling Australians Fund will be collected at the expense of existing internal training programmes.

In order to ensure the sustainability of Australia's local labour supply, it is important that money collected into the Skilling Australia Fund is spent proportionately on skills and training programmes targeting those occupations most reliant on skilled migration. If a local labour supply is not being developed, businesses reliant upon temporary skilled migration to fill critical and chronic labour shortages will be forced to make annual employer contributions of either \$1200 or \$1800 per visa as a cost of doing business. When Australian workers cannot be attracted into certain skilled occupations and the Government is not taking remedial action, the employer contributions effectively become a new tax on business productivity.



Recommendation:

- The Skilling Australians Fund to focus on developing local labour supply in occupations that are currently heavily reliant on temporary skilled migration.

If the STSOL and MLTSSL are not responsive to Australia's skilled labour requirements, the alternative is more focus and funding for apprentices to increase the local supply of labour in occupations (such as cooks and chefs), which has diminished in line with reductions in State and Commonwealth funding for apprenticeships and vocational education. In NSW alone, there has been a 26% decrease in cookery apprentice numbers over the last ten years.

To support growth in the local labour supply of cooks, TAA and AHA support the Australian Chamber of Commerce and Industry's position on apprenticeships. This position recognises the importance of a coordinated strategy and commitment to promote the value of careers in the industry if the projected 2020 shortfall of 28,000 cooks and chefs is to be addressed. This strategy and coordinated focus can be delivered by the Skilling Australians Fund.

Recommendations:

- Establish a national apprenticeship board, including representatives of the Commonwealth and State Governments, to oversee a national apprenticeship system examining the issues impacting on apprenticeships and facilitate remedial action, particularly focusing on how apprenticeships and traineeships can become more attractive to employers.
- Increase apprenticeship support funding. TAA and AHA welcome the Government's four year, \$1.5 billion Skilling Australian Fund, but notes that the funding of culinary apprentices through this programme will be vital to meet the current and predicted labour demand.
- Promote the value of apprenticeships and traineeships as a rewarding, high value employment opportunity to school students, existing workers and unemployed Australians.

d. Labour Market Testing

Given the proven labour and skills shortages in the accommodation sector, TAA and AHA continue to believe that labour market testing is not necessary and only adds cost, time and frustration to the recruitment process. For the temporary skilled migration programme to be an effective and sustainable means of filling labour shortages, labour market testing should be flexible and acknowledge employers' existing recruitment efforts (such as online website, referrals, social media and recruitment agencies) without placing additional burdens on employers. Part of this flexibility is a differentiation in the labour market testing requirements between occupations on the STSOL and MLTSSL, and that labour market testing is only required at the time of the initial visa application – not at a subsequent renewal.

Given that the composition of occupations on the MLTSSL is based on empirical data demonstrating both prevailing and long-term skills shortages, TAA and AHA believe labour market testing is redundant and should not be required for these occupations. We continue to advocate that the presence of an occupation on the MLTSSL, supported by Department of Employment and Department of Education timely data, is sufficient evidence of a labour shortage.



Recommendation:

- Labour market testing to be flexible, acknowledge existing recruitment efforts and genuine documented shortages in the industry and not place additional burdens on employers.
- Labour market testing to not be required for occupations on the MLTSSL.
- Labour market testing to be required only at the time of the initial visa application, not subsequent renewals.

4. Conclusion/Recommendations

While TAA and AHA support the intent of the changes announced in April 2017 to ensure that the temporary skilled migration programme does not become a de-facto permanent residency programme, it is important to acknowledge genuine industry shortages of skilled labour.

The productivity growth of the tourism and hospitality industry is crucial to Australia's successful and ongoing transition from a resources-based economy to a services-based economy. TAA and AHA are concerned that some elements of the changes will reduce the effectiveness of the programme to be responsive to the critical, chronic and well-documented skill shortages affecting the hospitality and tourism industry. In their current form, the changes relating to the revised skilled occupations lists, particular occupation caveats, the Skilling Australians Fund and labour market testing may preclude employers from using temporary skilled migrant labour in instances where the local skilled labour supply is insufficient and all efforts to secure Australians for the positions have been unsuccessful.

TAA and AHA make the following recommendations to ensure that the programme is both sustainable and effective:

- The occupations of Cook and Café and Restaurant Manager to be moved to the MLTSSL.
- Temporary skilled migrants employed as cooks to have access to a pathway to permanent residency.
- The occupation of Chef to remain on the MLTSSL.
- The definition of 'limited service restaurant' to include the statement "*A limited service restaurant is one where there is minimal quality food preparation on site*".
- The term 'fast casual restaurant' to be removed from the list of examples of a limited service restaurant.
- The caveat on Hotel or Motel Manager to state "*Excludes positions that do not have a combination of operational and staff management responsibilities*".
- The employer contribution scheme to be tiered to acknowledge existing, documented training costs and support for apprentice employment.
- The Skilling Australians Fund to focus on developing local labour supply in occupations that are currently heavily reliant on temporary skilled migration.
- A national apprenticeship board to be established to oversee a national apprenticeship system as part of the Skilling Australians Fund.



- Funding and support for culinary apprenticeships to be increased through the Skilling Australian Fund.
- Apprenticeships and traineeships to be promoted as a high value employment opportunity.
- Labour market testing to be flexible, acknowledge existing recruitment efforts and genuine documented shortages in the industry, and not place additional burdens on employers as per the recommendations of the 457 Integrity Review.
- Remove labour market testing requirements for occupations on the MLTSSL where genuine labour shortages are well supported by the Department of Employment and Department of Education.
- Requirement for labour market testing at the time of the initial visa application, not subsequent renewals.

We look forward to working with the Department to ensure the continued productivity of the hospitality and tourism industry.



Attachment A – The Distinction between Chefs and Cooks

	Chef	Cook
Tasks	<p>Planning menus, estimating food and labour costs, and ordering food supplies;</p> <p>Monitoring quality of dishes at all stages of preparation and presentation;</p> <p>Discussing food preparation issues with Managers, Dieticians and kitchen and waiting staff;</p> <p>Demonstrating techniques and advising on cooking procedures;</p> <p>Preparing and cooking food;</p> <p>Explaining and enforcing hygiene regulations;</p> <p>May select and train staff;</p> <p>May freeze and preserve foods.</p>	<p>May plan menus and estimate food requirements;</p> <p>Examining foodstuffs to ensure quality;</p> <p>Regulating temperatures of ovens, grills and other cooking equipment;</p> <p>Preparing and cooking food;</p> <p>Seasoning food during cooking;</p> <p>May train other kitchen staff and apprentices;</p> <p>Portioning food, placing it on plates, and adding gravies, sauces and garnishes;</p> <p>Storing food in temperature controlled facilities;</p> <p>Preparing food to meet special dietary requirements.</p>
Qualifications	An Associate Degree, Advanced Diploma or Diploma	An AQF Certificate III and two years-on-the-job training, or an AQF Certificate IV
Experience	At least three years of relevant experience may substitute for the formal qualifications listed above. In some instances relevant experience and/or on-the-job training may be required in addition to the formal qualification.	At least three years of relevant experience may substitute for the formal qualifications listed above. In some instances relevant experience and/or on-the-job training may be required in addition to the formal qualification.