

Business
Council of
Australia



submission

Submission on the Department of
Immigration and Border Protection
Proposal Paper - Simplification of
the skilled migration and temporary
activity visa programmes

FEBRUARY 2015

*Working to achieve
economic, social
and environmental
goals that will benefit
Australians now and
into the future*

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

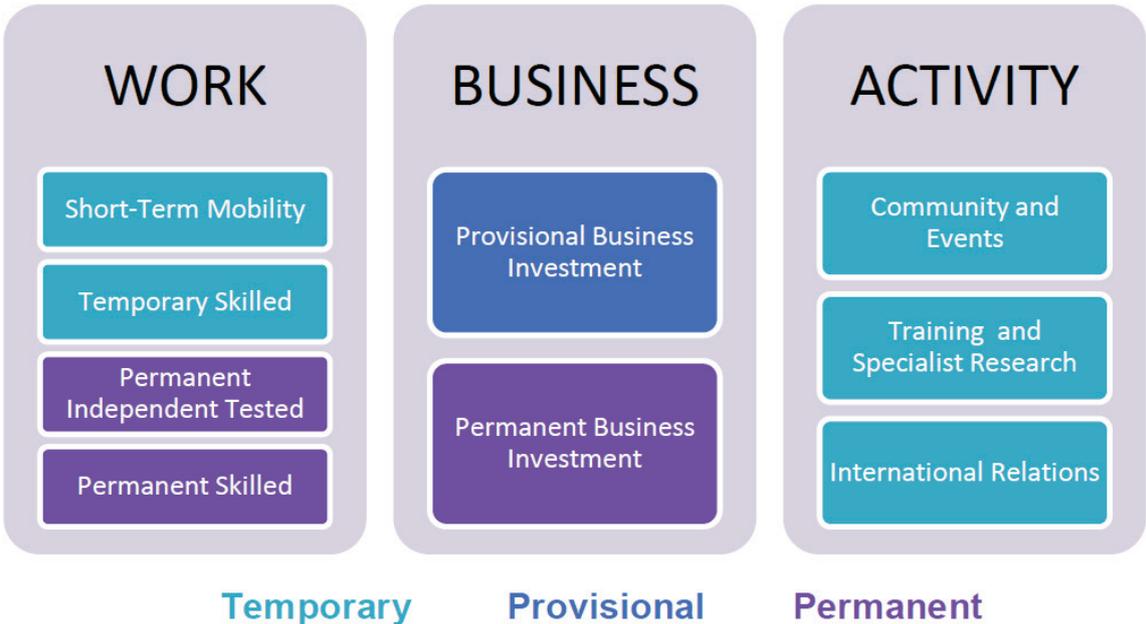
About this submission

This is the Business Council’s submission to the Department of Immigration and Border Protection’s *Proposal Paper – Simplification of the skilled migration and temporary activity visa programmes – December 2014* (the ‘proposal paper’).

This submission:

- comments on the department’s proposal to simplify the visa framework by dividing current visa subclasses into three categories of ‘work’, ‘business’ and ‘activity’, as set out in Figure 1
- provides the Business Council’s views on the recommendations arising from the Independent review into integrity in the subclass 457 programme in 2014 (a key reference source for the proposal paper)
- makes some broader comments on Australia’s migration programme and its importance to Australia’s long-term economic and social development.

Figure 1: Proposed new visa framework



Source: Department of Immigration and Border Protection 2014a.

Summary of BCA recommendations and comments

Recommendations and comments on the proposal paper

- ▶ The ‘guiding principles’ for the review (on page 4 of the proposal paper) should include the need for the government’s migration programmes to continue to support the growth of Australia’s population and the labour force. To that end, the guiding principles on

page 4 should be amended to state: 'Skilled migration must support and complement *growth in* the Australian labour market.'

- ▶ The directions of the proposals to simplify Australia's visa programmes are supported by the Business Council, subject to further assessment that the integrity of the system will be maintained and that the changes are demonstrated to lower compliance and administration costs, including taking into account any costs of transitioning to new schemes.
- ▶ The department's simplification programme should include consideration of ways to improve the efficient management of visa programmes, including greater use of online applications and faster approvals for lower-risk applications.
- ▶ The department's proposal for a new 12-month temporary work visa responds to a clear industry need and is supported in principle by the Business Council, subject to further clarification of the new visa's eligibility criteria.
- ▶ The proposed 'Temporary Skilled' migration category should retain the demand-driven and uncapped approach under the current 457 visa scheme to ensure the visa system remains highly responsive to the needs of the economy.

Recommendations and comments on the Independent review into integrity in the subclass 457 programme

- ▶ The Business Council supports the majority of the recommendations in the Independent review into integrity in the subclass 457 programme. In particular the Business Council urges the government to promptly implement the review's recommendations for:
 - a new streamed, risk-based approach to 457 visa assessment
 - improving the 457 visa safeguards by prioritising an effective 'market salary rate' test
 - abolishing labour market testing.
- ▶ The Business Council agrees with the review panel's findings that there are multiple problems with training benchmarks but does not agree with the recommendation to replace them with an annual training fund contribution.

Recommendations and comments on Australia's migration programme and its importance to the Australian economy

- ▶ The permanent migration programme intake, set annually in the Federal Budget, should remain at least at current levels of 190,000 per annum, with two-thirds of the programme filled by skilled migrants.
- ▶ There should be consultation with industry on the development of guidelines for the Investment Facilitation Arrangements announced as part of the China–Australia Free Trade Agreement (ChAFTA). The Department of Immigration will need to be sufficiently resourced to enforce safeguards and assess the cumulative impact of changes to investment and labour market arrangements.

The context for the proposal paper

Migration policy to meet Australia's long-term needs

Australia needs an efficient and well functioning skilled migration programme as part of a long-term economic strategy to increase prosperity for all Australians.

The department is to be commended for consulting with industry and putting forward well-considered proposals to revise Australia's visa programmes to suit the needs of a modern, dynamic economy.

As the world's economy changes, we need to continually update our migration policies to remain competitive and ensure migration continues to make a positive contribution to the economic development of Australia and to the growth of the labour force.

Australia's immigration programmes have generated substantial economic and cultural benefits for Australia.

For instance, research shows the positive effect that migration has on incomes. National Bureau of Economic Research (NBER) research found that the effect of net migration on Australian wages has been clearly positive – around 1.5 per cent. The biggest positive impact was for lower-skilled workers whose wages were boosted by 4 per cent (Docquier et al 2010).

Reforms to the migration system should maintain high levels of integrity while making our visa programmes simpler and lower cost. They should serve to increase Australia's attractiveness to migrants as a place to live and work.

Australia's population is projected to grow to around 36 million by 2050. The Business Council believes population growth of this order will be essential for Australia's economic development and for the future prosperity of all Australians in the Asia-Pacific century.

The growth in the population will largely come from our temporary and permanent migration programmes. Natural population increase is declining as a share of population growth. Coupled with the looming demographic impacts from ageing, Australia needs migration policies that will build a larger, highly skilled workforce.

Annual growth in demand for highly skilled workers is projected to be on average between 3 per cent and 3.9 per cent to 2025 (Australian Workforce and Productivity Agency 2013a). Temporary and permanent migrants will be needed to complement local workers to meet this demand.

Department of Immigration's proposal paper

Guiding principles

The 'guiding principles' for the review (on page 4 of the proposal paper) provide a useful direction for the reforms needed for a more effective and efficient visa framework.

As discussed above, there needs to be clear recognition of the critical role the migration programme plays in supporting the growth of Australia's population and the labour force.

To that end, the guiding principles on page 4 should clearly reflect this and be amended to state: 'Skilled migration must support and complement *growth in* the Australian labour market.'

Australia's future challenges are well set out

The department's proposal paper sets out the future challenges for Australia's labour market and the importance of a well functioning migration programme. In particular:

- Australia's migration programmes must keep pace with increasing international competition for talent and be able to source skilled workers for jobs that cannot be filled locally.
- There is growing international competition for talent as other countries also seek to offset the economic impacts of their ageing populations. We must continually improve our migration programme to retain and attract the 'best and brightest' Australian and overseas workers (DIBP 2014a).
- Australia's temporary and permanent migration programmes are increasingly complementary, with many temporary migrants going on to become permanent citizens.

New visa framework

The proposed simplification and consolidation of visa programmes in the proposal paper should help to reduce the costs of hiring skilled workers in Australia.

Changes to migration programmes should be implemented where there are clear benefits from stronger integrity, enhanced flexibility, lower processing times or lower compliance costs. An effective migration policy increases business competitiveness and, as stated earlier, leads to more higher-paying jobs for all Australians (Docquier et al 2010).

As well as considering a revamp of visa programmes, the review should look for ways to improve the administration of visa processes. The Business Council supports the proposed move to online visa lodgement as a way of improving the efficiency and effectiveness of visa processes. This has the potential to reduce processing times and costs, and increase the transparency and clarity of approval processes. It may also improve process efficiency and integrity by reducing the role of intermediaries, such as migration agents, in visa applications.

The department should draw upon the Australian National Audit Office's 2014 better practice guide, *Administering Regulation: Achieving the right balance*, to look for ways to further streamline its visa processes. For example, measures to strengthen the transparency and accountability of visa regulation would include:

- defining regulatory outcomes and administrative priorities
- regular reporting to internal and external stakeholders on performance
- monitoring complaints to help identify areas for improvement.

It will still be important to ensure the costs and benefits of any proposed changes to the visa programmes are clearly set out in the required Regulation Impact Statement, consistent with the government's guide to regulation. Change can be disruptive and costly if businesses need to spend more time to learn about, and comply with, any new arrangements. Clear reasons for change should be demonstrated.

The permanent migration programme

The Business Council considers that any changes to the permanent migration programme must continue to ensure that the total annual intake remains at least at current levels of 190,000 per annum, with two-thirds of the programme filled by skilled migrants.

Opportunities to better integrate the temporary and permanent migration programmes are supported. Many temporary migrants eventually make the transition to permanent residence, with the period of temporary residence in effect serving as a trial period that works well for migrants and for Australia. The Business Council supports initiatives to facilitate this transition.

The department's proposal for a new 'Permanent Skilled' category would help to achieve this and is worthy of further consideration. More details should be provided on how the scheme will maintain the high standards under the 'points test' that currently applies for permanent migration.

The need for an effective temporary skilled migration programme

A well-functioning temporary migration programme will be a particularly important outcome for this review. The demand-driven nature of the existing 457 visa scheme is important for meeting the fluctuating needs of the economy.

Examples of the need for temporary migration visas

Australia's 457 visa programme is needed to help meet short-term skills shortages unable to be filled by Australians. Highly skilled overseas workers add to the existing pool of workers and contribute to the internal training capacity of business (AWPA 2013b, DAE 2013).

Global businesses often need to efficiently relocate employees within the same company to meet short-term skills shortages and also develop staff skills (BCA 2014, PwC 2014). Many employees and graduates are also keen to work overseas at some stage during their career (PwC 2011).

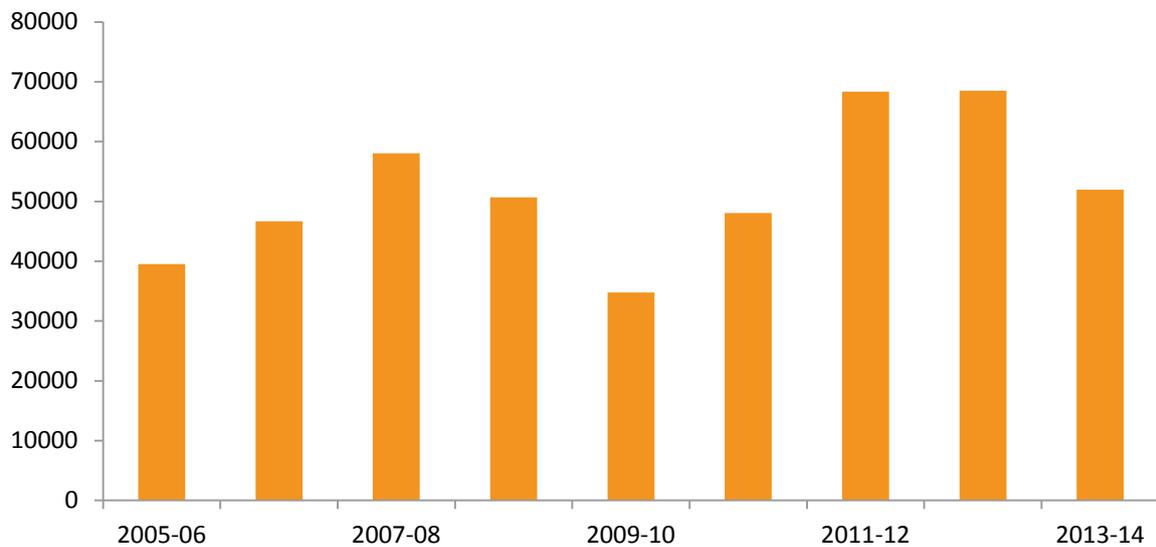
Many roles are only required to be filled for a defined period of time in the construction phase of major projects. In the Business Council's 2013 study into project costs, we found that the small size of Australia's market makes it difficult to train enough workers to meet the demand for certain skills such as project managers and engineers, especially when a number of large investment projects are concurrently underway (BCA 2013). Attempting to meet peaks in demand from the local labour market alone (if it were possible) could lead to excessive wage inflation or, when demand returns to more normal levels, result in periods of unemployment – both of which are economically inefficient and socially undesirable. Temporary skilled migration helps avoid these problems.

A well-targeted and designed temporary skilled migration programme with effective integrity measures should complement, rather than substitute for local employment, enabling businesses to increase overall employment.

It should be remembered that businesses naturally prefer to hire locally wherever possible, because it is lower cost and easier to do so. There are considerable additional costs and uncertainties involved in relocating staff from other countries to Australia. Australian workers also have the advantage of local knowledge which is valuable to employers.

So long as appropriate and effective integrity settings are in place, centred on the requirement to meet Australian market salary rates and Australian conditions, then abuses of migration schemes should be few and best addressed through enforcement, rather than imposing additional costly red tape across the board.

It is critical that debate about migration policy is based on evidence, particularly in relation to temporary work visas. The use of temporary work visas has remained relatively stable, with visa-holders typically making up around one per cent of the workforce. The annual number of 457 visa grants has grown moderately over the past 10 years. The alignment of 457 visa issuance with changing economic conditions over those ten years demonstrates that the programme is effectively demand-driven. Indeed, the number of primary 457 visas granted fell by 24 per cent between 2012/13 and 2013/14 (Figure 2).

Figure 2: Number of primary 457 visas granted, 2005/06 – 2013/14

Source: Department of Immigration and Border Protection 2014b

Comment on the Independent review into integrity in the subclass 457 programme

The proposal paper refers to the 2014 Independent review into integrity in the subclass 457 programme (Azarias et al 2014) as an important source of advice for this broader review of the migration system.

Many of the recommendations in the 2014 review seek to improve the efficiency and effectiveness of 457 visa administration and enforcement. They should be quickly implemented, including:

- Improving the scheme's safeguards, for example, by prioritising an effective 'market salary rate' test.
- Overturning regulatory changes made under the previous government, such as the introduction of labour market testing and higher English language requirements.
- The establishment of three approval streams whereby larger employers with a good track record, and 457 visa applications for more highly paid occupations, would both face relatively less scrutiny during the assessment process and require less compliance reporting.

The new approval streams would align more closely with a 'risk-based' approach to regulation. Department resources would instead be devoted to scrutinising applications from higher-risk employers and for occupations that have proved to be more problematic in the past.

The Business Council agrees with the review panel's findings that there are multiple problems with the training benchmarks under the 457 visa scheme, but does not agree with the recommendation to replace them with an annual training fund contribution.

Rather, more analysis needs to be undertaken on how any expenditure requirements placed on 457 visa sponsors are supporting an effective training system and meeting the future needs of the economy. Under the current benchmarks there is at least an opportunity for sponsoring employers to decide how training expenditure is allocated so that future skills needs can be met. It is less clear how the proposed training funds would be administered and expenditure prioritised to meet those needs.

The review argues that the payments would reflect the cost of an implicit 'social licence' granted by the community to employers to hire workers on 457 visas. However it should be remembered that 457 visa sponsors already pay a fee to government, and that these fees increased substantially in 2013. By adding to the already high direct and indirect costs of employing a 457 visa worker, the training payment will put companies affected by skills shortages at a commercial disadvantage, which potentially has negative flow-on effects on the economy. These factors need to be taken into account by the government in finalising its response to the review.

On the whole, promptly implementing the recommendations of the independent review will increase flexibility, improve system integrity and reduce costs, while also ensuring the 457 visa scheme is meeting its purpose to fill genuine skill shortages.

The proposed new short term mobility visa

The Business Council supports, in principle, the proposal for a new 12-month temporary work visa to replace the current '400 visa'.

The 400 visa enables people to travel to Australia for a three-month period to conduct highly skilled and specialised work or activities. As the discussion paper points out, in many cases the three-month period is too limiting, with highly specialised workers needed for up to a year, for instance, to install complex equipment and IT systems (DIBP 2014a). When these skills needs are specific, temporary and unable to be met from the local labour force, the visa period should match the length of time required to complete the task.

The main integrity measure for the short term mobility visas should be the requirement for 'employment conditions reflective of the Australian standard' (e.g. payment of market salary rates), and this should be properly enforced. Requiring people to be paid in accordance with Australian standards and conditions means businesses do not gain a cost advantage from bringing in overseas workers over hiring locally, particularly as there are many other additional costs associated with bringing workers to Australia. This requirement is an effective way of achieving the programme goal of maintaining primacy for Australian workers.

It would be unnecessary to require 'labour market testing' under this new scheme. The 2014 review of the 457 visa scheme echoed previous reviews in finding labour market testing to be costly and ineffective. The same assessment should be applied to the proposed short term mobility visa.

Minimum skills and language testing also should not be needed for the proposed scheme. Businesses would be unlikely to go to the expense and effort of bringing workers to Australia for such a short period if they are underqualified or a risk to their business.

The department should clarify the need for the 'Genuine Temporary Entry' measure referred to in the proposal paper, and what problem it is seeking to manage. The measure may not be necessary, given other integrity measures that will be in place.

Investment Facilitation Arrangements

While not raised in the proposal paper, the Business Council notes a recent migration policy development in ChAFTA which will allow for Investment Facilitation Arrangements (IFA) for Chinese-owned companies registered in Australia undertaking large infrastructure development projects above \$150 million.

IFAs will provide flexibility for companies to respond to the unique economic and labour market challenges related to large infrastructure development projects. They are expected to operate within the framework of Australia's existing 457 visa system, with the main existing safeguards applying to sponsors using IFAs.

The Business Council would welcome departmental consultation with industry on the development of the guidelines for IFAs announced as part of ChAFTA. There will need to be effective resourcing of the Department of Immigration to enforce safeguards and assess the cumulative impact of changes to investment and labour market arrangements.

Next steps

The Business Council looks forward to participating in the:

- next stage of the consultations on simplifying the skilled migration and temporary activity visa programmes
- development of guidelines for the Investment Facilitation Arrangements announced as part of the China–Australia Free Trade Agreement (ChAFTA).

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BUSINESS COUNCIL OF AUSTRALIA
42/120 Collins Street Melbourne 3000 T 03 8664 2664 F 03 8664 2666 www.bca.com.au

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