

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

# **Interim Report of the Inquiry into Australia's Skilled Migration Program**

Joint Standing Committee on Migration

March 2021  
CANBERRA

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# Foreword

The COVID-19 pandemic has had a significant effect on Australia's workforce. While 94% of Australians who lost their jobs or were stood down to zero hours are now back in work, there are still significant skills shortages in the economy.

As a result of COVID-19, over 500,000 temporary visa holders left Australia resulting in significant skills shortages. The Committee has heard that job vacancies in November last year reached 254,000, higher than any point in the last 10 years.

Business NSW told the Committee that half of businesses in NSW are currently experiencing skills shortages. In Western Australia one in three businesses have skilled labour shortages. More than a third (36%) of businesses in the Northern Territory have identified their greatest challenge over the next 3-6 months to be retaining and attracting staff.

The Committee has heard repeatedly that skilled migrants create Australian jobs.

Australia needs to replace the skilled migrants that left our shores as a result of the pandemic. Without the return of skilled migration, Australia's economic recovery will be severely hampered and it will be harder to create more jobs for Australians.

Employers have made it clear to the Committee that they always prefer to employ Australians over migrants but the skills they need are not always available here.

Skilled migrants are not replacing Australian graduates nor are they replacing unskilled unemployed Australians, but they fill the missing middle of our economy including people who can train Australians and whose presence in a business can create more jobs for Australians.

Australia has always been an attractive destination for migrants. Australia is one of the world's oldest continuous democracies. A stable, free society with the rule of law; a successful multicultural nation with natural beauty and a temperate climate.

But Australia's excellent response to the health and economic challenges of the COVID-19 pandemic and our lack of social unrest has given us a unique opportunity to attract the best and the brightest talent to Australia, not only to fill skills shortages, but also to invest and create new businesses that will provide new employment opportunities for Australians.

Our challenge now, as we enter the next phase of Australia's economic recovery from the COVID-19 pandemic, is to ensure we have streamlined processes to make it easier to get the skilled workers Australian businesses need, enabling them to grow and create more jobs. Now is the time to attract highly talented individuals and businesses to Australia. This is an opportunity we will never get again and we need to ensure Australia gets those settings right. The recommendations in this report are aimed at ensuring we can take advantage of that opportunity.

In referring this inquiry to the Committee, the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, the Hon Alex Hawke MP, suggested an interim report be produced by 19 March 2021 given the urgency of these challenges. We have met that timeframe.

This interim report makes recommendations specifically to deal with the economic effects of the COVID-19 pandemic.

The evidence the Committee has received, the issues raised, and recommendations made should assist in steering Australia's economic recovery from the COVID-19 pandemic.

In July this year we will produce a final report which will consider longer term issues regarding the skilled migration program.

I would encourage people who are interested in having a say about the skilled migration program to respond to this interim report. Evidence provided and contributions made will help shape recommendations for the final report.



# Terms of Reference

The Joint Standing Committee on Migration shall inquire into and report on Australia's skilled migration program, with reference to:

- 1 The purpose of the skilled migration program and whether it is meeting its intended objectives, including:
  - a. If any immediate adjustments are necessary in the context of the future of work and pandemic recovery, and
  - b. If more long-term structural changes are warranted;
- 2 Australia's international competitiveness in attracting entrepreneurs, venture capital, start-ups, and the best and brightest migrants with cutting edge skills;
- 3 Skills lists and the extent to which they are meeting the needs of industries and businesses and keeping pace with Australia's job landscape;
- 4 The administrative requirements for Australian businesses seeking to sponsor skilled migrants, including requirements to prioritise job opportunities for Australians and job creation;
- 5 The costs of sponsorship to businesses seeking to sponsor skilled migrants;
- 6 The complexity of Australia's skilled migration program including the number of visa classes under the program and their requirements, safeguards and pathways; and
- 7 Any other related matters.



# List of Recommendations

## Recommendation 1

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- 2.76 The Department of Home Affairs should streamline labour market testing to:
- be less prescriptive about what constitutes labour market testing
  - only require Medium and Large businesses to conduct labour market testing;
  - require labour market testing for businesses headquartered outside Australia or businesses owned by someone who is not an Australian citizen;
  - remove the requirement for employers to advertise any occupations which are on the PMSOL or critical skills lists; and
  - remove the requirement for employers to advertise for all occupations classified as Skill Level 1 and 2 on the jobactive website.

## Recommendation 2

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- 2.80 The Committee recommends that at least until the pandemic period is over, the Department of Education, Skills and Employment and the Department of Home Affairs remove the requirement for employers to pay the Skilling Australia Fund as part of the visa sponsorship process.

If the levy is retained:

- Consideration should be given to aligning the payment of the levy to the commencement of employment of the skilled migrant or guarantee a refund to the sponsor if the application is unsuccessful.
- If the employer can demonstrate they have spent the same amount or more than the levy in the previous 12 months on training their Australian employees in skills relevant to their work for the employer, they should not be required to pay the Skilling Australia Fund levy.
- The Federal Government should establish greater transparency over the State Governments' use of funds from the Skilling Australia Fund to skill Australians.

### **Recommendation 3**

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- 3.113 The Committee recommends that the Department of Home Affairs be required to provide greater transparency on where employer sponsored visa applications are in the queue.

### **Recommendation 4**

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- 3.116 The Committee recommends that the visa conditions for sponsored skilled visa holders working in industries that require migrants to work for different employers or to undertake multiple roles with the same employer to meet practices of the industry, be adjusted to allow them to work for multiple employers without making applications for new visas.

### **Recommendation 5**

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- 3.127 The Committee recommends that the Priority Migration Skilled Occupation List be expanded urgently to include Chefs, Veterinarians, Café and Restaurant Managers and Seafarers.

### **Recommendation 6**

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- 3.128 The Committee recommends that the Department of Home Affairs conduct an urgent review of the Priority Migration Skilled Occupation List, in consultation with relevant stakeholders, with a view to expanding the number of occupations to better reflect the urgent skills shortages in the context of the COVID-19 pandemic recovery. The Department should give particular consideration to civil engineers, electrical engineers, motor

mechanics, cooks, carpenters, electricians and other roles in the hospitality, health, trades, agriculture and manufacturing sectors.

## **Recommendation 7**

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- 3.129 The Committee recommends that the Short-term Skilled Occupation List, the Medium and Long-term Strategic Skills List and the Regional Occupation List be reviewed as soon as practicable to ensure that the lists most accurately reflect Australia's employment challenges as the economy emerges from the COVID-19 pandemic.

## **Recommendation 8**

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- 3.132 The Committee recommends the Government reserve places on flights and in quarantine for skilled migrants.

## **Recommendation 9**

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- 3.135 The Committee recommends that:

- The Department of Home Affairs improve visa processing times for employer-sponsored visas because of the labour market needs during the COVID-19 pandemic economic recovery; and
- The Department of Home Affairs expedite the processing times for skilled visa holders who have remained onshore in relevant employment seeking a subsequent skilled visa or permanent residency visa.

## **Recommendation 10**

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- 3.144 The Committee recommends that all employer sponsored visa holders be given a clearer pathway to permanency.

## **Recommendation 11**

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- 4.75 The Committee recommends the establishment of a global marketing campaign to attract global talent and investment. This campaign should:
- Target talented individuals and investors in key competitor countries;

- Raise awareness of both the opportunities in Australia, and the migration mechanisms available to those seeking to live, work or settle in Australia; and
- Leverage off the work already being undertaken by the Special Envoy for Global Business and Talent Attraction.

## **Recommendation 12**

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- 4.76 The Committee recommends that the BIIP and GTI provide options for both automatic permanent residence and temporary visas with a clearly articulated path to permanent residence.

# 1. Background

- 1.1 On 3 February 2021, the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, the Hon Alex Hawke MP, referred an inquiry into Australia's skilled migration program to the Committee.
- 1.2 The terms of reference included consideration of both short-term and long-term matters relating to skilled migration in Australia. The Committee decided to produce an interim report on the short-term considerations relating to Australia's skilled migration program.
- 1.3 The Committee has not yet completed gathering evidence for this inquiry, and will present a final report to the Parliament once the process of gathering evidence is completed.
- 1.4 This interim report focuses on the following terms of reference:
  - 1 The purpose of the skilled migration program and whether it is meeting its intended objectives, including:
    - a. If any immediate adjustments are necessary in the context of the future of work and pandemic recovery; and
  - 2 Australia's international competitiveness in attracting entrepreneurs, venture capital, start-ups, and the best and brightest migrants with cutting edge skills.

## Skilled migrants in Australia

- 1.5 The Department of Home Affairs (Home Affairs) outlined the impact of the COVID-19 pandemic on Australia's migration program:

COVID-19 has significantly impacted migration to Australia due to international travel restrictions, weaker labour markets domestically and

globally and disruption to supporting services (such as English Language testing, biometrics, health and character checks).<sup>1</sup>

- 1.6 One aspect of this impact is a reduction in the number of temporary visa holders in Australia. Home Affairs stated that:

Overall, if we look at temporary visa holders in Australia, the figure on 20 March 2020 was just short of 2.3 million, and the figure as at 14 February [2021] is just short of 1.8 million, so there was a reduction of just over 500,000 in that period.<sup>2</sup>

- 1.7 Of those temporary visa holders remaining in Australia, New Zealanders comprise a large portion, 658,000 out of 1.77 million. Additionally, of those who left due to the onset of the COVID-19 pandemic, New Zealanders were the least affected, with only a 2.7 per cent reduction in New Zealand visa holders resident in Australia.<sup>3</sup>

- 1.8 According to Home Affairs, while the future of the migration program is difficult to forecast, Australia is well positioned as a migration destination as its response to the pandemic has been viewed positively:

This presents an opportunity for elements of Australia's skilled migration program to proactively attract entrepreneurs and startups as well as exceptionally talented individuals and high yield companies that will make a significant contribution to Australia.<sup>4</sup>

- 1.9 Home Affairs outlined that the 2020-21 Migration Program skilled migrant stream:

... has been set at 79,600 places for skilled migrants, prioritising visa cohorts with medical and other skills to support the pandemic response, and that drive economic growth and investment, and provide critical skills to support recovery. The three priority categories within the skill stream for 2020-21 are the:

- Business Innovation and Investment Program (13,500 places);
- Global Talent Program (15,000 places); and

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<sup>1</sup> Department of Home Affairs, *Committee Hansard*, 17 February 2021, p. 2.

<sup>2</sup> Department of Home Affairs, *Committee Hansard*, 17 February 2021, p. 4.

<sup>3</sup> Department of Home Affairs, *Committee Hansard*, 17 February 2021, p. 4.

<sup>4</sup> Department of Home Affairs, *Committee Hansard*, 17 February 2021, p. 2.



- Employer Sponsored Program (22,000 places).<sup>5</sup>

## Available visa classes

- 1.10 Employer Sponsored Visas (or employer nominated visas) are available for when employers are unable to source Australian citizens or permanent residents to fill workplace vacancies. Potential sponsors are required to meet a series of prerequisites to ensure that overseas workers complement, rather than displace, the local Australian workforce.<sup>6</sup>
- 1.11 There are two distinct visa categories within the Employer Sponsored Visas:
- Temporary Skill Shortage (TSS) visa (subclass 482), which permits employers to seek sponsorship of an overseas worker for a period between one to four years in a specific occupation for a specific employer.<sup>7</sup> However, it is necessary to note that in many cases workers within the medical profession are exempt from working for a specific employer.<sup>8</sup>
  - Employer Nominated Scheme (subclass 186), which permits employers to seek sponsorship of overseas workers to live and work on a permanent basis in Australia, in addition to facilitating the transition process from a TSS visa (subclass 482) to a subclass 186 on a permanent basis.<sup>9</sup>
- 1.12 The TSS visa (subclass 482) has a lower cost, has a visa validity of up to 5 years depending on the stream, no age requirement and a different level of English proficiency. The ENS (subclass 186) has a higher cost, is for a

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<sup>5</sup> Department of Home Affairs, *Committee Hansard*, 17 February 2021, pp. 2-3.

<sup>6</sup> Department of Home Affairs website, *Learn More About Sponsoring*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/learn-about-sponsoring>> accessed 4 March 2021.

<sup>7</sup> Department of Home Affairs website, *Temporary Skill Shortage visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-skill-shortage-482>> accessed 4 March 2021.

<sup>8</sup> Department of Home Affairs website, *Temporary Skill Shortage visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-skill-shortage-482>> accessed 4 March 2021.

<sup>9</sup> Department of Home Affairs website, *Employer Nominated Scheme visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/employer-nomination-scheme-186>> accessed 4 March 2021.

permanent visa, has an age requirement of up to 45 years (unless exempt) and the English language requirement is at least competent.<sup>10</sup>

- 1.13 The Skilled Employer Sponsored Regional (Provisional) visa (subclass 494) permits employers in designated regional locations to seek sponsorship of a skilled overseas worker for a period of five years to address known labour shortages.<sup>11</sup>
- 1.14 Regional employers are required to seek workers in occupations that are listed on the skilled occupation list, or through a labour agreement with the Australian Government.<sup>12</sup>
- 1.15 Skilled migrants who have held the Provisional visa (subclass 494) for two years and worked on a full-time basis for at least 12 months in a specific regional location are eligible to apply for the Skilled Regional visa (subclass 887). Subclass 887 allows successful applicants to permanently reside in Australia.<sup>13</sup>
- 1.16 In November 2020, subclass 494 visa holders became eligible for permanent residence under the Permanent Residence (Skilled Regional) visa (subclass 191), where a skilled worker can provide proof of residence in a designated regional location for at least three years and have a taxable income above a specific threshold.<sup>14</sup>
- 1.17 The Skilled Independent visa (subclass 189) is a permanent visa for workers who pass or satisfy the skilled migration points test, and have been subsequently invited to submit an expression of interest for subclass 189.<sup>15</sup>

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<sup>10</sup> Department of Home Affairs, *Submission 16.1*, Attachment 4.2, p. 2.

<sup>11</sup> Department of Home Affairs website, *Skilled Employer Sponsored Regional (Provisional) visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-employer-sponsored-regional-494>> accessed 4 March 2021.

<sup>12</sup> Department of Home Affairs website, *Skilled Employer Sponsored Regional (Provisional) visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-employer-sponsored-regional-494>> accessed 4 March 2021.

<sup>13</sup> Department of Home Affairs website, *Skilled Regional visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-regional-887#Overview>> accessed 4 March 2021.

<sup>14</sup> Department of Home Affairs website, *Permanent Residence (Skilled Regional) visa (subclass 191)* <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-regional-191>> accessed 4 March 2021.

<sup>15</sup> Department of Home Affairs website, *Skilled Independent Visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-independent-189>> accessed 4 March 2021.

- 1.18 New Zealanders who hold a New Zealand Special Category visa (subclass 444) that have been living in Australia for at least five years and arrived before February 2016 are able to transition to subclass 189.
- 1.19 According to Home Affairs, the points test assesses the eligibility of a skilled worker based on the following criteria:
- Age;
  - English language skills;
  - Skilled employment experience;
  - Educational qualifications;
  - Specialist education qualification;
  - Study in an Australian educational institution;
  - Completion of a professional year in Australia;
  - Holding [a] recognised qualification in a credentialed language community;
  - Spending time studying in regional Australia; and
  - The skill qualifications, age and English language abilities of the applicant's partner.<sup>16</sup>

## State and Territory nominations for skilled migrants

- 1.20 There are three visa types which allow state and territory nominations for skilled migrants:
- Skilled Work Regional (Provisional) visa (subclass 491);
  - Business Innovation and Investment Program (BIIP); and
  - Skilled Nominated visa (subclass 190).
- 1.21 The allocation and distribution of the three visas across each of the states can be found in Table 1.1:

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<sup>16</sup> Department of Home Affairs website, *Skilled Independent Visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-independent-189>> accessed 4 March 2021.

Table 1.1 Number of Visas Allocated Under Each Visa for 2020-21

State	Skilled Nominated Visa (subclass 190)	Skilled Work Regional Visa (subclass 491)	Business Innovation and Investment Program
ACT	802	598	30
NSW	3,550	2,800	2,200
VIC	2,500	1,043	1,750
QLD	1,000	1,250	1,200
NT	500	500	75
WA	1,100	340	360
SA	1,500	1,850	1,000
TAS	1,000	1,400	45
Total	11,952	9,781	6,660

Source: Migration Program Planning Levels, Department of Home Affairs website, <<https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>> accessed 4 March 2021.

- 1.22 The Skilled Nominated visa (subclass 190) is categorised as a permanent visa which permits successful applicants to live, work and study in Australia on a permanent basis.<sup>17</sup> Applicants are required to submit an expression of interest to apply for the program following the receipt and confirmation of nomination from a state or territory government.<sup>18</sup>

<sup>17</sup> Department of Home Affairs website, *Skilled Nominated Visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-nominated-190#Overview>> accessed 4 March 2021.

<sup>18</sup> Department of Home Affairs website, *Skilled Nominated Visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-nominated-190#Overview>> accessed 4 March 2021.

- 1.23 Similar to the Skilled Independent visa (subclass 189), applicants must satisfy the skilled points tests, meet the necessary English language proficiency standards and fulfil skills, health and character checks.<sup>19</sup>
- 1.24 The Skilled Work Regional (Provisional) visa (subclass 491) permits state or territory-sponsored overseas workers to reside and work in a designated regional location for a period of five years.<sup>20</sup> Subclass 491 also allows workers to submit an application for permanent residency after holding this visa and living and working in a designated regional location for at least three years.<sup>21</sup>
- 1.25 The Business Innovation and Investment (Provisional) visa (subclass 188) enables successful applicants to conduct and engage in business and investment-related activity in Australia.<sup>22</sup> Applicants are required to submit an expression of interest to apply for the program following the receipt and confirmation of a nomination from a state or territory government.<sup>23</sup>
- 1.26 There are five streams within the Business Innovation and Investment (Provisional) program:
- Business innovation stream, for applicants with a net total of \$800,000 in personal and business assets, who intend to operate a new or existing business in Australia and are nominated by a state or territory;
  - Investor stream, for applicants who intend to invest \$1.5 million and are nominated by a state or territory;
  - Significant investor stream, for applicants investing \$5 million for at least four year[s], who are nominated by a state, territory or Austrade;

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<sup>19</sup> Department of Home Affairs website, *Skilled Nominated Visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-nominated-190#Overview>> accessed 4 March 2021.

<sup>20</sup> Department of Home Affairs website, *Skilled Work Regional (Provisional) visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-work-regional-provisional-491/application#Overview>> accessed 4 March 2021.

<sup>21</sup> Department of Home Affairs website, *Skilled Work Regional (Provisional) visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-work-regional-provisional-491/application#Overview>> accessed 4 March 2021.

<sup>22</sup> Department of Home Affairs website, *Business Innovation and Investment (Provisional) visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/business-innovation-and-investment-188>> accessed 4 March 2021.

<sup>23</sup> Department of Home Affairs website, *Business Innovation and Investment (Provisional) visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/business-innovation-and-investment-188>> accessed 4 March 2021.

- Premium investor stream, for applicants investing at least \$15 million for the life of the visa, who are nominated by Austrade; and
- Entrepreneur stream, for applicants who have a funding agreement for at least \$200,000 with a third party to carry out entrepreneurial activity in Australia.<sup>24</sup>

1.27 Furthermore, the Business Innovation and Investment (Permanent) Visa (subclass 888) is made available for workers already under the provisional (subclass 188) stream who satisfy a series of investment, business and entrepreneurial requirements.<sup>25</sup>

1.28 The third and final visa category under the Business Innovation and Investment Program is labelled the Business Talent (Permanent) visa (subclass 132) which includes:

- Significant Business History stream, for applicants with:
  - A net value of at least \$1.5 million;
  - An annual business turnover of at least \$3 million;
  - Total net assets of at least \$400,000 as the ownership of one or more qualifying businesses;
  - And have been nominated by a state or territory government; and
- Venture Capital Entrepreneur stream, for applicants who have funding of at least \$1 million from an Australian venture capital firm, and who have been nominated by a state or territory government.<sup>26</sup>

1.29 The Premium Investor, Significant Business History and Venture Capital Entrepreneur visas will be closed to new applications from 1 July 2021.<sup>27</sup>

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<sup>24</sup> Department of Home Affairs website, *Business Innovation and Investment (Provisional) visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/business-innovation-and-investment-188>> accessed 4 March 2021.

<sup>25</sup> Department of Home Affairs website, *Business Innovation and Investment (Permanent) visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/business-innovation-and-investment-888>> accessed 4 March 2021.

<sup>26</sup> Department of Home Affairs website, *Business Talent (Permanent) visa*, <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/business-talent-permanent-132>> accessed 4 March 2021.

<sup>27</sup> Hon Alan Tudge MP, Former Acting Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, *Getting a better deal for Australia from business and investment visas*, Media Release, 17 December 2020, <<https://minister.homeaffairs.gov.au/alantudge/Pages/Getting-a-better-deal-for-Australia-from-business-and-investment-visas.aspx>> accessed 12 March 2021

## Global Talent Program

- 1.30 The Global Talent Program is designed to target individuals with specialised and exceptional skills within growth industries.
- 1.31 Within the Global Talent Program, there is a Distinguished Talent visa category (subclass 858) which seeks to attract individuals with an international calibre and a globally recognised record of exceptional and outstanding achievement in a specific profession – such as in the arts, sports, academia and research areas.<sup>28</sup>
- 1.32 The Distinguished Talent visa targets an additional seven critical sectors:
- Agricultural technology;
  - Space and advanced manufacturing;
  - Finance technology;
  - Energy and mining technology;
  - Cyber security;
  - Quantum information; and
  - Advanced digital, data science and Information Communication Technology.<sup>29</sup>
- 1.33 Applicants for the Distinguished Talent visa (subclass 858) are required to submit proof of evidence that they are internationally recognised and have outstanding achievement in their fields.<sup>30</sup> Applicants are required to be nominated by an individual or organisation in Australia within their fields of expertise.
- 1.34 Individuals who wish to apply for the Global Talent Visa Program are required to:
- prove they are internationally recognised with evidence of outstanding achievements
  - still be prominent in their field of expertise

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<sup>28</sup> Department of Home Affairs website, *Visas for Innovation*, <<https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program>> accessed 4 March 2021.

<sup>29</sup> Department of Home Affairs website, *Visas for Innovation*, <<https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program>> accessed 4 March 2021.

<sup>30</sup> Department of Home Affairs website, *Visas for Innovation*, <<https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program>> accessed 4 March 2021.

- provide evidence that they would be an asset to Australia, in their area of expertise
- have no difficulty obtaining employment in Australia or becoming established in their field
- have a recognised organisation or individual in Australia nominate them as global talent, in the same field as the applicant.<sup>31</sup>

1.35 There is also the requirement to meet a high standard and demonstrate ‘an exceptional track record of professional achievement’.<sup>32</sup> Places are also available to PhD graduates, and certain PhD students.<sup>33</sup>

1.36 Candidates should also have the ability to attract a salary at or above the Fair Work high income threshold of \$153,600.

1.37 Successful Global Talent visa applicants receive permanent residency.<sup>34</sup>

1.38 Since the inception of the Global Talent Program in 2019, 4,309 visas were granted out of a total of 5,200 places in the first year.<sup>35</sup>

## **Skills shortages attributed to border closures**

1.39 The COVID-19 pandemic caused border restrictions to be implemented as a control and containment measure to halt the virus’ spread. These measures impacted the ability of Australia’s skilled migration program to operate at its full potential.

1.40 Over the past 12 months, the unprecedented impact of international and state and territory border closures in Australia has created major concerns as

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<sup>31</sup> Department of Home Affairs website, *Visas for Innovation*, <<https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program>> accessed 11 March 2021.

<sup>32</sup> Department of Home Affairs website, *Visas for Innovation*, <<https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program>> accessed 11 March 2021.

<sup>33</sup> Department of Home Affairs website, *Visas for Innovation*, <<https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program>> accessed 11 March 2021.

<sup>34</sup> Department of Home Affairs website, *Global Talent Visa Program*, <<https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program>> accessed 11 March 2021.

<sup>35</sup> Department of Home Affairs website, *Visas for Innovation*, <<https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program>> accessed 4 March 2021.



existing skills shortages across many industries were exacerbated and new shortages emerged.

- 1.41 According to Home Affairs, COVID-19's impact on the delivery of the 2019-20 Migration Program, including the aftermath of travel bans, limited the arrival of both temporary and permanent migrants to Australia.<sup>36</sup> Visa processing was affected by the limited capacity with which clients or applicants were able to participate in necessary health checks and English language proficiency assessments.<sup>37</sup>
- 1.42 Consistent with Home Affairs findings, the Australian Bureau of Statistics (ABS), in their latest release titled 'Overseas Arrivals and Departures, Australia' demonstrated that short-term arrivals in Australia were down 80.7 per cent on the previous year, with 7.6 million fewer arrivals.<sup>38</sup>
- 1.43 Australia has had a series of migration projections which have been significantly altered as a result of the COVID-19 pandemic.
- 1.44 The Productivity Commission in 2016 projected that Gross Domestic Product (GDP) per person in accordance with the 'business as usual' migration scenario to be 7 per cent higher in the year 2060 in comparison to the zero Net Overseas Migration Model (NOM) scenario.<sup>39</sup> The 7 per cent growth associated with the 'business as usual' migration model is no longer viable due to the effects of the pandemic. Dr George Tan, Professor Andrew Taylor and Professor Ly Tran expand on these models further:

Although Australia's NOM in the last decade often sat above 200,000 people per annum, the impact of COVID-19 was clear in 2019-20 as it decreased to around 184,000; the lowest in the last five years. In 2020-21 NOM figures are expected to be -71,600 with forward estimates projecting another year of negative NOM (-21,600) in 2021-22 before increasing to just over 200,000 in 2023/24.<sup>40</sup>

- 1.45 Further on skilled migration, Dr George Tan, Professor Andrew Taylor and Professor Ly Tran's submission provided the following statistics:

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<sup>36</sup> Department of Home Affairs, *Submission 16.1*, p. 5.

<sup>37</sup> Department of Home Affairs, *Submission 16.1*, p. 5.

<sup>38</sup> The Australian Bureau of Statistics website, *Overseas Arrivals and Departures, Australia*, <<https://www.abs.gov.au/statistics/industry/tourism-and-transport/overseas-arrivals-and-departures-australia/latest-release#data-download>> accessed 4 March 2021.

<sup>39</sup> Dr George Tan, Professor Andrew Taylor and Professor Ly Tran, *Submission 68*, p. 1.

<sup>40</sup> Dr George Tan, Professor Andrew Taylor and Professor Ly Tran, *Submission 68*, pp. 1-2.

The impact of the pandemic can be seen through decreases sustained across various permanent skilled migration categories in the 2019-20 program outcome which delivered 140,366 places, a 12.4 per cent decrease of 29,082 places allocated to permanent skilled migration in the 2020-21 migration program level. The decrease in temporary migration is greater with a 26.5 per cent decrease (-2.34 million) in the number of temporary visa grants in the same period with visas (tourist and visitor visa grants) making up the majority of this loss.<sup>41</sup>

1.46 The Chamber of Commerce and Industry Western Australia (CCIWA) highlighted the following results from their December 2020 Business Confidence Survey:

- 1 out of 3 (35 per cent) businesses identified skilled labour shortages as the largest barrier to growth over the coming year, including 52 per cent [of] businesses in the resources sector; and
- 2 out of 3 (67 per cent) construction and retail businesses rely to a 'high' extent on the success of WA's mining industry.<sup>42</sup>

1.47 The Australian Chamber of Commerce and Industry (ACCI) expanded on CCIWA's data by indicating the following results:

- Industries heavily impacted by the crisis, including hospitality, have reported severe chef shortages across the country but particularly in regions, a position reinforced by the mining industry which is unable to attract chefs to mining sites even with lucrative packages; and
- Job vacancies reached 254,000 nationally in November 2020, higher than they have been at any point in the last 10 years.<sup>43</sup>

1.48 According to Business NSW half of businesses in NSW are currently experiencing a skills shortage.<sup>44</sup> Their data shows that the largest shortages were identified in the following industries:

- Agriculture, Forestry and Fishing (71.4 per cent);
- Construction (67.9 per cent);
- Manufacturing (60.6 per cent); and
- Accommodation and Food Services (57.4 per cent).<sup>45</sup>

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<sup>41</sup> Dr George Tan, Professor Andrew Taylor and Professor Ly Tran, *Submission 68*, p. 2.

<sup>42</sup> Chamber of Commerce and Industry Western Australia, *CCIWA Business Confidence Survey: December Quarter 2020*, p. 1.

<sup>43</sup> Australia Chamber of Commerce and Industry, *Submission 64*, p. 2.

<sup>44</sup> Business New South Wales, *Submission 52*, p. 2.

- 1.49 Business NSW reported the difficulty in filling positions in the following occupations:
- Electricians;
  - Carpenters;
  - Automotive mechanics; and
  - Fitters and turners.<sup>46</sup>
- 1.50 Business NSW stated that in the Accommodation and Food Services Industry, businesses have reported severe shortages for front and back-of-house staff.<sup>47</sup>
- 1.51 Some 60 per cent of businesses in NSW reported that filling experienced positions was harder than filling entry-level ones.<sup>48</sup> Business NSW provided the following reasons:
- 51 per cent reported that shortages were due to applicants not having the right skills, capabilities, qualifications or experience
  - 33 per cent attributed their skills shortages to the JobSeeker rate being too high
  - 29 per cent reported that applicant's wage demands were too high.<sup>49</sup>
- 1.52 ACCI proposed that pre-existing skills shortages will continue to increase in specific industries as a result of border closures and having fewer skilled migrants, particularly within the construction, hospitality and advanced manufacturing sectors.<sup>50</sup>

## Temporary visa concessions

- 1.53 To combat the skills shortages attributed to border closures, Home Affairs introduced temporary visa concessions in April 2020 to support visa holders, temporary, provisional and former holders, impacted by the onset of the pandemic.

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<sup>45</sup> Business New South Wales, *Submission 52*, p. 3.

<sup>46</sup> Business New South Wales, *Submission 52*, p. 3.

<sup>47</sup> Business New South Wales, *Submission 52*, p. 4.

<sup>48</sup> Business New South Wales, *Submission 52*, p. 4.

<sup>49</sup> Business New South Wales, *Submission 52*, p. 4.

<sup>50</sup> Australian Chamber of Commerce and Industry, *Submission 64*, p. 2.

- 1.54 These concessions also include current skilled-related visa holders who are seeking permanent residency and have been subsequently disadvantaged by the consequences of COVID-19. Home Affairs summarises the temporary visa concessions for skilled visas from the period commencing April 2020 until February 2021 in the following table:

Table 1.2 Summary of COVID-19 Temporary Visa Concessions for Skilled Visas

Implemented in	Measures
April 2020	<ul style="list-style-type: none"> <li>▪ Temporary Skill Shortage (TSS, subclass 482) and Temporary Work (Skilled) (subclass 457) visa holders who have been stood down, but not laid off, are able to maintain their visa validity.</li> <li>▪ Businesses are able to reduce the hours of TSS and 457 visa holders without the person being in breach of their visa condition.</li> </ul>
September 2020	<ul style="list-style-type: none"> <li>▪ A Priority Migration Skilled Occupation List (PMSOL) was introduced with 17 occupations, based on advice from National Skills Commission (NSC) and other Commonwealth departments. It prioritises migration for people with critical skills through employer sponsored visa programs.</li> <li>▪ Concessions made available for eligible Skilled Regional (subclass 887) visa applicants, including: <ul style="list-style-type: none"> <li>– Eligible visa applicants who lodge a visa application outside Australia are taken to have lived in a specific regional area for six months and worked full-time in a specified regional area for three months.</li> <li>– Eligible visa applicants in Australia are taken to have worked full-time in a specified regional area for three months.</li> </ul> </li> <li>▪ Concessions made available for eligible Business Innovation and Investment (Provisional) visa (BIIP, subclass 188) holders, including:</li> </ul>

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	<ul style="list-style-type: none"> <li>– Visa holders negatively impacted by travel restrictions are able to apply for a permanent BIIP visa (subclass 188), with time spent offshore as a result of COVID-19 counted towards their residence requirements.</li> <li>– Business Innovation stream visa holders are able to access a second extension stream.</li> <li>– Applications for a permanent BIIP visa are allowed to be made by former provisional BIIP visa holders whose visa ceased when travel was restricted due to the COVID-19 pandemic.</li> <li>– Under specific circumstances some Investor stream visa holders are allowed to access their investment without forfeiting their pathway to permanent residence.</li> </ul>
October 2020	<ul style="list-style-type: none"> <li>▪ Strengthened labour market testing for employer sponsored visa applications was introduced, by requiring businesses to advertise vacancies on jobactive before engaging overseas workers.</li> </ul>
November 2020	<ul style="list-style-type: none"> <li>▪ Eligible 887 visa applicants who are offshore can be granted a visa.</li> <li>▪ Concession made available for TSS and 457 visa holders who apply for the Temporary Residence Transition (TRT) stream of the Employer Nomination Scheme (subclass 186) and the Regional Sponsored Migration Scheme (subclass 187) visa pathways, including:             <ul style="list-style-type: none"> <li>– Exempting loss of earnings due to COVID-19 from the high income threshold for age exemptions for applicants over the age of 45.</li> <li>– Allowing periods where a worker has been temporarily stood down, been on unpaid leave or had their hours reduced to count towards the relevant employment history requirements.</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>– Taking a practical approach to time of application [of] English language requirements where testing centres are closed due to COVID-19.</li> <li>– The occupation of Social Worker was added to PMSOL based on advice from the NSC.</li> </ul>
February 2021	<ul style="list-style-type: none"> <li>▪ TSS and 457 visa holders who have not made their initial entry to Australia or have returned home due to COVID-19 are eligible for a Visa Application Charge (VAC) waiver should they lodge a new visa application.</li> </ul>

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*Source: Department of Home Affairs, Submission 16.1 (Attachment 4.1), pp. 15-16.*

- 1.55 These temporary visa concessions provide various ways through which Home Affairs sought to alleviate the effects of border restrictions on skills shortages. Critical to this was the introduction of the Priority Migration Skilled Occupation List which identified specific occupations that were considered to be critical to Australia's pandemic economic recovery. More information on the PMSOL can be found in Chapter 3.

## 2. Issues to consider

- 2.1 The focus of the interim report of the inquiry into Australia's skilled migration program is:
- the purpose of the skilled migration program, whether it is meeting its intended objectives and whether any immediate adjustments are necessary in the context of the future of work and the pandemic recovery.
  - Australia's competitiveness in attracting entrepreneurs, venture capital, startups and the best and brightest migrants with cutting edge skills.
- 2.2 The Committee received evidence highlighting issues which have had an impact on the ability of the skilled migration program to achieve its objectives. Many of the issues were having an impact on Australia's skilled migration program prior to the pandemic. The pandemic has exacerbated those issues. Evidence was also received about the desirability of Australia as a destination for skilled migrants.
- 2.3 This chapter outlines some of the broad issues raised in evidence and concludes with the Committee's comment and recommendations.

### Employing Australians

- 2.4 The evidence provided to the Committee overwhelmingly suggested that Australian employers prefer to employ an Australian over a skilled migrant wherever possible. Mr Cecil Bass, a migration agent, stated:

Australian businesses have always looked to employ Australians first, in a general sense.<sup>1</sup>

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<sup>1</sup> Mr Cecil Bass, *Committee Hansard*, 2 March 2020, p. 4.

- 2.5 The Council of Small Business Organisations of Australia (COSBOA) noted that 'Every one of our hairdressing salons would prefer to employ an Australian first because, quite frankly, it's cheaper.'<sup>2</sup> COSBOA also stated:

The demand we have is for skills. I need to point out that the whole aim of having someone come into the country is to be able to transfer skills, not to take jobs; that is not the intention of someone putting on someone from overseas.<sup>3</sup>

- 2.6 ICT International had significant difficulties hiring a forestry scientist in Australia and although their preference was to hire locally they explained:

...we got no applicants and we ran the advertisement twice in Australia for a period of one month each time. We had no applicants, so then we were forced to go internationally with our advertising.<sup>4</sup>

- 2.7 ICT International explained that bringing this one skilled migrant to Australia would create additional jobs in Australia:

This skilled person will lead to at least two or three local people being able to be employed because of the sales he would generate from Brazil.<sup>5</sup>

- 2.8 The Restaurant and Catering Association of Australia (RCA) explained to the Committee that every chef and front-of-house manager brought in from overseas creates on average 20 jobs:

Let's say you have 5,000 skilled foreign chefs and front-of-house managers who are willing to run a business in Australia. You're looking at 100,000 Australian employees.<sup>6</sup>

- 2.9 Mr Paul Gianniotis described the impact of current vacancies on the metal fabrication business, ProWay in Wagga Wagga:

As of today, we're looking to put on five metal fabricators, and we just can't get the position filled at the moment. We have about 20 metal fabricators, so

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<sup>2</sup> Ms Sandy Chong, Council of Small Businesses of Australia, *Committee Hansard*, 3 March 2021, p. 2.

<sup>3</sup> Ms Sandy Chong, Council of Small Businesses of Australia, *Committee Hansard*, 3 March 2021, p. 3.

<sup>4</sup> Dr Peter Cull, ICT International Pty Ltd, *Committee Hansard*, 3 March 2021, p. 8.

<sup>5</sup> Dr Peter Cull, ICT International Pty Ltd, *Committee Hansard*, 3 March 2021, p. 8.

<sup>6</sup> Mr Wes Lambert, Restaurant and Catering Association of Australia, *Committee Hansard*, 3 March 2021, p. 15.



we're in the order of 20 per cent short of what we need to do what we want to do here.<sup>7</sup>

- 2.10 Mr Gianniotis explained how many Australian jobs could be created as a result of employing these five fabricators:

For every fabricator, we are currently employing 1.1 x labourers and 0.65 x supervisors. So off 5 x skilled fabricators, possibly another 8.75 Australian jobs could be employed off the back of.<sup>8</sup>

- 2.11 The latest Labour Force statistics from the Australian Bureau of Statistics show that the current unemployment rate is 6.4 per cent, which is 1.1 percentage points higher than a year ago.<sup>9</sup>

- 2.12 The Australian Chamber of Commerce and Industry (ACCI) noted that although there is higher unemployment than before COVID, there is a difference in the demographics of the unemployed and the demographics of the skilled migration program.<sup>10</sup>

At the moment, even though we have more people unemployed — although that's going down each month since the recovery has commenced — even though we have higher unemployment than pre COVID, the demographics of the unemployed are almost entirely different from the demographics of the skilled migration program. You actually have to make sure you can access the skills to ensure that you're growing the jobs for the people who are in the unemployed situation. They're just in no way equivalent.<sup>11</sup>

- 2.13 The Australian Industry Group reflected on the reporting of skills shortages in the current environment:

Basically, it comes down to quite a deep mismatch between the labour that's in demand and the pool of people that are currently out of work in Australia.<sup>12</sup>

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<sup>7</sup> Mr Paul Gianniotis, ProWay, *Committee Hansard*, 1 March 2021, p. 16.

<sup>8</sup> Mr Paul Gianniotis, *Answers to Questions on Notice*, p. 1.

<sup>9</sup> Australian Bureau of Statistics, *Labour Force, Australia*, <<https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia/jan-2021>> accessed 3 March 2021.

<sup>10</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, p. 5.

<sup>11</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, p. 5.

<sup>12</sup> Ms Julie Toth, Australian Industry Group, *Committee Hansard*, 1 March 2021, p. 22.

2.14 The Committee heard that employers are finding it difficult to fill positions, particularly in regional areas and are struggling to get a single application for positions where 10 years ago there would have been a number of applications.

2.15 Mr Gianniotis described the local situation in Wagga Wagga:

What is happening now is we're a situation where we're climbing over the top of each other. If a new fabricator comes into town, they get five job offers within 24 hours. We climb over the top of each other. People are snavelling each other's resources, offering higher money and all sorts of things. We're finding that there's a higher turnover of tradies in recent times because of the shortage.<sup>13</sup>

2.16 Mr Gianniotis also noted the difficulty of attracting Australians to move to regional areas:

With regard to the locals, it's very difficult to get somebody who was born and bred in the city to even consider coming across the mountain range—or into the country.<sup>14</sup>

2.17 Mr Anthony Melville from the Australian Industry Group noted that an engineering firm from Bendigo was finding it difficult to find a graduate engineer locally, and were placed in the position of having to consider offshoring their engineering work to Asia.<sup>15</sup>

2.18 The labour challenges are being further exacerbated by state border closures. The impact of state border closures and movement of people between states was described as having an impact on the ability of employers to fill vacancies.<sup>16</sup>

The difficulties of fly in, fly out, the uncertainty over borders and the concerns about disconnection from family have exacerbated the fact that the Australian workforce is currently demonstrating all the evidence of being less mobile in the COVID crisis than previously.<sup>17</sup>

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<sup>13</sup> Mr Paul Gianniotis, ProWay, *Committee Hansard*, 1 March 2021, p. 18.

<sup>14</sup> Mr Paul Gianniotis, ProWay, *Committee Hansard*, 1 March 2021, p. 19.

<sup>15</sup> Mr Anthony Melville, Australian Industry Group, *Committee Hansard*, 1 March 2021, p. 22.

<sup>16</sup> Ms Julie Toth, Australian Industry Group, *Committee Hansard*, 1 March 2021, p. 20.

<sup>17</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, p. 1.

## Labour market testing

- 2.19 Unlike other skilled visa categories, such as state nominated and the skilled independent visas, employer nominated visas are subject to labour market testing. This is despite the fact that the Committee has heard evidence that skilled migrants on employer sponsored visas and skilled independent visa holders have better outcomes than state and territory sponsored skilled migrants. In November 2018, 94 per cent of employer sponsored migrants were in employment whereas 85 per cent of state/territory nominated skilled migrants were in employment.<sup>18</sup>
- 2.20 Employers seeking to nominate an overseas worker for particular visa types are required to undertake labour market testing (LMT) to demonstrate that they are unable to find a suitable Australian worker.<sup>19</sup>
- 2.21 The format of LMT varies depending on the stream the applicant is being nominated under but in most cases involves advertising the position in Australia, in English, within a certain period in certain places and including specific information.<sup>20</sup> There are also exemptions from LMT for international trade obligations.<sup>21</sup>
- 2.22 LMT was introduced as a response to an ongoing concern that overseas workers were displacing Australian workers.
- 2.23 New requirements were introduced commencing on 1 October 2020 which requires the nominated position to also be advertised on the government's jobactive website and evidence of the three advertisements is required to be provided when the nomination is lodged.<sup>22</sup>

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<sup>18</sup> Department of Home Affairs, *Continuous Survey of Australia's Migrants: Introductory Survey 2018*, Commonwealth of Australia, 2020, p. 13.

<sup>19</sup> Department of Home Affairs, *Nominating a Position: Labour Market Testing*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing>> accessed 23 February 2021.

<sup>20</sup> Department of Home Affairs, *Nominating a Position: Labour Market Testing*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing>> accessed 23 February 2021.

<sup>21</sup> Department of Home Affairs, *Nominating a Position: Labour Market Testing*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing>> accessed 23 February 2021.

<sup>22</sup> Department of Home Affairs, *Nominating a Position: Labour Market Testing*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing>> accessed 23 February 2021.

## Labour market testing process

- 2.24 The advice from the Department of Home Affairs for potential employers seeking to nominate an overseas worker is to check as to whether the organisation is exempt such as if international trade obligations apply or whether alternative arrangements apply. If neither of these is appropriate then the format of the LMT will depend on the stream under which the employer is nominating.<sup>23</sup>
- 2.25 The table below provides the LMT requirements for the Temporary Skill Shortage (TSS) visa (subclass 482), the Short-term stream and Medium-term stream and the Skilled Employer Sponsored Regional (Provisional) visa (subclass 494) Employer Sponsored stream.

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<sup>23</sup> Department of Home Affairs, *Nominating a Position: Labour Market Testing*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing>> accessed 23 February 2021.

**Table 2.1 LMT requirements**

Duration of LMT	Advertisements should have run for at least 4 weeks  Applications must have been accepted for at least 4 weeks
Period of LMT	Four months immediately before lodging a nomination application  Four months since redundancies
Advertising method	At least two advertisements required plus compulsory advertisement on jobactive website  Recruitment website with national reach  Business website if accredited sponsor  Print/radio with national reach
Content of advertisement	Position title/description  Skills or experience requirements  Sponsor name or recruitment agency used by sponsor  In Australian, in English  Salary/salary range (if salary less than \$96 400)
Evidence required	Copies of three advertisements including jobactive
Exemption	Exemption where international trade obligations apply

Source: Source: <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing>

**Table 2.2 Labour Market Testing Requirements for various other visa types**

Visa type	Requirements
TSS visa (subclass 482) Skilled Employer Sponsored Regional (Provisional) visa (subclass 494) Labour Agreement stream	Sponsors must provide LMT proof when requesting a labour agreement.  Where the labour agreement specifies, proof of LMT must be provided when an applicant is nominated  LMT is not required where a Minister of Religion Labour Agreement (MoRLA) is being sought.
Employer Nomination Scheme (ENS) (subclass 186) Regional Sponsored Migration Scheme (RSMS) (subclass 187) 'genuine need' requirements	Businesses seeking to nominate overseas workers for ENS and RSMS visa must demonstrate that there is a genuine need of the position including whether the business has sought to find an Australian worker for the position, such as through advertising the position on the Government's jobactive website or through other national advertisements.
Global Talent Employer Sponsored (GTES)	Sponsors must provide evidence of LMT when requesting a GTES agreement.  Proof must be provided for each specific occupation sought under the GTES agreement at the time of the online application.  Sponsors must provide evidence of two attempts for each specific occupation to recruit qualified and experienced Australians. These attempts must have been conducted in the last 12 months prior to lodging the nomination application.  The GTES has no prescribed requirements for the content or duration of advertisements. The Department of Home Affairs will assess whether any advertisement genuinely tests the Australian labour market.

Source: <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing>

- 2.26 ACCI characterised LMT as ‘a regulatory burden rather than really providing evidence of the need’ for recruiting overseas workers.<sup>24</sup>
- 2.27 According to ACCI, other aspects of sponsoring a skilled migrant offset the need for LMT:

You can be assured by the complexity and the problems that businesses have to go through in order to seek to get someone to fill a gap that’s outside of Australia – the cost, the effort, the complexity, the regulatory red tape, the time they have to spend. You can be assured, just by the fact that they’ve had to go down that path, that they have tried every other avenue to do that.<sup>25</sup>

- 2.28 ACCI also contended that LMT would not address integrity issues that may arise when an industry brings in tradespeople from overseas and there are accusations of exploitation around payment of workers and the potential that the local workforce is being undercut on price.<sup>26</sup>
- 2.29 The Migration Institute of Australia (MIA) agreed with ACCI that the general expense of overseas recruitment leads employers to prefer recruiting locally. It stated that ‘consideration needs to be given to scrapping labour market testing altogether’.<sup>27</sup>
- 2.30 MIA argued that the labour market testing process is ‘past its use-by date’, and that many aspects are a nuisance:

Very few employers like open market testing. The ones who really object to it are the ones who are trying to apply for second or subsequent visas for existing staff. They may have recruited them when they came out here on working holiday visas. They may already hold a 457 or 482 visa. The employers simply have to go through a 28-day labour market testing exercise again, listing on two websites and also the government’s jobactive.<sup>28</sup>

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<sup>24</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, page. 6.

<sup>25</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, page. 6.

<sup>26</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, page. 7.

<sup>27</sup> Mr John Hourigan, Migration Institute of Australia, *Committee Hansard*, 1 March 2021, p. 26.

<sup>28</sup> Mr John Hourigan, Migration Institute of Australia, *Committee Hansard*, 1 March 2021, p. 26.

2.31 According to MIA, advertising on jobactive 'is not fit for purpose for highly skilled people or people who are in well-paid jobs such as 'engineers, managers and the like'. Rather, it is more suited to 'the school leaver, the unemployed, the long-term unemployed and some trade occupations'.<sup>29</sup>

2.32 The MIA further note that LMT causes significant delays for businesses:

The process is much more costly to the employer than employing an equivalent Australian employee and the additional obligations attached to sponsored workers more stringent than for Australian employees. LMT delays the process of applying to sponsor skilled migrants by at least a month and longer if an employer misses one small detail in the advertisements and are required to repeat the process again. For employers who make such errors the cost of a refused nomination is high with the non-refundable loss of application fees but more detrimentally, SAF [Skilled Australia Fund] contributions.<sup>30</sup>

2.33 MIA stated that 'any streamlining of labour market testing would be good', as at present it is 'pretty onerous' and many employers do not understand it.<sup>31</sup> As an alternative to discarding it entirely, MIA suggested:

...if you're going to require labour market testing, require it for, say, a [ANZSCO] skill level 3, which is generally a trade occupation, but for occupations which are professional, technical, managerial, it should be scrubbed. Employers aren't going to employ skill level 1 and skill level 2 people ordinarily if there are better qualified people around.<sup>32</sup>

2.34 Other submitters also agreed with the need to simplify LMT, including the South Australian Department for Innovation and Skills.<sup>33</sup>

2.35 The Australian Nursing and Midwifery Federation (ANMF) provided a contrary view, suggesting that LMT needs to be strengthened:

... we do think that the labour market testing requirements need to be strengthened. In our experience it's the private sector of the aged-care sector who take the bulk of the temporary skilled migrants who come for nursing. They do get employed across the public sector as well, but that's where the bulk sit. We would sometimes take issue with some of those employers in

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<sup>29</sup> Mr John Hourigan, Migration Institute of Australia, *Committee Hansard*, 1 March 2021, p. 26.

<sup>30</sup> Migration Institute of Australia, *Submission 82*, p. 20.

<sup>31</sup> Mr John Hourigan, Migration Institute of Australia, *Committee Hansard*, 1 March 2021, p. 27.

<sup>32</sup> Mr John Hourigan, Migration Institute of Australia, *Committee Hansard*, 1 March 2021, p. 26.

<sup>33</sup> South Australian Department for Innovation and Skills, *Submission 74*, p. 3.



terms of what they regard as labour market testing and whether or not that's adequate.<sup>34</sup>

- 2.36 The ANMF suggested changes to the requirements for LMT including employer obligations and 'the need to advertise vacancies both locally and more broadly at market rates.'<sup>35</sup>
- 2.37 The Construction, Forestry, Mining, Maritime and Energy Union (CFMMEU) described the increase in exemptions to LMT as a result of an increase in free trade agreements. <sup>36</sup> The CFMMEU recommended that there should be 'no exemptions from labour market testing'<sup>37</sup> and that current LMT arrangements should be improved to focus on local workers. <sup>38</sup>
- 2.38 The Australian Automotive Dealer Association suggests a longer time than four months between the job advertisement and any employer nomination. They contend that there is insufficient time for employers to undertake the required steps and that '...a longer period of at least 6 months is more realistic.'<sup>39</sup>

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<sup>34</sup> Ms Annie Butler, Australian Nursing and Midwifery Federation, *Committee Hansard*, 3 March 2021, p. 43.

<sup>35</sup> Ms Annie Butler, Australian Nursing and Midwifery Federation, *Committee Hansard*, 3 March 2021, p. 43.

<sup>36</sup> Construction, Forestry, Mining, Maritime and Energy Union (Construction and General Division), *Submission 54*, p. 19.

<sup>37</sup> Construction, Forestry, Mining, Maritime and Energy Union (Construction and General Division), *Submission 54*, p. 20.

<sup>38</sup> Construction, Forestry, Mining, Maritime and Energy Union (Construction and General Division), *Submission 54*, p. 20.

<sup>39</sup> Australian Automotive Dealer Association, *Submission 76*, p. 6.

## Skilling Australia Fund

- 2.39 The Skilling Australia Fund (SAF) was established as part of the 2017-18 Budget with a purpose of ensuring that businesses receiving a benefit from employing migrants were also skilling Australians.<sup>40</sup>
- 2.40 Employers that sponsor migrants under the new temporary skill shortage visa and certain permanent skills visas are required to pay a levy to generate revenue for the SAF.<sup>41</sup> The Skilling Australia Fund National Partnership Agreement notes that
- ...it will contribute to improved employment outcomes by supporting Australians to obtain the skills and training they need and increasing the uptake of apprenticeships and traineeships, pre-apprenticeships, pre-traineeships, higher apprenticeships, and other relevant employment related training.<sup>42</sup>
- 2.41 The cost of the levy depends on the visa type, the size of the sponsoring business and the proposed period of stay of the overseas worker in Australia. Sponsors who are party to a labour agreement are required to pay the levy.<sup>43</sup> Collection and management of the levy is the responsibility of the Department of Home Affairs.

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<sup>40</sup> Department of Education, Skills and Employment, *Skilling Australia Fund* <<https://www.dese.gov.au/skilling-australians-fund>> accessed 1 March 2021.

<sup>41</sup> Council on Federal Financial Relations, *National Partnerships – Skills and Workforce Development*, <<http://www.federalfinancialrelations.gov.au/content/npa/skills.aspx>> accessed 1 March 2021.

<sup>42</sup> Council on Federal Financial Relations, *National Partnerships – Skills and Workforce Development*, <<http://www.federalfinancialrelations.gov.au/content/npa/skills.aspx>> accessed 1 March 2021.

<sup>43</sup> Department of Home Affairs, *Cost of sponsoring*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/learn-about-sponsoring/cost-of-sponsoring>> accessed 1 March 2021.

**Table 2.3 Levy costs**

<b>Business size</b>	<b>TSS visa</b>	<b>ENS/RSMS visas</b>
Small (annual turnover less than \$10 million)	AUD1200 per year or part thereof	AUD3000 one-off
Other business (annual turnover of \$10 million or more)	AUD1800 per year or part thereof	AUD5000 one-off

Source: <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/learn-about-sponsoring/cost-of-sponsoring>

**2.42** Home Affairs provides four scenarios where it is possible to receive a refund of the levy:

- The sponsorship and visa applications are approved, but the overseas skilled worker (visa holder) does not arrive/commence employment with the employer.
- The employer's sponsorship and nomination application for the overseas skilled worker is approved, but the associated visa application is refused on health or character grounds.
- A TSS visa holder leaves the sponsoring employer within the first 12 months of employment where the visa period was for more than 12 months. Refunds will only be available in this scenario for unused full years of the SAF levy. Note: This does not apply to ENS or RSMS holders who leave their employer within the first 12 months of employment
- The nomination fee is refunded (for example where a concurrent sponsor application is refused).<sup>44</sup>

**2.43** The Committee heard criticism of the SAF for a range of reasons. These criticisms were centred on the cost of the levy, the point in the nomination process where the levy needed to be paid, the difficulty in obtaining a

<sup>44</sup> Department of Home Affairs, *Cost of sponsoring*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/learn-about-sponsoring/cost-of-sponsoring>> accessed 1 March 2021.

refund if a nomination was refused and a lack of clarity of what the Fund actually supports.

- 2.44 There was also a perception that the purpose of the SAF did not have a strong enough connection with the industries that are contributing to it.
- 2.45 Mr McKell from the Meat Industry Council commented that the SAF is not working to the benefit of the meat industry, let alone others as 'it's not targeted to the industry'.<sup>45</sup>
- 2.46 Mr McKell noted that processing plants were doubling up on training costs, paying for their own training costs as well as the SAF levy and:  
...they're not getting the support, as far as putting that money back into the industry is concerned to train workers.<sup>46</sup>
- 2.47 Mr McKell suggested that the money that businesses are expending [on the SAF] should come back to the industry.<sup>47</sup>
- 2.48 The Migration Institute of Australia MIA echoed this sentiment noting the disconnect between the purpose of the SAF, to train Australians to take up apprenticeships and trainees, and the fact that most employers who are lodging applications and paying the SAF levy are from professional technical occupations.  
They're professional, technical occupations ...IT firms, engineering firms et cetera. So they are paying money to which they themselves are not getting any betterment.<sup>48</sup>
- 2.49 Ms Markey from MIA outlined that the SAF levy was introduced to replace the training benchmarks and subsequently employers then lost the ability to claim the cost of training that they did in their own organisation such as for apprenticeships.<sup>49</sup> She described anecdotal evidence of this impact:  
We did have reports of large companies saying: 'Well, that's it; we're not employing any more apprentices. We're not doing any more training.'<sup>50</sup>

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<sup>45</sup> Mr Ken McKell, Australian Meat Industry Council, *Committee Hansard*, 1 March 2020, p. 8.

<sup>46</sup> Mr Ken McKell, Australian Meat Industry Council, *Committee Hansard*, 1 March 2020, p. 8.

<sup>47</sup> Mr Ken McKell, Australian Meat Industry Council, *Committee Hansard*, 1 March 2020, p. 8.

<sup>48</sup> Ms Bronwyn Markey, Migration Institute of Australia, *Committee Hansard*, 1 March 2020, p. 28.

<sup>49</sup> Ms Bronwyn Markey, Migration Institute of Australia, *Committee Hansard*, 1 March 2020, p. 27.

<sup>50</sup> Ms Bronwyn Markey, Migration Institute of Australia, *Committee Hansard*, 1 March 2020, p. 27.

2.50 Mr Bass proposed that the SAF should be scrapped or reduced. He explained:

I don't know what it does; I don't know where the money goes. I think it just goes into the general funds of the government. It's just an impost on people to employ people.<sup>51</sup>

2.51 MIA contended that the collection point for payment of the SAF levy is at the wrong point in the nomination process. They described the requirement of paying the SAF levy upfront before it is clear whether the nomination will be granted as problematic:

This requirement of collecting it upfront, where the employer has absolutely no idea whether or not they will have their nomination approved, is really very unfair, especially to small and regional businesses.<sup>52</sup>

2.52 Mr Hourigan explained that many employers had lost the SAF levy for a refusal of a sponsored nomination often for what appears to be a minor transgression relating to the attachment of documents.<sup>53</sup>

2.53 MIA described the situation where SAF levy is collected irrespective of the success of the employer's nomination of an overseas worker.<sup>54</sup> They explained the difficulty in obtaining a refund:

If the employer's nomination or the visa application is refused, a refund of the SAF levy is only available in very limited circumstances and may not be refunded for example, where the employer's nomination is withdrawn before decision, if the visa is refused or even in some circumstances where the visa holder dies. Employers find it unconscionable that the SAF levy is not refunded where the nomination/visa is refused and consider it akin to levying a tax on a service that has not been received.<sup>55</sup>

2.54 MIA noted that the SAF acted as a deterrent for regional migration, where the additional cost of the Fund levy deters employers who want to sponsor skilled migrants, and are unable to fill positions with locals.<sup>56</sup>

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<sup>51</sup> Mr Cecil Bass, Hitchcock and Associates, *Committee Hansard*, 2 March 2020, p. 4.

<sup>52</sup> Ms Bronwyn Markey, Migration Institute of Australia, *Committee Hansard*, 1 March 2020, p. 27.

<sup>53</sup> Mr John Hourigan, Migration Institute of Australia, *Committee Hansard*, 1 March 2021, p. 27.

<sup>54</sup> Migration Institute of Australia, *Submission 82*, p. 21.

<sup>55</sup> Migration Institute of Australia, *Submission 82*, p. 22.

<sup>56</sup> Ms Julie Wilson, Migration Institute of Australia, *Committee Hansard*, 1 March 2020, p. 30.

## Labour agreements

- 2.55 Labour agreements are a special arrangement between businesses, state or territory government, or industry and the Australian Government which enables the business to sponsor skilled overseas workers when there is a demonstrated need which cannot be filled by the Australian workforce and standard temporary or permanent visa programs are not available.<sup>57</sup>
- 2.56 Labour agreements are developed between the Australian Government, represented by the Department of Home Affairs, and employers. They are generally in effect for five years and provide for visas to be granted under one or more of the following visa programs:
- Temporary Skill Shortage (TSS) visa (subclass 482);
  - Employer Nomination Scheme visa (subclass 186); and
  - Skilled Employer Sponsored Regional (Provisional) visa (subclass 494).<sup>58</sup>
- 2.57 There are five types of labour agreements:
- Company Specific labour agreements;
  - Designated Area Migration Agreements (DAMA);
  - Industry labour agreements;
  - Project agreements; and
  - Global Talent Employer Sponsored (GTES) agreements.
- 2.58 The Northern Territory Department of Industry, Tourism and Trade (DITT) described the crucial role that the DAMA program plays in addressing skills shortages in regional areas. They describe their understanding of a DAMA as:
- ‘...a bespoke streamlined program, enabling employers to sponsor overseas workers in occupations that have been deemed to be in shortage in the particular region, alleviating skills shortages in a fast and efficient manner to ensure the ongoing operation of their business.’<sup>59</sup>

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<sup>57</sup> Department of Home Affairs, *Labour Agreements*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-agreements>> accessed 1 March 2021.

<sup>58</sup> Department of Home Affairs, *Labour Agreements*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-agreements>> accessed 1 March 2021.

<sup>59</sup> Department of Industry, Tourism and Trade, NT, *Submission 29*, p. 3.

2.59 DITT raised a concern with the adverse decisions being made by the Department of Home Affairs where the basis for the adverse decision is a lack of genuine labour market need for the positions being nominated. DITT contend that this adverse decision making does not align with the 'NT's specific labour needs, is causing business stress, contradicts the purpose of the DAMA and is impeding COVID-19 recovery.'<sup>60</sup>

2.60 DITT also outlined a perceived approach by the Department of Home Affairs to refuse labour agreements if the workforce has over 30 per cent of overseas workers.<sup>61</sup> They contend that:

While this threshold has been part of its procedural instructions for assessing standard requests for labour agreements, this has never been applied in respect to labour agreements sought under a DAMA head agreement. The stringency of its application fails to take into account that the occupations in the DAMA head agreement have been derived from extensive labour market analysis and have been enlisted on the basis of known shortages in the local workforce.<sup>62</sup>

2.61 DITT relayed concerns from NT employers regarding the 'prolonged assessment timeframe for processing DAMA applications'.<sup>63</sup> They noted that in one example:

...the processing of a visa application was delayed by over eight months, in which time the labour agreement held by the business expired, requiring the business to effectively start the application process again and thus pay the Skilling Australians Fund levy twice.<sup>64</sup>

2.62 Mr McKell reflected on the meat industry labour agreement provisions and the requirement that local labour needs to be found and the complications that the pre-employment medical testing presented.

From the studies and the research—particularly in the meat processing sector, let alone the other sectors—they've found that, unfortunately, a lot of those applicants do not pass the pre-employment medical to a certain degree because, firstly, of physical incapability, and, secondly, failure with respect to

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<sup>60</sup> NT Government, *Submission 29*, p. 4.

<sup>61</sup> NT Government, *Submission 29*, p. 4.

<sup>62</sup> NT Government, *Submission 29*, p. 4.

<sup>63</sup> NT Government, *Submission 29*, p. 5.

<sup>64</sup> NT Government, *Submission 29*, p. 5.

alcohol and drugs. That's not restricted to just the rural and regional areas; that's metropolitan areas as well.<sup>65</sup>

2.63 Mr McKell noted that there was a reliance on visa workers in the meat processing sector and with the international border restrictions the industry has been seeking flexibility in relation to the meat industry labour agreement for workers who are currently in Australia, visa workers who either are unable to get home or are still fulfilling their visa requirements.<sup>66</sup>

2.64 Mr Bass noted that businesses who are seeking aged-care workers 'struggle tremendously to attract skilled workers to work in their businesses.'<sup>67</sup> Mr Bass explained that there is no pathway to permanent residence for aged-care workers unless the employer enters into a labour agreement with the Department of Home Affairs which he described as

'...complex, expensive and unpredictable and takes six to nine months, even a year to negotiate. It's not business friendly.'

## **Committee comment**

2.65 As Australia begins the recovery process from the COVID-19 pandemic, this is a valuable time to consider how the current skilled migration settings are serving the needs of Australia now and in the future.

2.66 During the initial phase of this inquiry, the Committee has been looking at some of the key features of the skilled migration program and seeking contributions from those who have experience in navigating the sometimes complex pathway to skilled migration.

2.67 Despite the evidence that employer-sponsored migrants have better economic outcomes and are directly filling skills gaps, evidence suggests employers face much greater regulatory challenges to accessing skilled migrants to fill their immediate workforce shortages. More needs to be done to ensure that employers can more easily access the skilled migrants they need.

2.68 Australia lost over 500,000 people on temporary migration visas in the last 12 months. Many of those people were workers who were vital to Australian

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<sup>65</sup> Mr Ken McKell, Australian Meat Industry Council, *Committee Hansard*, 1 March 2020, pp. 1- 2.

<sup>66</sup> Mr Ken McKell, Australian Meat Industry Council, *Committee Hansard*, 1 March 2020, p. 2.

<sup>67</sup> Mr Cecil Bass, Hitchcock and Associates, *Committee Hansard*, 2 March 2021, p. 3.



businesses. Many of the jobs these migrants do create jobs for Australians as outlined in Chapter 1.

- 2.69 However the evidence that the Committee has received clearly shows that there are issues with aspects of the skilled migration program and that these issues have been and will continue to cause problems for employers seeking to sponsor skilled migrants to come to Australia.

## **Labour market testing**

- 2.70 The evidence presented to the Committee about LMT centred on the premise that although it was intended to ensure Australian workers were considered before nominating an overseas worker, it was not achieving this end. The Committee was told that LMT was a regulatory burden on employers,<sup>68</sup> serves no purpose,<sup>69</sup> and is just another layer of bureaucracy<sup>70</sup>.
- 2.71 In a post-COVID-19 environment, the Committee sees value in streamlining some of the current processes to make it easier for employers to get the skilled migrants they need who can also help create Australian jobs.
- 2.72 Rather than being prescriptive about what constitutes LMT, the Department of Home Affairs should ask for evidence of reasonable attempts of labour market testing with penalties for failure to adequately test.
- 2.73 LMT is particularly onerous for small businesses that have fewer resources. The preference for Australian businesses is to employ Australians and indeed labour market testing may be better directed at non-Australian businesses.
- 2.74 LMT should not be necessary where the Government has already identified skills shortages by putting them on the PMSOL or critical skills list. It also seems an unnecessary burden to require employers to advertise on the jobactive website for occupations that are unlikely to be filled by jobactive participants.
- 2.75 The Committee therefore recommends that LMT be streamlined to facilitate the timely employment of skilled migrants and to therefore assist economic recovery and job creation for Australians.

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<sup>68</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, page. 6.

<sup>69</sup> Mr Cecil Bass, Hitchcock and Associates, *Committee Hansard*, 2 March 2021, p. 3.

<sup>70</sup> Mr Cecil Bass, Hitchcock and Associates, *Committee Hansard*, 2 March 2021, p. 3.

## Recommendation 1

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**2.76 The Department of Home Affairs should streamline labour market testing to:**

- **be less prescriptive about what constitutes labour market testing**
- **only require Medium and Large businesses to conduct labour market testing;**
- **require labour market testing for businesses headquartered outside Australia or businesses owned by someone who is not an Australian citizen;**
- **remove the requirement for employers to advertise any occupations which are on the PMSOL or critical skills lists; and**
- **remove the requirement for employers to advertise for all occupations classified as Skill Level 1 and 2 on the jobactive website.**

## Skilling Australia Fund

**2.77** The Skilling Australia Fund was a key issue that came to the attention of the Committee. Many organisations and individuals reflected on the significant cost of the SAF levy to an organisation, as well as the point in the nomination process when it needs to be paid, and the lack of ability to have the cost refunded if there is an issue with the nomination application for a skilled migrant.

**2.78** The Committee is also concerned that there seems to be a lack of connection between the types of organisations which are paying the SAF levy and those organisations that benefit from the SAF.

**2.79** The Committee is concerned about anecdotal evidence that businesses have had to pay the SAF levy more than once for a single application. It would seem that the administration of the scheme needs careful attention to ensure that nomination process for businesses is clear and that, as described to the Committee, a 'minor transgression' does not result in increased costs and time taken to get a critically important skilled migrant into a role.

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## Recommendation 2

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**2.80 The Committee recommends that at least until the pandemic period is over, the Department of Education, Skills and Employment and the Department of Home Affairs remove the requirement for employers to pay the Skilling Australia Fund as part of the visa sponsorship process.**

**If the levy is retained:**

- Consideration should be given to aligning the payment of the levy to the commencement of employment of the skilled migrant or guarantee a refund to the sponsor if the application is unsuccessful.**
- If the employer can demonstrate they have spent the same amount or more than the levy in the previous 12 months on training their Australian employees in skills relevant to their work for the employer, they should not be required to pay the Skilling Australia Fund levy.**
- The Federal Government should establish greater transparency over the State Governments' use of funds from the Skilling Australia Fund to skill Australians.**



## 3. Streamlining processes

- 3.1 During the early stages of this inquiry, the Committee heard evidence about visas and related processes that could be streamlined to better support industries and businesses to recover from the COVID-19 pandemic.

### Regulatory burdens and uncertainty

- 3.2 The Committee received evidence on some aspects of the application process for visas. Mr Cecil Bass, a migration agent, characterised the skilled migration program as ‘a lottery’, noting that it is ‘very difficult to engage with’ multiple layers of bureaucracy.<sup>1</sup>

- 3.3 The Motor Trade Association of South Australia and the Northern Territory (MTA) discussed feedback from their members, which indicated that:

...while they are keen to engage skilled overseas workers, their experience with employer sponsored skilled migration visas is that the process is complex and fraught with red tape. Many of our members running small and medium sized businesses are time poor, have a lack of access to practical information and they may not have the financial resources to access advice or support from migration lawyers, who are often used by our members who have previously employed skilled migrants.<sup>2</sup>

- 3.4 Dr Peter Cull of ICT International made similar comments, stating that after submitting an application:

There is no transparency in the system whatsoever. I feel it’s like a lottery. One day perhaps we may get an envelope in the mail that will tell us we have been

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<sup>1</sup> Mr Cecil Bass, Hitchcock and Associates, *Committee Hansard*, 2 March 2021, p. 1.

<sup>2</sup> Motor Trades Association of South Australia and the Northern Territory, *Submission 40*, pp. 4-5.

successful and that the applicant can now come, or not – no different from buying a lottery ticket.<sup>3</sup>

- 3.5 Dr Cull discussed the difficulties he encountered sponsoring a skilled worker from Brazil, and how this imposes on his business:

How can you manage a business if you've got no transparency for skilled staff? This skilled person will lead to at least two or three local people being able to be employed because of the sales he would generate from Brazil... The problem in getting the person here is not money. The problem is the lack of transparency and the inability to have any knowledge of what is happening within the system, despite believing, with our local immigration person, that we have conformed with and done everything correctly.<sup>4</sup>

- 3.6 The South Australian Department for Innovation and Skills noted that:

Currently, the barriers, risks, costs and timeframe to sponsor skilled migrants outweighs the benefits for many regional employers, and this is evidenced by the drastic decline in employer-sponsored visa grants in recent, pre-COVID years. This needs to change urgently if the migration program is to enable businesses to access the skilled workers needed to facilitate economic growth.<sup>5</sup>

- 3.7 Even in cases where a labour agreement is in place, the Committee heard that administrative requirements were still hampering the capacity of businesses to fill skills gaps. For instance, the Restaurant and Catering Association (RCA) stated that:

The Restaurant (Fine Dining) Labour Agreement (RILA) is currently one of seven industry-specific labour agreements in place, alongside dairy, fishing, meat, minister of religion, on-hire and pork. RCA believes that the effectiveness of the RILA has been severely undermined by the heavy administrative and financial burden imposed on employers seeking to access the agreement.<sup>6</sup>

- 3.8 In RCA's view:

...the use and effectiveness of the RILA would be significantly enhanced, should the requirements of the agreements be simplified. The current burden placed on restaurants means that only a handful of businesses with sufficient

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<sup>3</sup> Dr Peter Cull, ICT International, *Committee Hansard*, 2 March 2021, p. 7.

<sup>4</sup> Dr Peter Cull, ICT International, *Committee Hansard*, 2 March 2021, p. 7.

<sup>5</sup> South Australian Department for Innovation and Skills, *Submission 76*, p. 2.

<sup>6</sup> Restaurant and Catering Association, *Submission 50*, p. 2.

time, resources and sophistication in their administrative systems are able to participate in this labour agreement.<sup>7</sup>

- 3.9 The complexity of the current administrative requirements is causing widespread confusion, according the Business Visas Pty Ltd. They stated that:

Everyone's confused currently, from large companies to small, from individuals to legal professionals, to case officers. The skilled migration visas are a Frankenstein of ill-conceived and poorly-implemented policies, with Labour Agreements, Designated Area Migration Agreements, Industry Agreements and Regional Agreements all overlaid on top of skilled independent, state-sponsored programmes.<sup>8</sup>

- 3.10 Business Visas suggested simplification of the entire process, beginning with the number of visa categories available.<sup>9</sup>

- 3.11 Business Visas gave evidence on opportunities Australia has missed out on due to changes in eligibility requirements and the impediments faced by businesses in planning for the future:

A large multi-national company with an Australian subsidiary had lodged a Nomination for an Asian HR professional with the task of spending twelve months here developing systems and procedures to incorporate Australia better into its "Asian Talent Hub", so that Australians could be more readily considered for, and appointed to significant management and leadership roles in the Asian region. This would in turn have benefited the Australian subsidiary immensely.<sup>10</sup>

- 3.12 Business Visas continued with this example:

The occupational category in which she was nominated was removed. Furthermore, part of her brief was to prepare an analysis for locating a new permanent Regional Training Centre in Sydney that would provide specialist training for professionals in the Japan, Asia-Pacific and South East Asian regions, and be purpose-built if necessary. As the occupation of Training Officer was removed from the approved list, she concluded at an early stage

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<sup>7</sup> Restaurant and Catering Industry Association, *Submission 50*, p. 2.

<sup>8</sup> Business Visas Pty Ltd, *Submission 38*, p. 8.

<sup>9</sup> Business Visas Pty Ltd, *Submission 38*, p. 8.

<sup>10</sup> Business Visas Pty Ltd, *Submission 38*, p. 5.

that Australian visa rules were not conducive to this proposal, and the regional training centre was eventually established in Singapore instead.<sup>11</sup>

- 3.13 Business Visas gave another example involving a French-owned global supplier seeking to improve the performance of an Australian subsidiary with over 1000 Australian employees, who had lodged an application for an employee. However:

After lodgement, the immigration policy changes were suddenly introduced to apply retrospectively. We explained to a largely incredulous Company that the occupation of Policy and Planning Manager was no longer eligible for sponsorship, and the application had to be withdrawn and reworked in another occupational category.<sup>12</sup>

- 3.14 A similar situation occurred with a specialist apprenticeship training organisation:

The above change was also a big factor in the decline and eventual demise of a specialist apprentice training company in Sydney, who were no longer able to sponsor specialist Trainers from the UK with proprietary knowledge. They had previously trained over 1,000 Australian apprentices in their industry. They entered administration in 2019.<sup>13</sup>

- 3.15 Visa applicants have expressed similar frustrations about the impact the constantly moving visa conditions has on years of hard work to meet the eligibility requirements for their visa.
- 3.16 One applicant told the Committee that while they had ‘fully adhered to what the migration policy required’, policy had ‘started to tighten’ in such a way that the points required to be invited to apply for their visa increased. These changed delayed this applicant’s ability to apply for the relevant skilled visa.<sup>14</sup>
- 3.17 VETASSESS told the Committee that ‘although Australia has historically fared well, a pandemic is no excuse for complacency. Quite the opposite.’ If the same level of uncertainty prevails, it will have detrimental effect on Australia’s attractiveness to migrants:

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<sup>11</sup> Business Visas Pty Ltd, *Submission 38*, pp. 5-6.

<sup>12</sup> Business Visas Pty Ltd, *Submission 38*, p. 5.

<sup>13</sup> Business Visas Pty Ltd, *Submission 38*, p. 5.

<sup>14</sup> Name withheld, *Submission 28*, p. 2.



Migration policies and practices in Australia and in competitor countries have a discerning influence. As Australia cut its permanent migration program in recent years and the planning level for skilled migrants fell commensurately, prospective migrant interest initially waned. The number of applications VETASSESS received for assessment fell from 2017. Since COVID-19, applications have been in freefall.<sup>15</sup>

- 3.18 AMES reinforced the challenge Australia faces being internationally competitive given the current unpredictability of the migration program:

AMES clients' experiences are that, compared to countries such as Canada, Australia's program can be inflexible and has tougher eligibility requirements, for example, the age limit of 45 on all primary visa applicants. These requirements may jeopardise Australia's chances of sourcing critical skills needed in the COVID-19 recovery. Delivery of certain programs, such as subclass 189 has been unpredictable and inconsistent which may lead migrants to consider other countries which have clear, consistent guidelines and offer regular invitation rounds.<sup>16</sup>

## More flexibility in visa conditions

- 3.19 Healthcare emerged as sector where greater flexibility to address skills shortages was required. Ramsay Health Care Australia (Ramsay) provided evidence to the Committee that the Temporary Skill Shortage visa (subclass 482) is 'currently the most suitable visa for us to enable quick migration of staff into Australia', or to 'provide full-time work rights to foreign nationals already in the country on visas with restricted work rights'.<sup>17</sup>
- 3.20 However, in order for it to be more effective in assisting to address skills shortages in the healthcare sector, Ramsay recommended that, in the subclass 482, 457 and 494 visas, conditions be amended to allow visa holders the flexibility to work in both alternative roles or for alternative employers during declared disasters or pandemics.<sup>18</sup>
- 3.21 The Committee also received evidence that the restrictions placed on employer sponsored skilled visas may not work effectively in some industries.
- 3.22 For instance, according to the Housing Industry Association (HIA):

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<sup>15</sup> VETASSESS, *Submission 42*, p. 15.

<sup>16</sup> AMES, *Submission 58*, pp. 2-3.

<sup>17</sup> Ramsay Health Care Australia, *Submission 67*, p. 2.

<sup>18</sup> Ramsay Health Care Australia, *Submission 67*, p. 2.

Current skilled migration programs are based on a model whereby an employer sponsors an employee. The residential building industry, particularly in new housing and renovation work, operates by allowing a builder to engage specialised trade contractors at each stage of construction. It is uncommon for a builder to engage skilled trade workers on a direct, employer-employee basis.<sup>19</sup>

### 3.23 HIA continued:

Builders and trade contractors largely comprise small businesses for which the process of engaging in overseas recruitment and visa sponsorship is too complex and time consuming. Furthermore, the obligations for an employer to provide long-term employment presents a significant risk to small businesses in an industry that is highly cyclical.<sup>20</sup>

### 3.24 Just as in the healthcare sector, the building industry is facing significant skills shortages which will affect the economic recovery, particularly with the HomeBuilder package used to stimulate the economy. According to HIA:

...all trade categories are now under pressure, having been well placed just three months ago. The reason why is clear: the increased demand for new homes from the HomeBuilder program has generated what was intended — a flow of work that will place the industry on a strong footing to remain active, despite the pandemic's impacts most likely still being felt for another 12 months. With this influx of work occurring at a time when both international and internal borders are either closed or in a state of uncertainty, this means that each state and territory is now working to meet demand with the workforce that it has.<sup>21</sup>

### 3.25 HIA outlined the trades facing particular pressure:

...the trades that have the most acute shortages tend to be the wet trades, so it's looking at bricklaying, tiling. At the moment we're looking also at carpentry, which is one of the trades where we've seen relatively acute shortage. Roofing is the other one and plastering is quite acute as well.<sup>22</sup>

### 3.26 HIA elaborated on the effect skills shortages then have on the recovery:

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<sup>19</sup> Ms Kristin Brookfield, Housing Industry Association, *Committee Hansard*, 1 March 2021, p. 8.

<sup>20</sup> Ms Kristin Brookfield, Housing Industry Association, *Committee Hansard*, 1 March 2021, p. 8.

<sup>21</sup> Ms Kristin Brookfield, Housing Industry Association, *Committee Hansard*, 1 March 2021, pp. 8-9.

<sup>22</sup> Mr Geordan Murray, Housing Industry Association, *Committee Hansard*, 1 March 2021, pp. 9.

...any pressure on supply of labour or a shortage of labour ultimately then flows through to a cost conversation... you may have situations where prices will rise for those skilled trades, so the cost to the customer, which is passed through by the builder, can then rise.<sup>23</sup>

## Responsiveness of skills lists

3.27 Prior to the onset of the COVID-19 pandemic, Australia's skilled visa program was underpinned by the three skilled occupations lists:

- Short-term Skilled Occupation List (STSOL): a short-term stream of up to two years or up to four years if an International Trade Obligation applies.
- Medium and Long-Term Strategic Skills List (MLTSSL): a medium-term stream of up to four years, which can be renewed multiple times and incorporates a pathway to permanent residency.
- Regional Occupation List (ROL): a regional stream, which is only available to those employers in rural and regional Australia and has a pathway to permanent residency.<sup>24</sup>

3.28 These lists are informed by the Australian and New Zealand Standard Classification of Occupation (ANZSCO), which 'provides information on the skill level of jobs, qualifications and/or experience needed to work in occupations'.<sup>25</sup>

3.29 Several submitters raised ANZSCO as failing to meet the current needs of skilled migration. For instance, Mr Bass argued that it is no longer relevant, overly bureaucratic and rigid.<sup>26</sup>

3.30 The Migration Institute of Australia (MIA) raised two issues with the use of ANZSCO to underpin skilled migration lists. Firstly:

A fundamental problem with using the ANZSCO for skilled migration is that [it] was never intended for that purpose, it was developed as a tool to facilitate

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<sup>23</sup> Ms Kristin Brookfield, Housing Industry Association, *Committee Hansard*, 1 March 2021, p. 9.

<sup>24</sup> Select Committee on Temporary Migration, *Submission 78*, Department of Education, Skills and Employment, p. 5.

<sup>25</sup> Department of Home Affairs website, *Skilled occupation list*, <<https://immi.homeaffairs.gov.au/visas/working-in-australia/skill-occupation-list>> accessed 1 March 2021.

<sup>26</sup> Mr Cecil Bass, Hitchcock and Associates, *Committee Hansard*, 2 March 2021, pp. 1 and 6.

the international comparison of occupational statistics and to provide a basis for the standard collection and dissemination of occupation data.<sup>27</sup>

3.31 Secondly, according to MIA ANZSCO has not kept up with changes to jobs in the workforce:

...although minor updates have occurred within the listed occupations, no occupation has been added, deleted or changed since 2003.<sup>28</sup>

3.32 The Department of Education, Skills and Employment (DESE) made comment on the way skills lists are updated:

To assist Australia meet its labour market needs, comprehensive labour market analysis is undertaken and views are sought from across industry, employers, unions and individuals to prepare advice for the Australian Government on where skilled workforce needs exist. Only occupations for which migration is the appropriate solution to that shortage, are placed on a skilled migration occupation list, deeming them eligible for skilled migration.<sup>29</sup>

3.33 The National Skills Commission (NSC) was set up in 2020 to provide intelligence on Australia's future education, skills and jobs and to drive long-term improvements across the skills system.<sup>30</sup>

3.34 DESE characterised the NSC's role as 'ensuring that Australia's skilled migration occupation lists reflect the skills needs of the Australian labour market', by providing 'labour market analysis that informs advice to the Government on the workforce needs of the Australian economy and labour market', including the skilled migration occupation lists.<sup>31</sup>

3.35 MIA was critical of the number of occupation lists that inform the migration program, stating that 'there are simply too many'.<sup>32</sup>

3.36 MIA continued:

You've got multiple lists coming out from the department. The states and territories have their lists. There are some other lists which are down at the

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<sup>27</sup> Migration Institute of Australia, *Submission 82*, p. 30.

<sup>28</sup> Migration Institute of Australia, *Submission 82*, p. 30.

<sup>29</sup> Select Committee on Temporary Migration, *Submission 78*, Department of Education, Skills and Employment, p. 5.

<sup>30</sup> Mr Adam Boyton, National Skills Commission, *Committee Hansard*, 1 March 2021, p. 42.

<sup>31</sup> Select Committee on Temporary Migration, *Submission 78*, Department of Education, Skills and Employment, p. 5.

<sup>32</sup> Mr John Hourigan, Migration Institute of Australia, *Committee Hansard*, 1 March 2021, p. 26.

local government areas. Everyone is after different occupations. The process is a bit archaic these days.<sup>33</sup>

- 3.37 EY made a similar argument, noting that updating the skills lists would be important for helping businesses recover from the economic effects of the pandemic:

The Skilled Occupation Lists more generally should also be revised in response to the needs of business. This must be implemented in a timely and transparent manner to enable business to prepare for border reopening.<sup>34</sup>

- 3.38 In its submission, EY elaborated on the impact the skills list processes had on business:

The periodic but irregular reviews of the Skilled Occupations Lists that have occurred since 2017 results in uncertainty for business. A fair, transparent and predictable system would provide business with the confidence to recruit and plan for recovery.<sup>35</sup>

- 3.39 EY recommended that the Skilled Occupations Lists be promptly amended, following consultation with business, ‘to ascertain skill shortages required for economic recovery’ and ‘restore business confidence now and enable business to plan for pandemic recovery’. EY further recommended that ‘review of the Skilled Occupation Lists revert to a predictable biennial cycle’.<sup>36</sup>

- 3.40 In response to the COVID-19 pandemic, the STSOL, MLTSSL and ROL were not updated in March 2020, and were put aside due to the limitations on entry to Australia. The Priority Migration Skilled Occupations List (PMSOL) was introduced on 2 September 2020 to guide the Department of Home Affairs (Home Affairs) on the critical skills that should be prioritised during the pandemic. According to the NSC, this list:

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<sup>33</sup> Mr John Hourigan, Migration Institute of Australia, *Committee Hansard*, 1 March 2021, p. 26.

<sup>34</sup> EY, *Submission 71*, p. 4.

<sup>35</sup> EY, *Submission 71*, p. 4.

<sup>36</sup> EY, *Submission 71*, p. 4.

...allows small numbers of sponsored skilled workers to enter Australia to supplement the skilled workforce needs of sectors that are critical to the recovery of the Australian economy from the COVID-19 pandemic.<sup>37</sup>

#### 3.41 Home Affairs discussed the role of the PMSOL:

There are currently 18 occupations on the PMSOL. It's composition reflects the advice from the NSC and other Commonwealth departments. The PMSOL will be temporary and prioritisation of these occupations will change as Australia recovers from the pandemic. The NSC continues to monitor the impacts of COVID-19 upon the Australian labour market and skills needs as they evolve and new sources of data emerge.<sup>38</sup>

#### 3.42 Currently, the PMSOL includes:

- Chief Executive or Managing Director
- Construction Project Manager
- Mechanical Engineer
- General Practitioner
- Resident Medical Officer
- Psychiatrist
- Medical Practitioner not elsewhere classified
- Midwife
- Registered Nurse (Aged Care)
- Registered Nurse (Critical Care and Emergency)
- Registered Nurse (Medical)
- Registered Nurse (Mental Health)
- Registered Nurses not elsewhere classified
- Developer Programmer
- Software Engineer
- Social Worker

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<sup>37</sup> National Skills Commission website, *Skilled Migration Occupation Lists*, <<https://www.nationalskillscommission.gov.au/consultation/skilled-migration-occupation-lists>> accessed 1 March 2021.

<sup>38</sup> Department of Home Affairs, *Submission 16.1*, p. 6.

▪ Maintenance Planner<sup>39</sup>

- 3.43 Some submitters told the Committee that despite higher unemployment and the introduction of the PMSOL, businesses are facing large scale skills shortages. For instance, the Australian Chamber of Commerce and Industry (ACCI) stated:

The New South Wales business conditions survey in December 2020, so we're really only talking a couple of months ago, indicated that almost half of businesses in New South Wales are currently experiencing a skills shortage.<sup>40</sup>

- 3.44 EY similarly found, following the conduct of a survey of stakeholders, that 58 per cent of respondents 'reported that business had skilled vacancies that they were unable to fill locally and that could not be undertaken remotely'.<sup>41</sup>

- 3.45 The South Australian Department for Innovation and Skills (DIS) noted that the PMSOL may not be an accurate reflection of current urgent skills shortages:

The South Australian Government has heard from regional employers who have been waiting well over the published Department of Home Affairs processing timeframes for visa grants for the skilled overseas workers. These skilled workers have been pushed down the queue because they are not on the PMSOL, yet these workers are still critical for the growth of regional businesses and industry.<sup>42</sup>

- 3.46 The Committee for Adelaide echoed concerns about skills gaps and labour shortages being unaddressed, particularly in regional and rural areas, which have been exacerbated by the COVID-19 pandemic. In the Committee for Adelaide's view, there should be an immediate effort to prioritise visas 'for industries that have a genuine need for workers'.<sup>43</sup>

- 3.47 Similarly, the Northern Territory Department of Industry, Tourism and Trade (DITT) was critical of the way the skills list had been applied by Home Affairs. Specifically, it raised the Northern Territory Designated Area

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<sup>39</sup> Department of Home Affairs website, *Priority Migration Skilled Occupation List*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/pmsol>> accessed 1 March 2021.

<sup>40</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, page. 1.

<sup>41</sup> EY, *Submission 71*, p. 2.

<sup>42</sup> South Australian Department for Innovation and Skills, *Submission 74*, p. 2.

<sup>43</sup> Committee for Adelaide, *Submission 80*, p. 3.

Migration Agreement, under which the list of eligible occupations are negotiated annually.<sup>44</sup>

3.48 The DITT noted its concern that ‘adverse decision are being made’ by Home Affairs, despite applications for skilled migrant visas being endorsed by DITT, and despite the list of eligible occupations ‘being derived from comprehensive labour market analysis’.<sup>45</sup>

3.49 According to DITT, this is ‘causing businesses stress, contradicting the purpose of the DAMA and impeding COVID-19 economic recovery’.<sup>46</sup> DITT recommended that:

In order to maintain confidence in the program, we submit that the Designated Area Representative is consulted before an adverse decision is made.<sup>47</sup>

3.50 The Committee also received evidence that some specific sectors and industries are facing critical skills shortages, and are not able to access overseas workers via the PMSOL.

3.51 For example, ACCI stated that ‘even businesses heavily impacted by the [COVID-19] crisis, including tourism and particularly hospitality, are reporting severe shortages of chefs.’<sup>48</sup>

3.52 RCA provided evidence to the committee of the pre-COVID shortages the hospitality industry was facing:

Our pre-COVID estimates were that by May 2023 our industry would be somewhere between 77,000 and 123,000 individuals short for the positions that were available.<sup>49</sup>

3.53 These shortages were exacerbated by the pandemic. RCA explained to the Committee the unique challenges the industry faces in the recovery phase and creating jobs for Australians:

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<sup>44</sup> Northern Territory Department of Industry, Tourism and Trade, *Submission 29*, p. 4.

<sup>45</sup> Northern Territory Department of Industry, Tourism and Trade, *Submission 29*, p. 4.

<sup>46</sup> Northern Territory Department of Industry, Tourism and Trade, *Submission 29*, p. 4.

<sup>47</sup> Northern Territory Department of Industry, Tourism and Trade, *Submission 29*, p. 5.

<sup>48</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, page. 1.

<sup>49</sup> Mr Wes Lambert, Restaurant and Catering Industry Association, *Committee Hansard*, 3 March 2021, p. 15.



We expect that by the end of COVID, when JobKeeper expires and the end of the financial year arrives, about 10 per cent of our sector of ABNs will have closed. You're looking at about 5,000 empty shopfronts that can't be reopened by a TAFE or VET student, or someone who's graduating with a cert III or cert IV in commercial cookery or hospitality. It will take an experienced skilled professional who will then subsequently hire, on average, about 20 people.

- 3.54 RCA linked these possible closures to the shortage of skilled migrants available to work in the industry:

...up to 12,000 chefs and front-of-house managers were skilled migrants. Many, if not all, of those individuals [left Australia] and so many of our members are telling us that they have had to close during certain parts of days—Monday and Tuesday lunch and dinner. In many cases they don't expect they will reopen on those extra days until some type of skilled migration returns.<sup>50</sup>

- 3.55 RCA explained to the Committee that under the current conditions, 5,000 hospitality businesses will have closed by 30 June 2021:

...according to IBISWorld and our estimates, by 30 June 2021 around 5,000 businesses in our segment of the sector will have closed due to COVID. At the same time because so many individuals who normally worked in hospitality have left Australia—that's working holiday, international students and skilled migrants—that almost all of the industry is reporting to us that they are short-staffed, and many in the industry are reporting that they are currently closed for some day-part or some days of the week because they're short-staffed, so it's a double problem. It's a problem with staff in the existing businesses, but it is a wider problem that there will be a lack of skilled individuals to reopen those 5,000 or so businesses in accommodation and food services that need to reopen for the industry and our segment of the industry to fully recover. And you can't do that with fresh graduates from TAFE or VET. In order to restart those businesses, you need highly skilled individuals that are not in Australia.<sup>51</sup>

- 3.56 In Western Australia, data provided by the ACCI showed that while 33 per cent of businesses were facing a shortage of skilled workers, 52 per cent of

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<sup>50</sup> Mr Wes Lambert, Restaurant and Catering Industry Association, *Committee Hansard*, 3 March 2021, p. 15.

<sup>51</sup> Mr Wes Lambert, Restaurant and Catering Industry Association, *Committee Hansard*, 3 March 2021, p. 18.

resource sector businesses ‘identified skilled labour shortages as their largest barrier to growth over the coming year’.<sup>52</sup>

- 3.57 The Association of Mining and Exploration Companies (AMEC) noted that mining ‘is one of only seven industries in Australia where employment grew in 2020, to eclipse employment levels pre-COVID-19’.<sup>53</sup>
- 3.58 However, AMEC told the Committee that the pre-COVID-19 resource constraints in terms of access to labour had been exacerbated by the pandemic, and that in order to help alleviate these constraints, more mining industry occupations should be added to the PMSOL.<sup>54</sup>
- 3.59 Following consultation with business stakeholders, EY also identified a list of occupations which would support pandemic recovery if businesses were able to recruit from overseas. EY grouped these occupations into five categories:
- Resources Engineering Infrastructure
  - Professional Services and Financial Services
  - Health
  - Information Technology
  - Logistics and Procurement<sup>55</sup>
- 3.60 While some occupations within EY’s list of categories currently appear on the PMSOL, EY recommended that the NSC conduct ‘a quick targeted consultation process with business to ascertain immediate skills shortages required for economic recovery’, with a view to expanding the PMSOL immediately ‘as an interim measure as the border restrictions ease’.<sup>56</sup>
- 3.61 The Committee received numerous submissions from maritime organisations, with Maritime Industry Australia summarising the shortages in the industry:

Maritime organisations are competing against each other to hire from the relatively small pool of qualified Australians who are able to work. With the forecast shortage of seafarers, being 560+ by 2023, and only 42 Engineer

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<sup>52</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, page. 1.

<sup>53</sup> Association of Mining and Exploration Companies, *Submission 30*, pp. 2.

<sup>54</sup> Association of Mining and Exploration Companies, *Submission 30*, pp. 2-3.

<sup>55</sup> EY, *Submission 71*, pp. 2-3.

<sup>56</sup> EY, *Submission 71*, p. 4.

Officers and 33 Master and Deck Officers in training as at 2018, this presents a real problem for Australian employers.<sup>57</sup>

- 3.62 DL & LT Pty Ltd, one of the members of Tuna Australia focused on the impact these shortages will have on Tuna Australia members alone:

Currently there are around 25 vacancies on boats run by Tuna Australia Members. ... If we cannot man vessels according to the law, the result will be direct job losses of over 300, not to mention job losses in administration, processing, marketing, maintenance, and service industries in regional areas.<sup>58</sup>

- 3.63 The Australian Hotels Association (AHA) also outlined extensive shortages of skills across their membership:

In a recently conducted nationwide survey of AHA members, 73% of responses reported that their business is suffering financially because of a shortage of skills. 56% of responses reported labour and skills shortages in the cook occupation (ANSCO Code 351411), while 66% of surveyed members reported shortages in the chef occupation (ANSCO Code). Across NSW alone, TAA estimates a labour shortage in accommodation hotels of 3247 workers.<sup>59</sup>

- 3.64 AHA noted the effect this would have on the industry:

It will be impossible for the hospitality to return to its pre-COVID levels of revenue and productivity while the supply and availability of skilled labour remains so constrained.<sup>60</sup>

- 3.65 ProWay Livestock Equipment, a manufacturing business based in Wagga Wagga in New South Wales, raised its specific concerns about accessing skilled workers with the Committee. It noted that it faces a shortage of metal fabricators, and would employ five immediately if possible to do so. It further noted that employing an additional five fabricators would lead to an additional \$5-7 million in turnover for the business,<sup>61</sup> and the employment of between eight and nine additional Australians.<sup>62</sup>

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<sup>57</sup> Maritime Industry Australia, *Submission 55*, p. 5.

<sup>58</sup> DL and LT Pty Ltd, *Submission 34*, p. 1.

<sup>59</sup> Australian Hotels Association and Tourism Accommodation Australia, *Submission 56*, p. 2.

<sup>60</sup> Australian Hotels Association and Tourism Accommodation Australia, *Submission 56*, p. 2.

<sup>61</sup> Mr Paul Gianniotis, ProWay Livestock Equipment, *Committee Hansard*, 1 March 2021, p. 16.

<sup>62</sup> ProWay Livestock Equipment, *Question on Notice*, 1 March 2021.

- 3.66 ProWay told the Committee that metal fabricators had been removed from the relevant skills list in 2019, and were not listed on the PMSOL. ProWay explained the effect this has:

The only applicants that we can really consider at the moment as being relevant to what we do are mechanical engineers. Our business can only service a certain number of mechanical engineers. We've done that and that's been successful, so we're appreciative that they are on the critical list, and it's worked. The problem is that, obviously, mechanical engineers can't pick up a welder and do a skilled trade in that aspect.<sup>63</sup>

- 3.67 Similarly, DIS stated that another 'pressing example is Diesel Mechanic', which is not currently listed on the PMSOL, despite being 'part of the supply chain that supports agriculture, food production, energy, mining, transport and logistics industries', all of which have been identified as critical sectors for pandemic recovery.<sup>64</sup>

- 3.68 The Australian Veterinary Association (AVA) noted 'severe veterinary workforce shortage' within the profession

In my time in the profession I have never seen something of this magnitude in terms of the lack of veterinarians available and the recruitment issues that we've got. This shortage of veterinarians in the workforce is definitely more acute in the regional and rural based communities. Although it has been a chronic problem across Australia, it has definitely been exacerbated by COVID and the restricted migration and inability of Australian vets to return home over the last 18 months. This poses a significant risk to Australia's way of life, our biosecurity and our economy.<sup>65</sup>

- 3.69 The AVA went on to outline the extent of the veterinarian workforce shortages.

...I've looked at a very popular classified ad site in Australia called Kookaburra Veterinary Employment which currently has 700 vacancies for vets. I've never seen so many. I'm currently looking for 420 permanent vets; the Australian Vet Association has 177 vacancies on their website; plus people are also advertising on LinkedIn, industry websites and Facebook. It would be

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<sup>63</sup> Mr Paul Gianniotis, ProWay Livestock Equipment, *Committee Hansard*, 1 March 2021, p. 16.

<sup>64</sup> South Australian Department for Innovation and Skills, *Submission 74*, p. 2; see also Australian International Skilled Recruitment Services, *Submission 75*, p. 6.

<sup>65</sup> Dr Warwick Vale, Australian Veterinary Association, *Committee Hansard*, 1 March 2021, p. 33.

very conservative to say that right at the moment we need about 1,500 vets for permanent work in Australia.<sup>66</sup>

3.70 The AVA elaborated on the possible effects this shortage could have:

The impact that this workforce issue is having is on future sustainability of our workforce. Veterinary practice owners are struggling to fill vacancies in their hospitals, despite advertising widely and for very long periods of time. This is not only occurring in rural areas but increasingly in urban practices. There is a very, very real risk to Australian animal biosecurity through service restrictions to these communities in regional food production areas and a cessation of services—complete shutdowns—to some farming and agricultural communities because of the lack in number of veterinarians.<sup>67</sup>

3.71 Furthermore, the AVA told the Committee that it was already severely impacting veterinary professionals:

In practice we're seeing burnout of our veterinarians at the coalface; they're under-resourced in manpower. We've seen declining mental health and suicide, which is a huge problem in our profession. Lack of staff and high case loads are leading to burnout and declining mental health. They're having to do extra and longer shifts, and many of those veterinarians are choosing to walk away from the profession, from servicing and from working as veterinarians because of these mental health issues and the stress that they're under.<sup>68</sup>

3.72 As a result of these concerns, the AVA recommended 'the immediate placement of veterinarians onto the PMSOL and the fast tracking of visas'.<sup>69</sup>

## Entry of skilled migrants

3.73 A related issue that was raised in evidence was the ability of skilled visa holders to enter Australia after the granting of visas. Australia's international borders have been closed since March 2020 to all except Australian residents and citizens and, since September 2020, a limited range of skilled occupations.

3.74 Australian International Skilled Recruitment Services (AISRS) stated that, in terms of entry to Australia, priority should be given to existing visa holders who were unable to enter Australia due to the COVID-19 pandemic.<sup>70</sup>

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<sup>66</sup> Dr Mark Eagleton, Australian Veterinary Association, *Committee Hansard*, 1 March 2021, p. 34.

<sup>67</sup> Dr Warwick Vale, Australian Veterinary Association, *Committee Hansard*, 1 March 2021, p. 33.

<sup>68</sup> Dr Warwick Vale, Australian Veterinary Association, *Committee Hansard*, 1 March 2021, p. 34.

<sup>69</sup> Dr Warwick Vale, Australian Veterinary Association, *Committee Hansard*, 1 March 2021, p. 34.

3.75 The AISRS argued that both skilled workers and Australians should be prioritised for entry to Australia and quarantine places on arrival over other categories of traveller who have been granted entry, such as sports and television personalities.<sup>71</sup>

3.76 According to AISRS:

It is important that these visa holders be given priority to return to Australia: from an employer perspective, they paid significant funds to the Australian Government for a skilled visa holder for their business for a period of 4 years. For most businesses, the costs were over \$10,000 for each skilled visa holder: ie \$2,975 for the employer nomination and visa application charge and \$7,200 for the SAF. Employers have been denied these skilled visa holders, who the Australian Government had deemed essential to their business, by virtue of granting the visa. Further, these visa holders are ready to assist the Australian businesses and the broader community with the economic recovery.<sup>72</sup>

3.77 Business NSW echoed the call for the entry of skilled migrants, noting that ‘quarantine caps and caps on the number of flights are also restricting Australia’s ability to access skilled migrants’. Business NSW stated:

Business NSW has received reports of employers assisting skilled migrants to gain travel exemptions who are then unable to book a seat on a flight as there are not enough seats allocated to skilled migrants. Quarantine and flights caps should be increased for workers with critical skills and especially those on the PMSOL, potentially with separate arrangements to returning Australians.<sup>73</sup>

3.78 In order to address this issue, Business NSW recommended the development of a separate quarantine and flight cap stream for skilled migrants.<sup>74</sup>

## **Responsiveness of processing**

3.79 In its submission, MIA discussed the need to ensure ‘a ready advance supply of suitable migrants to bolster and grow the economy’. It stated that:

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<sup>70</sup> Australian International Skilled Recruitment Services, *Submission 75*, p. 7.

<sup>71</sup> Australian International Skilled Recruitment Services, *Submission 75*, p. 7.

<sup>72</sup> Australian International Skilled Recruitment Services, *Submission 75*, p. 7.

<sup>73</sup> Business NSW, *Submission 52*, p. 7.

<sup>74</sup> Business NSW, *Submission 52*, p. 7.

There is no guarantee post-COVID that this previous supply of willing migrants will remain available or that they will continue to find Australia an attractive destination.<sup>75</sup>

3.80 As such, MIA told the Committee that:

Australia must be able to pivot immediately to restoring and increasing migration levels as soon as international border reopen. There are immediate adjustments that can be made within the context of the future of work in Australia and economic recovery from the pandemic to ensure this can occur.<sup>76</sup>

3.81 To achieve this, MIA argued for a reconsideration of the processing priorities within Australia's skilled migration program. It noted the need to 'secure the pipeline and restore the annual entry levels of skilled migrants' to ensure sufficient supply.<sup>77</sup> Specifically, MIA recommended that:

- Migration program numbers be substantially increased for at least the next three years to address the shortfall in Net Overseas Migration during the COVID pandemic period;
- That employer sponsored visa classes be given priority processing to enable migrants with employment to enter Australia immediately [when] border restrictions are eased.<sup>78</sup>

3.82 According to MIA, 'Australia possesses a ready supply of skilled migrants already onshore', in the form of international students, graduates and Temporary Skills Shortage (TSS) visa holders. MIA recommended concessions to provide skilled applicants the opportunity to move visas with more flexible and increased work rights, as it could assist in aiding COVID-19 pandemic recovery.<sup>79</sup>

## Processing times

3.83 The Committee received a range of feedback on the time taken to process a number of skilled visa classes.

3.84 The MIA noted that some TSS holders are facing difficulties in having applications processed in a timely manner:

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<sup>75</sup> Migration Institute of Australia, *Submission 82*, p. 15.

<sup>76</sup> Migration Institute of Australia, *Submission 82*, p. 15.

<sup>77</sup> Migration Institute of Australia, *Submission 82*, p. 15.

<sup>78</sup> Migration Institute of Australia, *Submission 82*, p. 15.

<sup>79</sup> Migration Institute of Australia, *Submission 82*, p. 16.

Onshore Temporary Skills Shortage (Subclass 482) visa applicants and holders are waiting extended periods of time for processing including nominations to simply change employer, a process that pre COVID generally took a week. Applicants for Australian Government Endorsed Event (AGEE) Subclass 408 AGEE 'COVID' stream visas are only being approved for those with critical occupations or current employment, leaving many applicants without work rights and the means to support themselves. Those applicants with occupations on the skilled migration lists should be granted visas with work rights to allow them to re-enter the labour market.<sup>80</sup>

- 3.85 The Committee received evidence from visa holders who are filling critical skills shortages in regional Australia, some of which are on the PMSOL, and yet they have been waiting months, if not years for their permanent residency to be granted.
- 3.86 One visa holder working as a registered nurse in aged care in a regional area, whose occupation is on the PMSOL, has been waiting since May 2019 to get an outcome on her 190 visa application.

I am Registered Nurse in Aged Care sector working in regional area, my reason for submitting petition is to show my disappointment with the migration system. As we all know aged care sector or even all sectors in nursing specifically with registered nurses are struggling to get RN. I am working so hard to give holistic care to the residents as we are always short of RN's and care staff, paying tax etc , but even though I have 85 points for 189 visa and 85+5 points for 190 (NSW) still no hope for 190 or 189 at this stage, waiting since May 2019, having superior English, Natti, experience, partner points has done everything thing to get maximum points, Even migration site shows My occupation is in PMSOL list, it makes me feel like failure where I cannot see bright future though I am a skilled worker, it's impacting my mental health and personal life. As I have invested so much time , money and worked hard still no ray of hope...<sup>81</sup>

- 3.87 A Social Worker, whose occupation is on the PMSOL and who has met all the requirements, has been waiting on an outcome on permanent residency since September 2019.

I have submitted my Expression Of Interest for Permanent Residency in September 2019 and have completed all the necessary tests outlined by the DHA for the immigration purpose. I have secured the maximum point that a Social Worker can achieve which is 85 points on the 189 Skilled Independent

<sup>80</sup> Migration Institute of Australia, *Submission 82*, p. 16.

<sup>81</sup> Name withheld, *Submission 20*, p. 1.



and 90 points on the 190 State nomination. I have completed the skill assessment as a Social worker from the Australian Association of Social Worker and as a Welfare worker from the Australian Community Workers Association. Even though Social Work occupation is listed on the PMSOL list, I have not been invited at all.<sup>82</sup>

- 3.88 Another visa holder explained how the Department's processing times are constantly fluctuating, providing significant uncertainty as to when decisions will be made.

The current processing times of the 887 visa is 21-26 months, increasing from 10-15 months in October 2020. The decision was made despite thousands of 887 applicants had signed petitions on reducing the 887 processing times directly to parliament and change.org. The 887 visa processing times skyrocketed from 7 months to 21 months in 2019, putting the applicants in uncertain and desperate situations.<sup>83</sup>

- 3.89 Other visa holders explained that despite meeting all the conditions for permanent residency, they are still waiting to be granted permanent residency. One visa holder applied for permanent residency in October 2019, however is still waiting for an outcome.

As we are currently holding a Temporary Work Visa (subclass 485), and that I work in a skill-nominated technical field, I am eligible to apply for permanent residency in Australia – given my eligibility, I submitted my Expression of Interest (EOI) for a skilled migrant permanent visa (subclass 189) back in 29 October, 2019. Ideally, we would have been invited to apply for the permanent residency visa by now, but due to COVID-19, hardly any invitations have been issued since April 2020. This is highly alarming for us, as we have very limited time remaining on our visa, and if we don't receive our invitations by this year, it will not only jeopardise my ability to continue my permanent role, my wife will have to forfeit her dream of completing her PhD and my step-son won't be able to continue his secondary education from one of Victoria's finest institutions.<sup>84</sup>

- 3.90 Visa holders elaborated on their lost productivity and how these delays are hindering their contribution to Australia's economic recovery because of the constant need to ensure they are meeting the visa requirements:

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<sup>82</sup> Ms Richa Aryal, *Submission 5*, p. 1.

<sup>83</sup> Name withheld, *Submission 26*, p. 1.

<sup>84</sup> Mr Syed Moin Iqbal, *Submission 7*, pp. 1-2.

...many have found their time spent in vain as they've reached the highest mark they could score, and yet they have been unable to move forward in this queue pending invited. In the meantime, they will have to face many due dates: English and community credential language (or NATTI translation and interpretation) testing results are both due to update in three years, PY certificate is valid 4 years from the start date. people planning ahead have obtained all scores from these only to find out they have to take another test. Most crucially, a 485 visa will expire in 2 years' time. Temporary migrant employee, like me, are under extreme pressure looking after work and visa status at the same time. Personal time is hardly "personal" with about 2 hours on visa-related affairs every day. Taking another test, applying for certificate extension, or applying for another visa are all feasible, but they come at a cost of so many people spending extra time, money and energy that they could have saved for developing their career, study or personal life.<sup>85</sup>

- 3.91 Another visa holder commented on the mental, social and economic impacts the visa processing delays and inconsistencies have had:

The uncertainties and extensions of the processing times have deleterious social, economic and mental impacts on us. University entrance, home loans, and other life necessities are put on hold.<sup>86</sup>

- 3.92 MIA also noted that the processing times associated with the Business Investment and Innovation Program were acting as a disincentive for businesses to visa applicants:

The current process is that they come on a provisional four-year visa and fulfil their obligations by starting a business investment. Then they can move to a permanent visa. That's a two-stage process. The processing time frame is about 2½ years. That's very off-putting, particularly if people want to move their money onshore and start a business opportunity. They may have to wait two years, unless they can find another visa to come out to Australia and then apply onshore.<sup>87</sup>

- 3.93 MIA contrasted these timelines with those in other countries:

For places like Canada and England, the visa processes take between two and three weeks for these people to go into the country or they're provided with

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<sup>85</sup> Name withheld, *Submission 25*, p. 2.

<sup>86</sup> Name withheld, *Submission 26*, p. 1.

<sup>87</sup> Mr John Hourigan, Migration Institute of Australia, *Committee Hansard*, 1 March 2021, p. 28.

another visa that allows them to go into the country and start their business while they wait for the process. They're usually direct permanent visas.<sup>88</sup>

3.94 Similarly, MIA compared the processing timeframes for a range of skilled visas to those in comparable countries. In particular, it noted that:

Canadian temporary working visas processing times vary according to country of origin, although a good example is provided by the processing times for citizens of India (also a popular source country for Australia), which currently stands at six weeks and independent permanent residency within six months.<sup>89</sup>

3.95 In contrast, MIA outlined the following processing timeframes for a range of Australian skilled work visas:

- Temporary Skills Shortage visa (subclass 482) – up to 9 months;
- Skilled Independent visa (subclass 189) – up to 17 months;
- Skilled (State/Territory Nominated visa (subclass 190) – up to 10 months;
- Skilled Regional (State/Territory) Nominated visa (subclass 491) – up to 9 months; and
- Skilled Employer Sponsored Regional visa (subclass 494) – up to 8 months.<sup>90</sup>

3.96 Mr Chuhn Hung Goh provided data supporting the increase in processing timelines over the last 18 months, sourced from Department of Home Affairs documents. Specifically, Mr Goh noted, in relation to the Skilled Regional (Permanent) visa (subclass 887):

The visa processing time has been increased significantly from 6-8 months in 2020 to 20-26 months as of January 2021 due to few case officers assigned. There are currently at least 4,944 applications on-hand... as of November 2020. Only one case officer is assigned per day to process the visa since November 2020 and during the following 6 months or more.<sup>91</sup>

3.97 Mr Goh stated that, by speeding up the processing of this visa class, the post-COVID-19 pandemic recovery can be assisted not only through greater investment in real estate, business and job creation, but through allowing

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<sup>88</sup> Mrs Bronwyn Markey, Migration Institute of Australia, *Committee Hansard*, 1 March 2021, p. 29.

<sup>89</sup> Migration Institute of Australia, *Submission 82*, p. 17.

<sup>90</sup> Migration Institute of Australia, *Submission 82*, p. 17.

<sup>91</sup> Mr Chunh Hung Goh, *Submission 2*, p. 1.

off-shore applicants to re-enter Australia as permanent residents and assist in filling skills shortages.<sup>92</sup>

- 3.98 To explain these increased processing timeframes, MIA put forward two reasons:

...the annual cap on migration program numbers... and apparent deficiencies in Department of Home Affairs resources including visa processing staffing levels, staff training and technological systems.<sup>93</sup>

- 3.99 MIA elaborated on Home Affairs staffing levels and systems:

The staffing levels within the Department of Home Affairs immigration and citizenship sections have been progressively decreasing and although continuous global processing was introduced, queues and processing times have blown out across all visa classes. Similarly, the introduction of continuous processing, where applications are no longer processed individually by a case officer, has seen an increase in poor decisions and increased errors in processing. Errors slow the migration process as they take time to be rectified or force applicants to take their cases to the Administrative Appeals Tribunal for adjudication.<sup>94</sup>

- 3.100 To address this, MIA recommended a substantial increase in resources at Home Affairs devoted to reducing processing times and addressing historical backlogs of applications.<sup>95</sup>

## **Pathways to permanence**

- 3.101 MIA saw value in TSS visa holders being provided concessions allowing them to apply for permanent skilled migration in cases where they have qualifications in occupations on the STOL. MIA noted that:

Many of these visa holders will have spent in excess of four years living and working in skilled occupations and contributing to this economy by the time Australian borders reopen.<sup>96</sup>

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<sup>92</sup> Mr Chunh Hung Goh, *Submission 2*, p. 2.

<sup>93</sup> Migration Institute of Australia, *Submission 82*, p. 18.

<sup>94</sup> Migration Institute of Australia, *Submission 82*, p. 18.

<sup>95</sup> Migration Institute of Australia, *Submission 82*, p. 19.

<sup>96</sup> Migration Institute of Australia, *Submission 82*, pp. 16-17.

- 3.102 Business Visas gave an example of someone whose departure from Australia because of the lack of a pathway to permanency will affect Australian jobs but also have flow on effects to 600 small family companies:

A marketing executive who has developed new export markets in China for primary agricultural produce using a mixture of online 'daigou' channels and wholesale distributor partnerships that have raised export sales by 600% in 3 years, is no longer able to renew her 482 visa onshore under current policy, or apply for permanent residence. Her departure will effect not just the Australian employees of the company involved in packaging and distribution, but the Australian regional growers and suppliers – over 600 mostly small family companies.<sup>97</sup>

- 3.103 Business Visas gave another example of a skilled migrant who has turned an Australian business around in just three years, however has no pathway to permanency:

The Australian subsidiary of an industrial supply company is desperate to hold on to their sponsored Marketing Manager from the overseas parent company, as she has led a turnaround from loss-making to profitability in the three years she has been here. However, she does not wish to remain here as a temporary resident, as she is unable to obtain a housing loan, or make long-term plans with her family. Otherwise, she would be happy to continue her career in Australia.<sup>98</sup>

- 3.104 The Australian Industry Group suggested that a lack of a pathway to permanency is a significant hindrance to attracting migrants in certain occupations

On the issue of the skills list, the thing that comes up most frequently with us is the short-term skilled migration list and the fact that you can't become a permanent migrant from that list, and that really is a huge barrier. I know that list doesn't have the highest levels of skills, but quite a number of the skills that Julie has mentioned would come into that short-term skill list. We're in a global marketplace for these skills and we're disadvantaged by the fact that we can't offer a pathway to permanent migration through that.<sup>99</sup>

- 3.105 ACCI suggested now is the time to reinstate a pathway to permanency during the economic recovery

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<sup>97</sup> Business Visas Pty Ltd, *Submission 38*, p. 6.

<sup>98</sup> Business Visas Pty Ltd, *Submission 38*, p. 6.

<sup>99</sup> Mr Tony Melville, Australian Industry Group, *Committee Hansard*, 1 March 2021, p. 22.

This is the time, I think—even for a period of 12 months, or a period that the government would set—to say that all skilled occupations should have a pathway to permanency.<sup>100</sup>

3.106 ACCI reiterated how a pathway to permanency makes Australia an attractive proposition to the best and brightest:

The pathway to permanency for a temporary skilled migrant, in terms of the attractiveness to come here and in terms of attracting high talent, if we're competing in a global marketplace, is critically important.<sup>101</sup>

3.107 Fragomen explained to the Committee the importance of permanent residence in remaining competitive and maintaining Australia's attractiveness to global talent:

In the competition for global talent, having a clear, simpler and more certain pathway from temporary residence to permanent residence will improve Australia's attractiveness. The pathway to permanent residency should be predictable, transparent and reliable - such that the potential migrant has a reasonable degree of certainty as to the ability to gain permanent residence. A three-year period holding a Temporary Skill Shortage visa (subclass 482) with a sponsor/employer, or occupation list changes that impact that permanent pathway, may dissuade skilled talent who seek to reside permanently in Australia.<sup>102</sup>

3.108 RCA elaborated on the effect temporary migration has on the ability for an industry to recover and create jobs for Australians, stressing the need for a pathway to permanency to fuel to the recovery from the pandemic:

Well, the real question is: do you want temporary business openings, or do you want permanent business openings? Anecdotally, if someone is going to be here for only two years, they're not going to invest the hundreds or thousands or millions of dollars or seek to move here if there is not a path that gives them a guarantee. If they are going to come to Australia to reseed an industry that was the hardest hit during COVID, which is well published, there needs to be a pathway to permanent residency for individuals who are willing to come to Australia, much like the migration that happened, say, after

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<sup>100</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, p. 2.

<sup>101</sup> Ms Jenny Lambert, Australian Chamber of Commerce and Industry, *Committee Hansard*, 24 February 2021, p. 4.

<sup>102</sup> Fragomen, *Submission 61*, p. 11.

World War II, to help us to recover—and to cover one of the largest, by unit, industries in Australia.<sup>103</sup>

- 3.109 According to Mr Andrew Low, Chairman of the Australian British Chamber of Commerce, a lack of permanency creates disruption that prevents skilled migrants, who would make an ongoing contribution to Australia in areas where there are significant skills shortages and potential for growth, from taking up the option to come to Australia in the first place.

There is an expression that the challenge of the two-plus-two TSS visa prevents some of these people being willing to come to Australia. Often those sorts of people have families of school age, and they need to consider the disruption of schooling if there are some doubts about their ability to have a path to permanent residency or citizenship.

We can see also that, for a number of these people with computer science and other skills, once they go through the process they continue to contribute to economic activity as permanent residents. We would put it to the committee that temporary skilled workers cover temporary needs but also allow a 'try before you buy' for both the worker and the host country and therefore improve the impact of our permanent migration intake.<sup>104</sup>

## Committee comment

- 3.110 In the short time available to it, the Committee has not been able to outline all of the evidence it received in the interim report.
- 3.111 However, the evidence discussed above strongly indicates that there are a range of urgent matters that require immediate attention to improve the ability of business to access skilled migrants.

## Regulatory burdens and uncertainty

- 3.112 It is clear from the evidence received that many businesses consider the administrative requirements of the skilled migration program to be overly complex, lacking transparency, and difficult to navigate. This lack of transparency creates particular difficulty for employers who cannot get on with their business without the relevant skilled workforce.

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<sup>103</sup> Mr Wes Lambert, Restaurant and Catering Industry Association, *Committee Hansard*, 3 March 2021, pp. 15-16.

<sup>104</sup> Mr Andrew Low, Australian British Chamber of Commerce, *Committee Hansard*, 3 March 2021, p. 11.

### Recommendation 3

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- 3.113 The Committee recommends that the Department of Home Affairs be required to provide greater transparency on where employer sponsored visa applications are in the queue.**
- 3.114 In light of the need for employers in Australia to access a reliable source of labour, the Committee will consider further administrative requirements associated with skilled visa applications in the final report.
- 3.115 One key issue that requires immediate adjustment is the mobility of overseas labour in certain industries. In order to achieve a more flexible response to labour shortages created by the COVID-19 pandemic, adjusting visa settings for skilled migrants entering and already in Australia with skills in industries such as healthcare, housing construction and agriculture which currently have significant skills shortages but whose work often requires movement between employers or between roles for the same employer, provides a better outcome for both the individual migrants and their employers.

### Recommendation 4

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- 3.116 The Committee recommends that the visa conditions for sponsored skilled visa holders working in industries that require migrants to work for different employers or to undertake multiple roles with the same employer to meet practices of the industry, be adjusted to allow them to work for multiple employers without making applications for new visas.**

### Responsiveness of skills lists

- 3.117 The Committee received a large volume of evidence indicating that both the pre-September 2020 skills lists and the PMSOL are not an accurate reflection of the skills and labour needs of employers in Australia. Many peak bodies, other advocacy groups, and businesses put forward recommendations for additions to the PMSOL.
- 3.118 All of these recommendations make a strong case about the need for additional skilled workers. As examined in Chapter Two, while the evidence presented to the Committee is that the preference for the business is always to employ Australians before committing to the cost and complexity of seeking overseas workers, in many cases it is simply not possible to find suitable Australians to undertake the work.



- 3.119 Whether this is due to a lack of suitably trained candidates or other factors, the resultant skills gaps are the same. Filling these gaps is necessary if Australia hopes to make the fastest recovery from the economic impacts of the COVID-19 pandemic.
- 3.120 The Committee notes significant evidence of skills shortages in Australia, the buoyancy of the employment market and the recent spike in job ads compared to 12 months ago. The Boosting Apprentices Commencement Wage Subsidy has created 100,000 new apprenticeship and trainee opportunities in five months indicating the desire of business to take on apprentices to fill some of the skills gaps if given the appropriate support.
- 3.121 The Committee is not in a position to recommend all of the specific professions that require the most urgent inclusion on the PMSOL, however it has made some initial suggestions based on compelling, quantifiable evidence presented to the Committee.
- 3.122 In the Committee's view, an urgent review of the occupations listed on the PMSOL must be undertaken to add occupations that are facing severe skills shortages. This review should include consultation with stakeholders.
- 3.123 More generally, the Committee received evidence that the pre-September 2020 skills lists - the STSOL, MLTSSL and ROL – are often not reflective of the skills needs of employers and businesses. Given the scale of change that has occurred since the onset of the COVID-19 pandemic, it seems likely that these lists will be even less reflective of the skills required to support economic recovery.
- 3.124 The Committee believes that the process of reviewing these lists should commence as early as possible. This would prepare the skilled migration program to be more responsive once international borders reopen, and would allow for the priority processing to assist in addressing the areas of greatest need as quickly as possible.

### **Box 3.1 Matter for further consultation**

Another way of making the skilled migration system more responsive to labour market needs might be to dispense with the skills lists altogether and create a demand driven employer-sponsored migration program with appropriate integrity and labour market testing measures. The Committee would welcome submissions on this concept and other ideas on how to make the skills lists more dynamic and responsive to labour market needs for the final report.

- 3.125 The Committee has received significant evidence about the shortages of Chefs, Veterinarians, Café and Restaurant Managers and Seafarers. The committee has greater confidence in making recommendations that these skilled occupations should be added to the PMSOL immediately because stakeholders have quantified the skilled labour shortages that exist.
- 3.126 There are other occupations where the Committee had received evidence from multiple submitters that shortages exist, however the Committee hasn't received quantified evidence of the nature of those shortages.

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## **Recommendation 5**

- 3.127 The Committee recommends that the Priority Migration Skilled Occupation List be expanded urgently to include Chefs, Veterinarians, Café and Restaurant Managers and Seafarers.**

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## **Recommendation 6**

- 3.128 The Committee recommends that the Department of Home Affairs conduct an urgent review of the Priority Migration Skilled Occupation List, in consultation with relevant stakeholders, with a view to expanding the number of occupations to better reflect the urgent skills shortages in the context of the COVID-19 pandemic recovery. The Department should give particular consideration to civil engineers, electrical engineers, motor mechanics, cooks, carpenters, electricians and other roles in the hospitality, health, trades, agriculture and manufacturing sectors.**

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## **Recommendation 7**

- 3.129 The Committee recommends that the Short-term Skilled Occupation List, the Medium and Long-term Strategic Skills List and the Regional Occupation List be reviewed as soon as practicable to ensure that the lists most accurately reflect Australia's employment challenges as the economy emerges from the COVID-19 pandemic.**

## **Entry of skilled migrants**

- 3.130 The Committee heard substantial evidence that while employers would prefer to employ Australians because of the costs, time and red tape involved in bringing skilled migrants from overseas, many businesses are facing significant skills shortages, preventing them recovering from the pandemic and growing their businesses.

- 3.131 The Committee recommends that the Government take steps to assist businesses trying to access skilled migrants to enable them to continue to grow their businesses and employ more Australians.

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## **Recommendation 8**

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- 3.132 The Committee recommends the Government reserve places on flights and in quarantine for skilled migrants.**

### **Responsiveness of processing**

- 3.133 The Committee received evidence about increasingly long processing times associated with the full range of visas, even prior to the onset of the COVID-19 pandemic. This evidence came from a wide range of sources, including businesses, peak bodies, migration agents, and even skilled migrants themselves. It is also borne out by documents released by the Department of Home Affairs.
- 3.134 In order to support COVID-19 pandemic recovery, the increased processing times for skilled visas must be addressed, and processing times decreased. As this issue cuts across the full range of skilled, business and global talent visas, the Committee examines this issue further in Chapter Four.

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## **Recommendation 9**

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- 3.135 The Committee recommends that:**

- **The Department of Home Affairs improve visa processing times for employer-sponsored visas because of the labour market needs during the COVID-19 pandemic economic recovery; and**
- **The Department of Home Affairs expedite the processing times for skilled visa holders who have remained onshore in relevant employment seeking a subsequent skilled visa or permanent residency visa.**

### **Pathways to permanence**

- 3.136 Permanent residency is a big attraction for the skilled migration program.
- 3.137 Not only is Australia an extremely desirable place to live but our systems work, we are governed by the rule of law, we're one of the world's oldest continuous democracies, there is no social unrest and we have done well in

the health and economic response to COVID-19 which has made us a highly attractive place to live.

- 3.138 For highly skilled people who are in demand globally, having a pathway to permanent residence gives options for skilled migrants and their family to make a longer term commitment to the work they are undertaking in Australia.
- 3.139 It also gives them peace of mind and potential productivity gains because they are not constantly thinking about the uncertainty of what they will do when their visa comes to an end.
- 3.140 While there is a need for temporary skills shortages to be filled in our economy and not every skilled migrant will want to remain in Australia, the lack of permanency is a disincentive for some skilled migrants to come to Australia in the first place.
- 3.141 At this time in our history, when skilled migrants may be having another look at Australia, given its successful response to the COVID-19 pandemic, it is more important that we give people more reasons for choosing Australia including the prospect of permanent migration.
- 3.142 This is especially true of entrepreneurs and venture capitalists discussed in Chapter 4.
- 3.143 Despite employer-sponsored migrants directly meeting a labour market demand, having better employment outcomes than other visa categories and employers investing a significant amount of money in bringing the migrant to Australia, employers of TSS visa holders have no way of retaining employees for longer than 4 years. This is a disproportionate disadvantage to employers and employees dependent on the TSS for skilled labour.

## **Recommendation 10**

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- 3.144 The Committee recommends that all employer sponsored visa holders be given a clearer pathway to permanency.**

## 4. Attracting talent and capital

4.1 There are a variety of different factors that contribute to Australia's attractiveness and international standing amongst our competitor countries. Indicators of Australia's success include:

- The Organisation for Economic Co-operation and Development's (OECD) 2019 'Indicators of Talent Attractiveness' ranked Australia first in a pool of countries internationally, which also assessed countries' strengths and weaknesses in their ability to attract and retain skilled workers with higher education qualifications – particularly masters or doctoral certifications.<sup>1</sup>
- In the 2020 'Global Talent Competitiveness Index', written by the Business School for the World (INSEAD), the Adecco Group and Google Inc, ranked Australia 10<sup>th</sup> behind Switzerland (first), the United States (second), Singapore (third) – moving up two rankings from the previous 2019 Index.<sup>2</sup>
- The World Bank's 2020 'Ease of Doing Business' rankings, Australia ranked 14<sup>th</sup>, moving up four rankings from the previous year.<sup>3</sup> Further, Australia ranks:
  - Fifth globally for doing business in countries with a population exceeding 20 million;
  - Seventh for starting a business; and

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<sup>1</sup> Organisation for Economic Co-operation and Development, Migration Policy Debates No. 19: How do OECD Countries Compare in their Attractiveness for Talented Migrants?, May 2019, p. 5.

<sup>2</sup> INSEAD, the Adecco Group and Google Inc, Global Talent Competitiveness Index 2020: Global Talent in the Age of Artificial Intelligence, 2020, p. 24.

<sup>3</sup> The World Bank website, *Ease of Doing Business*, <<https://www.doingbusiness.org/en/data/doing-business-score>> accessed 3 March 2021.

– Fourth for gaining credit.<sup>4</sup>

- In the 2020 ‘World Happiness Report’ by John F. Helliwell, Richard Layard, Jeffrey D. Sachs and Jan-Emmanuel De Neve, Australia was ranked the 12<sup>th</sup> happiest country globally.<sup>5</sup>

4.2 When attracting global talent to Australia, it is important to note that the structure of the labour market is undergoing change as a result of the increased globalisation and digitalisation of the world.

4.3 Given the constant changes within the structure of the labour market, countries other than Australia are taking different approaches to target different talent pools, in efforts to attract global talents and to address skills needs or gaps in their national economies. As such, the Committee received several submissions that drew on other countries’ experiences in attracting talent, recommending ways through which Australia’s recruitment efforts could be further improved if we were to adopt the ideas and processes from other countries.

4.4 Among the comparative countries are the United States (US), Canada, New Zealand, the Netherlands, Finland and Singapore, all in which have different ways of targeting talents:

- The US has what is referred to as the ‘EB-5 Immigrant Investor Program’, which targets investors globally to help grow the national economy by way of creating jobs and promoting capital investment which requires overseas investors to invest in a new commercial entity or enterprise.<sup>6</sup>
- Canada has a structured and comprehensive Global Talent Stream, where a skilled migrant is required to be sponsored by an employer, referred to by a recognised partner, and in addition to having a career profession listed on Canada’s occupation list.<sup>7</sup> Although the pathway is only temporary, applicants will receive priority processing.<sup>8</sup>
- The Netherlands provides what is referred to as the ‘shopfront-type’ Government services to help applicants with their settlement services,

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<sup>4</sup> The World Bank website, *Ease of Doing Business*, <<https://www.doingbusiness.org/en/data/doing-business-score>> accessed 3 March 2021.

<sup>5</sup> John F. Helliwell, Richard Layard, Jeffrey D. Sachs and Jan-Emmanuel De Neve (eds), *World Happiness Report*, March 2020, p. 19.

<sup>6</sup> Department of Home Affairs, *Submission 16.1*, p. 7.

<sup>7</sup> Department of Home Affairs, *Submission 16.1*, p. 7.

<sup>8</sup> Department of Home Affairs, *Submission 16.1*, p. 7.

broadly including access to education and healthcare.<sup>9</sup> Additionally, the Netherlands attract talents by producing positive incentives and lower taxes.<sup>10</sup>

- Finland has a robust settlement network dedicated for skilled migrants although, in comparison to the Netherlands, provides incentives other than financial ones to their talent program. These include giving migrants and talents access to educational services – including international schools – and English-speaking childcare.<sup>11</sup> Finland therefore targets global talents with a higher age demographic and applicants with families.
- Singapore’s recruitment program is broken down into three distinct categories, targeting:
  - Serial entrepreneurs;
  - Foreign professionals and;
  - High-earning professionals.<sup>12</sup>
  - All three visa options have a pathway to permanency in Singapore.

## Australia’s approach

4.5 The Australian Government recognises the importance of attracting global talents and the brightest skilled migrants as it relates to facilitating economic growth and ensuring a more prosperous Australia. To help achieve this aim, in 2018 Home Affairs instituted three programs to bolster Australia’s capacity and capability to attract these migrants:

- The Global Talent Employer Sponsored (GTES) program pilot – [which] provides established and start-up businesses with a streamlined process to sponsor overseas workers with niche or cutting edge skills, where vacancies cannot be filled by Australians or through other visa programs
- The Supporting Innovation in South Australia (SISA) pilot – [which] is a collaborative effort between the South Australian Government, Commonwealth Government and members of the South Australian Innovation Ecosystem that is designed to attract foreign entrepreneurs who will develop innovative ideas and launch start-ups in South Australia

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<sup>9</sup> Department of Home Affairs, *Submission 16.1*, p. 7.

<sup>10</sup> Department of Home Affairs, *Submission 16.1*, p. 7.

<sup>11</sup> Department of Home Affairs, *Submission 16.1*, p. 7.

<sup>12</sup> Department of Home Affairs, *Submission 16.1*, p. 7.

- The Global Talent Independent (GTI) program – designed to identify and attract high calibre migrants with cutting edge skills in one of ten target sectors.<sup>13</sup>

4.6 All three talent-related visa programs complement several pre-existing programs that provide additional pathways for pooling global talent. Of the complementary programs include the Business Innovation and Investment Program (BIIP) and the Distinguished Talent program.

### **Attracting entrepreneurs and start-ups**

- 4.7 Australia has a series of visa programs to support entrepreneurs during the start-up (emergence), scaling (expansion) and maturity phases of the business process.
- 4.8 For the start-up (emergence) stage of businesses, the SISA pilot is a temporary program tailored to attract overseas entrepreneurs who are innovative, and can share their ideas by launching a start-up in South Australia.
- 4.9 After the SISA pilot was reviewed, other jurisdictions outside of South Australia supported implementing a new program which focused on the ongoing aspect rather than the temporary. The SISA pilot is due to finish in November 2021 and will be superseded by the new ongoing Entrepreneur Stream of BIIP in July 2021.<sup>14</sup>
- 4.10 The Entrepreneur Stream will remove the \$200,000 funding requirement from the SISA pilot instead requiring applicants to either be endorsed or nominated by a state or territory government.<sup>15</sup> Participation in the Entrepreneur Stream of the BIIP will ensure a pathway to permanent residency in Australia.
- 4.11 For the scaling (expansion) stage of businesses, the Australian Government instituted the GTES pilot in July 2018, which was co-created with a variety of different stakeholders ranging from state and territory governments to an Industry Advisory Group.<sup>16</sup>
- 4.12 The purpose of the GTES pilot is to draw on individuals who are highly skilled and specialised in niche occupations who can contribute to

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<sup>13</sup> Department of Home Affairs, *Submission 16.1*, p. 8.

<sup>14</sup> Department of Home Affairs, *Submission 16.1*, p. 8.

<sup>15</sup> Department of Home Affairs, *Submission 16.1*, p. 8.

<sup>16</sup> Department of Home Affairs, *Submission 16.1*, p. 8.



Australia's start-up ecosystem by creating jobs, promoting new ideas and bringing in new technologies. This program is also regarded as a 'job multiplier' for businesses in Australia, as it assists them to recruit more domestic workers and to in turn fill much needed occupations. It is important that businesses who wish to participate in the GTES pilot will strongly support job opportunities and skills development for Australians.<sup>17</sup>

- 4.13 Within the GTES pilot, there are two distinct streams: the start-ups and established business. The start-up stream of the GTES pilot is tailored specifically to businesses that operate within the STEM and technology-based fields, and are required to be endorsed by the Start-up Advisory Panel.<sup>18</sup> Start-ups will also receive the opportunity to source overseas talent to expand the scale of their business by way of a streamlined labour agreement in instances where Australian workers are unable to fill critical occupations.
- 4.14 For the maturity stage of businesses, the GTI pilot is tailored towards individuals who have demonstrated outstanding success at starting-up and commercialising their business in Australia or those who have addressed the needs and activities of Home Affairs' Global Business and Talent Attraction Taskforce.

### **Attracting migrants with cutting-edge skills**

- 4.15 The GTI program places significant emphasis on attracting the best and brightest skilled migrants of the highest calibre with specialised, niche skillsets who are able to make significant contributions entrepreneurially to Australia's critical sectors.<sup>19</sup> There are three core features embedded within the GTI pilot which are intended to provide incentive for talents to come to Australia:
- The process and pathway to permanent residency in Australia is expedited for individuals who are of the highest cohort in one of the ten critical industries: Agri-food and AgTech; Energy; Defence; Advanced Manufacturing and Space, Resources, Financial Services and FinTech; Circular Economy; DigiTech, Infrastructure and Tourism; and Education.<sup>20</sup>

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<sup>17</sup> Department of Home Affairs, *Submission 16.1*, p. 9.

<sup>18</sup> Department of Home Affairs, *Submission 16.1*, p. 9.

<sup>19</sup> Department of Home Affairs, *Submission 16.1*, p. 9.

<sup>20</sup> Department of Home Affairs, *Submission 16.1*, p. 9.

- There is flexibility within the program to immediately address the specific needs and occupational requirements of Australia's economy. Individuals are required show that they are of the highest achievers within their niche cohorts, have an exceptional business record and prove that they are able to earn a salary above the Fair Work High Income Threshold.<sup>21</sup>
  - The emergence of the Global Talent Officer role at Home Affairs will assist in reaching out to global talents by collaborating with world-renowned universities, and professional businesses and organisations to recruit talented and skilled individuals to Australia.
- 4.16 Since the commencement of the GTI pilot, individuals and applicants that have high educational backgrounds found the program relatively attractive, with 77 per cent of program visa holders granted after previously having a temporary visa.<sup>22</sup>
- 4.17 The Australian Government instituted the Global Business and Talent Attraction Taskforce in September 2020. The Taskforce is designed to attract individuals and businesses that have the ability to influence Australia's national economy on a large-scale , creating jobs and instilling growth.
- 4.18 The Global Business and Talent Attraction Taskforce is led by the Prime Minister's Special Envoy, Mr Peter Verwer AO, who is in charge of coordinating a concerted national effort, involving Home Affairs, the Australian Trade and Investment Commission, governments of all levels and the private sector. The Taskforce offers end-to-end services, expedited pathways to permanency, bespoke guidance on travelling and relocation within Australia and industry-specific networks.<sup>23</sup>
- 4.19 Home Affairs indicated a number of adjustments that have been made to various visa categories to enhance Australia's international attractiveness to business and individuals with outstanding talent:
- The Distinguished Talent visa was simplified by consolidating two visa subclasses, with a single visa (subclass 858) available for visa applicants who are located inside or outside of Australia
  - Visa eligibility was simplified and more applicants are now eligible to apply for a subclass 858 visa in Australia

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<sup>21</sup> Department of Home Affairs, *Submission 16.1*, p. 9.

<sup>22</sup> Department of Home Affairs, *Submission 16.1*, p. 14.

<sup>23</sup> Department of Home Affairs, *Submission 16.1*, p. 10.

- Flexibility was introduced with changes to the health requirement, where in limited circumstances, visa applicants were able to apply for a health waiver
- To ensure consistency of public messaging about the intent of the Global Talent Independent program and the Taskforce, the Distinguished Talent visa was renamed the Global Talent visa on 27 February 2021
- The ability for the Taskforce to directly nominate suitable exceptionally talented candidates who will make a significant contribution to the Australian economy to apply for a Global Talent visa was introduced
- Introduction of a temporary work visa option to facilitate the rapid temporary deployment (up to 18 months) of critically skilled staff to Australia to establish a 'beach-head' for their business relocation.<sup>24</sup>

4.20 When deciding the eligibility of businesses to operate in Australia, Home Affairs assesses the relative impact of businesses and individuals to creating jobs, safeguarding Australia's supply chain resilience and ensuring economic prosperity in critical sectors. If these criteria are fulfilled, the Taskforce will prioritise businesses and individuals accordingly. Home Affairs state that:

- Examples of the high value contributions a business would offer include; through access to new and exceptional intellectual property (IP)/technology, building resilience and critical ecosystems, filling skills or supply chain gaps, or relocating regional headquarters (or part thereof) to Australia.<sup>25</sup>

4.21 Another program instituted by the Australian Government to attract talent and capital is through the Distinguished Talent program, which is tailored specifically to attracting exceptional talents within the fields of sports, academia, professions and the arts. Individuals in these categories must show a record of international-level success and recognition in the field in which they show expertise, and must be nominated by an individual or organisation with a national reputation in that particular field.<sup>26</sup>

4.22 Further, Home Affairs undertakes assessments on eligible individuals of the Distinguished Talent program to prove that they will be an asset to the Australian community, culturally, economically or socially and raising Australia's international standards in either the academic, artistic or sporting arenas.<sup>27</sup>

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<sup>24</sup> Department of Home Affairs, *Submission 16.1*, p. 10.

<sup>25</sup> Department of Home Affairs, *Submission 16.1*, p. 11.

<sup>26</sup> Department of Home Affairs, *Submission 16.1*, p. 11.

<sup>27</sup> Department of Home Affairs, *Submission 16.1*, p. 11.

- 4.23 Another way through which the Australian Government seeks to attract talent and capital is through a point-tested skilled visa program, which applies to the Skilled Independent visa (subclass 189), the Skilled Nominated visa (subclass 190) and the Skilled Work Regional (Provisional) visa (subclass 491).<sup>28</sup>
- 4.24 The point-tested system awards individuals points in based on age, skills and attributes, English proficiency, education and qualifications, length/location of skilled work experience, foreign language proficiency including the various skills of their partner.<sup>29</sup>
- 4.25 Should prospective skilled migrants wish to apply for a point-tested visa they must lodge a formal Expression of Interest (EOI) in the SkillSelect portal, and receive a subsequent invitation on the condition that, according to Home Affairs:
- For the Skilled Independent visa, invitations are issued to the highest scoring EOIs with a score at or above the passmark (currently set at 65 points), allowing Australia to prioritise and select skilled migrants who have the highest human capital and can best meet Australia's economic and social needs
  - For state and territory nominated visas, each jurisdiction can choose which prospective migrants they wish to nominate, as long as they meet the minimum passmark of the points test. This allows each jurisdiction to nominate suitable prospective migrants who can best address their local and regional skills needs through their own nomination criteria.<sup>30</sup>
- 4.26 From November 2019, Home Affairs allocated an extra five points for individuals with a postgraduate research qualification within STEM or ICT-related subjects at a recognised Australian higher education institution.<sup>31</sup> The purpose of these additional points is to meet the various skills gaps in the Australian economy attributed to the changes to the nature of work, and to bolster Australia's productivity and innovation.

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<sup>28</sup> Department of Home Affairs, *Submission 16.1*, p. 11.

<sup>29</sup> Department of Home Affairs, *Submission 16.1*, p. 11.

<sup>30</sup> Department of Home Affairs, *Submission 16.1*, p. 11.

<sup>31</sup> Department of Home Affairs, *Submission 16.1*, p. 12.

## Attracting venture capital

- 4.27 Australia's BIIP targets migrants with a demonstrated history of outstanding success or talent in the business sector, and are able to advance Australia's national innovation and economic ecosystems.
- 4.28 Under the Business Innovation and Investment (Provisional) visa (Subclass 188) in the Significant Investor category, eligible individuals are required to invest \$5 million in Australia in accordance with the Complying Investment Framework (CIF) throughout their provisional visa period (minimum of four years) in order to be eligible to successfully transition to a permanent status (Subclass 888).<sup>32</sup>
- 4.29 The CIF was introduced on 1 July 2015, in which the Significant Investor visa (SIV) holders are required to invest a minimum of \$500,000 in accredited Australia venture capital or growth private equity funds, which is injected to supporting start-ups and small private companies.<sup>33</sup> Home Affairs provides a table of SIVs granted and new SIV investments into venture capital funds from the commencement year of 2015 until 31 January 2021 as shown below:

**Table 4.1 Significant Investment Visa Statistics**

Program Year	Primary SIVs Granted	New SIV Investments into Venture Capital Funds
2015-16	884	442 million
2016-17	624	312 million
2017-18	300	150 million
2018-19	318	159 million
2019-20	318	159 million
2020-21 to 31/1/2021	345	172.5 million
<b>Total</b>	<b>2,789</b>	<b>1.3945 billion</b>

*Source: The Department of Home Affairs, Submission 16.1, p. 12.*

<sup>32</sup> Department of Home Affairs, *Submission 16.1*, p. 12.

<sup>33</sup> Department of Home Affairs, *Submission 16.1*, p. 12.

- 4.30 Additionally, SIV holders are also required to invest at least \$1.5 million in eligible managed funds or Listed Investment Companies (LICs) that direct their investments to start-ups and emerging businesses, and up to \$3 million in managed funds or LICs that invest in assets, Australian securities, corporate bonds or notes, annuities and real property.<sup>34</sup>
- 4.31 Home Affairs suggests that Australia's BIIP is successful in attracting businesses and overseas investors, and the demand for BIIP outweighs the number of visas available:
- As at 31 January 2021, there were 28,454 onhand BIIP visa applications (primary and secondary), and the visa planning level for the BIIP in 2021-21 is 13,500 places.<sup>35</sup>
- 4.32 Every year, Commonwealth, State and Territory Governments determine the allocation of BIIP visa placements and nominations for each state jurisdiction. Ultimately each state is able to decide on how many prospective migrants they wish to source under BIIP predicated on their local, regional and investment needs.<sup>36</sup>

## Issues raised in evidence

- 4.33 The Committee received evidence from a range of individuals and organisations.
- 4.34 The contribution of skilled migrants to founding major new economy business around the world was highlighted. The South Australian Department of Innovation and Skills noted that in both the UK and US, skilled migrants had a founding role or were co-founders of start-ups, engineering and technology firms and fast growing companies.<sup>37</sup>
- 4.35 The opportunity presented for Australia by the COVID-19 pandemic recovery period was highlighted by Mr Verwer, who suggested:
- The current phase of the pandemic provides an exceptional window to reframe global perceptions about Australia as a place to live and to do

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<sup>34</sup> Department of Home Affairs, *Submission 16.1*, pp. 12-13.

<sup>35</sup> Department of Home Affairs, *Submission 16.1*, p. 13.

<sup>36</sup> Department of Home Affairs, *Submission 16.1*, p. 13.

<sup>37</sup> South Australian Department of Innovation and Skills, *Submission 74*, p. 18.

business—that is, to reframe Australia as a nation with compelling strategies to invest in the industries of the future and to build long-term prosperity.<sup>38</sup>

## Impact of Australia's response to COVID-19

- 4.36 Mr Verwer further noted that this is a 'moment in time'<sup>39</sup> and '... assume that the moment isn't longer than a year'<sup>40</sup>, reinforcing that Australia needs to act now.
- 4.37 Australia is not the only country which is targeting highly skilled entrepreneurs and investors. The Migration Institute of Australia noted that there are a range of countries which have visas which are aimed at attracting investors, entrepreneurs and 'the best and brightest skilled migrants'.<sup>41</sup>
- 4.38 Despite Australia's excellent response to the COVID-19 pandemic, the travel restriction policies, a feature of Australia's COVID-19 pandemic response, has made Australia a more difficult destination for migrants to choose.<sup>42</sup>
- 4.39 These travel restriction policies, such as international border closures, while helping to ensure the safety of Australians have also had a significant effect on businesses. Business NSW indicated:
- Other nations' attractiveness has likely increased due to not having closed international bordered and having had a faster vaccine rollout than Australia. ... Other countries are now making a concerted effort to issue more visas and make it easier to migrate to those countries—such as through the yet-to-be legislated US Citizenship Act 2021.<sup>43</sup>
- 4.40 In the post COVID-19 pandemic recovery phase there is going to be significant global competition for capital. Australia has the opportunity to attract more capital. However, Australian start-ups face a significant risk if access to skills, capital, export markets and global ideas are diminished and

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<sup>38</sup> Mr Peter Verwer AO, Special Envoy for Global Business and Talent Attraction, *Committee Hansard*, 3 March 2021, p. 26.

<sup>39</sup> Mr Peter Verwer AO, Special Envoy for Global Business and Talent Attraction, *Committee Hansard*, 3 March 2021, p. 26.

<sup>40</sup> Mr Peter Verwer AO, Special Envoy for Global Business and Talent Attraction, *Committee Hansard*, 3 March 2021, p. 26.

<sup>41</sup> Migration Institute of Australia, *Submission 82*, p. 29.

<sup>42</sup> VETASSESS, *Submission 42*, p. 18.

<sup>43</sup> Business NSW, *Submission 52*, p. 9.

barriers which could deter overseas entrepreneurs and investors are not addressed. Hampton Capital states that:

Australia's international competitiveness in future knowledge industries will remain under threat and the appetite for risk taking in Australia's start-up and innovation ecosystem will decline.<sup>44</sup>

## **Business Investment and Innovation Program**

4.41 There were several recommendations put to the Committee on how Australia could make the BIIP more attractive to venture capital and entrepreneurs.

4.42 An overall theme was the complexity and lack of certainty for applicants in this visa class. Mr Cecil Bass, a migration agent, explained that 'significant business migrants' do not have certainty and transparency during the visa process as a result of the unpredictability surrounding Australia's administrative system for visas. This may discourage people from pursuing their operations in Australia. Mr Bass further explained:

...I think the best-quality applicants turn away when they see the processes they have to go through in order to ultimately get to Australia – that's business migrants. They think, 'this is just too hard' – it's too complex, it's unpredictable, it's extremely expensive... I think we limit Australia's potential to attract the best-quality business migrants by making them go through such an onerous and complex process.<sup>45</sup>

4.43 Similarly, Hampton Capital argued that the BIIP broadly serves its purpose of providing pathways for all types of business migrants:

...but has considerably underperformed in the high-risk, high-reward segment of entrepreneurship. While the overall policy objective was commendable, its implementation didn't provide the levels of certainty, consistency and confidence that are needed to be successful.<sup>46</sup>

4.44 Mr Bass provided the Committee with a case study of an American venture capitalist who previously lived in Australia who was applying for a visa in the BIIP. The venture capitalist initially applied for nomination through Austrade but found that 'Austrade's system was down and that it wouldn't be working for at least another month and that perhaps that client would

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<sup>44</sup> Hampton Capital, *Submission 77*, p. 7.

<sup>45</sup> Mr Cecil Bass, Hitchcock and Associates, *Committee Hansard*, 2 March 2021, p. 3.

<sup>46</sup> Mr John Prest, Hampton Capital, *Committee Hansard*, 1 March 2021, p. 37.



like to engage directly with one of the states'<sup>47</sup>. Mr Bass explained that the client chose Queensland but within 24 hours of making that choice Mr Bass learned through a professional network that '...at midnight Queensland were closing down business for innovation nominations because they're overwhelmed.'<sup>48</sup>

4.45 Mr Bass explained some of the frustrations:

If I hadn't heard through my professional grapevine I would have come to work the next morning, put up a nomination to Queensland and it would have failed. This is just how the bureaucracy works – there are so many moving parts which are not coordinated or correlated. I believe this causes unnecessary frustration and delays. And, really, it doesn't add much to the process as it occurs.<sup>49</sup>

4.46 Hampton Capital has also noted that the Global Talent visa is not aimed at entrepreneurs, noting that it has a focus on those who are seeking employment or can 'demonstrate outstanding 'skilled' achievements (such as candidates with PhDs) rather than 'entrepreneurial risk takers' :

...who are committed to investing and building businesses. Steve Jobs, Richard Branson, Evan Williams (Twitter), Bill Gates, Steve Wozniak, Mark Zuckerberg, Matt Mullenweg (WordPress) and David Karp (Tumblr) do not have anything other than an honorary degree between them but are some of the world's most successful entrepreneurs. Alibaba founder Jack Ma was rejected by Harvard Business School.<sup>50</sup>

4.47 Having the wrong visa policy settings can cause significant lost opportunities for Australia as Mr Tom Chan from Hampton Capital explained:

...in terms of what we're missing out, we've done some modelling across a proposal where 1,000 visas could be proposed to high-value and start-up entrepreneurs. From our basic calculations, we're missing out on about \$8.3 billion worth of opportunity, which equates to around \$2.75 billion in investment but also about \$1.1 billion into Australia's R&D sector. Just from our modelling, this would create about 8,000 jobs within a few years. This is

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<sup>47</sup> Mr Cecil Bass, Hitchcock and Associates, *Committee Hansard*, 2 March 2021, p. 2.

<sup>48</sup> Mr Cecil Bass, Hitchcock and Associates, *Committee Hansard*, 2 March 2021, p. 2.

<sup>49</sup> Mr Cecil Bass, Hitchcock and Associates, *Committee Hansard*, 2 March 2021, p. 2.

<sup>50</sup> Hampton Capital, *Submission 77*, p. 7.

the potential scope of opportunity that we could create by having an active pathway for both start-up and high-value entrepreneurs.<sup>51</sup>

4.48 Hampton Capital offer two key solutions that could help Australia facilitate a more attractive environment for entrepreneurs and investors;

- Create two distinct visas to attract young, determined innovative entrepreneurs (“Start-up Entrepreneurs”), and older commercially experienced and networked entrepreneurs (“High Value Entrepreneurs”) who are invested into Australia’s knowledge and innovation ecosystem.
- Introduce a more effective system of obligations that ensures Venture Capital investors and entrepreneurs are genuinely committed and will not divert funding to passive, low risk investments with little relation to the Knowledge Economy.<sup>52</sup>

4.49 Fragomen Worldwide suggested that the existing BIIP program needed to be expanded so as to not be only restricted to experienced business people:

Visa products for entrepreneurs must competitively recruit for the best long-term prospects for starting a business and allowing for the possibility of false-starts before success. Restricting the program to experienced businesspeople who have already attracted funding, may mean that Australia misses out on prospective talent that will instead establish elsewhere, or worse, not be realised at all.<sup>53</sup>

## Global Talent Program

4.50 As discussed above the Global Talent Program has had significant interest from companies investing in and/or moving their operations to Australia. However in order to be successful, Australia must address a series of challenges to attract the best and brightest migrants and investors especially where Australia faces international competition. Some of the key issues presented to the committee are discussed in this next section.

### *An innovation and entrepreneurship ecosystem*

4.51 Numerous organisations drew the committee’s attention to the need to provide for a supportive ecosystem for technology and innovation. Mr Verwer elaborated on what is meant by a supportive ecosystem that such entrepreneurs are looking for :

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<sup>51</sup> Mr Tom Chan, Hampton Capital, *Committee Hansard*, 1 March 2021, p. 39.

<sup>52</sup> Hampton Capital, *Submission 77*, p. 9.

<sup>53</sup> Fragomen Worldwide, *Submission 61*, p. 12.

The positive thing they're looking for is that Australia has long-term strategies in the industries of the future; that Australia has ecosystems that will help them scale. For individuals, frankly, it's that if they lost a job there would be another one that they could go to, or, if they grew out of a job, there would be enough critical mass and enough of a market for them to go to. They're looking, generally, to an ecosystem for their family as well as for their businesses and they're looking for a regulatory framework which sends the right signals.<sup>54</sup>

- 4.52 Ecosystems that support innovation and entrepreneurship have been established in other countries. The Australian Investment Council (AIC) told the Committee:

...if you are looking at the ecosystems and best practice around the world there are very well-established innovation sectors in the US, UK, Israel and Singapore. They are really attractive places for skilled migration to go. If you look at the way they are set up, they are bringing in that knowledge base and they are bringing in international experience to boost innovation and to supplement the local economy and to create jobs and foster economic growth.<sup>55</sup>

- 4.53 AIC described some well-known ecosystems in the United Kingdom and the United States:

The City of London in particular has put a lot of effort into building fintech, but more broadly a technology and innovation ecosystem. The US is simply renowned—Silicon Valley. If you want to go to a high-level, highly capable, highly integrated, highly effective innovation, be that [venture capital] or more broadly an ecosystem, London comes to mind and Silicon Valley comes to mind.<sup>56</sup>

- 4.54 Atlassian is Australia's largest home-grown software and cloud services company which makes tools like Jira and Trello. Canva is an Australian headquartered online graphic design platform. They noted in their joint submission, in relation to supporting innovation that they found that the current immigration system worked well for them:

...the current immigration system generally serves us very well as companies. Both Canva and Atlassian experience high levels of service from the

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<sup>54</sup> Mr Peter Verwer AO, Special Envoy for Global Business and Talent Attraction, *Committee Hansard*, 3 March 2021, p. 27.

<sup>55</sup> Ms Robyn Tolhurst, Australian Investment Council, *Committee Hansard*, 2 March 2021, p. 12.

<sup>56</sup> Ms Robyn Tolhurst, Australian Investment Council, *Committee Hansard*, 2 March 2021, p. 13.

Department and generally can hire or relocate the skilled employees we require. Beyond our own needs, it is critical to us that the visa process and rules support the building of a complete tech ecosystem in Australia.<sup>57</sup>

- 4.55 Atlassian and Canva suggested the skilled migration program could be better aligned with the needs of the tech industry :

The Government should be congratulated for building a world class program that targets the best and brightest globally. That program is working for us already. Industry is keen to understand how it can better support and be involved in the Global Talent program to ensure that the program objectives align with what the tech industry needs.

### *Clearer articulation of Australia's steps to attract talent*

- 4.56 Mr Verwer stated that while some elements of the ecosystem that support innovation and entrepreneurship were established, however, effective, centralised communication of Australia's long term public policy strategies in key sectors is vital to the program's success.

- 4.57 Mr Verwer noted that other countries such as Singapore, Israel, Ireland, the Netherlands, Nordic countries and Canada are competitors for Australia but also provide insights that are valuable:

They see the link between the enterprise and the entrepreneur. They can say to the world, 'We have long-term strategies which are credible,' and they can say to the world, 'We have grants and incentive schemes and public policy arrangements which are easy to understand.' They're welcoming of global talent and they have supportive ecosystems.<sup>58</sup>

- 4.58 The clarity with which other countries communicate information in this space is an important consideration. Mr Verwer noted that some of these countries provide information which is quick and easy to find:

There is another thing that some of the countries do: their menu of incentives and grants and the levers of government support are crystal clear...if I look at what the Israelis do, I know within a couple of minutes exactly what they're

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<sup>57</sup> Atlassian and Canva, *Submission 83*, p. 1.

<sup>58</sup> Mr Peter Verwer AO, Special Envoy for Global Business and Talent Attraction, *Committee Hansard*, 3 March 2021, p. 27.

offering for a business in the health sector and exactly what they're offering for a start-up.<sup>59</sup>

- 4.59 Mr Verwer was clear that Australia has much to offer noting that 'we have more incentives and grants than you can poke a stick at.' He explained further:

If we laid out on the table what Australia is offering in terms of health, life sciences and translation funds, we'd be here all afternoon talking about them. The other countries package them up far more clearly and then tie them to a long-term strategy so that people who are interested in a particular area such as agritech have a much better idea of how the strategy links to the ecosystem and the incentive schemes.<sup>60</sup>

### *Permanent residence*

- 4.60 In terms of better attracting the skills required to build this ecosystem, Atlassian and Canva were of the view the 'the distinction between those occupations that have a pathway to permanent residence and those that do not' should be removed.<sup>61</sup> The fast route to permanent residence offered by the Global Talent Program was, according to Atlassian and Canva, 'extremely beneficial and attractive to some', however:

It is further deepening the difference between those who can get permanent residence and those who cannot. It has also heightened the difference between those who are eligible for fast-tracked permanent residence through the GTI and those who must wait three years under the transitional [Employer Nominated Scheme] route.<sup>62</sup>

- 4.61 Atlassian and Canva elaborated on the effect this distinction has on attracting global talent working in their business noting that the '...fact that some of our employees have a pathway to permanent residence and some do not creates real issues for our businesses.'<sup>63</sup>

- Individuals who do not have a permanent pathway feel less committed to long-term goals and consider themselves disadvantaged and deeply

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<sup>59</sup> Mr Peter Verwer AO, Special Envoy for Global Business and Talent Attraction, *Committee Hansard*, 3 March 2021, p. 27.

<sup>60</sup> Mr Peter Verwer AO, Special Envoy for Global Business and Talent Attraction, *Committee Hansard*, 3 March 2021, p. 28.

<sup>61</sup> Atlassian and Canva, *Submission 83*, p. 2.

<sup>62</sup> Atlassian and Canva, *Submission 83*, p. 3.

<sup>63</sup> Atlassian and Canva, *Submission 83*, p. 4.

misunderstood in terms of their tech skill set and the demand for that skill set in the global market compared to those who have a pathway.

- The fact that a position has no pathway also reduces the candidate pool and discriminates against those with families, as these candidates are far less likely to want to relocate for only two years (maybe four).
- We spend a lot of time, effort and resources trying to create pathways for valuable employees we want to keep in the business.<sup>64</sup>

4.62 Atlassian and Canva also outlined their view of the need for a temporary Global Talent Independent visa:

...we believe that there would be huge value to the tech industry and the Australian economy more widely, if highly talented individuals who would be eligible for the GTI but who are not yet ready to commit to permanent residence could opt for a Two-year temporary visa with the ability to convert to permanent residence under the GTI or another stream before that visa expires. We believe that this would attract an even larger pool of global talent to Australia and would also help companies to better manage their migration program.<sup>65</sup>

4.63 Mr Andrew Low echoed this perspective, noting that having a temporary visa with a pathway to permanency works for the mutual benefit of both the migrant and the host country:

We can see also that, for a number of these people with computer science and other skills, once they go through the process they continue to contribute to economic activity as permanent residents. We would put it to the committee that temporary skilled workers cover temporary needs but also allow a 'try before you buy' for both the worker and the host country and therefore improve the impact of our permanent migration intake.<sup>66</sup>

### ***Regulatory issues***

4.64 Mr Low provided evidence that the Global Talent visa is reducing bureaucratic process. The visa:

...is looking for a set of skills and aptitudes that can be applicable towards creating new businesses, new ecosystems and activities. We think that's an important advance, because the more detailed lists of particular professions

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<sup>64</sup> Atlassian and Canva, *Submission 83*, p. 4.

<sup>65</sup> Atlassian and Canva, *Submission 83*, p. 5.

<sup>66</sup> Mr Andrew Low, Australian British Chamber of Commerce, *Committee Hansard*, 3 March 2021, p. 11.

where there's a lack of people don't always capture that broader sense of people who have the ability to really create new activities.<sup>67</sup>

- 4.65 Some of the regulatory requirements around the salary threshold may be too high according to the Chartered Accountants Australia and New Zealand and CPA Australia:

...minimum annual salary threshold of \$153,600 may be too high for potential employers and applicants, as it makes it difficult to attract targeted talent to Australia. ... In contrast, the UK's Global Talent Visa does not require applicants to receive a minimum salary to be eligible for consideration, and where the Canadian equivalent specifies a threshold that is not the prevailing wage, its around the C\$80,000 mark.<sup>68</sup>

- 4.66 Atlassian and Canva also proposed that when considering the earnings of Global Talent applicants, consideration should be given to equity compensation which is common in start-ups and of the technology sector:

Allowing equity to be counted in a person's salary for the Global Talent Program would create a pathway to permanent residence for more employees, even those in two year occupations who might be nominated under an employer sponsored Global Talent agreement or under the GTI. Canva, Atlassian and other start-ups rely on offering equity in the company as a way to lure the best talent to our business.<sup>69</sup>

## Committee comment

- 4.67 Based on the evidence received, the Committee notes that in order to attract global talent and capital, Australia must aim to create an ecosystem that creates the necessary conditions to ensure that we are well positioned in an internationally competitive market.
- 4.68 The Committee notes the evidence given by the business sector that suggests while the policy settings for Australia's BIIP and Global Talent-related visas are good, there is room for improvement. The appropriateness of the visa products available to investors and talented individuals will not reach their full potential unless the underlying ecosystem exists that provides a place for these potential migrants.

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<sup>67</sup> Mr Andrew Low, Australian British Chamber of Commerce, *Committee Hansard*, 3 March 2021, pp. 12-13.

<sup>68</sup> Chartered Accountants Australia and New Zealand and CPA Australia, *Submission 45*, p. 8.

<sup>69</sup> Atlassian and Canva, *Submission 83*, p. 5.

- 4.69 The Committee notes the appointment of the Prime Minister's Special Envoy for Global Business and Talent Attraction at Home Affairs, including the work of the Global Business and Talent Attraction Taskforce. This is an important step towards creating the conditions required for the development of the necessary ecosystem.
- 4.70 The Committee believes that, given the unprecedented impact of the COVID-19 pandemic, Australia is in an advantageous position due to its effective management of the virus. This places Australia in a position of strength to utilise our resources to attract the best and brightest skilled migrants and investors from overseas, and accelerate the development of the required ecosystem.
- 4.71 The Committee broadly supports the intent and structure of Australia's business and talent-related visa programmes, including the policy settings. However, there are concerns that the potential of the various visa classes will not be fully realised until Australia's ability to attract the necessary skills, talent and entrepreneurship improves.
- 4.72 Overall, based on the evidence received, the Committee is of the view that this is an excellent opportunity to attract a wide range of talented individuals and investors to help set the conditions that will foster and develop the necessary ecosystem that will make full use of both the BIIP and Global Talent Program.
- 4.73 One clear impediment to realising this opportunity that has emerged during this inquiry is a lack of clear articulation of Australia's strategy in one place. While the work of the Special Envoy for Global Business and Talent Attraction is certainly a step in the right direction, in the Committee's view it is necessary to go further in terms of actively publicising Australia's attractiveness as a migration destination for investors and talented individuals.
- 4.74 The Committee also received evidence about the benefit of a temporary visa option under the GTI program with a clear pathway to permanent residence. The Committee considers such a visa would have particular benefits in the technology industry and other emerging industries.



## **Recommendation 11**

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- 4.75** The Committee recommends the establishment of a global marketing campaign to attract global talent and investment. This campaign should:
- Target talented individuals and investors in key competitor countries;
  - Raise awareness of both the opportunities in Australia, and the migration mechanisms available to those seeking to live, work or settle in Australia; and
  - Leverage off the work already being undertaken by the Special Envoy for Global Business and Talent Attraction.

## **Recommendation 12**

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- 4.76** The Committee recommends that the BIIP and GTI provide options for both automatic permanent residence and temporary visas with a clearly articulated path to permanent residence.

**Mr Julian Leaser MP**  
**Chair**



# A. Public hearings

## **Wednesday, 17 February 2021**

Parliament House

Canberra

*Department of Home Affairs*

- Mr Andrew Kefford PSM, Deputy Secretary
- Mr Robert Ewing, Chief Economist
- Mr Andrew Chandler, First Assistant Secretary
- Mr Michael Willard, First Assistant Secretary
- Mr Andrew Rice, Acting First Assistant Secretary

## **Wednesday, 24 February 2021**

Parliament House

Committee Room 1R4

via Teleconference

Canberra

*Australian Chamber of Commerce and Industry*

- Ms Jenny Lambert, Ag. CEO

## **Monday, 1 March 2021**

via Teleconference

Canberra

*Australian Meat Industry Council*

- Mr Ken McKell, General Manager, Employment & Business Services

*Housing Industry Association*

- Ms Kristin Brookfield, Chief Executive Industry Policy
- Mr Geordan Murray, Executive Director Industry Policy

*ProWay Livestock Equipment*

- Mr Paul Gianniotis, General Manager

*Australian Industry Group*

- Mr Tony Melville, Head of Corporate Affairs

*Migration Institute of Australia*

- Mr John Hourigan, National President
- Ms Julie Williams, NSW/ACT State President and Policy Advocacy & Sub Committee Chair
- Ms Bronwyn Markey, Professional Services Manager

*Australian Veterinary Association*

- Dr Warwick Vale, National President
- Dr Mark Eagleton, Director
- Dr Melanie Latter, National Head of Policy and Advocacy

*Hampton Capital*

- Mr John Priest, Managing Director
- Mr Tom Chan, Investment Director

*National Skills Commissioner*

- Mr Adam Boyton, National Skills Commissioner
- Mr David Turvey, First Assistant Secretary
- Ms Jane Press, Director

*Australian Bureau of Statistics*

- Mr Bjorn Jarvis, Program Manager

**Tuesday, 2 March 2021**

via Teleconference

Canberra

*Mr Cecil Bass, Private capacity*

*ICT International*

- Dr Peter Cull, Director

*Australian Investment Council*

- Brendan Harper, Head of Policy and Research
- Robyn Tolhurst, Public Affairs Manager

**Wednesday, 3 March 2021**

via Teleconference

Canberra

*Council of Small Business Organisations Australia*

- Peter Strong, CEO
- Sandy Chong, Director

*Australian British Chamber of Commerce*

- Mr Andrew Low, Chairman

*Restaurant and Catering Association*

- Mr Wes Lambert, CEO

*Australian Pharmacy Council*

- Ms Bronwyn Clark, CEO
- Ms Glenys Wilkinson, Executive Director Professional Services

*Department of Home Affairs - Global Business and Talent Attraction Taskforce*

- Mr Peter Verwer AO, Prime Minister's Special Envoy
- Mr Andrew Chandler, First Assistant Secretary for Global Business and Talent Attraction
- Mr Andrew Rice, Ag. First Assistant Secretary, Immigration Integrity, Assurance and Policy Division

*Australian College of Nursing*

- Kylie Ward, CEO
- Zac Smith, Director, Media and Government Relations

*Australian Nursing and Midwifery Federation*

- Ms Annie Butler, Federal Secretary



## B. List of submissions

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- 3     *Name Withheld*
- 4     Mr Shahzaib Gilani
- 5     Ms Richa Aryal
- 6     *Name Withheld*
- 7     Mr Syed Moin Iqbal
- 8     Mr Sanjeev Kumar Tewari
- 9     *Name Withheld*
- 10    Cassandra Stevenson
- 11    *Name Withheld*
- 12    *Name Withheld*
- 13    Mr Andrew Doherty
- 14    Mr Milad Abolfazli
- 15    *Name Withheld*
- 16    Department of Home Affairs
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- 17    Mrs Mandeep Kaur
- 18    Mr Yaroslav Turianskyi

- 19    *Name Withheld*
- 20    *Name Withheld*
- 21    *Name Withheld*
- 22    *Name Withheld*
- 23    *Name Withheld*
- 24    Khawar Hussain
- 25    *Name Withheld*
- 26    *Name Withheld*
- 27    Mr Adam McVeigh
- 29    MigrationNT
- 30    AMEC
- 31    Vetlink Employment Service
- 32    Hapuku Fisheries Pty Ltd.
- 38    Business Visas Pty Ltd
- 39    Confidential
- 40    Motor Trade Association of SA/NT
- 41    Australian Catholic Migrant and Refugee Office
- 42    VETASSESS
- 43    The Australian Federation of Islamic Councils Inc
- 44    Hitchcock and Associates
- 45    Chartered Accountants Australia and New Zealand & CPA Australia
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  - 55 Maritime Industry Australia Ltd
  - 56 Australian Hotels Association and Tourism Accommodation Australia
  - 57 Milestone Migration
  - 58 AMES Australia
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  - 61 Fragomen
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  - 63 Newland Chase Pty Ltd
  - 64 Australian Chamber of Commerce and Industry
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  - 66 Australian Technology Network of Universities
  - 67 Ramsay Health Care Australia Pty Limited
  - 68 Dr George Tan, Associate Professor Andrew Taylor & Professor Ly Tran
  - 69 Australian Catholic University
  - 70 Teachers on Wheels
  - 71 EY
  - 72 Baking Association of Australia
  - 73 National Electrical and Communications Association (NECA)
  - 74 Department for Innovation and Skills
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  - 76 Australian Automotive Dealer Association
  - 77 Hampton Capital
  - 78 Mr Martin Hildebrand
  - 79 Susan Denny, Jane Elliot, Faye Rouse, Sue Rainsford, Jackson Taylor & Rayleen Wright
  - 80 Committee for Adelaide

- 81 Law Institute of Victoria
- 82 Migration Institute of Australia
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- 88 *Name Withheld*
- 89 Mr Komalpreet Singh
- 90 *Name Withheld*
- 91 Mr Mark Glazbrook
- 92 Norman Welsh
- 93 Hon. Peter Gutwein MP, Premier of Tasmania, Government of Tasmania
- 94 Mr Xinjie Lan
- 95 Australian Association of Social Workers
- 96 Law Council of Australia
- 97 Mr Mueen Shaheen

# 1. Dissenting Report

## *Australian Labor Party*

### Overview

This report is simply outrageous – ill-conceived and appallingly timed.

These proposals by a Government-controlled Committee will undermine the ability of Australians to get jobs.

Labor members of the Committee strenuously object to this report's recommendations and findings which were made after a rushed inquiry without hearing adequate evidence and all points of view.

As the hangover from the deepest recession for many decades continues, across our nation:

- over 1.3 million Australians are surviving on unemployment benefits
- Two million Australians are searching for work or for more hours, and
- JobKeeper is about to be scrapped by the Morrison Government pushing thousands more people onto unemployment queues.

Yet, astoundingly, while millions of Australians are searching for work, the priority for Government members is to put Australians at the back of the queue.

To be very clear, Labor members oppose the Government's desire to:

- "Streamline" (i.e. trash) Labour Market Testing, as doing so would reduce incentives for businesses to employ Australian workers
- Scrap the requirement for employers to pay into the Skilling Australia Fund to train local workers when bringing in foreign labour, removing

the price signal for business to train an Australian and make is virtually cost free to bring in foreign workers

- Immediately expand the number of occupations on the skills shortage lists to include chefs, veterinarians, café and restaurant managers and seafarers and prioritise other occupations such as cooks, carpenters, electricians, hospitality, trades and manufacturing workers.
- Reserve special seats on flights and places in quarantine for skilled migrants, abandoning over 40,000 stranded Australians.

You couldn't make this stuff up. It would make sense if the report was released on April 1, but it's not. Government MPs seriously think this is good policy. Shame on them for selling out Australian workers and those looking for a job.

## Comments

### Economic outlook

As a result of COVID-19, Australia will soon have an opportunity to do something we have never done before: restart a migration program. When we do, we must understand that migration is a key economic policy lever that can help or harm Australian workers during the economic recovery and beyond.

While the Australian economy is beginning to recover from the worst economic downturn since the Great Depression, the recovery is patchy, and many Australian families are still struggling. Wage growth is stagnant. Many Australian workers have gone years without a pay rise. Two million Australians are searching for work, or for more hours, and the Morrison Government's cuts to JobKeeper are putting over a million workers and thousands of businesses at risk in every corner of the country.

Labor members are concerned that with less than a month until JobKeeper ends, the Morrison Government still doesn't have a proper plan to create secure jobs with fair pay and to get wages growth moving again.

Further, the Prime Minister has stated that economic confidence will be "reinforced by the rollout of the vaccine program." Yet, the COVID-19 vaccine rollout is well behind schedule, and the Morrison Government will miss its own target to vaccinate 4 million Australians by the end of March by a margin of some 3.8 million people.

If implemented, the recommendations by Government members in this report would make it harder for Australians to get the skills and training they want and

the secure jobs with fair pay they need. Government members are, in effect, recommending that the Morrison Government leave Australian working families behind.

Instead of the Prime Minister's cuts to pay, cuts to super and his budget riddled with rorts, Australians need and deserve a government that is on their side, prioritising secure, well-paid jobs, with fair pay and conditions.

### *Economic facts*

- There are 2 million Australians without work or enough work, and Treasury expects another 100,000 Australians could lose their jobs when JobKeeper is cut at the end of March.
- Unemployment is well above what it was before the pandemic, and the Government's goal of 6 per cent unemployment is well above any reasonable estimate of full employment.
- More than 1 million Australians are underemployed, and underemployment was at record highs even before the pandemic.
- Wages growth has been at record lows for years under the Liberals and has recently fallen to new all-time lows at 1.4 per cent.
- The number of Australians on unemployment payments (JobSeeker and Youth Allowance – Other) is over 1.37 million.
- Under Labor, wages grew on average 3.6 per cent a year while under the Liberals wage growth has slowed to just 2.2 per cent a year - but the Liberals still want to cut the pay of Australian workers.
- The vaccine rollout is already off track and the Morrison Government cannot assure Australians that it will meet the target of vaccinating everyone by October, with Health Department Secretary Professor Murphy telling the Senate Covid-19 Committee that it was now "impossible to predict" the timeline for the vaccine rollout.

### **Migration program**

COVID-19 has closed our international borders. Effectively no new migrants are coming for the foreseeable future. Borders are likely to stay closed for many months to come.

Our economic recovery must help all Australians get back on their feet and to do that we need a migration program that helps Australian citizens, both those here in Australia who need secure jobs as well as those who are stranded overseas.

The Prime Minister promised Australians stranded overseas while borders remain closed that they would be home by Christmas. They were not – some 40,000 Australian citizens remain stranded.

The Prime Minister also promised stranded Aussies that they would be at the front of the queue, prioritised ahead international students and visa holders under the caps on international arrivals and quarantine spaces. In this report, the Government members are proposing the exact opposite of what the Prime Minister promised.

The fact that Government members are proposing to prioritise visa holders for businesses ahead of stranded Australians directly contradicts the Prime Minister's promises. This is a cruel joke to play on our fellow citizens.

Government members are seriously proposing to prioritise skilled visa holders for scarce arrival flights and quarantine places while tens of thousands of Australians are desperately waiting for partner and parent visas to be reunited with their families.

Over one hundred thousand Australian families remain heartbreakingly separated from their loved ones while the borders are closed. Labor members are disappointed that Government members do not take seriously the heart-felt calls from Australian citizens to be reunited with their partners and their parents.

In terms of migration more broadly, Australia's migration program has played a key role in our economic prosperity. However, under this 8-year-old Liberal Government, temporary migration had soared to historically high levels.

Wage theft and exploitation have become prevalent in industries that rely on temporary migrant workers, and now that same exploitation of workers is regrettably spreading through the wider economy, affecting Australian workers. The unrestrained growth in the number of temporary migrant workers combined with the Liberals' cuts to traineeships and apprenticeships is contributing to unemployment, underemployment and low wage growth in certain sectors.

Labor members of the Committee believe the Government must make sure that Australians get a fair go and a first go at skills, training, and secure jobs with fair pay.

Labour market gaps have emerged while our borders have been shut. Instead of recommending that the Government identify skill shortages and deliver urgent training and re-skilling opportunities to Australian workers so they can fill those jobs, Government members are immediately turning to temporary migration. The government is turning their back on Australians seeking work, and disregarding all the known challenges of exploitation and wage theft.

Labor members are concerned that the Government members are enthusiastically rushing forward to expand the number of occupations on the skills shortage list for visa holders - in areas such as chefs, veterinarians, cafe managers, seafarers, motor mechanics, cooks, carpenters, electricians and other hospitality roles - without significant or thorough consideration for the impact that expansion would have on job opportunities for Australian workers.

Labor members of the Committee note that then Treasurer and now Prime Minister Scott Morrison never acted on the hefty Productivity Commission report on migration that was given to him in 2016. It still lays untouched. The Liberal Government has never responded to the report's recommendations, including that Australia would be better served by a migration program that sourced higher-skilled, permanent workers. The report found that such a shift would add greater value and growth to the economy while also improving the budget bottom line.

This interim report by Government members does not seek to deliver these outcomes.

Australia is the most successful multicultural nation on earth. It can stay that way in a post-COVID-19 world, but only if our migration program adapts and responds to the current economic crisis, and support Australians to get back to work in secure, well-paid jobs.

## **Skills and training**

Instead of continuing the task of building a strong and reliable system of vocational education, the Morrison Government has slashed funding to TAFE and training by \$3 billion and underspent by another \$1 billion, prior to the start of the pandemic.

The Prime Minister and his Government have let apprentice numbers fall by 140,000 and presided over a national shortage of tradies, apprentices and trainees. Australians need and deserves excellent TAFEs and universities, especially as our economy reopens after COVID-19.

The Prime Minister has spent eight years ignoring the vital role TAFE plays in the growth of our communities and young people – and the vital role it plays in the growth of our economy.

Too many Australians have either been locked out of quality TAFE training, or have lost confidence in the promise of vocational education. The consequences of this failure are felt right throughout Australia.

We've seen this government forsake casual workers under JobKeeper, showing their disregard for those working people. We know that skill development breaks down in poor quality jobs. Casual and part-time working people rarely get trained.

The Morrison Government has spent the COVID-19 crisis watching all this unfold and they have done nothing about it but make further cuts and costly mistakes.

## **Recommendations**

At the end of March, Prime Minister Scott Morrison will leave hundreds of thousands of Australians behind by ending wage subsidies. Entire sectors, including tourism and hospitality, will be denied government support and job losses are inevitable.

Instead of prioritising Australian workers, the Government members of the Committee have put Australians at the back of the jobs queue.

The Labor members of the Committee believe Australian working families will benefit from more job security, better pay and a fairer industrial relations system. It means they can take leave when they're sick or need to look after their loved ones, without putting their jobs at risk.

The Prime Minister has no plan for secure jobs – he just wants to cut people's pay. These recommendations by Government members only reinforce that message. Insecure work has increased under the Morrison Government. This includes gig work which regularly sees people get paid below minimum wage in unsafe conditions. Labor want casual workers to have the same basic workplace rights that the rest of the workforce takes for granted.

### **Recommendation 1**

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**Labor members of the Committee oppose the streamlining of Labour Marketing Testing or other exemptions for business that provide incentives to put Australian workers at the back of the jobs queue.**

### **Recommendation 2**

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**Labor members of the Committee oppose the proposed funding cuts to skills and training provided through funding to the Skilling Australia Fund.**



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### Recommendation 3

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Labor members of the Committee oppose any proposal to reserve places on flights and quarantine for skilled migrants, while 40,000 Australians remain stranded overseas.

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### Recommendation 4

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Labor members of the Committee oppose recommendations to expand the number of occupations on the skills shortage lists that would impact employment opportunities for Australians. Especially Australians looking for jobs as chefs, veterinarians, cafe and restaurant managers, seafarer, civil engineers, electrical engineers, motor mechanics, cooks, carpenters, electricians and other roles in the hospitality, health, trades, agriculture and manufacturing sectors.

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### Recommendation 5

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Labor members of the Committee oppose recommendations that mandate prioritising visa processing for businesses ahead of the hundreds of thousands of partner and parent visa and citizenship applicants waiting for their applications to be considered.

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### Recommendation 6

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Labor members of the Committee support transparency measures that allow all visa applicants to see where their visa application is in the ever-growing visa-application queue created by the Morrison Government.

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### Recommendation 7

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Labor members of the Committee support measures that allow greater pathways to permanency for visa holders, noting that the interim report provides no advice on how greater permanency will be achieved by the Morrison Government.

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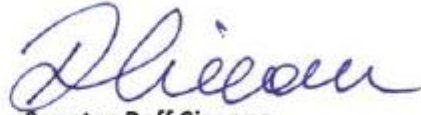
### Recommendation 8

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Labor members of the Committee call on the Morrison Government to urgently respond to the Productivity Commission report on the Migrant Intake into Australia.



**Maria Vamvakinou MP**  
**Deputy Chair**



**Senator Raff Ciccone**  
**Committee Member**



**Steve Georganas MP**  
**Committee Member**



**Julian Hill MP**  
**Committee Member**

## 2. Dissenting Report

### *Australian Greens' Dissenting Comments on Interim Report*

The Australian Greens thank everyone who made a public submission and/or public representation to this inquiry into Australia's Skilled Migration Program.

The Australian Greens do not support the approach of this report.

The interaction between labour laws and migration laws in Australia are full of loopholes which allow for massive exploitation of local and overseas workers. Those loopholes need to be closed, but this report fails to take the necessary steps.

Further, loopholes in free trade agreements allow employers to circumvent local labour laws, which leads to the systemic exploitation of temporary visa workers and local workers being denied job opportunities and training. Australia must stop signing up to these unfair trade deals, but this report is silent on that front.

To overcome any labour shortages, skills training of local workers should be the priority. Instead of weakening labour market testing and undermining Australian wages and conditions as Recommendation 1 proposes, jobs should be advertised locally first and temporary working visas should be used to fill genuine skill shortages or where international collaboration is important (such as research).

Critically, temporary visa holders should not be automatically locked out of the permanent migration program. The system regulating the use of migrant workers should be negotiated between unions, employer organisations and the federal government.

Established Australian rates of pay should be guaranteed. Labour laws must be properly enforced to ensure that local legal standards are being applied everywhere, both for local workers and for migrant workers.

The Australian Greens also note Recommendation 8, which calls on the Government to reserve places on flights and in quarantine for skilled migrants. However, the report does not set out a timetable or plan to enable the urgent return of Australia's existing skilled visa holders to Australia, which we believe to be a major omission, and failing.

Paragraph 2.68 of the report states that:

- Australia lost over 500,000 people on temporary migration visas in the last 12 months. Many of those people were workers who were vital to Australian businesses. Many of the jobs these migrants do create jobs for Australians ...

Many of these people were not lost - they were locked out by Australia's current COVID-19 border restrictions.

These skilled migrants have now been stranded overseas, separated from their homes, jobs, and families – including children – for around a year. The Government's response to many of their applications for a travel exemption has been to suggest that if they are stranded abroad, and separated from their family, that their family should leave Australia and join them overseas – that their family should “go home”.

That is no way to treat people that we've invited into our country, to support and strengthen our industries and economy, and to build lives and make a home in Australia.

Many of these skilled migrants have lived in Australia for many years, working their way through various student and skilled visas on a pathway to permanent residency. Once a temporary resident is eligible for permanent residency, an application for a permanent resident visa can then take well over a year to process.

As such, Recommendation 8 should first be extended to the tens of thousands of skilled visa holders who are currently stranded overseas, with no idea when, or if, they'll ever be able to return to their lives in Australia.

The Australian Greens further note that the existing quarantine, flight caps, and travel exemption arrangements lack transparency, accountability, consistency, affordability and timeliness. While reform of the above arrangements are outside the scope of this Inquiry, the Australian Greens believe that it is disingenuous to suggest to businesses or new skilled migrants that we are ready to invite new

skilled visa holders to Australia while our international borders remain closed and in the absence of reform to the above systems.

The Australian Greens oppose Recommendation 12, which would provide automatic and fast-tracked pathways to permanent residency for wealthy investors and professional classes of skilled visas. As with family reunion visas, we do not support there being one pathway to permanent residency for the rich, and another for everyone else.

The Australian Greens believe that until these issues are acknowledged and urgently addressed, Australia runs the risk of losing skilled migrants to countries that are considered more welcoming, such as Canada and the United Kingdom.



Nick McKim

Senator for Tasmania