

Business  
Council of  
Australia



SUBMISSION

# Submission on Visa Framework Simplification

SEPTEMBER 2017

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The Business Council of Australia is a forum for the chief executives of Australia's largest companies to promote economic and social progress in the national interest.

## About this submission

This is the Business Council's submission to the Department of Immigration and Border Protection on Visa Simplification. The Department has listed these areas as key issues for consideration:

- scope for a reduction in the number of visas from 99 at present, to around ten visas;
- the delineation between temporary entry and long-term or permanent residence;
- the role a period of provisional residence could play in enhancing the integrity of the visa system and easing the burden on taxpayers; and
- ensuring that the visa system makes Australia a competitive and attractive destination for temporary and longer-term entrants.

## Australia's migration program

This review provides the government, business and the community with an opportunity to take a longer term view about how Australia's migration system can best meet the needs of a growing and prosperous economy.

Permanent and temporary migrants have brought many economic and social benefits to Australia and migration will continue to play an important role in future growth. The Intergenerational Report projects net overseas migration will be 180,000 per annum to 2055.<sup>1</sup> Migrants grow the workforce, build economic and social relations with the rest of the world and help develop the local workforce through training and skills and knowledge transfer.

Independent modelling finds that annual net overseas migration between 160,000 and 220,000 to the middle of the 21<sup>st</sup> century can optimise Australia's growth in GDP per capita – a key measure of economic wellbeing for all Australians.<sup>2</sup> Economic gains are higher when migrants bring skills that complement the needs of the economy.

In 2015-16, Australia issued 189,770 permanent visas and over 7.7 million short-stay and long-stay temporary visas (see Table 1).

The annual maximum permanent migrant intake, currently set at 190,000 per annum, is the cornerstone of Australia's migration policy framework. It is important that places are allocated to individuals who will make a positive contribution to Australia's economy and society. Under current policy settings at least two-thirds of the permanent intake is filled by skilled migrants, and this should continue under any revised visa framework.

Temporary skilled migration is critical for addressing genuine skill shortages and supporting Australia's participation in the global economy. The rise of globalisation and

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1. Net overseas migration (NOM) is made up of the net flow of permanent migration into and out of Australia plus the net flow of long-stay temporary migration (ie, generally speaking, migrants who are resident for 12 months or more, such as students and individuals on temporary work visas).

2. P McDonald & J Temple, The long term effects of ageing and immigration upon labour supply and per capita gross domestic product: Australia 2012–2062, Canberra, October 2013.

the increasing temporary movement of people around the world to work or study is beneficial to Australia and needs to be supported by well-designed temporary migration programmes.

**Table 1: Migration, 2015-16**

Migration	Total
<b>Permanent migration Programme and Child Outcome</b>	<b>189,770</b>
Skill stream places	128,550
Family stream places	57,400
Special Eligibility stream places	308
Child places delivered outside the managed Migration Programme	3,512
<b>Temporary visas granted</b>	<b>7.7 million +</b>
Visitor visas granted	4.8 million
Student visas granted (includes student guardians)	310,845
Working Holiday Maker visas granted	214,583
Special Category (subclass 444) visas granted	1.9 million
Maritime Crew and Transit visas granted	345,873
Temporary Work (skilled) (subclass 457) visas granted	85,611
Temporary residents (other) visas granted	130,807

**Source: Department of Immigration and Border Protection website. Excludes refugee and humanitarian entry. Subclass 444 visas are issued to New Zealand passport holders.**

Global competition for skilled migrants is increasing as other countries seek to grow their competitiveness or overcome the problems of an aging population. We must remain an attractive destination if we are to attract the best and brightest talent to Australia, or else we risk:

- preventing businesses from accessing the skills they need to innovate, expand or undertake new projects – which in turn puts at risk job opportunities for Australian workers and opportunities for knowledge and skills transfer from skilled migrants
- corporate head offices of multinational businesses moving to more flexible jurisdictions, leaving Australian operations as little more than a ‘branch office’ in many sectors
- falling behind countries like the United States, Singapore and New Zealand on the innovation and science agenda
- inefficient delivery of major capital projects, including public infrastructure.

## Key observations and recommendations

### Our migration policy framework must be competitive

- The visa framework should be designed to meet the immediate and long term needs of Australia’s economy. It needs to enhance Australia’s attractiveness as a destination for skilled migrants in an increasingly competitive global market for talent.

- Risks associated with migration should be managed through effective and fit-for-purpose safeguards that are properly administered and enforced to maintain public support in Australia's migration programmes. These functions need to be sufficiently resourced.
- The trend towards greater regulation and more granular control of the migration process risks adding to the uncertainty, time and cost of visa provision and putting Australia at a competitive disadvantage relative to other countries.
- As part of the visa simplification programme the government should work with industry to identify opportunities to streamline regulation and reduce regulatory costs on individuals and businesses, particularly those with a good track record. A more risk-based and efficient regulatory system would reduce administrative costs for the Department.

#### *Streamlining the visa framework*

- The Government's intention to reduce the number of visas from 99 to around 10 is commendable and supported, so long as any changes are demonstrated to:
  - strengthen or preserve the integrity of the visa system and build community support for Australia's migration programmes
  - lower compliance and administration costs, including taking into account any costs of transitioning to new schemes
  - avoid inadvertently removing access to Australia that is available under the current visa framework: the complexity of some visa requirements means not all migration programs can be reduced to a single visa. (See Box 1 for an example of business activity that has been foregone due to limitations in Australia's visa framework.)
- The proposal for a 12-month temporary work visa to replace the subclass '400' visa - which was previously under consideration by the Department in 2015 in response to a clear industry need - should be re-examined.
- Greater use of the visa programme to encourage migrants to live and work in regional Australia, where it can be difficult to attract and retain skilled workers, should be considered. For example, Designated Area Migration Agreements (DAMAs), which allow for concessional treatment of temporary skilled visas, could be applied more widely throughout regional Australia.

#### *Regulatory reform*

- Any changes to the visa framework should be accompanied by a program of regulatory reform that ensures regulation is managing risk efficiently and which removes unnecessary costs and barriers to migration. Examples include:
  - re-assign more roles from the Short-Term Skilled Occupation List (STSOL) to the Medium and Long-term Strategic Skills List to allow more occupations to access a four-year temporary skilled work visa
  - strengthen enforcement of the 'market salary rate' requirement, which ensures temporary migrants are not paid less than Australian workers, and remove ineffective 'labour market testing' requirements (as recommended by the 2014 Independent Review)
  - introduce a 'trusted companies' skilled migration visa scheme that provides greater flexibility and less red tape for low-risk employers, allowing regulatory enforcement to be targeted more at higher risk cases
  - relax English language requirements for senior executive roles where there is no risk of exploitation and no serious safety concerns
  - consider ways to improve the efficient management of visa programmes, including greater use of online applications and faster approvals for lower-risk applications.

### **Box 1: Example of how visa framework limitations can affect industry**

An agricultural training provider has pulled out of its operations in Australia due to limitations in Australia's visa framework and is now successfully establishing its program in Canada with the support of the Canadian Government.

The training provider brought agricultural graduates to Australia to undertake on-the-job training to learn about agricultural best practice, technology and practical application of technical knowledge, and they then returned to their home country to apply this knowledge.

There is no suitable visa for this program and the abolition of Subclass 402 program and new regulations stipulated in the Subclass 407 program do not support the training provider's business model.

The program had received strong support and endorsement from farm operations throughout Australia and agricultural industry associations.

Source: Business Council member in the professional services sector

### *Risk-based regulation*

- The Business Council supports greater application of a risk-based approach to migration policy under any new visa framework. Visa sponsors with a good track record of hiring and developing local talent should be faced with less controls and receive a streamlined visa application and approval process. By contrast, regulation and regulatory enforcement should be more targeted at higher risk businesses.
- The Business Council proposes the introduction of a 'trusted companies' program for low-risk businesses with a good track record. Under the program:
  - visa application and approval processes would be less costly and faster
  - more skilled occupations would be eligible for the temporary skilled 4-year visa
  - labour market testing requirements would be removed
  - there would be relaxation of non-critical conditions e.g. English language requirements
- For qualifying businesses, the program would speed up recruitment into critical roles, lift business competitiveness and support growth in the Australian economy. Other businesses would have a strong incentive to implement better practices and obtain access to the scheme.
- The program should be consistent with the recommendation of the 2014 *Independent Review of Integrity in the subclass 457 program* (the Azaria Review) for a 'streamlined model for processing sponsorship, nomination and visa applications based on certain risk factors'. It could be based on the labour agreement model and/or the 'Australian Trusted Trader' initiative, which 'recognises businesses with a secure supply chain and compliant trade practices, rewarding accredited businesses with a range of trade facilitation benefits.'

### *Temporary skill shortage visas*

- Australian companies overwhelmingly prefer to develop and hire local workers because it is easier and lower cost. Australian workers bring experience of local markets and

laws. However when faced with genuine skills shortages they need to bring highly qualified people to Australia.

- Temporary skilled migration enables Australian businesses to fill skill shortages where there is no available Australian worker. Under any new visa framework, temporary work visas should remain uncapped and responsive to the needs of the economy and regulatory costs kept low. Imposing high costs on growing businesses looking to innovate or expand works against jobs growth, including for Australian workers.
- While it is important that the temporary skilled migration programme prioritises the employment of Australian workers, the policy changes announced in April are creating additional costs and uncertainty for some businesses and deterring some highly credentialed, prospective migrants from applying for roles. For example, a major Australian retail company recruiting for an experienced strategy manager identified an ideal candidate with unrivalled global experience, however the candidate withdrew due to the limitation of a two year visa and the removal of the pathway to permanent residency.
- The government's revisions to visa eligibility from 1 July 2017 were welcome, but more changes are expected to be needed. The Business Council looks forward to making a detailed submission to the upcoming review of the Skilled Occupation Lists.
- Consideration should be given to exempting all temporary skilled migration visa holders at 1 July 2017 from the new restrictions on access to the permanent migration program. This would address the retrospectivity of the new restrictions and recognise that those individuals were attracted to filling roles in Australia – which for many meant moving their families and possessions to Australia at considerable cost – on the understanding that there would be access to permanent residency.

#### *Training levy*

- Changes should be considered to the recently introduced Temporary Skilled Visa training levy to allow individual firms to spend monies raised from the levy on their own training needs, instead of paying into the *Skilling Australians Fund (SAF)*.
- Businesses are having to divert funds that were being used for the development of their own staff in order to pay the levy. The case for businesses retaining control over spending is that they can target training towards meeting their anticipated future skills needs and lessen the use Temporary Skill Shortage visas in the future. There is no guarantee that the SAF will serve the same purpose.
- The Business Council recommends close industry involvement in the oversight and governance of the SAF.

#### *Policy review processes*

- The Business Council recommends the government adopt a number of best practice principles for future reviews of migration policy, including the forthcoming reviews of skills occupation lists, namely:
  - greater transparency and public access to the data and analysis that is being relied upon to inform decisions
  - providing clarity in advance around review processes and timing (eg publish the processes for the review of skilled occupation lists)
  - avoid changes to policy that apply retrospectively to individuals and businesses
  - commit to a full Regulation Impact Statement for changes to regulation.

### **Temporary to Permanent migration pathways should be strengthened**

- Temporary and permanent migration are increasingly interlinked: one-in-two permanent skilled migrants in Australia transfer from a temporary visa. There should be clear, stable and efficient pathways between temporary visas and the permanent residence program under any future visa framework.
- The pathway from the Temporary Skilled Shortage Visa to the permanent skilled migration makes Australia a more attractive destination for skilled workers and means migrants are already settled and in employment when their permanent residency commences. The pathway works well and should be restored for more occupations.

### ***Provisional residence requirement is not supported for skilled migrants***

- Compared to other developed economies, it is considered that skilled migrants are more likely to come to Australia for lifestyle reasons than to gain international experience that enhances their resume.
- A provisional residence requirement that creates uncertainty of tenure will reduce the attractiveness of migrating to Australia and deter skilled migrants. It will put Australia at a competitive disadvantage in the contest for global talent. Other ways to strengthen the integrity of the system should be examined, for example, through more rigorous background checks at the visa approval stage.

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