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# ***FINANCE AND ADMINISTRATION SUBCOMMITTEE***

## **Members present:**

Mr PS Russo MP (Chair)  
Mr RA Stevens MP  
Mr LL Millar MP  
Mr DA Pegg MP

## **Staff present:**

Ms A Honeyman (Research Director)

## **PUBLIC HEARING—INQUIRY INTO THE PRACTICES OF THE LABOUR HIRE INDUSTRY IN QUEENSLAND**

### **TRANSCRIPT OF PROCEEDINGS**

**THURSDAY, 9 JUNE 2016**

**Cairns**

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### Subcommittee met at 9.26 am

**CHAIR:** Good morning everybody. I acknowledge the traditional owners upon whose land we meet today, elders past, present and emerging. I declare this public hearing of the Finance and Administration Committee open. I am Peter Russo, the chair of committee and the member for Sunnybank. Here with me today is the deputy chair, Mr Ray Stevens, the member for Mermaid Beach; Mr Duncan Pegg, the member for Stretton; and Mr Lachlan Millar, the member for Gregory. The other members of the committee are Mrs Jo-Ann Miller MP, the member for Bundamba, and Mr Pat Weir MP, the member for Condamine.

The purpose of this hearing is to receive evidence from witnesses on the committee's inquiry into the practices of the labour hire industry in Queensland. The inquiry was referred to the committee by the Legislative Assembly on 2 December 2015. The terms of reference for the inquiry require the committee to consider the extent, nature and consequence of labour hire employment in industries and/or regions, including within industry supply chains and the responsibilities of entities involved; phoenixing, undercapitalisation and undercutting of conditions for labour hire companies and their impact on the labour market and business; the social and economic impacts, including on regional communities, of replacing permanent employees, apprentices and trainees with labour hire workers; allegations that labour hire and sham contracting are being used to avoid workplace laws and other statutory obligations, such as underpayment of wages and entitlements, including superannuation and avoidance of payroll tax and WorkCover premiums; the effectiveness of enforcing the current industrial relations laws and instruments, occupational health and safety laws and workers' compensation laws in the labour hire industry; allegations of exploitation, harassment and other mistreatment of workers employed by companies; whether tendering and employment practices create an uneven playing field for competing businesses; the regulation of labour hire in Australian jurisdictions and internationally; and effective enforcement mechanisms, including bonds, licensing, registration and other forms of compliance. The committee is to table its report on this inquiry by 30 June 2016.

The hearing today is a formal proceeding of parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind you that intentionally misleading the committee is a serious offence.

Hansard will be recording the proceedings and you will be provided with a proof of the transcript, which will also be published on the committee's website. To assist Hansard staff, I remind anyone who wants to address the committee to please speak clearly into the microphones and state your name when you first address the committee. I ask that mobile phones be turned off or switched to silent and note that no calls are to be taken in this room while proceedings are taking place.

### **BOLTON, Ms Rebecca, Manager, North Queensland Precruitment**

**CHAIR:** I would like to welcome Ms Rebecca Bolton, manager of North Queensland Precruitment. Thank you for appearing today. I understand the secretariat has previously provided you with a copy of instructions for witnesses. A copy is also on the table for your information, along with the terms of reference. You can make a brief opening statement and then after that I will open it up for the committee to ask questions.

**Ms Bolton:** Okay. Great. Thank you for the opportunity to meet with you today. Precruitment is a locally owned and operated recruitment firm specialising in the placement of professional, administration and trades staff both into temporary or on-hire and permanent employment. With our head office here in Cairns and a second office in Townsville, Precruitment has been servicing North and Far North Queensland since 1998. Our clients are spread across the North and the Far North as well as interstate. We are one of the few regional Queensland recruitment firms providing staff to clients not only in Cairns and Townsville but also in many of the Cape York communities, larger regional centres such as Rockhampton and Mackay, as well as smaller towns such as Winton, Richmond, Barcaldine and Julia Creek through Central Queensland.

Over the past five years our business has placed over 1,700 people into a variety of positions across Queensland. I would estimate that approximately 70 per cent of these placements have been temporary or on-hire staff. The types of roles that we recruit for include senior professionals, such as CEOs, CFOs, building and capital works managers, engineering managers, engineers, executive assistants, administration staff, HR managers, HR advisers, as well as mechanics, plumbers and electricians. I would classify 99 per cent of our work to be that of sourcing skilled staff for our clients. This covers a range of industries including government, health, retail, community services and not-for-profits and professional services.

Our Queensland regional and remote clients rely on our services to provide them with quality and professional on-hire staff. Many of our clients do not have the time, resources or expertise to source such candidates effectively and efficiently themselves. On many occasions, particularly in remote locations, our clients engage on-hire staff to enable them to fill gaps in their operations as we or they search for permanent staff. Many of our on-hire staff have worked in multiple assignments for us over time. The temporary work may suit their lifestyle. It may also allow them to access a new industry as well as develop and enhance their skill sets. Many have also transitioned to permanent employment through us. Our temporary staff all have employment contracts and they are all paid on the recommended award rate or above.

Our commitment to regional Queensland has always been and will continue to be to provide quality of service and recruitment excellence equal to or better than that anywhere in the world. As members of the Recruitment & Consulting Services Association—the RCSA—we fully support and abide by our industry's code of professional conduct. We are serious about compliance and this can be demonstrated by the fact that our recruitment and administration procedures are quality assured, assessed by a third-party auditor and registered under the requirements of the ISO 9001 2008 standard. This commitment extends to both our clients and our candidates.

Precruitment has been able to secure access to tendered preferred supplier arrangements with major clients including the Queensland government, Ergon Energy and many local councils throughout this region. We are also preferred suppliers to high-profile national companies who do business in North and Far North Queensland. We would not be able to supply on-hire or temporary staff to these clients without robust and compliant employment processes. Employers have a clear choice to make when purchasing employment services. They should be aware of what is happening in the supply chain for labour.

Licensing will not stamp out illegitimate suppliers. The Employment Services Industry Code as a national framework will be more effective as it places responsibilities on the supplier and the buyer of employment services. It also extends to all market participants, underpinning the RCSA code of conduct, which currently covers only members' conduct. Precruitment takes its business and its conduct seriously. The onus should be on suppliers and employers to do the same, not for a small minority to dictate and to disrupt market behaviour.

**Mr STEVENS:** Thanks, Rebecca. In terms of the licensing, are you supporting a licensing arrangement?

**Ms Bolton:** No, not supporting a licensing arrangement.

**Mr STEVENS:** No. That is what I missed. It would put another layer of hurdles in front of you in terms of your business.

**Ms Bolton:** Correct, particularly as a small business, yes, it would.

**Mr STEVENS:** Okay. I just thought I heard you say that you were supporting it.

**Ms Bolton:** No, no.

**CHAIR:** One of the things that you spoke about in your opening was that you have assisted the transition—you did not use the word—of part-timers or casuals into permanent employment. Do you know what the number is?

**Ms Bolton:** It is difficult to put a number on it but, generally, a large majority of those people who are in temporary or on-hire work may want to transition to permanent employment. We assist them in doing that.

**CHAIR:** Do you have any way of trying to work out what numbers your company has assisted?

**Ms Bolton:** It would be difficult, but I could probably try to put some numbers together for you.

**CHAIR:** Could you explain the process that your company uses to employ people on labour hire?

**Ms Bolton:** Yes.

**CHAIR:** What is the transparency between what you get paid as a recruitment company to what the worker on the ground receives in his hand?

**Ms Bolton:** Right. As I said in my statement, we provide all of our temporary or on-hire staff with an employment contract where we clearly specify what they will be getting paid. We do not disclose to them what our client will be getting paid. Obviously, there is some confidentiality around that in regard to our margins and our profit, whereas our clients are aware, when we are charging them, that our candidates are getting paid above award—award or above—because we specify that they are on an award.

**Mr PEGG:** You are saying that the host employer is not aware of what you are paying?

**Ms Bolton:** No, not necessarily—not all the time, no.

**Mr PEGG:** What kind of reassurance do you give them, then?

**Ms Bolton:** Because of the way we operate, as I said, we provide everyone with an employment contract and in that employment contract, directly with the candidate, we specify what award they would be on. We know and we advise our clients that we are operating according to Fair Work.

**Mr PEGG:** Sure, but the host employer has no way of verifying that, do they?

**Ms Bolton:** They could. I am sure if they wanted to ask the candidate, they could do that. They could ask us. We could certainly discuss that with them but, again, we have to be careful that we do not disclose exactly what our margins and things are.

**Mr STEVENS:** Just following up with that, you pay the temporary work yourselves.

**Ms Bolton:** Yes.

**Mr STEVENS:** Not the firm who is utilising them.

**Ms Bolton:** Correct. What we do is we payroll that. We pay that person their wage, their super.

**Mr STEVENS:** So they are working for you.

**Ms Bolton:** Correct.

**Mr STEVENS:** In all aspects?

**Ms Bolton:** Yes.

**Mr STEVENS:** In workers compensation and all of that sort of stuff?

**Ms Bolton:** Yes.

**Mr STEVENS:** If there is an accident, you foot the bill?

**Ms Bolton:** That is right—ourselves, and also the client will bear partial responsibility.

**Mr STEVENS:** That is in your contract?

**Ms Bolton:** Yes, all in the contract.

**CHAIR:** That is not across all labour hire companies, is it?

**Ms Bolton:** In the space that we operate, this is the market that we find ourselves in. We are operating under these stringent conditions and so are our competitors. We do not see a lot of this illegitimate behaviour. That is not the market that our clients operate in.

**CHAIR:** What I was trying to get at is that the way you operate is you pay the person whom you hire.

**Ms Bolton:** Yes.

**CHAIR:** That is not the case across the industry. In some cases—and correct me if I am wrong—the host company, if I could call them that, pays the worker, not the labour hire company.

**Ms Bolton:** That is not what we have come across. We pay the worker.

**CHAIR:** No, no—

**Ms Bolton:** I know what you are saying.

**CHAIR:** I know you do, because you told us that.

**Ms Bolton:** Yes.

**CHAIR:** I am trying to ascertain that that is not the industry standard, is it?

**Ms Bolton:** Yes, for on-hire temporary work, yes.

**Mr STEVENS:** I think it is a different agency, if you like, to the labour hire ones for the mining and construction and type of things like that. The recruitment firms would put in the place the workers and then the companies would pay them.

**Ms Bolton:** That is right. In those instances, where they are placed on a permanent basis or a contract basis, the employer will pay them themselves, but in the on-hire or temporary employment market, which we also operate in, we pay those people. Yes, there are two options. When we are placing people into permanent roles, again, we are working very closely with our clients. If they are going to underpay someone under an award, or if we feel that their behaviour is illegal or illegitimate, that is not a client we want to be associated with.

**CHAIR:** Where I am trying to draw the distinction is: do you work in both spaces?

**Ms Bolton:** Yes, we do.

**Mr PEGG:** Ms Bolton, you said that you did not support a licensing scheme. Why do you not support it?

**Ms Bolton:** We do not support it because I think, as we mentioned initially, it adds another layer of costs potentially to the business. We already operate under a code of conduct and we do so robustly and ethically. We feel that that is enough. With a lot of our competitors who work in this market, we all operate that way.

**Mr MILLAR:** Is your code of conduct an industry standard? Is it voluntary? Is it mandatory?

**Ms Bolton:** It is an industry standard if you are a member of the RCSA, the Recruitment & Consulting Services Association. That association has a code of conduct. Part of our membership is to abide by that code.

**Mr MILLAR:** If you do not adhere to that code of conduct—and I am certainly not saying North Queensland Precruitment does that—what happens?

**Ms Bolton:** If we do not abide by that code of conduct, other members of the code, or employers, or candidates can go to the RCSA and make a complaint against that code. Also, if we come across other members who are not complying with that code, we will advise the RCSA of that. We need to have a level playing field here.

**Mr MILLAR:** What happens? You make a complaint.

**Ms Bolton:** Yes.

**Mr MILLAR:** Let us just say you found someone who is not abiding by the—

**Ms Bolton:** The code.

**Mr MILLAR:** The code, the standards that you adhere to. What happens once you have made that—

**Ms Bolton:** We have not made that complaint, so I cannot tell you what the process would be, but we know that there is a process in place. We can go to the RCSA and contact them directly.

**Mr MILLAR:** That is a national code; is that right?

**Ms Bolton:** Yes, it is.

**Mr MILLAR:** You do not have to have that—

**Ms Bolton:** You do not need to be a member of the RCSA to operate a recruitment firm.

**Mr MILLAR:** Do you use that code of conduct as part of your marketing so that people know—

**Ms Bolton:** Yes, we do so that they know that we are members. To access a number of suppliers, the tendered arrangements that we are on, you are required to be a member of the RCSA. Sometimes what happens is, if you were not successful as a supplier, they have transitioning arrangements in place. The RCSA has a process in place to transition those candidates across to another recruitment firm. It is important that, as an example, all of our staff are aware of that code of conduct and we put them through some training to abide by that code.

**Mr MILLAR:** You mentioned before that you would not like to see a licensing arrangement.

**Ms Bolton:** No.

**Mr MILLAR:** That code of conduct is probably a good base. It is like a best management practice approach.

**Ms Bolton:** Absolutely.

**Mr MILLAR:** Could you see how that could be strengthened to make sure that people like you who do the right thing, who adhere to this code, set a standard and those who do not adhere to that standard have to either meet that standard—I am trying to work out how we can, obviously—

**Ms Bolton:** How you can manage the compliance.

**Mr MILLAR:** Why reinvent the wheel when a code of conduct has already been put in place? How do you embrace that code across Queensland?

**Ms Bolton:** I think by embracing a code such as the employment services code you are expanding it to both members and non-members. At the moment, our code applies only to members. Those people who are working outside of this arrangement do not have to abide by this code. They can do what they want. By extending this code nationally across all market players, I think the playing field is far more level than it is at the moment.

**Mr MILLAR:** How do we do that?

**Mr PEGG:** Without a licensing scheme?

**Ms Bolton:** I cannot see that a licensing scheme is going to produce a better result because we are still going to have legitimate operators operating in a black market anyway, whether they are licensed or not. By imposing additional requirements on operators such as us or making us pay to become a licensed member when we are already operating under a standard that works—

**CHAIR:** I am conscious of time; I know the deputy chair has a question.

**Mr STEVENS:** You mentioned that you had 1,700 placements over the last five years or so.

**Ms Bolton:** Yes.

**Mr STEVENS:** Have you had any disputation in terms of wages, salaries or superannuation that you are aware of?

**Ms Bolton:** Not that I am aware of, no.

**Mr STEVENS:** So all of your people are basically happy with their pay and there have not been issues there?

**CHAIR:** I know I might be repeating myself and repeating what some of the other members of the committee have asked, but how do you manage these rogue operators if you do not have a licensing scheme that is in legislation?

**Ms Bolton:** I suppose it is a case of how you enforce it if there were a licensing scheme. It is the same question. How do you capture those that are not licensed? That is an issue that probably needs some further thought. Taking a framework such as the RCSA, that is already operating in this space and doing this now for members, is probably a good framework and base to then execute that across the market. There would have to be some committee that would look at compliance, but I think it can operate.

**Mr MILLAR:** How do we get hold of that code so we can read that code?

**Ms Bolton:** The RCSA code?

**Mr MILLAR:** Yes.

**Ms Bolton:** The RCSA have submitted a presentation already and it is easily accessible on their website.

**Mr MILLAR:** That will be very interesting to see.

**CHAIR:** There being no further questions, thank you, Ms Bolton, for appearing before the committee. The secretariat will be in touch with you in relation to the transcript and any further information we may require. Thank you for your attendance today.

**Ms Bolton:** Thank you for the opportunity.

**BRAY, Mr Ian, Assistant National Secretary, Maritime Union of Australia, via teleconference**

**CHAIR:** Thank you for appearing today. The purpose of the hearing is to receive evidence from witnesses on the committee's inquiry into the practices of the labour hire industry in Queensland. The inquiry was referred to the committee by the Legislative Assembly on 2 December 2015. Hansard will record these proceedings and you will be provided with a proof transcript. The transcript will be published on the committee's website. I invite you to make an opening statement and then I will hand over to the committee to ask some questions.

**Mr Bray:** The union has a national membership of 14,000 members. Part of my industrial responsibility nationally is to do with the towage sector in the maritime industry—harbour towage, tugs and barges, salvage et cetera. Pretty much anything to do with towage I have the national responsibility for.

I would like to thank the committee for extending the invitation and allowing us the time to place a representation on the record with regard to the inquiry. We want to do a presentation which specifically leans towards the area of partnerships in the towage sector and how we see that there is a direct correlation that is akin to what the inquiry is looking at in terms of labour hire.

I will give a brief overview. What is occurring in the towage industry is not new. The partnership legislation in Queensland is a piece of legislation that has existed since 1892. It was specifically derived on the basis of forming partnerships in professions that you normally see them in and no-one bats an eyelid at—the legal profession, the medical profession, the financial profession et cetera.

What we are now seeing is that legislation, which is 124 years of age, now being used in areas where there has not been a history of partnerships and in an industry where predominantly there has been existing employer-employee relationships. What we are seeing—and obviously we are learning more every day because we have never really had to grapple with the partnership situation because it never really applied to us—is that there seems to be a direct move by employers to remove themselves from the employer-employee relationship, whether that is for financial reasons or ideological reasons or for mitigation of risk. Who knows? It seems to be a deliberate strategy to remove workers from the Fair Work Act and various other acts that apply either federally or in the state. That would be our opening statement in terms of what we would like to address and present to the committee, if that is okay with the committee.

**CHAIR:** Thank you, Ian.

**Mr STEVENS:** We had a presentation yesterday in Mackay from the maritime engineers. During that presentation they raised very similar concerns to you about partnerships being used in a de facto way to represent labour hire type arrangements. They were saying that basically the industrial commissioners have indicated that nearly all of the maritime industry awards, operations, pay, superannuation, workers compensation et cetera are all under the federal jurisdiction. We are particularly looking at licensing in Queensland. How do you see your issue coming under a licensing regime in Queensland and how would that benefit your industry? Does it apply to your industry?

**Mr Bray:** That is a good question. It is fair to say that the vast majority of industrial instruments are in the federal jurisdiction. Where the crossover appears to be is with the port authorities coming under the relevant state acts, whether it be Queensland, Victoria et cetera, and the port authorities having the responsibility for the issuing of towage licences in the relevant states.

What we are seeing and what we are experiencing in that particular situation is that we might have a national award or a national collective agreement; however, we work with whoever is issued the licence by the relevant state to conduct our towage operations in whatever port. Obviously the port authorities have some degree of autonomy in terms of whom they issue licences to.

What we are not seeing, though, is any correlation between the issuing of licenses and the responsibilities of those to whom licences are issued in terms of the nature of employment. That is something that does not appear to be consistent and is possibly placing a higher risk in terms of operational value when you see changeovers from time to time with various operators in particular ports.

**CHAIR:** Could you give us a time line when this practice started to appear?

**Mr Bray:** Sure. There have been isolated incidents that go back over the last 15 years. The first one that I can explain—there may be one earlier—was in 2000 in Bunbury in Western Australia. The compass towage operator lost their licence and the new operator went out with partnerships. In that particular case the partnerships lasted about six to eight years. The partnership was collapsed

by the partners over that period of time because it was the view of the partners at the time that it was unsustainable. What we have been seeing in particular in the last 18 months is a decisive move, particularly in resource ports, to take this model of operation or this model of relationship and apply it to towage.

**Mr STEVENS:** We are not specifically looking at a change to the Queensland partnership legislation as such. How would you see us addressing your issue through other areas of compliance? I understand all those matters you raise. I understand those are being achieved through this partnership arrangement whereby the company purchases the tugboat or whatever and puts in staff in major operations. How would you see us addressing your issue through matters other than partnerships legislation in Queensland?

**Mr Bray:** Sure. I think that is a very good question. In the early days we were starting to look at and understand the move away from traditional industrial relations legislation, including to an area that we had not dealt with (inaudible) but obviously that is not (inaudible) because plenty of industries such as I mentioned legal and, in particular, professional industries that rely on that piece of legislation. The amendments that we would seek would be amendments that would be designed not to offend the intent of the legislation or the traditional industries that use that legislation to set up their work practices et cetera. We would see that the amendment would need to be where there is clearly a history that defines an industry either relevant to the Fair Work Act or relevant to the state legislation or where there is a history that is demonstrable in terms of the employer-employee relationship. We think that is where the legislation could be amended, to have it banned in those particular areas.

**CHAIR:** Ian, in relation to the partnerships that you refer to, I believe from your evidence they are not a traditional partnership in the real sense of the word because I understand the major asset, for example the tugboat, in most cases is not owned by the participants in the partnership?

**Mr Bray:** That is correct. This is the thing that we have been grappling with. I think this is where it ties into and has relevance to the inquiry that the Queensland government is having into labour hire. In almost every case that I am aware of in towage, both in Queensland and Western Australia, where these partnerships seem to be predominantly arising, it is quite correct to say that the partnership does not own the asset. They purely provide the service of manning and the operational function of the project.

In terms of the correlation and what we are seeing, it appears that the owner of the asset, being the tugboat in this particular case, is mitigating risk and putting that responsibility onto a set of workers who are asked to form a partnership. Nothing changes, really: you are an employee one day and on a partnership the next day, but nothing would really change in the nature of your work other than the responsibility that you take on for forming the partnership and the risks mitigated by who would have been the traditional employer.

**CHAIR:** Is there a leasing agreement or some other sort of agreement between the owner of the tugboat and the partnership? How do they legally form that relationship?

**Mr Bray:** I think there is a sequence of structures that are put in place. The partnership itself will have a senior partner, but the rest of the partners will be answerable, too. Our experience in towage is that has been one of the masters of one of the tugs, so one of the operators themselves. I believe that they then have some kind of contractual relationship to the contractors. In this particular case, if we were talking about Hay Point, for example, it would be Riverside Marine or Rivtow, I believe they are called, which is a subsidiary of Riverside Marine. Then Riverside Marine itself or Rivtow will have the direct contract with BMA. It is a series of contractual relationships that are put in place where, technically, the partnership is bound to that work.

The other interesting thing with partnerships is that it is almost like a business in some respects where you go out and you tout for business, but these particular partnerships cannot go out and tout for any other business. They are completely responsible to the contract that has been signed with the towage company. They do not have the right in the sense of a true partnership, where there is a degree of autonomy, where they can go out and earn additional income et cetera.

**Mr STEVENS:** Ian, I am thinking of some of the incentives that are probably used in these partnership arrangements. Do you know if they are using ABNs? Are employees using consultancy companies to minimise their taxation issues in this line of work?

**Mr Bray:** It is fair to say that we do not have all of the information on that because a lot of that remains confidential between those who form the partnerships and whoever they are contracting. What we do know is that every time they go back to the primary contractor, they are advised to get either professional legal advice or professional financial advice, depending on what the issue is. In



terms of setting it up, it seems to be that that is one area where they do distance themselves and they make sure that all the information that is required by the partnership to form the partnership is independent of the contractor. On the issue of ABNs, we can confirm, yes, they do have to provide an ABN number to form the partnership.

**CHAIR:** Is the ABN attached to the partnership or to the individuals in the partnership?

**Mr Bray:** Again, that is the sort of thing where we are struggling to get any information at this point. Obviously we are holding our own inquiries with people we know who have worked in partnerships and how they are actually set up. Unfortunately, we cannot confirm at this particular point in time what the relationship of the ABN in the structure of the partnership is or whether that has just been provided for taxation purposes.

**CHAIR:** That would lead into the partnerships having to pay GST?

**Mr Bray:** Again, it is one of those areas where we are not sure of the commercial arrangements around how the partnerships are structured. What we do know in terms of some of the setup is that there is a requirement for them to have their own insurances for workers compensation, they have to set up their own superannuation, they have to pay their own tax. How that relationship is developed in terms of how they pay their tax and in what allotments is not understood. We also understand that, through the partnership, one of the cost savings is they opt out of the payroll tax.

**CHAIR:** Ian, this question has occurred to me while you have been speaking. Are you able to identify, in Queensland only, the ports that are operating under this partnership model or are intending to? You mentioned Hay Point. Are you able to identify for the committee the existence of other ports?

**Mr Bray:** Sure. At this point in time in Queensland, we could very confidently say that there are no other partnership arrangements in any other port in Queensland. Probably more to the point, there are partnerships in Queensland but not in towage. On the Brisbane River it seems to be the preferred option of one operator, which is Riverside Marine, who has a subsidy, Rivtow, which looks after the towage et cetera. It appears that that is the employer in the maritime sector that is applying these partnerships. In terms of harbour towage and contractual arrangements, this is the first time and the only port where partnerships are going to be used, at this point in time.

**CHAIR:** Ian, did the union make a submission to the Victorian inquiry?

**Mr Bray:** We have not as yet. The problem we have is that some of this stuff is pretty new. We have been looking at where it all seemed to flare up, which is Western Australia. This seems to be the second state that has taken on the experiment with partnerships. We call it the 'experiment', because senior legal counsel advise that to bring in this kind of operation is probably alright in the short term, but the medium to long term presents greater risk. We have been concentrating on Western Australia, where there has not been an inquiry, but we are writing and we are talking to the Victorian government in relation to their inquiry. If we have made a submission I am not aware, but if we have it would be a public document, unless it has been heard, obviously, and then it is under parliamentary privilege. I would be happy to share that information.

**CHAIR:** I understand the committee does not have any further questions. I understand the secretariat has already spoken to Robert Barnes and Damien McGarry about the logistics of trying to get everybody online at the same time.

**Mr Bray:** Yes.

**CHAIR:** Could you pass on to them that we were conscious of the fact that we could not get them on the line with you.

**Mr Bray:** Sure.

**CHAIR:** Ian, thank you for your appearance and for the information you have provided to the committee. The secretariat will be in touch with you about the transcript. A copy will be provided to you to proofread. It will then appear on the committee website. Thank you.

**Mr Bray:** Not a problem and thank you very much, to you and the committee, for allowing me the time to address the issue.

**CHAIR:** It is a pleasure. Have a good day.

**Proceedings suspended from 10.11 am to 10.20 am**

**BROWN, Mr Luke, Managing Director, Agri Labour, via teleconference**

**CHAIR:** Welcome, Luke. My name is Peter Russo. I am the chair of the committee. The purpose of the hearing is to receive evidence from witnesses on the committee's inquiry into the practices of the labour hire industry in Queensland. The inquiry was referred to the committee by the Legislative Assembly on 2 December. Hansard will be recording these proceedings so I ask you to speak loudly and clearly, please. You may make a brief opening statement, and then I will hand over to the committee to ask you some questions. Thank you for your time today.

**Mr Brown:** I am a director of Agri Labour with my brother Casey Brown.

**CHAIR:** Can you just outline where you fit into the labour hire sphere?

**Mr Brown:** I will give you a little spiel about us. Agri Labour Australia is solely focused on the agricultural industry, so we will service your broadacre crop and wheat farming operations, so your livestock, your chickens, your beef and sheep and whatnot. We started our business with cotton, wheat and livestock and then after two or three years we then moved into horticulture, supplying harvest solutions, whether it is hand-picking or machine picking for your packing of the particular food or veg, whatever it is. We are in our seventh year of trading, and we have definitely seen a lot of things over time and learned a lot about the industry in the space we are in. We have had to compete against low rates and all kinds of things, and I am sure we will continue to do so, but we have never once questioned our own integrity or compliance in the product that we have been supplying our clientele. We have grown in seven years, and the business we are today probably best represents the integrity and the morals which we stand by and we do business by. That is about it.

We have grown a lot. We probably supplied around 5,000 people last year to the agricultural industry around Australia. Our model is unique. It is tailored and it works, but it is not without its challenges. It is a tough space, but we have a committed and really good clientele that we have grown with and we have picked up lately who understand the importance of compliance and having a culture that can return productivity. It is all closely working together to get that end result.

**CHAIR:** Luke, do you supply any labour to the mining industry?

**Mr Brown:** No, we do not.

**CHAIR:** In relation to the horticultural space, what industries are there? For example, with the fruit picking, is it specific to tomatoes?

**Mr Brown:** No, we are not specific. We do a lot of berries. We do a lot with blueberries and raspberries but not a lot with the strawberries. It is a very tough space. I have a lot of information there. We have one strawberry grower in Western Australia that we work with now, but other than him it is a really tough space. We did a lot of mangos but we are doing fewer mangos now. We do broccoli, beans, carrots—

**CHAIR:** Just dealing with mangos, why are not you doing the same or more?

**Mr Brown:** We will probably do two or three clients up there this year. There was an ownership change for the company that we did a lot with. We were with Ooloo Farms. We had around 300 pickers with them at the end of the year, but then once they sold out or there was an acquisition, or whatever is going on with the new owner, they wanted to go in a different direction or he was looking to do it himself, so we no longer have that opportunity. The mangos were hourly award rates, so it was always fairly straightforward. The challenge with the mango rash has always been tricky, and being a very remote location has always been a challenge. We will still do maybe 160 people up there at the end of the year around Darwin this year, picking and packing mangos.

**CHAIR:** What about in Queensland?

**Mr Brown:** Up in Dimbulah we will do around 120 people, I would imagine, this year for a four- to six- to eight-week harvest.

**CHAIR:** What about Bowen? Is it still regarded as—

**Mr Brown:** I think so. To be honest, I know where all the work is, but for us the growth of our business and the strategy of growth is so heavily reliant on working with the right farmer or the right clientele that understands its compliance obligations. When I say 'compliance', I do not mean just from a pay level but also understanding the importance of safety and what that looks like. Everyone will talk a good game around that, but then under the pressure of a harvest it goes out the window. We have probably about 900 workers out there today around Australia in various roles, and I am not really going out there to look for the sales. I am not the only one but I beat them quite comfortably. It is just trying to get that clientele that are on the same page, who understand that we have to show you visas and we have to show you these things. We need to do an audit of your farm, and if there

are things that are not right we need to make these changes before we can even start to harvest. I suppose it is just trying to find those clients. It can be tricky, because it can be off-putting if they have not heard from us or we have not come through a reference point. It is challenging on that front.

**CHAIR:** Are there any issues operating in the different states?

**Mr Brown:** The biggest issue I would say from a national business point of view where you are trying to move people nationally would be the changes in WorkCover legislation. They can be tricky. You have to be on the ball with that because they vary from state to state. Other than that, not really. We heard a little bit about the union push further down south that may cause issues, but we have not encountered too much of that and we are not too concerned about that because we are following the various awards and whatnot. No, I do not see any great issues. We work all over the state. Our numbers are pretty evenly spread. Queensland is our No. 1 state for sure. We have had plenty of workers in every state. You might have journey claims in Queensland where you do not have them in Western Australia, so it is only that sort of thing, I would say. It is not difficult, but it is just a change.

**Mr STEVENS:** We have had several presentations from labour hire groups that basically have said that the penalties and legislation that are currently available are strong enough to combat the rogue competitors you would have against you, undercutting et cetera, if it was policed—in other words, compliance should be far stronger. Several labour hire groups have put that forward. In relation to a licensing regime that is possibly proposed as a solution to address these issues, do you think that would work and do you think that would allow for a greater unionisation of the labour hire workforce?

**Mr Brown:** I am not too sure. I feel like companies like us are going to go through and do the licence, and the companies that are not doing it are not going to do it. I have examples where the immigration department or Fair Work will go on to a farm right beside a farm that everyone knows is not doing the right thing but they will not even go to that farm. There is an example of the too-hard basket and not exercising current legislation or wanting to really dig into the problem. That is what I feel personally. I feel that currently the information is all there. You can get online and find out every farmer in Australia who is using a dodgy contractor, and you do not even have to leave your chair.

If we had another set of licensing, what is the end goal of that? If the end goal is to try to get rid of the dodgies, I think it is a waste of time. For me, there does not seem to be any real action against what is out there because it is quite easy to find. It is all there. Everyone knows where it is, but we are not doing it. Once we do bust these dodgies, do we have enough people to resource all of the farms that they are on? Do we know how many illegals are out there working? I think there are massive amounts of numbers.

I do not know the answer. I am not really sure. I can walk on to a farm and it happened again the other day. The conversation was, 'You're \$2 an hour too dear,' and the reply was, 'I broke down my costs. I saw my margin and it's less than \$2.' I said, 'You're kidding me. You just admitted that to me.' He said, 'That's how it is. They have a particular agreement.' I said, 'Mate, they don't have an agreement. They can't have an agreement any better than that. That's the minimum rate. What is their EBA? I can find it online. Give me the name of it.' The reply was, 'Oh, no, I can't.'

I do not know. I just feel like at the moment it is all out there but I am not brave enough to say, 'Here's all the information. Here are all these farmers who I believe are potentially pushing it,' but then they might have legit EBAs dated back and back and back that just have not been challenged. I am not sure. Sorry if that is not helping.

**Mr STEVENS:** No, that is helping a lot. Do you have overseas workers in your employ?

**Mr Brown:** Yes, for sure we do. We have a lot of workers, a lot of 417 working holiday visa holders. We have a number of students, a lot of Aussies, a couple of sponsorships where we have sponsored them. We are a very open, equal opportunity employer for sure.

**CHAIR:** You mentioned that inspectors can be on one farm that is perhaps complying but right next door there is a non-complying farm but they will not go there.

**Mr Brown:** Yes, definitely.

**CHAIR:** I think you alluded to perhaps some underlying currents there that people are worried they will not be able to find the workforce if they crack down on them. Is there any other reason you could think of for why they would not go to the non-complying farms, other than someone is scared there will not be enough workers?

**Mr Brown:** I do not really know. I suppose I would have to be involved in a task force of people and politicians to find out what is being said at that level. You could get online and pose as a Mandarin-speaking backpacker wanting to get a job on any farm in Australia. There are all these blogs that are floating around in Australian cyber. You can say, 'I want to get a job at XYZ. Has Cairns

anyone worked there before? Can you tell me what the pay conditions are like and what the contractors are like?' Bang, the answer comes up within 24 hours—'Yes, you can take \$17 cash. You can take \$19. You can take \$21, but they will not pay super.' All these sorts of things are out there that are fairly accurate. There is all of that out there at the moment that we do before we even go to a client now. I will say, 'Let's find out about this client. Let's see who they've got there.' It then stops you from even going there most of the time. You say, 'I'm not even going to bother,' or you go there and you design your questioning around trying to get the answers or at least give you the picture that you need to confirm what is going on.

I am not a farmer. I do not have the pressure of it. I know we work with some of the biggest companies in Australia that have good marketing and good market share. That is where we target because we know they want to be compliant—they have a PR responsibility and whatnot. As for the smaller growers, though, I do not know if their structure and their business are equipped well enough to pay the award rate, because maybe they have not developed and they are not as good a farmer as the other. I do not know. Is it unfair? Yes, I think it is unfair for a farmer to be paying \$2, \$3 or \$4 an hour less than another farmer that is doing the same task, but I just do not know.

It is something that I think about every day and wonder what you do about it. I have definitely had good growers. I know they have had illegals on their farm, and the illegal workers are three or four times more productive than the guys that I can supply them. I can see both sides. It is a really tricky situation we are in.

**CHAIR:** Luke, thank you very much for taking time out of your busy schedule to address the committee.

**Mr Brown:** That is okay.

**CHAIR:** It has been very helpful.

**Mr Brown:** I am more than happy to sit down and go over anything in further detail. I am not in it for my own agenda at all. We have a tight little business that is challenging, but I really am concerned about the future of the agricultural basin—what we can do and how we do it—because I do believe we need more workers in the space. At the moment our business and our growth is limited by the applicants we can find.

**CHAIR:** Whereabouts are you based, Luke?

**Mr Brown:** You could say Brisbane. When I am not on the road and around Australia, Brisbane would be the base for me.

**CHAIR:** Thank you again for appearing before the committee. Amanda, from the secretariat, may be in contact with you. You will be supplied with a copy of the transcript which I will ask you to proof for its accuracy, and that will then be published on the committee's website. Thank you again for your time. I declare the subcommittee closed.

**Subcommittee adjourned at 10.39 am**