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**SPEECH TO THE AUSTRALIAN MINES AND METALS ASSOCIATION**

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***\*\*\* CHECK AGAINST DELIVERY \*\*\****

Thank you. Let me begin with a mission statement. The Australian Labor Party is all about job creation, in government and in opposition. Jobs bring dignity and a sense of purpose to the individual and economic prosperity to the nation.

The Australian resources sector has been particularly pivotal in providing jobs to Australians over most of our nation's history going back as far as the incorporation of Broken Hill Proprietary Limited in 1885.

More recently we have seen the mining sector employ over 270,000 people in trend terms during the mining boom that has brought around \$229 billion in value of committed resources and energy projects to this country at a time when other developed nations have been struggling through the Global Financial Crisis.

We must also acknowledge that with a huge boom like the one we have just seen comes the need for a highly skilled and often specialised workforce that sometimes cannot be met from within the existing Australian labour market. Labor has, and will continue to support skilled migration, within the resources sector and beyond it, where there is a clear demand which cannot be met by the local workforce. The last thing anyone wants is for multi-billion dollar projects put at risk due to inadequate labour market supply.

And of course, where a job can be filled by an available, local workforce it should be. This ought not be a controversial proposition.

Nor should it be controversial to say that the purpose of a temporary skilled migration program is not to be used as an industrial relations tool. And, I acknowledge that AMMA and employers have been adamant that this has never been the purpose of 457 visas from their point of view.

It is critical that Australia has a flexible, yet robust skilled migration program that can adapt to the labour market conditions of the day. And its fundamental purpose should be to provide the workforce that you need to ensure this billion-dollar pipeline of investment is able to be realised.

Labor has always acknowledged the important contribution of the resources sector to employment in Australia. That is why when we were in Government we invested heavily in skills and training and delivered more TAFE and University places for high demand professions like engineering. We made sure that training was aligned with industry needs through the \$700 million investment in the National Workforce Development Fund.

Labor reduced processing times for 457s and even fast-tracked applications for 457s in the resources sector.

We established Enterprise Migration Agreements to allow for the negotiation of one labour agreement that covers an entire project to ensure there is a sufficient skilled workforce for the on-time completion and ongoing viability of major projects.

As a result of the 2008 Deegan review into the 457 program, Labor undertook a series of reforms aimed at strengthening the skilled migration framework to better respond to businesses and industries and ensure workers (both locals and migrants) were better protected.

Reforms introduced last year strengthened labour market testing requirements to ensure full utilisation of the local workforce before engaging a worker under the 457 program.

Now over the last year I've been meeting with a number of stakeholders regarding the program generally, the impact of Labor's reforms and user experiences with 457's.

It is fair to say that unions have a suspicion about 457 visas. While acknowledging their legitimate role, unions point to the fact that as an employer sponsored program, for a 457 visa holder if that person is sacked they lose their right to be in Australia. In addition to all the other aspects of the employment relationship, in the instance of a 457 visa holder, the employer has the power to determine whether the employee can stay in the country.

Now no-one is suggesting 457's should be anything other than employer sponsored visas. They have to be. But this fact raises the concern that 457 visas might be used as an industrial relations tools enabling jobs to be performed for lower wages

and conditions by persons from developing countries who are prepared to accept these conditions.

While not necessarily accepting this view, I know this is nevertheless an argument with which you are familiar.

For unions, a robust labour market testing mechanism gives some comfort in the scheme – a sense of confidence that the program cannot be exploited.

It matters to you, and to the national interest, that unions have confidence in our temporary skilled migration program. Just as it also matters to the national interest – that you have confidence in the program as well.

I understand that from an employer perspective, you just want the workers you need to get the job done. Fair enough. I am conscious of the view of many in this room that labour market testing equals more red tape without meaningfully adding anything to the equation. I also acknowledge the view that Steve Knott gave voice to at the AMMA Members Conference in October last year, where Steve reported that it can cost up to \$60,000 more to employ someone on a 457 as compared to a local employee, acting as a potent price signal to use 457 employees only as a last resort and therefore rendering labour market testing as irrelevant. It is a powerful point.

But if we are to really tease out the issue it must be recognised there are now a significant number of 457s being granted to persons who are already onshore. Statistics from the Department of Immigration and Border Protection quoted in the recent Independent Review into the Integrity of the 457 program recorded that the number of offshore primary 457 visa applications lodged in Australia in the 2012-2013 financial year accounted for approximately 49 per cent of all visas granted. The percentage in relation to onshore 457 visas in 2013-2014 is set to be even higher.

Clearly in relation to these people the cost of employing a person on a 457 visa is significantly reduced.

Equally if it is accepted by all, that that the purpose of 457 visas is not to undermine wages and conditions then why was it necessary for the Abbott Government to provide in its Designated Area Migration Agreement for the Northern Territory an ability to hire people on 457 visas at 10 per cent lesser wages?

These competing arguments lead to a temporary skilled migration program that is contested. This is not healthy.

Ultimately we need a 457 visa program that is wholeheartedly supported by the union movement – that they buy into – and which at the same time is efficient and streamlined and meets your needs. Everyone agrees with the need for a temporary skilled migration program. Everyone agrees that it should not be the source of

industrial exploitation. This aspiration is not pie in the sky and should not be impossible to achieve.

Since coming to power the Abbott Government has taken a number of steps in relation to the 457 visa program. The recent release of the Government's Independent Review of the 457 Program has suggested a number of proposals for reform. The Review was thorough. And we want to consider it thoroughly. But we do have some preliminary thoughts.

Labor remains concerned about the proposal to remove Labour Market Testing, particularly when Australia is seeing a softening of the labour market.

The recommended change in approach to English Language requirements is also a concern. Where people are employed on a 457 visa, it stands to reason that they have a standard of English that enables them to perform their work and that will not put them at risk or in harm's way.

However, Labor welcomes the panel's acknowledgement of the importance of compliance in the 457 program. The recommendations regarding increased monitoring, inter-agency cooperation, sanctions and the role of the Fair Work Ombudsman were also pleasing.

It is crucial to ensure the 457 program and skilled migration stream are monitored continuously to ensure compliance and minimise roting, no matter how much or little that occurs.

The Government also announced in August they would seek to extend the operation of the Regional Migration Agreements introduced under Labor. Labor was the first to recognise the huge growth that the resources sector would bring to the Northern Territory. Multi-billion dollar projects like the Ichthys joint venture between Inpex and Total will see the Territory benefit from unprecedented levels of investment. However, these huge investments have the potential to drain local businesses of skills and knowledge. In 2012, Labor moved swiftly to alleviate the pressure on smaller, local employers by introducing Regional Migration Agreements. These agreements enabled businesses experiencing staff shortages to find workers when none were able to be sourced locally.

The Abbott Government's new incarnation of these agreements, Designated Area Migration Agreements go beyond what was proposed under Labor.

Labor fully understands and is supportive of the need for such regional arrangements where there is a clear need, such as in the Northern Territory. But if what is being proposed by the Government is about addressing skills shortages, we question what is driving the 10 per cent concession on the minimum salary rate. We also fundamentally recognise the connection between a temporary skilled migration program and investing in the development of skills amongst Australian workers. It is therefore a concern to us that while the Northern Territory Designated Area

Migration Agreement is being pursued we are facing cuts to education and training at both a Territory and Federal level.

The Government has also sought to tackle the Migration Amendment (Offshore Resources Activity) Act 2013 introduced by the former Labor Government.

Let me say at the outset Labor is committed to the viability and success of the offshore resource sector.

With the Allseas Case, Labor only had one objective with this Act: to ensure that offshore resource activity was regulated in accordance with Australian standards of employment.

As I understand the debate no-one in this room would be concerned by that objective.

By ensuring that offshore resource activity was brought within Australia's migration zone the ORA Act sought to clarify that Australian conditions of employment applied to this work.

The ORA Act required that appropriate visa classes be developed for this work and negotiations with all stakeholders around this were underway at the time of last year's election.

In coming to power, the Abbott Government have sought to kill off the ORA Act. The motivation for this is for the Government to explain.

The first play was to repeal the ORA Act. Naturally Labor opposed this. The repeal Bill is currently in the Senate.

The second play was to designate the sub-class 988 Maritime Crew Visa as one of the visas that would apply to this work. The Maritime Crew Visa was introduced by the Howard Government for ships doing international work to and from Australia. It specifically provides for those working on it not to be subject to Australian conditions of employment. For this visa to underpin the ORA Act would for all intents and purposes undermine the ORA Act. And that was the point.

Labor raised its objection, with the Government, to this visa class being used to underpin the ORA Act. The Government ignored our objection. Accordingly we sought to then disallow the regulations which introduced this visa class. That disallowance occurred in the Senate.

The final play was for the Minister to use her power to determine that all offshore resource activities be removed from the definition of Offshore Resource Activities in the Act rendering the ORA Act a dead letter. As measured by legislative intent that's a pretty cynical step. Yesterday the Federal Court, while stating the arguments against the Minister's actions were "powerful" nevertheless upheld the Minister's determination. This decision is set to be appealed.

And so once again we are met with a highly contested area of policy which only breeds uncertainty for the business environment.

If all stakeholders agree that Australian standards of employment should apply to offshore resource work then surely it is not beyond everyone's wit to work this issue out.

The pursuit of political victory for its own sake might work in student politics but has no place in sophisticated public policy.

Of course the lifeblood of politics is contest. Without it there is no difference of view, or differences between political parties, or choice for the people. It is at the heart of democracy and it has its place.

But the lifeblood of governance is stability. Stable government is the true bedrock of economic development.

While there is a place for partisan politics, if ever there was a moment for good collaborative government it is now in relation to this issue. Any partisan victory on the ORA Act is destined to be illusory and short-term.

Labor is committed to working this issue out by consensus, with everyone, and for the long term. And we will sit down with anybody to achieve that end.

There is one aspect in which I am very pleased to be talking about 457 visas, the ORA Act and temporary skilled migration. For this is in essence a discussion about the contribution that migration makes to our economy. And it is a wonderful contribution.

For too long, the economics of migration have either been ignored, or at best, pushed to the side.

Immigration in the context of asylum seekers is a highly contested area and has given rise to a national debate that can only be described as terrible.

In my view there is no doubt that this debate has bled into negative attitudes towards multiculturalism and immigration more generally.

But an equally concerning consequence of the debate is that it has prevented a discussion about the role of immigration in our economic story, both historically and into the future.

We need to acknowledge the deeply important role immigration has played in helping determine who we are as a nation and as a people. We need an economic debate around immigration that will inform the size, composition and framework of the future program that in turn will shape our nation.

We need to consider migration as an economic lever, which needs to be flexible enough to adapt to the economic climate whilst also take into account factors such as skills gaps and an ageing population. We need to acknowledge, for example, that without a skilled migration program our labour force will stagnate within the next 20 years.

A skilled migration program - temporary and permanent - will be critical to ensuring the continued success and prosperity of not only the resources sector but the Australian economy as a whole.

A well-executed 457 program is key to this and must help create jobs and enable the economy to function where it otherwise would not.

The Migration Council of Australia's research into the use of Australia's 457 scheme generated results that indicated over three quarters of 457 visa holders said they helped to train or develop other workers; 68.5 per cent of employers said they were using 457 visa holders to train Australian counterparts.

This is encouraging, because if this is a true reflection of the program it suggests that the 457 program is not only crucial to filling skills gaps, but also has the potential to educate and train Australians, and in turn has the capacity to actually produce more Australian jobs.

The Migration Council has suggested there be further, in-depth analysis of the economic contribution of migration and its role in national workforce development strategies, skills and training policy.

Labor agrees.

Labor is a pro-immigration party. A temporary skilled migration program is central to that. And we are committed to working with you to ensure our policies reflect a program that meets your needs now and in the future.

Thank you.

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