

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Final Report of the Inquiry into Australia's Skilled Migration Program

Joint Standing Committee on Migration

August 2021
CANBERRA

© Commonwealth of Australia

ISBN 978-1-76092-271-9 (Printed Version)

ISBN 978-1-76092-272-6 (HTML Version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

Contents

Members	v
Terms of Reference	vii
List of Recommendations	ix
Abbreviations	xv
Foreword	xvii

The Report

1	Introduction.....	1
2	The role of skilled migration in meeting labour market shortages.....	3
	Introduction	3
	Workforce planning	3
	Committee comment	12
	Skills lists	13
	Australian and New Zealand Statistical Classification of Occupations	15
	Committee comment	25
	Current skills shortages	26
	Committee comment	29
	Skilled occupation lists	31
	Committee comment	34
	Permanency.....	36
	Committee comment	41

3	Visa conditions and processing	43
	Visa conditions	43
	Regional visas	44
	Committee comment	49
	Temporary Skilled Migration Income Threshold	50
	Committee comment	52
	International students.....	53
	Committee comment	58
	Intra-company transfers	60
	Visa processing timeframes	62
	Processing times.....	63
	Committee comment	67
4	Other matters	69
	Labour market testing	69
	Committee comment	74
	Skilling Australia Fund	76
	SAF Levy and Universities	77
	SAF Levy and Healthcare	77
	Time of Collection of SAF Levy	78
	Refunds of the SAF Levy	80
	Committee comment	81
	Appendix A. List of submissions	85
	Appendix B. Public hearings	93
	Additional comments	103
	Dissenting comments	109

Members

Chair

Mr Julian Leeser MP

Deputy Chair

Ms Maria Vamvakinou MP

Members

Mr John Alexander OAM MP

Senator Raff Ciccone

Hon Damian Drum MP

Mr Steve Georganas MP

Senator the Hon Sarah Henderson

Mr Julian Hill MP

Senator Nick McKim

Senator Gerard Rennick (*to 13 May 2021*)

Senator Ben Small (*from 13 May 2021*)

Committee Secretariat

Secretary	Pauline Cullen
Inquiry Secretary	James Bunce
Researcher	Ayrton Kiraly
Administrative Officer	Tanya Pratt

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

2.45 The Committee recommends that building on the work of the National Skills Commission (NSC) and the Skilled Migration Officials Group, the Federal Government develop a dynamic national workforce plan. The plan would co-ordinate the efforts of State and Federal Governments to ensure Australia's persistent skills shortages and future workforce needs are addressed through Australia's higher education and vocational education systems, employment services and the skilled migration program. This plan should be regularly updated. In order to develop the plan:

- A cross-portfolio, cross-jurisdictional interagency committee (IAC) should be established, meet regularly, and comprise decision-makers from departments and agencies, led by the NSC.
- The NSC and relevant data collection bodies should also develop a data aggregation system that identifies skills shortages at a regional level by occupation.

Recommendation 2

2.107 The National Skills Commission should develop a new occupation and/or skills identification system for the skilled migration program in consultation with industry to replace ANZSCO. The new system should be more flexible to adapt to emerging labour market needs, with consideration given to how the new system would integrate with other functions of government currently utilising the ANZSCO.

Recommendation 3

2.126 The Committee recommends that the Government:

- Develop accepted definitions of acute skills shortages and persistent skills shortages taking into account:
 - Recruitment difficulty
 - Length of time the shortage has existed
 - Number of job vacancies and the geographic spread of vacancies
 - Criticality of the occupation if left unfilled (e.g. nurses and general practitioners)
 - Criticality of the occupation to temporary circumstances (e.g. bushfires, floods or pandemics).
- Provide employers looking to fill jobs on the PMSOL with more streamlined processes.

Recommendation 4

2.152 The Committee recommends that the Government consolidate the Medium and Long Terms Strategic Skills List (MLTSSL) and Short Term Skilled Occupation List (STSOL) into one list: the Skilled Occupation List (SOL).

Recommendation 5

2.153 The Committee recommends that when the pandemic is concluded the PMSOL should be replaced by an Acute and Persistent Skills Shortage List (APSSL).

Recommendation 6

2.154 The Committee recommends that the skills lists be regularly reviewed.

Recommendation 7

2.185 The Committee recommends that the Department of Home Affairs should change the visa conditions for the short-term stream of the Temporary Skills Shortage visa (subclass 482) to provide a pathway to permanent residency for temporary migrants.

- All employer nominated visas should provide the option of a pathway to permanency. The length of time to permanency and the conditions involved may vary from visa to visa with, for instance, applicants in lower skilled occupations taking longer to reach permanency than more highly skilled visa holders.
- Conditions for permanency should continue to include:
 - Competent English language ability; and
 - Applicants should be under the age of 45.

Recommendation 8

3.30 The Committee recommends that the Government provide further concessions for temporary regional visas, including:

- Labour Market Testing advertising can be up to 12 months before lodging a nomination application
- Raise the age limit to 50
- English language requirements at vocational English
- Reduction of prior experience required in occupation to 2 years and
- Priority visa processing.

Recommendation 9

3.45 The Government should revisit the recommendations of the *Review of the Temporary Skilled Migrant Income Threshold (TSMIT)* (2017) in order to increase the TSMIT. Such a change should be made with consideration of exemptions or different rates for jobs in regional areas.

Recommendation 10

3.73 The Committee recommends the Government consider changes to post-study work arrangements for a subset of international student graduates where those graduates have:

- Undertaken a university course (or a course run by a reputable non-university higher education provider) leading to a job in an occupation with a persistent skills shortage
- Demonstrated excellence for instance by graduating in the top ten per cent of all graduates in their course or achieving first class honours
- Met relevant English language standards
- On graduation, worked in a job that is relevant to their field of study with a persistent skills shortage

Such graduates would be eligible for a discount on the work experience component for permanent residency under the employer nominated scheme from three years to two years.

For graduates applying for a points-based visa, additional points could be awarded for those graduates meeting the above criteria.

The Government should also consider longer temporary graduate visas of three years to provide time and flexibility for graduates to find work.

As a special integrity measure the Tertiary Education Quality and Standards Agency should undertake special and regular audits of the assessment of excellence measure to ensure standards are maintained.

Recommendation 11

- 3.83 The Committee recommends that Government enable intra-company transfer of executive employees of multinational companies to Australia where necessary for these companies to expand their operations in Australia. Streamlining should include an exemption from labour market testing. This measure should be subject to other strict integrity measures. Consideration should be given to whether a separate visa category is necessary to enable intra-company executive transfers.

Recommendation 12

- 3.112 The Committee recommends that the Department of Home Affairs update their visa processing system to ensure a more streamlined visa application process for applicants and employers.

Recommendation 13

3.113 The Committee recommends that the Department of Home Affairs undertake to improve their customer service in the skilled migration program with consideration given to:

- Establishing industry liaison officers to assist businesses in navigating the skilled migration program and provide feedback to the Department on emerging conditions in industry
- Provision of a specialist triage system to provide advice on complex visa applications including
 - Making officials available to discuss visa applications over the phone
 - Allowing skilled visa applicants and employers the opportunity to correct minor discrepancies without having to restart the application.
 -

Recommendation 14

4.34 The Committee recommends that the Government temporarily extend the timeframe for employers to undertake Labour Market Testing prior to nomination from 4 months to 6 months during the pandemic recovery.

Recommendation 15

4.35 The Committee recommends that the Government exempt businesses from Labour Market Testing when a 457 or 482 visa holder has been employed in the position on a full-time basis for twelve months or more and prior to their lodgement of a subsequent visa application or a permanent residence application.

Recommendation 16

4.67 The Committee recommends that employers should be exempt from paying the Skilling Australia Fund levy twice for the same applicant, or for a subsequent visa, where the employer has already paid the Skilling Australia Fund levy for that employee.

Recommendation 17

- 4.68 The Committee recommends that universities should be exempt from the Skilling Australia Fund levy.

Recommendation 18

- 4.69 The Committee recommends that the Government guarantee a refund of the Skilling Australia Fund levy where the visa application is unsuccessful and where there is no evidence of fraud on the part of the sponsor or applicant.

Abbreviations

ABS	Australian Bureau of Statistics
ACCI	Australian Chamber of Commerce and Industry
ACS	Australian Computer Society
AHA	Australian Hotels Association
AISRS	Australian International Skilled Recruitment Services
ANZSCO	Australian and New Zealand Standard Classification of Occupations
APSSL	Acute and Persistent Skills Shortage List
BIM	Building Information Modelling
CEDA	Committee for Economic Development of Australia
CFMEU	Construction, Forestry, Maritime and Energy Union
CSOL	Consolidated Skilled Occupation List
DAMA	Designated Area Migration Agreement
DESE	Department of Education, Skills and Employment
DITT	Northern Territory Department of Industry, Tourism and Trade
ENS	Employer Nominated Scheme
IAC	Interagency Committee
ICT	Intra-Company Transfer
IELTS	International English Language Testing System
LMT	Labour Market Testing
MIA	Migration Institute of Australia

MLTSSL	Medium and Long-Term Strategic Skills List
MTAA	Motor Trades Association of Australia
NAWS	National Agricultural Workforce Strategy
NEC	Not Elsewhere Classified
NFF	National Farmers' Federation
NSC	National Skills Commission
PMSOL	Priority Migration Skills Occupation List
RCB	Regional Certifying Bodies
RCIA	Restaurant and Catering Industry Association
ROL	Regional Occupation List
SAF	Skilling Australians Fund
SFIA	Skills Framework for the Information Age
SMS	Sponsorship Management System
SOL	Skilled Occupation List
SPL	Skilled Priority List
STSOL	Short Term Skilled Occupation List
TAA	Tourism Accommodation Australia
TAFE	Technical and Further Education
TSMIT	Temporary Skilled Migration Income Threshold
TSS	Temporary Skills Shortage
VET	Vocational Education and Training

Foreword

With the onset of the COVID-19 pandemic Australia was forced to shut its borders to the world. As a result, more than 500,000 temporary migrants have left our shores since March 2020. Many of those temporary migrants were skilled migrants. Net overseas migration continues to be in negative territory with a further 77,000 people expected to leave Australia in the 2021-22 financial year.

The lack of skilled migrants and near record low unemployment has resulted in major skill shortages in the Australian economy impacting the viability of businesses.

However, the pause in the skilled migration program has provided an opportunity to have a less constrained examination of the skilled migration program than might ordinarily be possible. In particular, to consider whether the skilled migration settings are serving Australia's interests and its traditions of being selective about who we take in, while remaining internationally competitive to ensure Australia remains an attractive place for skilled migrants.

In March the Committee produced an Interim Report responding to specific issues raised by the pandemic and how we might attract outstanding global talent to Australia at this time.

In order to address critical labour shortages during the pandemic, the Government established the Priority Migration Skilled Occupation List (PMSOL).

The Committee received evidence of significant skill shortages emerging in the economy during the pandemic, in addition to the occupations already listed on the PMSOL. This led the Committee to recommend in the Interim Report that the Government include a broader range of occupations on the PMSOL.

The Government subsequently added more than 20 occupations including veterinarians, chefs, and civil and electrical engineers which the Committee had identified.

This final report builds on the interim report and seeks to place the skilled migration program in context. While skilled migration plays a role in increasing Australia's general human capital, it is also one of the policy levers that governments can use to address skill shortages in the Australian economy. Other levers include higher education, vocational education and employment services programs.

It became apparent to the Committee throughout this inquiry that there needs to be greater coordination of effort across governments and across jurisdictions to identify labour shortages and put in place the appropriate policy response.

The Committee also recommends further streamlining the skilled migration program by addressing some structural issues and provide all skilled migrants with a pathway to permanency, but with conditions and length of time to permanency varying. Additionally, an alternative system should be developed to replace the universally criticised Australia New Zealand Skilled Classification of Occupations (ANZSCO) to underpin the skills lists.

The Committee sought to address issues around the administration of the skilled migration program with a particular focus on different experiences skilled migrants might have when coming to Australia. To take a few examples, Australia should provide more incentives for migrants to move to regional Australia where persistent skills shortages exist; Australia should encourage the best and brightest international students to remain here to help address some of our persistent skills shortages; and the Department of Home Affairs needs to improve its processes and be more responsive to skilled migration visa applicants and employer sponsors.

Despite the challenges of the COVID-19 pandemic, the Committee was fortunate to hold hearings and site visits in Melbourne, Sydney, Albury and Shepparton which helped give the Committee a perspective on the challenges of skilled migration in regional Australia and across a range of businesses and industries.

On behalf of the Committee I would like to thank all those who made submissions and gave evidence to this inquiry. In particular, I would like to thank the Committee Secretariat for their work on the report as well as Annie Phillips from my office for their support.

I commend the report to the Parliament.

1. Introduction

- 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 adjustments to Australia’s skilled migration program. In March 2021, the Committee tabled an Interim Report on the short-term considerations, specifically in relation to 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.
- 1.3 Subsequently, the Committee gathered further evidence on the wider terms of reference for the inquiry. This report examines the results of this evidence gathering and responds to the remaining terms of reference.
- 1.4 This report builds on some of the recommendations of the Interim Report and explores, in more depth, issues that have arisen in the course of gathering evidence for the inquiry.
- 1.5 The Committee is reporting in a timely manner given the significant issues related to the COVID-19 pandemic and the resultant effects on the skilled migration program. The Committee’s consideration of the terms of reference has been shaped by the evidence received and the Committee has chosen to highlight what it considers are the most critical issues.

- 1.6 Chapter 2 discusses issues around workforce planning, skills shortages, the skills lists, the use of ANZSCO, skilled occupation lists and the impact of a pathway to permanent residency for skilled migrants and their employers.
- 1.7 Chapter 3 discusses the administration of the skilled migration program with a particular focus on visa conditions and processing. The chapter also discusses migration pathways for international student graduates and intra-company transfers.
- 1.8 Chapter 4 provides additional analysis of issues related to Labour Market Testing and the Skilling Australia Fund which were discussed in the Interim Report.

2. The role of skilled migration in meeting labour market shortages

Introduction

- 2.1 Skilled migration is one of the policy levers available to governments to address workforce shortages in the economy. It is not the only lever – others include vocational and higher education and employment services programs. Not all the levers can produce the same results in a timely way. In terms of filling immediate skills shortages, skilled migration can produce timely results.
- 2.2 As outlined in the Interim Report the Committee has consistently heard that Australian employers will choose Australians over skilled migrants, and that choosing a skilled migrant to fill a role often helps to create other Australian jobs.
- 2.3 In gathering evidence for this final report the Committee considered skilled migration in the context of the other levers available to government. It became apparent that greater coordination of effort across the Commonwealth and across jurisdictions is needed to identify labour shortages and formulate the appropriate policy response to those shortages.

Workforce planning

- 2.4 During this inquiry, one of the key aspects of the skilled migration program that emerged in evidence was the role that skilled migration plays in filling workforce shortages.

- 2.5 Dr George Tan, Associate Professor Andrew Taylor and Professor Ly Tran noted the historic importance of migration in Australia:

The focus of Australia's migration program has shifted over time particularly in the post-war era the 'Populate or Perish' post-war immigration drive to shore up national security and ensure a sufficient supply of labour in the 1950s and 1960s for its manufacturing industries.¹

- 2.6 Dr Tan et al. stated that the focus has shifted in recent decades, placing a greater emphasis on skilled migration in relation to meeting skills shortages. They went on to recommend that there should be greater clarity on the role of skilled migration in economic recovery and building the workforce for Australia's recovery from the pandemic:

Moving forward, we recommend that the purpose of the skilled migration programme clearly articulate the role of immigration in Australia post-COVID-19 akin to the post-war undertone for connecting pro-migration policies to economic recovery and nation building...²

- 2.7 The Australian Chamber of Commerce and Industry (ACCI) noted the importance of effective assessment of national skills shortages, not just in terms of the skilled migration program:

Accurately identifying labour market needs across the country is a vital exercise that needs to be undertaken in the broader context of developing skills in the economy. However, skills shortage assessment for employer sponsored skilled migration (temporary and permanent) is inadequate to identify all skill needs experienced by business across the country.³

- 2.8 On an industry level, there have been recent efforts to effectively identify solutions to workforce shortages. For example, the Aged Care Workforce Industry Council raised a recommendation of the Royal Commission into Aged Care Quality and Safety. The Royal Commission recommended the 'establishment of an Aged Care Workforce Planning Division within the Australian Department of Health'.⁴

¹ Dr George Tan, Associate Professor Andrew Taylor and Professor Ly Tran, *Submission 68*, p. 2.

² Dr George Tan, Associate Professor Andrew Taylor and Professor Ly Tran, *Submission 68*, pp. 2-3.

³ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 12.

⁴ Aged Care Workforce Industry Council, *Submission 146*, p. 4.

- 2.9 This proposed planning body would consider a wide range of workforce inputs, including ‘modelling, consultation with providers and consideration of immigration’.⁵
- 2.10 Similarly, the Australian Hotels Association (AHA) and Tourism Accommodation Australia (TAA) noted the importance of both the temporary and permanent skilled migration programs ‘as highly valuable components of workforce planning and development’ in the hospitality and accommodation industries.⁶
- 2.11 According to AHA and TAA:
- Skilled migration is a vital tool that assists individual businesses who experience skill shortages as well as fill skilled gaps in the broader economy. When a business needs to expand or replace a departing worker, skill[ed] migration provides access to skilled workers that are not otherwise available. Without this option, the licensed hospitality and accommodation industry is negatively affected. This impacts on overall economic activity, and therefore reduces the job opportunities available to Australian workers.⁷
- 2.12 Within agriculture, migration is considered an important component of the current and future workforce. The National Farmers’ Federation (NFF) noted that:
- The migrant worker intake should reflect our immediate and future skilled labour needs. And while it should complement domestic training arrangements – which must deliver the backbone of Australia’s skilled labour – it must also be accessible and flexible enough to enable farms to fill actual and projected gaps in labour market activity.⁸
- 2.13 The NFF further stated that consideration of the appropriate migration settings within this context poses a challenge to policy makers and industry, particularly in ensuring that the role of migration does not compromise ‘efforts to maintain and grow the domestic workforce’.⁹
- 2.14 The National Agricultural Workforce Strategy (NAWS) examined the importance of workforce data in policy which effectively supports current and future workforce requirements in the agriculture industry. It found that

⁵ Aged Care Workforce Industry Council, *Submission 146*, p. 4.

⁶ Australian Hotels Association and Tourism Accommodation Australia, *Submission 56.1*, p. 12.

⁷ Australian Hotels Association and Tourism Accommodation Australia, *Submission 56.1*, p. 12.

⁸ National Farmers’ Federation, *Submission 131*, p. 8.

⁹ National Farmers’ Federation, *Submission 131*, p. 8.

accurate data was critical to many aspects of training and planning to meet future needs:

- Skills and training providers need to understand both numbers of jobs and skills required to ensure the right training is available.
- Information on how labour requirements are changing in different communities enables better planning to support those workers, for example through ensuring sufficient availability of housing and services such as education and health.
- At a national scale, understanding change in workforces enables forward planning to meet emerging labour demands, both in terms of number of jobs required and in terms of the types of skills required.¹⁰

2.15 The NAWS further found that the data currently collected by the Australian Bureau of Statistics, the Australian Bureau of Agricultural and Resource Economics and Sciences, and various rural research and development corporations was typically standalone, and ‘cannot be readily integrated with each other to form a more comprehensive picture’.¹¹

2.16 According to the NAWS, the various data sets ‘only produce a limited insight into one aspect of the workforce’, and ‘are not collected consistently over time, reducing the ability to understand trends in the workforce’. As a result, the available data on the agricultural workforce currently does not provide a comprehensive picture of the current status or future requirements of the Australian agricultural workforce.¹²

2.17 Australian International Skilled Recruitment Services (AISRS) was also critical of the approach to understanding workforce requirements and shortages at a national level. It noted that the current approach to examining skills shortages had shortcomings that affect regional areas:

Making decisions at the national level that particular occupations, are in ‘approximate balance’ masks shortages in regional areas due to oversupply in capital cities. This leads to occupations being in shortage in regional areas, which causes regional communities to go slowly in a ‘death spiral’ due to the

¹⁰ National Agricultural Labour Advisory Committee, *National Agricultural Workforce Strategy: Learning to excel*, December 2020, pp. 204-205.

¹¹ National Agricultural Labour Advisory Committee, *National Agricultural Workforce Strategy: Learning to excel*, December 2020, p. 205.

¹² National Agricultural Labour Advisory Committee, *National Agricultural Workforce Strategy: Learning to excel*, December 2020, p. 205.

lack of skilled workers to support local hospitals, infrastructure, the local economy et al.¹³

- 2.18 ACCI similarly argued that a national skills assessment approach has significant shortcomings, stating that such an assessment cannot identify ‘the shortages experienced by an individual business, in a particular location, at a particular point in time’, even if a ‘rich and diverse data set capable of constantly adapting to capture market conditions’ is available.¹⁴
- 2.19 The Committee for the Economic Development of Australia (CEDA) argued the need for ‘a clear nexus between the temporary skilled migration system and the education and training systems’. According to CEDA, this includes ‘aligning the Skilling Australians Fund to the skills shortages that give rise to the need for temporary skilled migration in the first place’.¹⁵
- 2.20 The Victorian TAFE Association told the Committee that, particularly in relation to vocational education and training (VET), industry plays a key role in ensuring the training available is meeting the needs of employers. According to the Victorian TAFE Association:
- Industry, on behalf of and informed by employers, is responsible for setting standards and providing the skills intelligence around current and emerging skill needs to inform the planning of skills and training, and training providers are responsible for the delivery of training. Industry creates jobs and employment, and thereby the demand for training to meet their skill needs. In working collaboratively with local employers and employing industries, training providers respond by offering courses and qualifications and by marketing to encourage people to take up the opportunities available.¹⁶
- 2.21 The Australian Computer Society (ACS) discussed the perceived disconnect between the higher education sector and the skills needs in the Australian economy. Specifically, it noted that ‘universities can’t create the courses that are needed if students don’t take them up’, and that domestic enrolments in ICT-related courses declined after peaking in the early 2000s.¹⁷ While in

¹³ Australian International Skilled Recruitment Services, *Submission 75*, p. 8.

¹⁴ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 12.

¹⁵ Mr Jarrod Ball, Committee for the Economic Development of Australia, *Committee Hansard*, 21 April 2021, p. 18.

¹⁶ Mr Jeremy Irvine, Victorian TAFE Association, *Committee Hansard*, 21 April 2021, p. 13.

¹⁷ Mr Rupert Grayston, Australian Computer Society, *Committee Hansard*, 28 May 2021, p. 7.

recent years, enrolments have increased, ACS still stated that ‘there remains a gap which we supplement by skilled migration’.¹⁸

- 2.22 Swinburne University of Technology similarly argued that skilled migration plays an important role in filling immediate workforce gaps while Australians are being trained through the vocational education and university system:

As a university of technology, we are acutely aware that in order to keep pace of innovation Australia must have a workforce that is able to propel digitisation across industries. While there should be a parallel effort to develop native expertise in this area, through measures which incentivise upskilling and lifelong learning, this must be complemented by migration settings that address immediate needs.¹⁹

- 2.23 Mr Mark Glazbrook raised the perceived lack of the relevant data required to effectively underpin any assessment of skills shortages, noting that:

If an occupation is not listed on ANZSCO, the Federal Government will be unable to report on the occupation being in demand as technically it does not exist, even though it is possible to study formal qualifications in production horticulture approved by the Federal Government – this references and evidences the inconsistencies between some Federal Government departments namely the Department of Home Affairs and the Department of Education, Skills and Employment.²⁰

- 2.24 The Committee heard from a range of government agencies on efforts to coordinate and gain the strongest possible understanding of the range of available means of addressing workforce shortages.

- 2.25 For example, the Department of Home Affairs (Home Affairs) discussed the role of migration, education, and local jobseekers in addressing identified labour shortages:

...each of those operates on a different time scale, there is a need for coordination of effort between us and our colleagues, particularly in employment, right across the government in terms of what we can do now. In some respects, the skilled migration program offers a shorter term response by bringing people in who are already skilled, and then that allows for training

¹⁸ Mr Rupert Grayston, Australian Computer Society, *Committee Hansard*, 28 May 2021, p. 7.

¹⁹ Swinburne University of Technology, *Submission 180*, p. 2.

²⁰ Mr Mark Glazbrook, *Submission 91.1*, p. 4.

and other opportunities to be provided for Australians onshore or others who might be onshore already.²¹

2.26 In relation to skilled migration, Home Affairs noted that state and territory governments play a role through the Skilled Migration Officials Group, which meets three to four times a year and is composed of ‘departmental officials and other Commonwealth departmental officials as well as state and territory officials who have a responsibility for their own skilled migration programs’.²²

2.27 The National Skills Commission (NSC) was formed in July 2020 to, in part, advise the relevant minister on matters including ‘Australia’s current, emerging and future workforce skills needs’. According to its submission, the NSC’s ‘labour market analysis supports the objective of Australia’s skilled migration program, which is to deliver economic benefits by enhancing productivity and job creation’.²³

2.28 The National Skills Commissioner, Mr Adam Boyton, elaborated on the NSC’s work:

Some of the thinking behind having a body like the National Skills Commission is to actually build a consistent view of the labour market that informs not only skilled migration thinking but also thinking around education and, in particular for the National Skills Commission, vocational education and training.²⁴

2.29 In pursuit of these objectives, the NSC is currently developing a Skilled Priority List (SPL):

The SPL will help policy makers understand the skilled workforce needs of the Australian economy and may be used to inform policy responses (such as training, employer incentives and migration). The NSC will also undertake supplementary labour market analysis—using previous elements of the labour market indicator model that informed previous SMOL reviews and updates—and will also consult relevant Commonwealth departments.²⁵

²¹ Mr Andrew Kefford PSM, Department of Home Affairs, *Committee Hansard*, 25 June 2021, p. 28.

²² Mr Michael Willard, Department of Home Affairs, *Committee Hansard*, 25 June 2021, p. 28.

²³ National Skills Commission, *Submission 182*, pp. 3-4.

²⁴ Mr Adam Boyton, National Skills Commissioner, *Committee Hansard*, 12 May 2021, p. 1.

²⁵ National Skills Commission, *Submission 182*, pp. 4-5.

2.30 Mr Boyton explained the intended use of the SPL as ‘a backbone piece of labour market analysis’ designed to ‘inform not just thinking around skilled migration but also thinking around vocational education and training and what the broad skills needs of the economy may be’.²⁶

2.31 According to Mr Boyton:

The point of doing that is that you have one piece of evidence that policymakers can then use in order to think: ‘How do I respond to the skills shortage over here? Do I respond to that with a migration response, a skilling response or some combination of the two?’²⁷

2.32 In addition to the role played by Home Affairs and the NSC, the Department of Education, Skills and Employment (DESE) administers programs designed to fill labour shortages through the placement of Australian workers. An example of this is seasonal work programs relating to agricultural work:

Part of that is bringing in workers from the Pacific for seasonal labour shortages, but, alongside that, we run the Harvest Trail service which looks at providing incentives to get Australians into work. For example, we look at targeting both unemployed Australians on our caseloads and other Australians, and we provide incentives. We pay our providers incentives for placement but also for sustainability of jobs. We’ve also introduced relocation assistance to assist relocation of workers to short-term agricultural work.²⁸

2.33 More generally, DESE also administers programs that engage with employers to get ‘jobseekers on activity tested payments in front of employers’. According to DESE:

The government has recently announced its new employment services model which will commence in July next year. Part of that will be a much more effective approach to engaging with employers and working across all the various skill systems to get jobseekers trained up to meet the needs of employers.²⁹

²⁶ Mr Adam Boyton, National Skills Commissioner, *Committee Hansard*, 12 May 2021, p. 1.

²⁷ Mr Adam Boyton, National Skills Commissioner, *Committee Hansard*, 12 May 2021, p. 1.

²⁸ Ms Margaret Kidd, Department of Education, Skills and Employment, *Committee Hansard*, 28 May 2021, p. 47.

²⁹ Ms Benedikte Jensen, Department of Education, Skills and Employment, *Committee Hansard*, 28 May 2021, p. 47.

2.34 In addition to engaging in analysis at the lower-skilled end of the labour market, DESE discussed examples of its work giving higher-skilled Australians ‘better advice on career opportunities and giving them a much more up-to-date sense of emerging opportunities’ through the work of the National Careers Institute and the NSC.³⁰

2.35 For example, DESE told the Committee that:

...one of the tools that people can access is some machine-learning based programs where they can look up where the jobs are growing in their area and get a sense of how their existing skills match those jobs and demand and where additional training would make them more competitive for other opportunities and then directly see where that training is on tap in their local area.³¹

2.36 In terms of region-specific workforce shortages and gaps, DESE noted that while the ‘labour market at the high level looks quite healthy’, it needs to be unpacked to see the industries and regions ‘where the hotspots are’.³²

2.37 DESE outlined a recent initiative called the local jobs measure directed at addressing the regional and industry variations:

As part of this measure we have employment facilitators engaged in regions, and they do an analysis in partnership with the National Skills Commission. It dissects what's going on in a region. It looks at what the unemployed case load is, who the people are, what the industries are and where the shortages might be and it looks at the training pipeline – what VET courses are available, what JobTrainer places are there – and tries to bring it all together. So, local task forces problem-solve that data and come up with strategies to try to bring the bits together.³³

³⁰ Ms Benedikte Jensen, Department of Education, Skills and Employment, *Committee Hansard*, 28 May 2021, p. 47.

³¹ Ms Benedikte Jensen, Department of Education, Skills and Employment, *Committee Hansard*, 28 May 2021, p. 47.

³² Ms Margaret Kidd, Department of Education, Skills and Employment, *Committee Hansard*, 28 May 2021, p. 48.

³³ Ms Margaret Kidd, Department of Education, Skills and Employment, *Committee Hansard*, 28 May 2021, p. 48.

Committee comment

- 2.38 While not explicitly a part of the terms of reference of this inquiry, understanding the nature and extent of workforce shortages and the policy responses to them quickly emerged as a key issue underpinning this inquiry.
- 2.39 Skilled migration is one means by which such workforce shortages can be addressed. Other means canvassed during this inquiry include through training and education, and finding employment for suitably skilled unemployed Australians (although employment services tend to play a greater role in relation to filling semi-skilled and unskilled workforce gaps).
- 2.40 The Committee received evidence from many different sectors of the economy, many of which were represented by peak bodies who were able to provide statistics from their membership self-reporting on labour shortages. While this information was very useful it did not provide a comprehensive, economy-wide picture of Australia's workforce shortages in a way that can allow workable long-term solutions to be devised.
- 2.41 Further, the Committee heard from Australian Government agencies that raised examples of recent efforts to quantify labour shortages, and outlined the steps being taken to address them.
- 2.42 While the Committee notes the recent work of the NSC and the Skilled Migration Officials Group as a good start, the Committee does not have confidence that the current sources of information and advice provide a comprehensive picture of Australia's workforce shortages. The Committee is also not convinced that there is sufficient coordination across the Commonwealth, States and Territories in providing the appropriate policy responses to these shortages. There is also insufficient real time information about skills shortages across the country but particularly in regional areas.
- 2.43 In order to effectively address the many labour shortages which have been raised with the Committee in submissions and public hearings, the Committee sees a need for a comprehensive approach to identifying and planning for current and future workforce needs and their location. Understanding where skills gaps currently exist, what skills are under development and likely to become available domestically in the future, and what industries are subject to current, emerging and future workforce shortages is key to understanding the occupations requiring skilled migrants now and into the future.
- 2.44 Such an assessment will require two key responses. One is a coordinated approach across the Commonwealth and across jurisdictions. The other is a

more coordinated approach to data gathering and analysis. Aggregating the collected data, to be analysed by a cross-agency and cross-jurisdictional body to produce a coordinated national workforce plan will not only assist in ensuring that any labour shortages are both understood and addressed as effectively as possible, it will also provide a more solid foundation for planning migration numbers and the specific types of visas and occupations that are targeted by the migration intake. A more coordinated approach will also further bolster public confidence in the skilled migration program.

Recommendation 1

2.45 The Committee recommends that building on the work of the National Skills Commission (NSC) and the Skilled Migration Officials Group, the Federal Government develop a dynamic national workforce plan. The plan would co-ordinate the efforts of State and Federal Governments to ensure Australia's persistent skills shortages and future workforce needs are addressed through Australia's higher education and vocational education systems, employment services and the skilled migration program. This plan should be regularly updated. In order to develop the plan:

- **A cross-portfolio, cross-jurisdictional interagency committee (IAC) should be established, meet regularly, and comprise decision-makers from departments and agencies, led by the NSC.**
- **The NSC and relevant data collection bodies should also develop a data aggregation system that identifies skills shortages at a regional level by occupation.**

Skills lists

2.46 Australia's skilled migration program is underpinned by a range of skilled occupation lists. In its submission, Home Affairs stated that prior to 2 September 2020, these lists were:

- **The Short-term Skilled Occupations List (STSOL), containing occupations to address short-term labour market needs;**
- **The Medium and Long-term Strategic Skills List (MLTSSL), designed to fill high value occupations over the long-term; and**

- The Regional Occupation List (ROL), comprising additional occupations available to regional employers.³⁴
- 2.47 Home Affairs noted that these lists are regularly reviewed and updated with input from DESE and the NSC. The review process incorporates labour market analysis, consultation with key stakeholders such as industry, government and the public, to ensure ‘skilled migration remains responsive to labour market needs’.³⁵
- 2.48 In September 2020, the Priority Migration Skilled Occupation List (PMSOL) was added to the existing skilled occupation lists. Home Affairs stated that this list identified:
- ...occupations that are considered to be critical for the recovery of the Australian economy, based on expert labour market advice from the NSC. Employer sponsored visa applications involving PMSOL occupations receive priority processing and may be considered for exemption from travel restrictions.³⁶
- 2.49 Initially, the PMSOL included 17 occupations, mostly relating to the medical field. Subsequently in November 2020, on advice from the NSC, the occupation of social worker was added to the list, and in May 2021 the occupation of veterinarian was also added.³⁷
- 2.50 On 22 June 2021, 22 new occupations were added to the PMSOL:
- Accountant (General)
 - Accountant (Taxation)
 - Accountant (Management)
 - External Auditor
 - Internal Auditor
 - Electrical Engineer
 - Civil Engineer
 - Structural Engineer
 - Geotechnical Engineer
 - Transport Engineer

³⁴ Department of Home Affairs, *Submission 16.2*, p. 5.

³⁵ Department of Home Affairs, *Submission 16.2*, p. 5.

³⁶ Department of Home Affairs, *Submission 16.1*, p. 6.

³⁷ Department of Home Affairs website, *Priority Migration Skilled Occupation List*, <<https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/pmsol>> accessed 19 May 2021.

- Petroleum Engineer
- Surveyor
- Cartographer
- Other Spatial Scientist
- Medical Laboratory Scientist
- Orthotist/Prosthetist
- Multimedia Specialist
- Analyst Programmer
- Software and Applications Programmer
- ICT Security Specialist
- Chef.³⁸

2.51 Home Affairs told the Committee that:

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.³⁹

2.52 The Committee received extensive feedback on the operation and utility of the skilled occupation lists, both in relation to temporary measures in place as a result of COVID-19 and the wider skilled occupation lists pre-dating the global pandemic. The remainder of this chapter examines this feedback.

Australian and New Zealand Statistical Classification of Occupations

2.53 All of the occupations on the PMSOL, STSOL, MLTSSL and ROL are underpinned by the Australian and New Zealand Statistical Classification of Occupations (ANZSCO) codes.⁴⁰

2.54 ANZSCO is 'the product of a development program undertaken jointly' by the Australian Bureau of Statistics (ABS) and Statistics New Zealand (Statistics NZ), and it 'provides a basis for the standardised collection,

³⁸ Hon Alex Hawke MP, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, Media Release, *Supporting Australia's COVID recovery through Skilled Migration*, 22 June 2021, <<https://minister.homeaffairs.gov.au/AlexHawke/Pages/supporting-australia-covid-recovery-through-skilled-migration.aspx>> accessed 23 June 2021.

³⁹ Department of Home Affairs, *Submission 16.1*, p. 6.

⁴⁰ Department of Home Affairs, *Submission 16.2*, p. 5.

analysis and dissemination of occupation data for Australia and New Zealand'.⁴¹

2.55 ABS and Statistics NZ outlined the structure of ANZSCO:

The structure of ANZSCO has five hierarchical levels – major group, sub-major group, minor group, unit group and occupation. The categories at the most detailed level of the classification are termed 'occupations'. These are grouped together to form 'unit groups', which in turn are grouped into 'minor groups'. Minor groups are aggregated to form 'sub-major groups', which in turn are aggregated at the highest level to form 'major groups'.⁴²

2.56 According to the Migration Institute of Australia (MIA), 'fundamental to the problems with the skills lists' is the use of ANZSCO as their basis.⁴³ MIA elaborated:

It has been noted many times, the ANZSCO was never intended for that purpose, it was developed as a tool to facilitate the international comparison of occupational statistics and to provide a basis for the standard collection and dissemination of occupational data.⁴⁴

2.57 Additionally, MIA noted that ANZSCO has become outdated. It stated that 'no new or emerging occupations have been added' for almost 18 years, which reduces its effectiveness as the basis for the current skilled migration program.⁴⁵

2.58 ABS outlined the most recent updates to ANZSCO:

The last major change to ANZSCO was implemented in 2006. We did a review of it in 2013. That resulted in some small changes. There have been some very minor updates made, but basically there hasn't been a major review with any kind of significant change since 2013 and going back to 2006.⁴⁶

2.59 MIA discussed the effect of the lack of an update, stating that despite remarkable changes in technology, industry and the labour market, 'newer

⁴¹ Australian Bureau of Statistics, *1220.0 – ANZSCO – Australian and New Zealand Standard Classification of Occupations*, First Edition, 11 September 2006, p. 2.

⁴² Australian Bureau of Statistics, *1220.0 – ANZSCO – Australian and New Zealand Standard Classification of Occupations*, First Edition, 11 September 2006, p. 2.

⁴³ Migration Institute of Australia, *Submission 82.1*, p. 10.

⁴⁴ Migration Institute of Australia, *Submission 82.1*, p. 10.

⁴⁵ Migration Institute of Australia, *Submission 82.1*, p. 10.

⁴⁶ Mr Bjorn Jarvis, Australian Bureau of Statistics, *Committee Hansard*, 1 March 2021, p. 48.

occupations cannot be added to the skills lists because they don't exist in ANZSCO'. MIA argued that 'either a new method of formulating the skills lists is required or the lists should be abandoned completely'.⁴⁷

2.60 According to Dr George Tan, Associate Professor Andrew Taylor and Professor Ly Tran, the outdated ANZSCO will also have a significant impact on future industries:

...particularly in the renewable energy generation and storage [sector], which is predicted to potentially create between 18,500 and 58,500 construction jobs with 12,500 ongoing jobs.⁴⁸

2.61 EY made similar criticisms of the use of ANZSCO to inform skilled occupation lists:

... ANZSCO no longer provides a solid foundation for Australia's skilled temporary and permanent migration programs. It is widely accepted that ANZSCO is backwards looking and inflexible. It does not accommodate roles of the future that require multiskilling or capture emerging occupations. For specialist roles and emerging roles, it is often difficult to determine which, if any, classification is suitable. ANZSCO has no capacity to cater to industries of the future and provide a framework to support innovation in Australia.⁴⁹

2.62 VETASSESS echoed this concern:

We believe that significant changes need to be made to ANZSCO and the skills lists. Currently, the ANZSCO list, as we know, is old. It doesn't take account of emerging occupations, and we think that is a shortfall in using ANZSCO around the skilled occupation lists.⁵⁰

2.63 Further, according to VETASSESS workers are facing a 'double disruption':

In addition to the disruption from the pandemic-induced lockdowns and economic contraction, technological adoption by companies is transforming tasks, jobs and skills.⁵¹

2.64 CEDA also discussed the pace of change in occupations, noting that 'technological change is really reshaping the workforce' at a rate not seen

⁴⁷ Migration Institute of Australia, *Submission 82.1*, p. 11.

⁴⁸ Dr George Tan, Associate Professor Andrew Taylor and Professor Ly Tran, *Submission 68.1*, p. 4.

⁴⁹ EY, *Submission 71.1*, p. 4.

⁵⁰ Mr Robert Thomason, VETASSESS, *Committee Hansard*, 21 April 2021, p. 1.

⁵¹ VETASSESS, *Submission 42*, pp. 32-33.

before. As a result, 'simple occupational classifications are changing very rapidly'.⁵²

2.65 Atlassian and Canva provided a specific example of this from the tech industry perspective:

The ANZSCO definition of the nominated occupations does not align well with the new roles being created everyday by the tech industry, which have evolved well beyond the current classifications. Many roles were not in existence when the ANZSCO lists were created in the 1990s and therefore the ANZSCO lists fail to capture the specific roles in the tech industry that companies are in desperate need of. This forces us to nominate in short-term occupations even though those occupations as defined in ANZSCO do not adequately take account of the myriad of differences in the roles or the particular skill set needed by the business. In our view ANZSCO should not be the determiner of an 'occupation' or role for the purposes of nominating someone for a visa.⁵³

2.66 The Northern Territory Department of Industry, Tourism and Trade (DITT) noted that 'ANZSCO does not reflect today's job market', stating that:

During stakeholder consultation and labour market research conducted this year during our annual review of the NT [Designated Area Migration Agreement (DAMA)], there was frustration amongst peak bodies and businesses that the current ANZSCO either did not contain the occupations in need in the NT, or that the classifications and descriptions of their required occupations were not accurate.⁵⁴

2.67 Similarly, the Government of South Australia noted that ANZSCO does not 'provide an adequate representation of changing occupations and the skills and qualifications needed'. This leads to concern 'about the extent to which the skills lists can adapt and incorporate emerging occupations, particularly in areas like ICT, engineering and Ag-Tech'.⁵⁵

⁵² Mr Jarrod Ball, CEDA, *Committee Hansard*, 21 April 2021, p. 19.

⁵³ Atlassian and Canva, *Submission 83*, p. 4.

⁵⁴ Northern Territory Department of Industry, Tourism and Trade, *Submission 29.1*, pp. 5-6.

⁵⁵ Government of South Australia, *Submission 168*, p. 12.

2.68 DITT provided a specific example:

An example of the gap is in the case of a Workshop Foreman at a car repair workshop. While ANZSCO provides for a Motor Mechanic, there is no occupation that matches the tasks of a foreman who takes a supervisory role.⁵⁶

2.69 Consult Australia told the Committee that their members identified a range of emerging occupations not captured by ANZSCO including:

- Digital Engineer/Building Information Modelling (BIM)
- Fire Engineer
- Bushfire Consultant
- Human Factors Consultant.⁵⁷

2.70 The Association of Australian Medical Research Institutes raised a specific example from the medical research industry:

I think where we have problems is in some newly emerging occupations outside of medical research but close to medical research or around commercialisation, for example. We want to commercialise more of our research. It's a government priority too, and we're keen to do that, but to do that you need to bring in commercialisation experts, and we're not good at commercialisation in Australia. We're pretty lousy at it by global standards. So we're trying to bring people in from overseas with expertise who have the connections with the venture capitalists and with the big pharma companies. But what is that position? It's quite hard to put that on an ANZSCO list. Trying to do that is a bit of a square peg in a round hole.⁵⁸

2.71 CEDA provided an example of a recent addition to ANZSCO:

For example, in 2019 the Federal Government announced that data scientists would be classified as "information and organisation professionals NEC", a group that also includes electoral officers and lobbyists, because this emerging and in-demand occupation was not previously classified by ANZSCO. Such band-aid solutions result from a system that is slow to respond to labour-market changes.⁵⁹

⁵⁶ Northern Territory Department of Industry, Tourism and Trade, *Submission 29.1*, p. 6.

⁵⁷ Consult Australia, *Submission 154.1*, p. 6.

⁵⁸ Dr Peter Thomas, Association of Australian Medical Research Institutes, *Committee Hansard*, 21 April 2021, p. 10.

⁵⁹ CEDA, *Submission 150*, p. 2.

2.72 According to CEDA, the current approach to ANZSCO ‘hinders the ability to leverage the rapid digitisation undertaken by many businesses during COVID’, which in turns impedes opportunities for growth.⁶⁰

2.73 Mr Glazbrook argued that ANZSCO would always be subject to a lag in terms of emerging occupations as a result of the way it is compiled. Mr Glazbrook provided an example to illustrate:

As an example, production horticulturalist does not independently appear on the ANZSCO due to the way that occupations are coded based on information obtained through Census data collection. This does not mean the occupation does not exist, it simply means that not enough people stated they are working as a production horticulturalist at the time of the Census for the ABS to give production horticulturalist its own ANZSCO occupation title, code and classification.⁶¹

Improving the use of ANZSCO

2.74 One key suggestion for improving ANZSCO’s ability to inform the various skilled occupation lists was to conduct an update. For example, EY told the Committee that ‘at a minimum, ANZSCO must be updated as soon as possible’ by the ABS.⁶²

2.75 DITT agreed, and went on to recommend that regular reviews be mandated and adhered to.⁶³

2.76 Consult Australia argued with ‘technology improving and changing rapidly, and the future of work creating many new job types’, there should be regular monitoring and reviews of ANZSCO to ‘ensure that emerging occupations are appropriately captured’.⁶⁴

2.77 According to Consult Australia:

It is crucial that the National Skills Commission work with the Australian Bureau of Statistics to review and update the categories under ANZSCO on an ongoing basis to avoid the omittance of occupations from the Australian occupation market. Regular industry consultation, similar to those undertaken through the Skills Priority List, is needed to ensure occupations are not

⁶⁰ CEDA, *Submission 150*, p. 2.

⁶¹ Mr Mark Glazbrook, *Submission 91.1*, p. 4.

⁶² EY, *Submission 71.1*, p. 5.

⁶³ Northern Territory Department of Industry, Tourism and Trade, *Submission 29.1*, p. 6.

⁶⁴ Consult Australia, *Submission 154.1*, p. 6.

excluded and businesses are not required to supplement occupations to meet recruitment shortfalls.⁶⁵

2.78 ABS told the Committee that while an update of ANZSCO is ‘not an insurmountable amount of work’, it is nonetheless ‘a reasonably large undertaking’:

For each of the new occupations we need to be able to gauge the number of people working in those occupations, some of the underlying duties and tasks and some of the qualifications and experience needed in those occupations, in order to be able to add them into the classification and then be able to categorise people, within the census and within surveys and also within administrative processes, as belonging to that occupation. So it's more complicated than just adding some extra names or job titles into that classification.⁶⁶

2.79 ABS outlined its experience in previous ANZSCO revisions:

Certainly, previous large-scale reviews have generally taken years to do, just given the need to do not only some pretty extensive data analysis but also extensive consultation. So, in updating the occupation classification, we do engage with parts of the private sector, government and academia to help identify emerging occupations and understand those emerging occupations.⁶⁷

2.80 According to the ABS, resourcing constraints were a key factor in reviewing ANZSCO. ABS noted that in August 2018, it released a joint media statement with Statistics NZ stating that a review was not possible within existing resources.⁶⁸

2.81 ABS elaborated:

Like the people who have contacted you through the inquiry and made submissions to the inquiry, we would also have liked to have been in a position where we could update that occupation classification every 10 years, which is how frequently it was done in the past. Ideally, we'd like to be doing it more frequently than that, but, given our resource constraints, that hasn't been possible. As a result, the classification, as people have noted, doesn't reflect the most contemporary view of occupations within the labour market.⁶⁹

⁶⁵ Consult Australia, *Submission 154.1*, p. 6.

⁶⁶ Mr Bjorn Jarvis, Australian Bureau of Statistics, *Committee Hansard*, 1 March 2021, p. 47.

⁶⁷ Mr Bjorn Jarvis, Australian Bureau of Statistics, *Committee Hansard*, 1 March 2021, p. 47.

⁶⁸ Mr Bjorn Jarvis, Australian Bureau of Statistics, *Committee Hansard*, 1 March 2021, p. 47.

⁶⁹ Mr Bjorn Jarvis, Australian Bureau of Statistics, *Committee Hansard*, 1 March 2021, p. 47.

2.82 On 25 March 2021, the ABS commenced a program of work to conduct a targeted update of ANZSCO. This update will apply a phased approach to producing a more complete ANZSCO that is reflective of the current labour market.⁷⁰

2.83 This update will focus on occupations associated with the agriculture, forestry and fisheries sector, cyber security, and naval ship building. Following this update, other sectors will be reviewed using this targeted approach in the future. According to the ABS, this will allow it 'to be more responsive to changes in the labour market and the needs of stakeholders'.⁷¹

2.84 Some submitters to this inquiry suggested a more fundamental change to informing skilled occupation lists.

2.85 For instance, MIA questioned the utility of using the full six-digit ANZSCO code – which describes occupations – by discussing the nursing profession:

...there are fourteen different six-digit codes for registered nurses including the catch all registered nurses 'nec' – not elsewhere classified. The MIA questions the utility of listing fourteen variations of registered nurse specialisation on each of the skilled migration lists. There is no differentiation in their nursing registration based on what type of nursing they undertake.⁷²

2.86 MIA provided an example of the effect using the six-digit ANZSCO code can have on employers, again using the nursing profession:

If a hospital has sponsored a registered nurse under the registered nurse medical ANZSCO 254418 code, they are unable to deploy that nurse to work under any other specialisation eg registered nurse surgical ANZSCO 254424 code within the hospital, because it is unlawful to employ the sponsored worker in a different role to which they are sponsored under the conditions of the employment sponsorship and the visa.⁷³

2.87 MIA continued:

The hospital must first apply to sponsor the nurse again under the new ANZSCO code, which requires labour market testing, the payment of Skilling Australians Fund (SAF) levy and application costs. The nurse in turn requires

⁷⁰ Australian Bureau of Statistics, *Updating ANZSCO commences in March 2021*, Media release, 25 March 2021.

⁷¹ Australian Bureau of Statistics, *Updating ANZSCO commences in March 2021*, Media release, 25 March 2021.

⁷² Migration Institute of Australia, *Submission 82.1*, p. 13.

⁷³ Migration Institute of Australia, *Submission 82.1*, p. 13.

a new visa at significant cost and importantly the three year period they are required to work before they can apply for permanent residency is restarted, their previous service is not counted.⁷⁴

2.88 Additionally, MIA discussed the practical difficulties employers face when the skilled workers they require are not covered by ANZSCO:

MIA members provided examples such as applicants skilled in running fully automated sheetmetal machinery who do not meet the ANZSCO occupation code for either sheetmetal tradesperson or machinery operator.⁷⁵

2.89 According to MIA:

Listing occupations by ANZSCO four digit unit group codes would provide a degree of flexibility within the lists that would go some way towards accommodating not only Australian employer needs but also new and emerging skills sets within sub major unit groups.⁷⁶

2.90 In its submission, EY agreed that the use of the four digit ANZSCO level would offer a more flexible and modern mechanism, and recommended that the 'reliance on ANZSCO as the basis for decision making and visa approval be replaced by':

- A list of ANZSCO occupations excluded from the skilled migration program; and
- Listing occupations at the four-digit ANZSCO level rather than the six-digit level.⁷⁷

2.91 Consult Australia called for adaptability:

The ABS could seek to adapt current categories to include the occupations we have identified above. For example, the category 'architects, designers, planners and surveyors' could include BIM. Similarly, the category 'transport engineers' could be updated to include rail engineers.⁷⁸

⁷⁴ Migration Institute of Australia, *Submission 82.1*, p. 13.

⁷⁵ Migration Institute of Australia, *Submission 82.1*, p. 13.

⁷⁶ Migration Institute of Australia, *Submission 82.1*, pp. 13-14.

⁷⁷ EY, *Submission 71.1*, p. 5.

⁷⁸ Consult Australia, *Submission 154.1*, p. 7.

2.92 VETASSESS argued that adding additional 'not elsewhere classified' (NEC) occupations to the skills lists would be a pragmatic suggestion.⁷⁹ According to VETASSESS:

I can give you the classic example of data scientists, an occupation that's much talked about and in demand. That was not even part of ANZSCO until late 2019, so it has only just been incorporated into ANZSCO. Prior to that, anyone who genuinely had a data scientist background did not classify in any of the occupations, couldn't be mapped against any of the occupations in the classification, and therefore was being left out of the skilled migration program.⁸⁰

2.93 VETASSESS elaborated on how the inclusion of more NEC occupations could work:

...the skilled occupation list will never go down to the NEC level; it always lists the occupation at the broader unit level. For instance, 'data scientist' is included under 'information and organisation professional NEC'. If a data scientist wants to choose this occupation of 'data scientist' to come into Australia, they will nominate 'information and organisation professional NEC'. As long as the skilled migration program has decided, 'These are the broad occupations we want', the NECs can easily be catered for as long as they're meeting the broad objectives of Home Affairs.⁸¹

2.94 Mr Glazbrook also called for the use of the NEC classification across skill level 1, 2, 3 and 4 occupations, noting that since the Department of Home Affairs moved away from including NEC codes and occupations in skills lists, 'the migration program can no longer keep pace with Australia's changing and emerging job landscape'.⁸²

2.95 ACS noted the inability of the existing skills list to keep pace with developments in some sectors, and argued that the use of ANZSCO to underpin them would lead to a failure to recognise emerging skills and occupations.⁸³

⁷⁹ VETASSESS, *Submission 42*, p. 33.

⁸⁰ Dr Matma Chauhan, VETASSESS, *Committee Hansard*, 21 April 2021, p. 4.

⁸¹ Dr Matma Chauhan, VETASSESS, *Committee Hansard*, 21 April 2021, p. 4.

⁸² Mr Mark Glazbrook, *Submission 91.1*, p. 4.

⁸³ Australian Computer Society, *Submission 51.1*, p. 4.

2.96 Instead, ACS recommended the adoption of industry specific qualifications such as the Skills Framework for the Information Age (SFIA) scheme.⁸⁴ According to ACS:

SFIA describes skills and competencies required by professionals in roles involved in information and communication technologies, digital transformation and software engineering. SFIA 7 is the current version of the framework, published in June 2018.⁸⁵

2.97 ACS told the Committee that ‘adopting industry specific standards would go some way to addressing the current situation’ wherein skills in demand are not recognised in skills lists, and would ‘have an added benefit of helping skilled migrants to demonstrate their skills to Australian employers’.⁸⁶

Committee comment

2.98 The Committee agrees with the large number of submitters and witnesses who put the view that ANZSCO is severely outdated.

2.99 The Committee notes the recent announcement by the ABS that it is working with other government agencies to progress a targeted update of ANZSCO.

2.100 However, in the Committee’s view this approach does not go far enough. The Committee sees value in shifting to a new approach to underpin the skilled migration lists. ANZSCO was not designed to underpin the various skilled migration lists, and its shortcomings have been amply revealed by the long period in which ABS has not undertaken a comprehensive update.

2.101 Further, a phased approach to updating ANZSCO will not solve the continuing problems faced by skilled migrants in new and emerging occupations and the Australian employers seeking these skills.

2.102 The Committee received a number of thoughtful suggestions for reforming the use of ANZSCO. In the Committee’s view simply adapting the existing ANZSCO approach to inform skills lists will not help to solve the long-term problems with its use.

2.103 As has been noted many times in evidence, ANZSCO was not designed to support skilled migration lists. Its role is far more general, and any use of ANZSCO will essentially constitute adapting a relatively static statistical

⁸⁴ Australian Computer Society, *Submission 51.1*, p. 4.

⁸⁵ Australian Computer Society, *Submission 51.1*, p. 4.

⁸⁶ Australian Computer Society, *Submission 51.1*, p. 4.

tool for a purpose for which it was not designed. Even if the laborious task of a full review of ANZSCO occurred it would take significant time and resources and would be out of date as soon as it was completed. ANZSCO has neither kept pace with emerging occupations nor been comprehensive about roles in more traditional fields. Therefore, the Committee believes a more fundamental change is required.

- 2.104 The Committee notes the alternatives to ANZSCO raised in evidence such as the example from ACS of industry specific standards discussed above. This approach could assist to provide the flexibility and responsiveness that can only be provided by a bespoke occupation list that has been designed specifically to cater to emerging labour market needs. There may be other approaches worth considering.
- 2.105 The Committee believes that the NSC should be responsible for occupation lists as the agency responsible for workforce planning.
- 2.106 The Committee does not take a view about whether any future list should be based on occupations or skills identification. This should be a matter for the NSC to consider in examining possible alternatives and developing a new means of underpinning the various skilled migration occupation lists.

Recommendation 2

- 2.107 The National Skills Commission should develop a new occupation and/or skills identification system for the skilled migration program in consultation with industry to replace ANZSCO. The new system should be more flexible to adapt to emerging labour market needs, with consideration given to how the new system would integrate with other functions of government currently utilising the ANZSCO.**

Current skills shortages

- 2.108 In the Interim Report of the inquiry, the Committee recommended the inclusion of chefs, veterinarians, cafe and restaurant managers and seafarers on the PMSOL. The Committee notes that the Government has since added chefs and veterinarians to the PMSOL.⁸⁷

⁸⁷ Department of Home Affairs, *Priority Migration Skilled Occupation List*, <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/pmso>, accessed 7 July 2021.

- 2.109 The Committee received further evidence from submitters and witnesses on the skills shortages that need addressing in the Australian workforce. Clubs Australia noted that while the inclusion of chefs on the PMSOL is essential for the recovery of the licensed clubs industry, it told the Committee that 72 per cent of clubs had recently reported a shortage of cooks. Clubs Australia argued that also including cooks on the PMSOL would ‘strengthen the opportunities for clubs to source cooks and suitably staff their kitchens’.⁸⁸
- 2.110 Clubs Australia further stated that this skill shortage ‘has been present in our industry for a decade’, and that while ‘temporary changes are necessary to improve the system in the short term’, there is also a need to improve the skilled migration system more generally.⁸⁹
- 2.111 Mapien considered that there is merit in identifying occupations that are subject to the enduring shortages discussed by Clubs Australia, and argued for a priority processing option for these occupations.⁹⁰
- 2.112 According to Mapien, the priority processing option for enduring skill shortages would be particularly useful for start-ups:

If there are businesses that are perhaps starting up in Australia or that don't meet the requirements for accredited sponsorship that would otherwise not have access to priority processing but that may have people with particular skills that are a priority, it levels that playing field.⁹¹

- 2.113 In some cases, these skill shortages are driven by shifts within particular industries. The Motor Trades Association of Australia (MTAA) noted that the automotive sector was currently undergoing such a change:

The automotive sector and multiple industries within it are undergoing unprecedented structural adjustment brought about by external global influences, including automation, the rapid application of advanced technologies, market consolidation and the influence of powerful, dominant market participants, changing consumer behaviours to vehicle purchase and use, and increasing pressures and demands on the automotive sector for increased action in sustainable environment and energy management.⁹²

⁸⁸ Mr Simon Sawday, Clubs Australia, *Committee Hansard*, 25 June 2021, p. 7.

⁸⁹ Mr Simon Sawday, Clubs Australia, *Committee Hansard*, 25 June 2021, p. 9.

⁹⁰ Mrs Samantha Norman, Mapien, *Committee Hansard*, 25 June 2021, p. 10.

⁹¹ Mrs Samantha Norman, Mapien, *Committee Hansard*, 25 June 2021, p. 10.

⁹² Mr Richard Dudley, Motor Trades Association of Australia, *Committee Hansard*, 25 June 2021, p. 15.

2.114 According to a recent MTAA survey, '52 per cent of automotive businesses report skill shortages negatively impacting on business' and the other businesses that are reliant on them, such as infrastructure projects, mining, resources, heavy vehicles and others. The survey indicated that there is currently a shortage of 31,000 skilled positions, which is forecast to grow to 38,000 by 2023.⁹³

2.115 MTAA told the Committee that this was part of a widespread shortage across other developed countries:

We are witnessing extremely strong movements in terms of mobility of the workforce in other countries. Mechanics are in short supply in Europe, in the UK and invariably in a number of other countries, as are other automotive professions. We are aware of a lot of activity in terms of competing jurisdictional efforts to try to attract those people here.⁹⁴

2.116 Further, the MTAA noted that these shortages are not a recent occurrence, having 'been around for some time' and growing exponentially.⁹⁵ These shortages are already affecting the automotive industry's ability to support other key sectors of the Australian economy. According to MTAA:

The same thing applies to freight and logistics. If you can't repair heavy vehicles, if you can't repair trailers, if you can't service them, then those vehicles stay off the road and it has a concertina effect, obviously, on those operations. We have been told by many businesses that they are already having queues lasting from days to weeks now.⁹⁶

2.117 According to MTAA, the COVID-19 pandemic presents an 'opportunity to rebalance and recalibrate skilled migration to address the critical skills shortage issues', where access to skilled migration can assist to support the industry in the short-term, prevent a 'diminished labour pool where the critical skills that we need today are not available', while also 'training the next generation of employees' through a focus on addressing 'the other issues of domestic skills enhancement'.⁹⁷

⁹³ Mr Richard Dudley, Motor Trades Association of Australia, *Committee Hansard*, 25 June 2021, p. 15.

⁹⁴ Mr Richard Dudley, Motor Trades Association of Australia, *Committee Hansard*, 25 June 2021, p. 15.

⁹⁵ Mr Richard Dudley, Motor Trades Association of Australia, *Committee Hansard*, 25 June 2021, p. 17.

⁹⁶ Mr Richard Dudley, Motor Trades Association of Australia, *Committee Hansard*, 25 June 2021, p. 18.

⁹⁷ Mr Richard Dudley, Motor Trades Association of Australia, *Committee Hansard*, 25 June 2021, p. 19.

2.118 In this way, MTAA considered that it was possible to find ways to balance the training of apprentices and access to skilled migration so that they ‘can sit comfortably side by side’.⁹⁸

2.119 Adjunct Professor Kylie Ward, Chief Executive Officer of the Australian College of Nursing outlined the current nursing workforce shortages in Australia noting that there is an anticipated ongoing shortfall of nurses practicing in Australia:

The Australian Institute of Health and Welfare released a report, based on 2014 data, suggesting an overall nursing workforce shortage of over 80,000 nurses by 2025 and over 120,000 nurses by 2030. This has not been updated since. Furthermore, the Department of Health released RN workforce data stating that in 2019 there were 31,613 nurses working in aged care across the country, a growth of only 9.4 per cent since 2016. Yet it is estimated that by 2050 a further 180,000 to 200,000 nurses will be required in the aged-care sector alone.⁹⁹

2.120 Adjunct Professor Ward suggested that skilled migration will play an important role in filling current nursing shortages, resourcing and upskilling the workforce and meeting future demand for nurses in Australia but should not impact on jobs for newly qualified nurses:

The skills, experience and expertise required with targeted skilled migration would not disadvantage our newly qualified nurses. Rather, it would ensure that they are able to commence their careers in a supported environment. Graduating nurses require expert nurse leaders to support them as they transition from novice to expert ... In short, we need to continue a targeted approach in attracting overseas trained skilled nurses to address a known shortfall and help protect the quality of Australia's nursing workforce, as well as, most importantly, to provide safe and appropriate care to all consumers.¹⁰⁰

Committee comment

2.121 It is clear to the Committee that many of the skill shortages canvassed in both the Interim Report and this report are not simply a product of the COVID-19 pandemic and resultant border closures. Some are in fact long-standing, and will likely continue once Australia's international borders open.

⁹⁸ Mr Richard Dudley, Motor Trades Association of Australia, *Committee Hansard*, 25 June 2021, p. 19.

⁹⁹ Adjunct Professor Kylie Ward, Australian College of Nursing, *Committee Hansard*, 3 March 2021, p. 35.

¹⁰⁰ Adjunct Professor Ward, Australian College of Nursing, *Committee Hansard*, 3 March 2021, p. 35.

- 2.122 Skilled migration is one of the potential means of addressing these persistent shortages. Education and training is another important aspect to ensure that Australian employers are able to access the skills they need. However, ensuring that young Australians are accessing the training needed to fill these gaps will not address the immediate issues employers and businesses are facing as Australia seeks to recover from the COVID-19 pandemic.
- 2.123 In order to effectively support Australia's economic recovery from the pandemic, a short-term solution is required. The PMSOL has played a part in addressing these shortages, which is reflected by the staged expansion of the PMSOL since its inception in September 2020.
- 2.124 Putting aside the COVID-19 pandemic, the Australian economy is always likely to face at least some acute and persistent skills shortages. Where such shortages can be addressed by the skilled migration program those occupations should be placed on their own skills list and visa applicants seeking to fill those roles should have a more streamlined process and be allowed priority processing arrangements.
- 2.125 The Committee sees value in the development of clear definitions of what constitutes acute skill shortages and persistent skill shortages to enable more effective planning and concessions to fill these shortages. While the PMSOL was designed in response to the COVID-19 pandemic, in the post-pandemic environment, persistent and acute skills shortages will still occur and may be better subject to their own list (as discussed later in this chapter). Further, the Committee believes that the skills identified in this way should result in skilled workers in these occupations being given priority entry into Australia and not be subject to labour market testing given that their scarcity has been already established by being on the list.

Recommendation 3

2.126 The Committee recommends that the Government:

- **Develop accepted definitions of acute skills shortages and persistent skills shortages taking into account:**
 - **Recruitment difficulty**
 - **Length of time the shortage has existed**
 - **Number of job vacancies and the geographic spread of vacancies**
 - **Criticality of the occupation if left unfilled (e.g. nurses and general practitioners)**
 - **Criticality of the occupation to temporary circumstances (e.g. bushfires, floods or pandemics).**
- **Provide employers looking to fill jobs on the PMSOL with more streamlined processes.**

Skilled occupation lists

2.127 ACCI noted that replacing the 457 subclass visa in 2017 with the Temporary Skills Shortage (TSS) visa led to ‘tighter eligibility criteria and higher costs’ compared to the 457.¹⁰¹

2.128 According to ACCI, under the 457 all listed occupations were eligible for employer nominated skilled migration, whereas under the TSS:

- 215 occupations on the STSOL are available for the TSS short-term stream and have no pathway to permanent migration
- 77 occupations on the ROL are available for the medium-term stream in regional areas
- 216 occupations on the MLTSSL are available for the TSS medium-term stream.¹⁰²

¹⁰¹ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 9.

¹⁰² Australian Chamber of Commerce and Industry, *Submission 64.1*, pp. 9-10.

2.129 ACCI told the Committee that the change from the 457 to the TSS removed:

- Responsiveness in the system that allowed for employers to satisfy their skill needs – needs that are real even though they may not show up on a national assessment of skill shortages
- Pathway to permanency for many occupations which was a fundamental strength of the system...¹⁰³

2.130 These changes have led to increased complexity in the system, and created confusion. ACCI stated that in its view, a better approach would have been to retain the Consolidated Skilled Occupation List (CSOL) associated with the 457 'as the basis for temporary and employer nominated permanent migration'. Under this approach, 'integrity issues can be dealt with on an occupation basis through caveats rather than by national skills analysis'.¹⁰⁴

2.131 ACCI elaborated on how this could work:

For example, if a particular occupation was shown by analysis to be the subject of integrity concerns, then a limitation could have been introduced, such as the removal of a pathway to permanency or a shorter term of visa for that one occupation.¹⁰⁵

2.132 Susan Denny, Jane Elliot, Faye Rouse, Sue Rainsford, Taylor Jackson and Rayleen Wright agreed that the four skills lists should be combined, as 'employers are the ones who really know what skills are in short supply'. In any case, Susan Denny et al. note that the onus and cost of demonstrating that no local person can be found already sits with employers, through labour market testing.¹⁰⁶

2.133 In place of the four skills lists, Susan Denny et al. argued a skilled occupation in demand list 'be introduced for occupations in high demand nationally', which provides streamlined access for both independent and employer sponsored visa categories.¹⁰⁷

¹⁰³ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 10.

¹⁰⁴ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 10.

¹⁰⁵ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 10.

¹⁰⁶ Susan Denny, Jane Elliot, Faye Rouse, Sue Rainsford, Taylor Jackson and Rayleen Wright, *Submission 79*, p. 6.

¹⁰⁷ Susan Denny, Jane Elliot, Faye Rouse, Sue Rainsford, Taylor Jackson and Rayleen Wright, *Submission 79*, p. 6.

2.134 Similarly, Fragomen noted that multiple lists ‘adds unnecessary complexity to the skilled migration program’. Fragomen provided an example of this complexity:

...the MLTSSL occupations are not necessarily the same for a Temporary Skill Shortage visa as for a Skilled Independent (subclass 189) visa. Adding to this inconsistency is the imposition of caveats for particular occupations which again, only apply to certain skilled visa programs. For example, the occupation of Anaesthetist 253211 is subject to a caveat which under the Temporary Skill Shortage (TSS) visa program restricts its usage to positions located in regional Australia, whilst under the Training (subclass 407) visa program, the nominated training position could be located in a metropolitan hospital.¹⁰⁸

2.135 Fragomen was also critical of the separation of the STSOL and the MLTSSL, noting that the short-term list not providing a pathway to permanence ‘has created issues for many clients in practice’. While this may have been appropriate when the lists were introduced, in terms of labour and skill shortages Australia is now ‘facing a completely different set of circumstances’.¹⁰⁹ The issue of providing pathways to permanence is dealt with below.

2.136 Atlassian and Canva noted that it was ‘unclear... why some occupations are on the short-term list and others are not’. They stated that occupations on the STSOL ‘are in just as short supply in Australia as other occupations we recruit for that are on the long-term list’.¹¹⁰

2.137 According to CEDA, in addition to updating ANZSCO:

...more transparency on the formulation of skilled occupation lists is needed. The Federal Government’s six-monthly traffic light bulletins are a few pages long and amount to advice rather than analysis. This could be improved by periodically publishing the full labour market analysis against primary and secondary factors, the weighting of different criteria and calculation of points.¹¹¹

2.138 CEDA also stated that stronger linkages between workforce planning and the skilled migration program are required. Specifically, CEDA

¹⁰⁸ Fragomen, *Submission 61.1*, p. 6.

¹⁰⁹ Mr Sasko Markovski, Fragomen, *Committee Hansard*, 25 June 2021, p. 22.

¹¹⁰ Atlassian and Canva, *Submission 83*, p. 4.

¹¹¹ CEDA, *Submission 150*, p. 2.

recommended the formation of ‘an independent committee (like the Migration Advisory Committee in the UK) to advise on the formulation and reporting of skilled occupation lists’.¹¹²

2.139 Fragomen noted that ‘the application and the changing nature of the list certainly is disruptive to our clients’, particularly in terms of attraction and retention of talented individuals.¹¹³ In Fragomen’s experience, it was possible that a ‘list might change six times over the course of a qualifying employment period’ for someone seeking to qualify for permanent residency, and that this was ‘daunting and certainly adds a layer of uncertainty’.¹¹⁴

2.140 The importance of the ROL was highlighted by the Government of South Australia, which noted its support for ‘regional areas having access to a larger occupation list than is available for metropolitan areas’.¹¹⁵

Committee comment

2.141 The various skills lists emerged as one of the major issues raised by submitters and witnesses to this inquiry.

2.142 The issues raised with the separation of the skills lists were twofold. One of the key issues was in relation to some skilled occupations being eligible only for the short-term stream of the TSS, which is examined in greater detail below.

2.143 The other key issue was the complexity of the system created by the various skilled occupation lists. A large number of peak bodies from a wide range of sectors raised the various lists as creating confusion and uncertainty for their membership.

2.144 Similarly, migration agents noted the confusion and uncertainty experienced by their clients. It is clear to the Committee that both the number of lists and the perceived ad hoc nature of additions and removals to these lists are reducing functionality in Australia’s migration system.

2.145 Some submitters also told the Committee that, from the perspective of businesses seeking to sponsor skilled migrants, the basis for the separation

¹¹² CEDA, *Submission 150*, p. 2.

¹¹³ Ms Cherie Wright, Fragomen, *Committee Hansard*, 25 June 2021, p. 22.

¹¹⁴ Ms Cherie Wright, Fragomen, *Committee Hansard*, 25 June 2021, p. 22.

¹¹⁵ Government of South Australia, *Submission 168*, p. 3.

between the lists is unclear. That is, occupations appearing on the STSOL rather than the MLTSSL appeared arbitrary and without basis.

- 2.146 In the Interim Report the Committee noted a matter for consideration in the Final Report should be whether the skilled migration system could be more responsive to labour market needs by dispensing with skills lists altogether, and creating a demand driven employer-sponsored migration program with appropriate integrity and labour market testing measures. The Committee considered the demand drive model but ultimately has decided not to pursue it because it was unclear what integrity measures would be sufficient to prevent misuse and rorting of the skilled migration program.
- 2.147 However, the Committee sees value in simplifying the various skills lists. In the Committee's view, the unique needs of regional areas cannot be adequately served by a single national list. Such a list would focus on occupations which are in shortage in metropolitan areas, given the concentration of population in metropolitan areas.
- 2.148 Further, the concessions associated with the available regional visas are important to their meeting regional skills needs. These concessions are examined further in Chapter 3, but in the Committee's view it is important to continue providing regional Australia with the wider range of occupations reflected in the ROL.
- 2.149 A key part of the simplification required is the establishment of two national lists. One would reflect established national skills shortages, and would effectively combine the STSOL and the MLTSSL. This list would also assist in terms of clarifying pathways to permanency, which is examined in greater detail below, as it would remove the distinction between the short term and the medium and long term streams associated with the TSS.
- 2.150 The second list would reflect the role currently played by the PMSOL. In the Committee's view, the PMSOL has played a part in helping to address the skills shortages that are crucial to the COVID-19 pandemic recovery period. Creating a new skills list which reflects the acute and persistent skills shortages discussed earlier in this chapter also provides a capacity for applications under this list to be fast tracked. This will greatly assist in addressing the long-standing skills shortages that have been raised with the Committee through the course of this inquiry.
- 2.151 It is also important that these lists are regularly updated to reflect the most recent data on skills shortages. However, to help prevent confusion and uncertainty on the part of both skilled migrants and their sponsors, it is

important that the updates are scheduled so as to provide certainty and predictability to both skilled migrants and business sponsors.

Recommendation 4

2.152 The Committee recommends that the Government consolidate the Medium and Long Terms Strategic Skills List (MLTSSL) and Short Term Skilled Occupation List (STSOL) into one list: the Skilled Occupation List (SOL).

Recommendation 5

2.153 The Committee recommends that when the pandemic is concluded the PMSOL should be replaced by an Acute and Persistent Skills Shortage List (APSSL).

Recommendation 6

2.154 The Committee recommends that the skills lists be regularly reviewed.

Permanency

2.155 Many submitters considered that having a pathway to permanency for skilled migrants and their employers is a critical factor for the Committee to consider. This section will examine the perceived benefits of more consistent pathways to permanency within the skilled migration program and the impact this may have on skills shortages.

2.156 KPMG noted that the shift away from the 457 visa to the introduction of two occupation lists constituted a dramatic change. Specifically:

Currently, as you may be aware, if your occupation falls in the short-term list then there is no pathway to permanent residency. But that impact on those individuals also has an impact on the organisations in Australia. The organisations that we work with are telling us that they are unable to find highly skilled individuals wanting to come to Australia, because they are restricted to being in Australia for only two years, with a possibility of renewing for another two years, and then they would need to depart Australia after the four-year period.¹¹⁶

¹¹⁶ Mrs Belinda Wright, KPMG, *Committee Hansard*, 25 June 2021, p. 4.

- 2.157 As a result, according to KPMG ‘the current program doesn’t support what the businesses actually need in terms of these skilled roles’.¹¹⁷ KPMG recommended that the two occupation lists be revisited with a view to having one occupation list.
- 2.158 Fragomen raised similar concerns about the current system, noting that it was appropriate for when it was introduced, but that Australia is ‘facing a completely different set of circumstances now in terms of labour shortages, skills shortages and the like’.¹¹⁸
- 2.159 Atlassian and Canva argued that there is a need to change the current system, as it ‘creates two classes of temporary workers – those who can become permanent residents (and eventually citizens) of Australia and those who cannot’.¹¹⁹
- 2.160 According to Atlassian and Canva:
- Whatever the original reasons for the decision to create two types of temporary employees, this creates very significant problems for our businesses at a practical level and a lot of time and effort goes into managing the disparity caused by this in our workforce and in trying to find work around solutions. We have no doubt that this is the same throughout our industry.¹²⁰
- 2.161 Atlassian and Canva provided an example of one effect the lack of a pathway to permanency is having:
- Unfortunately, several employees on the short-term list on the last TSS visa have already signalled their intention to leave and settle elsewhere/return to their home country as they want certainty on their future to be able to plan for themselves and their families. Depending where they end up, we may not be able to accommodate an overseas role for them and therefore would miss out on the investment we have made on the individual as well as miss out on their highly niche skill sets.¹²¹
- 2.162 The Accommodation Association of Australia proposed that there should be a pathway to permanency for all TSS streams, including the STSOL with a

¹¹⁷ Mrs Belinda Wright, KPMG, *Committee Hansard*, 25 June 2021, p. 4.

¹¹⁸ Mr Sasko Markovski, Fragomen, *Committee Hansard*, 25 June 2021, p. 22.

¹¹⁹ Atlassian and Canva, *Submission 83*, p. 2.

¹²⁰ Atlassian and Canva, *Submission 83*, p. 2.

¹²¹ Atlassian and Canva, *Submission 83*, p. 2.

focus on areas of high and critical skills shortages.¹²² Similarly, Atlassian and Canva argued for the merging of the STSOL and the MLTSSL to provide a pathway to permanent residency no matter the applicant's nominated occupation.¹²³

2.163 Clubs Australia discussed this issue in relation to an industry suffering long-standing and critical labour shortages. According to Clubs Australia:

...the feedback we've had from our members is that a pathway to residency would make the prospect of a chef or a cook coming to Australia much more attractive. For a person to come from overseas to Australia for two years and potentially bring their family over with the knowledge that they would be returning to their home country after two years, sending their children to school for two years, is not an attractive proposition for overseas workers.¹²⁴

2.164 Fragomen told the Committee that greater flexibility and more streamlined pathways from temporary to permanent visas are necessary' to maintain Australia's global competitiveness in skilled migration:

In the competition for global talent, having a clearer, simpler and more certain pathway from temporary to permanent residence will improve Australia's attractiveness and also provide better settlement and integration outcomes for the visa holder. Pathways to permanent residence 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.¹²⁵

2.165 Mapien proposed that skilled foreign workers who are considering employment in Australia would be strongly influenced by a potential pathway to permanent residency.¹²⁶

2.166 According to Mapien, Australia is competing with destination countries like Canada in regard to skilled migrants. Mapien noted that the pathways to permanency in Australia raised uncertainty for some potential migrants, and that the perceived lack of barriers to permanency in Canada had led to it 'becoming a really, really attractive destination for skilled migrants'.¹²⁷

¹²² Accommodation Association, *Submission 148*, p. 2.

¹²³ Atlassian and Canva, *Submission 83*, p. 2.

¹²⁴ Mr Simon Sawday, Clubs Australia, *Committee Hansard*, 25 June 2021, p. 9.

¹²⁵ Mr Sasko Markovski, Fragomen, *Committee Hansard*, 25 June 2021.

¹²⁶ Mapien, *Submission 129*, p. 6.

¹²⁷ Mrs Samantha Norman, Mapien, *Committee Hansard*, 25 June 2021.

2.167 Similarly, the Migration Institute of Australia (MIA) stated that the lack of a pathway was making Australia less internationally competitive:

While the Government wishes to attract the best and brightest, there is no bright future of permanent residency for those with occupations on the STSOL, especially while competitors such as Canada or European Union countries are offering this incentive.¹²⁸

2.168 According to MIA, this lack of a permanent residency option, combined with the two year TSS visa validity and the ability to only apply for two additional visas while in Australia, 'combine to make Australia a less attractive designation for skilled migrants with occupations' on the STSOL.¹²⁹

2.169 Austrade similarly noted the barriers their clients face because of the lack of a clear pathway to permanent residency:

Occupations on the STSOL are normally eligible for up to a two year stay, while occupations on the MLTSSL offer a four year visa with a pathway to permanent residency. While many Austrade clients report occupations required to support new industries are on the short term list, they also report that highly qualified skilled migrants are reluctant to relocate families and disrupt their careers for a short-term work opportunity in Australia. For many industries, the short-stay visa offering is not competitive internationally.¹³⁰

2.170 Atlassian and Canva outlined the issues which the lack of a pathway creates for their business and its employees:

- Individuals who do not have a permanent pathway feel less committed to long-term goals and consider themselves disadvantaged and deeply 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 reduced 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).¹³¹

2.171 In Atlassian and Canva's view, the 'pathway to permanent residency should be based on an employer's demonstrated need' and not on decisions made by government about the state of the labour market.¹³²

¹²⁸ Migration Institute of Australia, *Submission 82.1*, p. 12.

¹²⁹ Migration Institute of Australia, *Submission 82.1*, p. 11.

¹³⁰ Australian Trade and Investment Commission, *Submission 100.1*, p. 5.

¹³¹ Atlassian and Canva, *Submission 83*, p. 4.

2.172 The Law Council of Australia also highlighted the perceived disincentive to migrate to Australia for those with skills on the STSOL:

To attract global talent, Australia needs a clearer, simpler and more certain pathway from temporary residence to permanent residence. Waiting for three years to move from the employer sponsored Temporary Skill Shortage (TSS) visa to the employer sponsored Employer Nomination Scheme (ENS) visa, with occupation lists potentially changing and impacting the pathway to permanent residence, dissuades talented individuals from considering a move to Australia.¹³³

2.173 The Regional Australia Institute considered that the visas which would be of most benefit to regional Australia are those which have an accessible and realistic pathway to permanency.¹³⁴

2.174 In order to address the perceived lack of a pathway to permanency for some skilled migrants, AMES recommended a substantial increase in the skilled migration intake for the 2021-22 financial year. According to AMES:

This could include a higher allocation for subclass 189 and the state sponsored visa pathways such as subclass 190 and subclass 491, which will create a strong skilled pipeline that businesses can tap into to fill critical labour shortages in metropolitan and regional areas.¹³⁵

2.175 Some submitters have noted that there can be problems with a skilled migrant effectively being tied to a single employer where that migrant's progress to permanent residency is dependent on their continued employment with their employer. The Construction, Forestry, Maritime and Energy Union (CFMEU) added a note of caution, noting that a 2008 review of the 457 visa found that many temporary migrants will accept substandard wages and conditions in order to qualify for permanent residency.¹³⁶

2.176 Similarly, Fragomen added a note of caution:

...for those lower-skilled occupations, where a temporary worker might feel less able to raise concerns due to the necessary link of their employment to their visa. If they are required to remain with that employer for a longer period of time, there may be concerns as to whether or not they may be willing

¹³² Atlassian and Canva, *Submission 83*, p. 4.

¹³³ Law Council of Australia, *Submission 96.1*, p. 5.

¹³⁴ Regional Institute of Australia, *Submission 141*, p. 6.

¹³⁵ AMES, *Submission 58.1*, pp. 2-3.

¹³⁶ CFMEU, *Submission 54*, pp. 22 and 24.

to assert workplace rights et cetera for fear of jeopardising their eligibility pathway to permanent residence.¹³⁷

Committee comment

- 2.177 The Committee received a large amount of evidence advocating for clearer and more consistent pathways to permanent residency, particularly in relation to applicants for the short-term stream of the TSS.
- 2.178 The evidence received notes that this step would provide clarity for skilled migrants, which in turn would allow sponsors to both access the skills they need through the migration system, and have more certainty about the long-term result that can be expected from committing to the time and expense required to sponsor a skilled migrant.
- 2.179 In the current circumstances, where Australia is competing with similar countries such as Canada for the pool of potential migrants, this reform would assist in maintaining Australia's international competitiveness. In the post-COVID-19 recovery period, international competitiveness will be crucial for Australia, as international travel re-opens and potential migrants are able to travel to an increasing number of potential destination countries.
- 2.180 The Committee sees value in ensuring that all employer-sponsored visas include a clear pathway to permanent residency with conditions for the length of time to permanency varying from visa to visa depending on skill level and other necessary considerations. As noted by many submitters to this inquiry, recent reforms to the skills lists underpinning the skilled migration program following the abolition of the 457 visa have led to a situation where there are essentially two classes of skilled migrants.
- 2.181 The Committee considers that the conditions for permanency should continue to include competent English language ability and that applicants should be under the age of 45, with possible exceptions for regional visas.
- 2.182 Those with skills in the medium and long-term stream of the TSS have a clear pathway to permanency, while those with skills on the short-term stream list do not have this clear pathway. Given perceptions about the arbitrariness of separation of occupations between the two lists, the Committee believes that combining the lists along with ensuring that all employer nominated visas provide a clear pathway to permanency will simplify the skilled migration system and provide greater clarity to both applicants and sponsors. This does not mean that the pathway should be the

¹³⁷ Ms Cherie Wright, Fragomen, *Committee Hansard*, 25 June 2021, p. 23.

same for all skilled occupations or all visa holders but there should be a pathway and it should be clear.

- 2.183 When the changes are in place these changes could apply to both current and future 482 visa holders.
- 2.184 The Committee considers that if integrity concerns about particular occupations arose, limitations (such as the removal of a pathway to permanency or more stringent criterion for qualifying for permanency) should be put in place.

Recommendation 7

- 2.185 **The Committee recommends that the Department of Home Affairs should change the visa conditions for the short-term stream of the Temporary Skills Shortage visa (subclass 482) to provide a pathway to permanent residency for temporary migrants.**
- **All employer nominated visas should provide the option of a pathway to permanency. The length of time to permanency and the conditions involved may vary from visa to visa with, for instance, applicants in lower skilled occupations taking longer to reach permanency than more highly skilled visa holders.**
 - **Conditions for permanency should continue to include:**
 - **Competent English language ability; and**
 - **Applicants should be under the age of 45.**

3. Visa conditions and processing

Visa conditions

3.1 In the evidence for this inquiry, the Committee received a large number of suggestions for reform of the various visas available under Australia's skilled migration program. This chapter focuses on what the Committee considered to be some of the key issues such as regional visas, the TSMIT, intra-company transfers, visa processing issues and international students.

3.2 Mr Mark Glazbrook stated that there needs to be reform of the existing structure of Australia's migration program, as no regional business or key industry sector should ever be facing skills shortages.¹

3.3 Mr Glazbrook explained:

The skilled migration program should have clear objectives with measurable Key Performance Indicators (KPIs) which would then allow for beneficial reform to be enacted as necessary to improve program outcomes across all skilled migration programs to ensure that Australia maximises its economic opportunities deliverable through skilled migration.²

3.4 Ms Linda Rowe from EY focused on the current opportunity for reform:

The pandemic provides an unprecedented opportunity for reform. The skilled migration program could better meet the needs of business and the economy and remain aligned with the aspirations of the Australian people.³

¹ Mr Mark Glazbrook, *Submission 91*, p. 4.

² Mr Mark Glazbrook, *Submission 91*, p. 4.

³ Mrs Linda Rowe, *EY, Committee Hansard*, 21 April 2021, p. 1.

Regional visas

- 3.5 According to the Government of South Australia, regional employers do not consider sponsoring skilled migrants as an effective means of accessing skilled workers:

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.⁴

- 3.6 KPMG noted that while many businesses 'are feeling acute labour shortages in areas historically filled by temporary visa holders', these shortages have been more 'pronounced in the agriculture, tourism and hospitality industries, and especially in regional Australia'.⁵

- 3.7 KPMG discussed the measures already in place to boost the regional workforce and address the existing labour shortages. Prior to the COVID-19 pandemic and resultant border closures, KPMG noted that:

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. The visa also allows workers to apply for permanent residency after holding this visa and living and working in a designated regional location for at least three years.⁶

- 3.8 Additionally, this visa is linked to the Regional Occupation List (ROL), which was discussed in Chapter 2. The occupations on the ROL apply only to rural and regional areas and include a pathway to permanent residency.⁷

- 3.9 Ms Rachel Whiting of Regional Development Australia (RDA) Riverina outlined the work done to attract and retain people in regional areas to fill job vacancies as well as the importance of a multipronged approach:

We definitely promote the benefits of living regionally and of our region. We run a program around that as well. ... I really think there needs to be a multifaceted approach, and skilled migration is a part of that, as is training our

⁴ Government of South Australia, *Submission 168*, p. 4.

⁵ KPMG, *Submission 152*, p. 10.

⁶ KPMG, *Submission 152*, p. 11.

⁷ KPMG, *Submission 152*, p. 11.

young people and encouraging them to consider careers in the region. It has to be everything.⁸

3.10 In addition to the incentives for Australian jobseekers to take up work in the agricultural sector and the steps towards facilitating the entry of Pacific Islands agricultural workers, KPMG argued that more could be done to attract migrants to work in regional areas.⁹

3.11 Specifically, KPMG recommended that:

The Australian Government could consider the removal of labour market testing for the employer sponsored streams and lower English language requirements in regional areas on a temporary basis to lower the barriers to bring in workers on temporary visas.¹⁰

3.12 Ms Whiting explained that labour shortages existed prior to the pandemic and regional employers continue to face the challenge of filling job vacancies:

An average of 48 per cent of vacancies in the last 12 months were unfilled. That percentage hasn't really changed in a number of years.¹¹

3.13 Ms Amy Dainton from Goulburn Valley Health described the increased challenges of sponsoring migrants to work in regional areas, noting that 75 to 80 per cent of the medical workforce is comprised of skilled migrants.¹²:

The changes to the Skilled Migration Program in 2018 have brought across some challenges with respect to the transition to permanent residency, in particular the use of ANZSCO codes and the labour market testing. We've found it difficult to recruit staff in certain disciplines due to some of those changes. There's a huge burden on the health service with respect to advertising and substantiating the fact that there are no Australian-trained local doctors available in the market, so we have to go to international. As a

⁸ Ms Rachel Whiting, Regional Development Australia Riverina, *Committee Hansard*, 22 April 2021, p. 4.

⁹ KPMG, *Submission 152*, pp. 10-11.

¹⁰ KPMG, *Submission 152*, p. 11.

¹¹ Ms Rachel Whiting, Regional Development Australia Riverina, *Committee Hansard*, 22 April 2021, p. 4.

¹² Ms Amy Dainton, Goulburn Valley Health, *Committee Hansard*, 23 April 2021, p. 6.

result, there's obviously a big cost to the organisation to employ overseas doctors with the visa cost.¹³

3.14 Regional Australia Institute outlined the important role migration plays in regional Australia in filling prevailing skills shortages:

Migration is also vital for filling jobs in regional Australia. In February 2021 there were over 56,500 job vacancies across regional Australia. These are only jobs which are nationally advertised, it can be assumed that many more exist which have not been advertised or are only known locally. ... The vacancy figures indicate that job needs in regional Australia are not being adequately met and that more needs to be done to encourage migrants to settle outside of capital cities.¹⁴

3.15 Mr Andrew Kotzur, the Managing Director of Kotzur, a silo manufacturer and an employer in regional Australia, suggested that despite wanting to employ Australians, the low unemployment rates means he is dependent on skilled migration:

The time it takes to bring an employee on board is too long. Our business needs to be agile to move quickly in meeting changes in demand. At times we see contradiction between the advice given by agents representing migrants and the information published on the government websites. There is a public perception that skilled migrants are a lower-cost labour resource. Nothing could be further from the truth. There is a large administrative cost, particularly in time, in meeting the labour market testing requirements and in obtaining sponsor accreditation. Additionally, there are costs with the government Skilling Australians Fund training levy, migration agents, remote recruitment et cetera.¹⁵

3.16 Mr Kotzur also clarified that sponsoring a migrant is a last resort noting that 'businesses that go down the path of skilled migration do so out of desperation and do incur significant additional costs'.¹⁶

¹³ Ms Amy Dainton, Goulburn Valley Health, *Committee Hansard*, 23 April 2021, p. 6.

¹⁴ Regional Australia Institute, *Submission 141*, pp. 5-6.

¹⁵ Mr Andrew Kotzur, Kotzur Pty Ltd, *Committee Hansard*, 22 April 2021, p. 13.

¹⁶ Mr Andrew Kotzur, Kotzur Pty Ltd, *Committee Hansard*, 22 April 2021, p. 13.

- 3.17 Mrs Whiting from RDA Riverina explained that the cut-off age for employer-sponsored nomination is 45 years and recommended that the age limit be increased for regional areas:

The retirement age in Australia is now over 65. Many businesses need skilled migrants to fulfil supervisory roles. Therefore skills and experience are what is needed. We believe that up to 55 is suitable for some occupations. We would like to lift the age limit in skills of great demand. In addition, from a population growth perspective, workers between 45 and 55 tend to be well established and have families that also choose to live and work in the regional location that they are living in. We call for an extension of the cut-off age for skilled migration, in some occupations and in regions of need, to 55.¹⁷

- 3.18 In relation to attracting or retaining temporary migrants already in regional areas of Australia, KPMG recommended:

...the Australian Government could introduce temporary concessions such as an older age limit and similar to temporary visas, lower English language requirements for visa holders applying for permanent residency in regional areas to stop the flow of migrants out of the country when their temporary visa ends.¹⁸

- 3.19 KPMG elaborated on the recommendation to reduce English language requirements:

At the moment, for certain occupations, if you're looking at an IELTS result, you need at least seven in each of the four components. Perhaps that could be reduced down to six or 6.5, which would attract especially international students, who require the higher points for English. If there was some type of concession for them to receive a lower English score and then move to a regional area, that would be quite a positive move and we'd see a lot more international students moving out into regional areas for employment.¹⁹

- 3.20 AMES recommended that the Skilled Employer Sponsored Regional visa (subclass 494) 'be made more accessible by reducing the skilled work experience requirement' and widening the Regional Occupations List (ROL) to better support real skill shortages in regional areas.²⁰

¹⁷ Mrs Rachel Whiting, Regional Development Australia Riverina, *Committee Hansard*, 22 April 2021, p. 2.

¹⁸ KPMG, *Submission 152*, p. 11.

¹⁹ Mrs Belinda Wright, KPMG, *Committee Hansard*, 25 June 2021, p. 3.

²⁰ AMES, *Submission 58.1*, p. 3.

3.21 Susan Denny, Jane Elliot, Faye Rouse, Sue Rainsford, Taylor Jackson and Rayleen Wright similarly made recommendations for the reform of the subclass 494 subclass visa to assist regional employers to access the skilled workers required to support regional economies during the COVID-19 pandemic recovery:

- Lower threshold requirements to mirror the [subclass 482] visa including no age restriction.
- Remove criteria requiring genuine, full time position likely to exist for five years as no business can predict business operations over such a lengthy period. Such an offer is more beneficial than that offered to local staff.
- Align the need for skills assessments to ANZSCO to allow experience in lieu of qualifications (particularly relevant to agriculture workers including farm managers).
- Visa to be granted for 4 years with a pathway to permanency available after two years.
- Allow secondary family members to live in other areas as children in particular should not be prohibited from leaving the designated area to attend university or other post-secondary schooling.²¹

3.22 Susan Denny et al further argued that Regional Certifying Bodies (RCB) should be abolished. In their view, RCBs approach their certifying role inconsistently, lack accountability, and ‘only serve to add additional paperwork to an already complicated’ application process.²²

3.23 Similarly, Milestone Migration told the Committee that including RCBs in the process ‘has added more red-tape and cost to a regional employer versus using the other visa programs’.²³

3.24 The Government of South Australia provided a list of potential reforms that, in its view, would boost the uptake of regional employer sponsored visas:

- Review the eligibility requirements to ensure they are not limiting regional businesses ability to sponsor skilled migrants, this includes excessive mandatory Skills Assessment requirements, work experience, or qualification requirements.

²¹ Susan Denny, Jane Elliot, Faye Rouse, Sue Rainsford, Taylor Jackson and Rayleen Wright, *Submission 79*, p. 4.

²² Susan Denny, Jane Elliot, Faye Rouse, Sue Rainsford, Taylor Jackson and Rayleen Wright, *Submission 79*, p. 4.

²³ Milestone Migration, *Submission 57*, p. 4.

- Review the end-to-end process with a view to simplification, including labour market testing requirements, labour agreement negotiation, and nomination and visa application processes.
- Revise the Skilling Australia Fund levy to ensure it is not prohibitively expensive for small regional businesses, and reconsider the point of levy collection so regional employers do not have to bear the cost if they do not receive a positive visa grant outcome.²⁴

3.25 According to Milestone Migration, the 494 visa 'is one of the least attractive visa options to potential applicants'. Given the requirement for mandatory skill assessment and higher English language requirements, Milestone stated that 'it does not satisfy the needs of regional Australia'.²⁵

3.26 Mapien also proposed that strong consideration be given to increasing the employer nominated permanent visa age limit to 50 years.²⁶ Mapien explained:

This cohort of visa holders represent employees who have extensive experience in their fields and who may just be entering a stage in their careers where they hold positions which would allow them to make a greater contribution to their Australian employers. This cohort may also be more likely to have school aged children, and the perceived inability to permanently settle in Australia (if this is a driver in the relocation decision) will continue to be a major deterrent in trying to attract this talent given the disruption and impacts to family members.²⁷

Committee comment

3.27 In both this inquiry and the inquiries into migration in regional Australia and the Working Holiday Maker program, the Committee has heard repeatedly about the persistent nature of skills shortages in Australia's regional areas. Additionally, the circumstances of skills shortages in regional areas are often distinct from those in metropolitan areas. Not only in terms of the industries subject to these shortages, such as agriculture and mining, but also in terms of the impact that shortages have on local economies and communities.

²⁴ Government of South Australia, *Submission 168*, p. 4.

²⁵ Milestone Migration, *Submission 57*, p. 4.

²⁶ Mapien, *Submission 129*, p. 8.

²⁷ Mapien, *Submission 129*, p. 8.

- 3.28 As such, the Committee sees a need to continue the practice of offering specific regional visas to sponsors and migrants. In the context of restarting the migration program and COVID-19 pandemic economic recovery, it is important for regional communities and economies that potential migrants to regional areas are able to access concessions on the current visa conditions.
- 3.29 Additionally, given the persistent nature of skills shortages in regional areas, and the limited pool of potential labour available, sponsors should also be able to access concessions to ensure they are able to access a more streamlined process for employing skilled migrants.

Recommendation 8

- 3.30 **The Committee recommends that the Government provide further concessions for temporary regional visas, including:**
- **Labour Market Testing advertising can be up to 12 months before lodging a nomination application**
 - **Raise the age limit to 50**
 - **English language requirements at vocational English**
 - **Reduction of prior experience required in occupation to 2 years and**
 - **Priority visa processing.**

Temporary Skilled Migration Income Threshold

- 3.31 The Temporary Skilled Migration Income Threshold (TSMIT) currently sits at \$53,900 AUD. Home Affairs explained the administrative requirements around minimum salaries for sponsored employees:

Sponsored employees must be paid the annual market salary rate (AMSR) as per the relevant fair work instrument, state industrial instrument or transitional instrument. The AMSR cannot be lower than the Temporary Skilled Migration Income Threshold (TSMIT), currently \$53,900.

- 3.32 Home Affairs further explained that this salary requirement was ‘to help to ensure that overseas workers are not paid less than what an Australian worker would be paid, doing the same work in the same location’.²⁸
- 3.33 The policy is also intended to help ensure that skilled overseas workers have reasonable means of support while in Australia. Home Affairs noted that the AMSR does not apply to positions with annual earnings of over \$250,000.²⁹
- 3.34 The TSMIT amount of \$53,900 AUD has not been changed since 2013. There were a range of views received in evidence on whether the TSMIT should be increased. Evidence such as that from the CFMEU suggested that the TSMIT be immediately increased.³⁰
- 3.35 Dr Jane O’Sullivan proposed that the TSMIT be raised to ‘at least the 75th percentile of weekly full time earnings.’³¹ Dr O’Sullivan noted that the TSMIT currently sits below the median Australian wage income and that at this level ‘...skilled and experienced migrant workers are undercutting qualified Australian job-seekers.’³²
- 3.36 The Committee for Adelaide had a different view, stating that the TSMIT for some jobs, particularly in regional locations, is too high and does little to acknowledge the reality of wage conditions in locations where living costs are lower than in metropolitan areas.³³
- 3.37 Mr Andrew Kotzur suggested the possibility of a two-tiered TSMIT, depending on whether the business is located in a rural or regional area, or in a city.³⁴
- 3.38 The Regional Australia Institute noted that the costs involved in the sponsorship for employers can be prohibitive for small and medium regional businesses:

This can include the level of the Temporary Skilled Migration Income Threshold as well as the cost involved for migration agents, payment of the

²⁸ Department of Home Affairs, *Submission 16.2*, p. 7.

²⁹ Department of Home Affairs, *Submission 16.2*, p. 7.

³⁰ CFMEU, *Submission 54.1*, p. 15.

³¹ Dr Jane O’Sullivan, *Submission 149*, p. 4.

³² Dr Jane O’Sullivan, *Submission 149*, p. 4.

³³ Committee for Adelaide, *Submission 80*, p. 4.

³⁴ The Kotzur Group, *Submission 156.1*, p.1.

Skilling Australia Fund levy at the point of application and other associated costs.³⁵

- 3.39 The Law Council of Australia noted the fact that many Designated Area Migration Agreements (DAMA) included concessions to the TSMIT which could indicate that the TSMIT 'is not an appropriate minimum salary figure in regional Australia.'³⁶

For many regional businesses, the requirement to pay a base salary equal to TSMIT in order to sponsor a person on a temporary or provisional work visa prevents them from being able to sponsor workers and fill skill gaps, unless they are able to access a DAMA.³⁷

- 3.40 The Law Council recommended either abolition of the TSMIT or that there be a distinct income threshold for positions in regional locations.³⁸

- 3.41 Evidence from the Department of Home Affairs (Home Affairs) suggests that there is also a relatively small number of people being paid the TSMIT. For 2019-20, 12,044 nominations of a base salary between \$53,900 and \$62,000 were approved. A total of 145 nominations were approved under a Labour Agreement during the 2019-20 program year with a base salary of less than \$53,900 per annum.³⁹

Committee comment

- 3.42 In the Committee's view, it is important that the TSMIT reflects current working conditions and rates of pay in the Australian economy. Given that it has not increased since 2013, it is in need of an update.

- 3.43 The Committee also notes that the Government already has a path towards affecting an increase to the TSMIT in the *Review of the Temporary Skilled Migrant Income Threshold* report. Any increase in the TSMIT should be done gradually and also take into account regional variations in average wages and cost of living.

- 3.44 In the same way that many DAMAs provide for concessions on the TSMIT, any increase in the TSMIT should take account of the needs of regional areas

³⁵ Regional Australia Institute, *Submission 141*, p. 12.

³⁶ Law Council of Australia, *Submission 96.1*, p. 15.

³⁷ Law Council of Australia, *Submission 96.1*, p. 15.

³⁸ Law Council of Australia, *Submission 96.1*, p. 15.

³⁹ Department of Home Affairs, *Answers to questions on notice*, no. 9, no 10.

and ensure that regional employers seeking skilled migrants are not disadvantaged.

Recommendation 9

- 3.45 The Government should revisit the recommendations of the *Review of the Temporary Skilled Migrant Income Threshold (TSMIT) (2017)* in order to increase the TSMIT. Such a change should be made with consideration of exemptions or different rates for jobs in regional areas.**

International students

- 3.46 Australia's international education sector is regarded as a significant economic contributor on both the national and regional levels. Universities Australia noted that Australia has built a robust international education sector that delivers high quality education to students from approximately 140 countries and is ranked third most popular destination country behind the US And UK.⁴⁰
- 3.47 The international education sector is Australia's largest service-based export industry which, from 2019-20, contributed \$37.5 billion and supported approximately 250,000 jobs.⁴¹
- 3.48 In the post-COVID-19 climate, international travel restrictions have constrained the intake of international students to Australia. KPMG noted that these current conditions present an opportunity to market Australia as an attractive destination for international students as competition for such students will become more intense.⁴²
- 3.49 Mr Rupert Grayston from the Australian Computer Society noted the level of competition from other countries and highlighted the link between higher education and skilled migration:

We clearly have some very strong and rigorous competition from the UK, Canada and the US. It's coupled with higher education. Higher education combined with skilled migration is a big drawcard.⁴³

⁴⁰ Universities Australia, *Submission 175*, pp. 3-4.

⁴¹ Department of Education, Skills and Employment, *Submission 181*, p. 5.

⁴² KPMG, *Submission 152*, p. 3.

⁴³ Mr Rupert Grayston, Chief Executive Officer, Australian Computer Society, *Committee Hansard*, 28 May 2021, p. 3.

- 3.50 Universities Australia stated that 84 per cent of international students and graduates return to their home countries after receiving a recognised, Australian university qualification.⁴⁴
- 3.51 The Australian Technology Network of Universities argued that although the possibility of international students staying in (or returning to) Australia to undertake skilled work is an important factor for their decision to study in Australia, returning to their home countries also provides an ‘expected’ positive outcome.⁴⁵ The Australian Technology Network of Universities stated:
- Students returning home multiply the global connections with Australia, benefiting Australian businesses operating internationally, our standing in the international community and our research network. However, a balance is needed to ensure that Australia can retain and grow knowledge and skills in Australia as well.⁴⁶
- 3.52 Evidence provided to the Committee suggested that Australia’s attractiveness for international students may be diminishing and has recently been overtaken by other competitors.
- 3.53 ACCI noted concerns that for reasons such as travel bans and faster vaccine rollouts, overseas countries are becoming a more attractive destination than Australia.⁴⁷
- 3.54 Some key competitors, such as the UK, Canada and the US, recently made alterations to their migration settings that consider a more ‘open’ approach to their policies on international students amidst the pandemic. Universities Australia stated that a failure to respond to the various incentives offered by other competitor countries may significantly impact Australia’s knowledge workforce, particularly as the nation seeks to rebound from COVID-19.⁴⁸

⁴⁴ Universities Australia, *Submission 175*, p. 4.

⁴⁵ Australian Technology Network of Universities, *Submission 66*, p. 2.

⁴⁶ Australian Technology Network of Universities, *Submission 66*, p. 2.

⁴⁷ Australian Chamber of Commerce and Industry, *Submission 64*, p. 4.

⁴⁸ Universities Australia, *Submission 175*, p. 4.

Box 3.1 Postgraduate work rights

In September 2019 the UK introduced a 'graduate immigration route' which permits international students completing their studies after the 2021 UK summer to reside in the country to live and work in any field, at any level.

In Canada, international students who graduated from an eligible institution are able to apply for a 'post-graduation work permit', allowing the student to reside and work in Canada for three years.

In the US, significant reforms are currently being made to the immigration system. Although some reforms are yet to be implemented, one includes removing limits on employer-based visas by country and broadening visa options for highly skilled international students.⁴⁹ In addition, pathways to permanency for STEM graduates will be easier and will not be counted in green card allocation caps.⁵⁰

- 3.55 KPMG's 2020 report, *Pathways to Recovery: International Students Will Boost Our Living Standards* also expressed a view that by marketing Australia as a more attractive destination for international students, the benefits are twofold: Australia's ageing population will become more balanced and the nation's skills base will begin to augment.⁵¹
- 3.56 One issue for attracting international students in Australia is creating a migration setting which provides international students a viable pathway to permanent residency, which includes consolidating post-study work rights.
- 3.57 Nativas argued that the points system for permanent residency be adjusted to increase its attractiveness as a pathway for international graduates:
- ...targeted and timebound changes to the points allocation for specific categories could provide a more attractive and achievable pathway for those that have studied in Australian higher education institutions. This would support increasing access temporarily to a group of individuals that have

⁴⁹ Universities Australia, *Submission 175*, p. 4.

⁵⁰ Universities Australia, *Submission 175*, p. 4.

⁵¹ KPMG, *Pathways to Recovery: International Students Will Boost Our Living Standards*, p. 3.

multiple years' experience studying, working and living in Australia (and are therefore already accustomed to and supportive of Australian values)⁵².

3.58 In this regard, Dr George Tan, Associate Professor Andrew Taylor and Professor Ly Tran called for concessions to the points test and employment requirements for international graduates on 485 visas seeking to make the transition to a permanent visa.⁵³

3.59 According to KPMG, the current points system could be adjusted to take account of other factors:

Perhaps there could be other areas—in terms of their results, their achievements at university—which would then allow them to get additional points, or even consideration of removing the points system and doing it more on the basis of legislative criteria. So if you've studied in Australia for a period of two years and you achieved a certain requirement, then you would have a faster pathway to permanent residency.⁵⁴

3.60 Dr John Wellard from Universities Australia provided a comparison between the post-study work rights in Australia and the UK:

... the UK, which has reintroduced post-study work rights at the graduate route, which started this year. The major difference between their post-study work rights and ours is that students who have done a one-year post-graduate course can apply for a post-study work visa in the UK, whereas in Australia you have to have done at least two years. At the end of the day our view would be that we need post-study work rights that best suit Australia, but we always keep an eye on what's happening in other countries.⁵⁵

3.61 Mrs Belinda Wright from KPMG reflected on some of the challenges for international students in finding skilled employment:

So obtaining the necessary work rights might need longer than the two-year work requirement that's on that visa. It is quite difficult to obtain a graduate position when you don't hold permanent residence status in Australia. So, finding that placement can take longer than 12 months, which then would only allow them an additional 12 months to get the additional work experience required to apply for permanent residency.⁵⁶

⁵² Nativas, *Submission 109*, pp. 17-18.

⁵³ Dr George Tan, Associate Professor Andrew Taylor and Professor Ly Tran, *Submission 68*, p. 5.

⁵⁴ Mrs Belinda Wright, KPMG, *Committee Hansard*, 25 June 2021, p. 3.

⁵⁵ Dr John Wellard, Universities Australia, *Committee Hansard*, 28 May 2021, p. 40.

⁵⁶ Mrs Belinda Wright, KPMG, *Committee Hansard*, 25 June 202, p. 2.

- 3.62 In Australia, international graduates are able to apply through the Temporary Graduate (subclass 485) visa stream post-graduation, allowing students to reside and work in Australia for two to four years, depending on the level of qualification.⁵⁷ There are special conditions under this visa for international graduates who studied and will work in a regional location, which is an extension of stay for up to two years.⁵⁸ Currently, students affected by international border closures are studying online and offshore to retain post-study work rights eligibility.⁵⁹
- 3.63 The AHA and TAA welcomes these changes, and argued that they should be applied to more international graduates:
- ...this was only for degree-level or above in nominated courses not relevant to our sector. We believe that the 485 Graduate work stream should also be extended to two years and/or the relevant practical experience during studies should count towards the calculation of two years' work experience. The AHA and TAA believe that this change in counting experience and employment history should only be available to international students undertaking a minimum Certificate IV qualification in a CRICOS registered course at an Australian institution'.⁶⁰
- 3.64 According to MIA graduate international students have been undergoing more 'circuitous, work experience heavy' pathway to permanent residency through the Temporary Graduate (subclass 485) visa.⁶¹ MIA argued that the connection between international graduates and direct permanent migration was largely broken by changes in 2012, but has been further exacerbated by border closures.⁶²

⁵⁷ Department of Home Affairs, *Temporary Graduate Visas*, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-graduate-485> viewed 15 July 2021

⁵⁸ Department of Home Affairs, *Temporary Graduate Visas*, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-graduate-485> viewed 15 July 2021

⁵⁹ Department of Home Affairs, *Covid-19 and the border Student visa* <https://covid19.homeaffairs.gov.au/student-visa> viewed 15 July 2021

⁶⁰ Australian Hotels Association and Tourism Accommodation Australia, *Submission 56.1*, p. 12.

⁶¹ Migration Institute of Australia, *Submission 82*, p. 14.

⁶² Migration Institute of Australia, *Submission 82*, p. 14.

3.65 Further, according to MIA:

While the loss in the export market is already evident, the lack of graduating students as a source of skilled labour will not begin to become substantially apparent until 2023/2024 and beyond.⁶³

3.66 Mrs Belinda Wright from KPMG noted that since Australia is trying to attract the best and brightest, high-performing individuals should receive a type of endorsement through the migration program to receive placements within Australian businesses.⁶⁴

Committee comment

3.67 The Committee considers that Australia should be trying to attract the best and brightest international students who have studied here, to stay here, particularly to fill persistent skills shortages in the economy.

3.68 The Home Affairs' report, *Australia's Migration Trends 2019-20 highlights*, noted that of the 140,366 permanent residency placements offered through the Migration Program, 16,588 were former student visa holders and 16,424 graduate visa holders.⁶⁵ These results indicate that close to a quarter of the allocated permanent residence placements awarded under the Migration Program were previous international students.

3.69 The Committee suggests that consideration of the post-study work rights for international students may be of value particularly in light of what is available in competitor countries such as the UK.

3.70 The Committee sees value in ensuring that of the international students who study in Australia, those achieving at the highest level and those who are undertaking courses in areas where there are persistent skills shortages are provided with a clear pathway to permanency.

3.71 The Committee considers this could take the form of concessions to post-study work rights which provide more flexibility for the student and a clearer path to permanent residency based on the student meeting a range of criteria and safeguards to ensure that the system is not being rorted by students or universities.

⁶³ Migration Institute of Australia, *Submission 82*, p. 15.

⁶⁴ Mrs Belinda Wright, KPMG, *Committee Hansard*, 25 June 2021, p. 3.

⁶⁵ Department of Home Affairs, *Australia's Migration Trends 2019-20 Highlights*, p. 2 & 9.

3.72 Finally, the issue of international student graduates holding 485 visas who are stuck offshore due to border closures arose during the public hearings. Students have raised concerns publicly and directly with some members of the Committee about the expiry of their 485 visas before they are able to come to Australia, thus losing the ability to work in Australia and the ability to pursue skilled and permanent visas. Home Affairs acknowledged the issue and the Committee considers this issue warrants further consideration by Home Affairs and Government.

Recommendation 10

3.73 The Committee recommends the Government consider changes to post-study work arrangements for a subset of international student graduates where those graduates have:

- **Undertaken a university course (or a course run by a reputable non-university higher education provider) leading to a job in an occupation with a persistent skills shortage**
- **Demonstrated excellence for instance by graduating in the top ten per cent of all graduates in their course or achieving first class honours**
- **Met relevant English language standards**
- **On graduation, worked in a job that is relevant to their field of study with a persistent skills shortage**

Such graduates would be eligible for a discount on the work experience component for permanent residency under the employer nominated scheme from three years to two years.

For graduates applying for a points-based visa, additional points could be awarded for those graduates meeting the above criteria.

The Government should also consider longer temporary graduate visas of three years to provide time and flexibility for graduates to find work.

As a special integrity measure the Tertiary Education Quality and Standards Agency should undertake special and regular audits of the assessment of excellence measure to ensure standards are maintained.

Intra-company transfers

- 3.74 The Committee received evidence about intra-company transfers. Intra-company transferees are distinct from other applicants as they are sponsored by a business to fill a specific occupation requiring specialised, proprietary knowledge.⁶⁶ The proprietary skills and experience are unable to be sourced locally in Australia's labour market, besides in the Australian business itself.⁶⁷
- 3.75 Austrade clients report that the current timeframes for completing labour market testing (LMT) places limits on the ability of Australian companies to compete internationally for talent quickly.⁶⁸
- 3.76 The Committee for Economic Development Australia (CEDA) recommends that Home Affairs immediately introduce a 'dedicated, streamlined path' for intra-company transfers to Australia.⁶⁹ CEDA noted this would 'enable trusted users of the migration system with a strong local presence to bring global executives to Australia to lead major business expansions and build local workforce capability'.⁷⁰
- 3.77 The Law Council of Australia supported the view that Home Affairs consider opportunities to introduce a 'dedicated, streamlined path for intra-company transfer of employees to Australia'.⁷¹
- 3.78 The Government of South Australia echoed a similar viewpoint:
- The Government of South Australia urges the Department of Home Affairs to consider the opportunities for the existing visa products to facilitate more efficient intra-company transfers of staff, so that companies in Australia with head offices overseas can rapidly relocate staff from overseas to Australia for short and temporary periods to meet business needs.⁷²

⁶⁶ Fragomen, *Submission 61.1*, p. 7.

⁶⁷ Fragomen, *Submission 61.1*, p. 7.

⁶⁸ Australian Trade and Investment Commission, *Submission 100.1*, p. 5.

⁶⁹ Committee for Economic Development Australia, *Submission 150*, p. 4.

⁷⁰ Committee for Economic Development Australia, *Submission 150*, p. 4.

⁷¹ Law Council of Australia, *Submission 96.1*, p. 9.

⁷² Government of South Australia, *Submission 168*, p. 20.

3.79 According to Fragomen, incorporating a TSS stream that includes an intra-company transfer stream for multinational businesses will support effective trade and investment as it:

- Ensures Australia remains an active player in the global economy, contributing to the economic benefits to Australia and its nationals
- Demonstrates that Australia is ‘open for business and investment’
- Reflects Australia’s commitments under various international agreements
- Is consistent with the practice in other developed economies
- Creates job opportunities for Australians in Australia
- Creates job opportunities for Australians overseas
- Contributes to reversing the impact of highly skilled Australians working overseas for extended periods.⁷³

3.80 In a survey conducted by Fragomen with its clients, 85 per cent of business respondents viewed intra-company transfer visas as an important priority for Australia’s immigration framework, agreeing that:

- Having a separate visa for intra-company transfers would better recognise the prerequisite proprietary knowledge and skills brought by such staff
- International assignments for intra-company transfers are part of a career development strategy with reciprocal benefits to Australians
- Intra-company transfers should be accorded priority processing under existing arrangements.⁷⁴

3.81 Fragomen offered a further recommendation to introduce a dedicated intra-company transfer visa, especially in growth sectors in recognition of the ‘unique difference of intra-corporate transfers from other new entrants to the domestic labour market’.⁷⁵ Fragomen noted that other competitor jurisdictions such as the US, UK, Singapore and Canada commonly use intra-company transfer visas to help multinational companies develop global mobility.⁷⁶

⁷³ Fragomen, *Submission 61.1*, p. 11.

⁷⁴ Fragomen, *Submission 61.1*, p. 7.

⁷⁵ Fragomen, *Submission 61.1*, p. 7.

⁷⁶ Fragomen, *Submission 61.1*, p. 7.

- 3.82 Fragomen suggested that by not embracing a dedicated intra-company transfer visa stream, Australia's competitiveness for talent will diminish compared to other jurisdictions.⁷⁷

Recommendation 11

- 3.83 The Committee recommends that Government enable intra-company transfer of executive employees of multinational companies to Australia where necessary for these companies to expand their operations in Australia. Streamlining should include an exemption from labour market testing. This measure should be subject to other strict integrity measures. Consideration should be given to whether a separate visa category is necessary to enable intra-company executive transfers.**

Visa processing timeframes

- 3.84 The Northern Territory Department of Industry, Tourism and Trade (DITT) expressed a view on the issues surrounding TSS and employer-sponsored visas, having received feedback from local businesses and their concerns with the long timeframes associated with processing Designated Area Migration Agreement (DAMA) applications.⁷⁸
- 3.85 DITT stated that hospitality businesses would prefer to hire local workers to avoid unnecessary costs and visa administrative processes; however, local workers have been unwilling to work within the industry.⁷⁹ As such, hospitality businesses need to source skilled migrants to address shortages. Particularly in regional Australia, industries are transient by nature and reliant on TSS visa holders, where processing delays and unsuccessful applications impose financial and emotional stress on businesses and visa holders.⁸⁰

⁷⁷ Fragomen, *Submission 61.1*, p. 10.

⁷⁸ Northern Territory, Department of Industry, Tourism and Trade, *Submission 29*, p. 5.

⁷⁹ Northern Territory, Department of Industry, Tourism and Trade, *Submission 29*, p. 5.

⁸⁰ Northern Territory, Department of Industry, Tourism and Trade, *Submission 29*, p. 5.

Processing times

3.86 KPMG told the Committee that the current processing time for the global talent visa is 90 days. According to KPMG:

This does not include the [expression of interest] timeframe and is much longer than other jurisdictions who promise fast-tracked processing under similar schemes of two weeks.⁸¹

3.87 Additionally, KPMG noted that the processing times for some Business Innovation and Investment visas is 'extensive and unsustainable and acts as a significant disincentive to investors'. These investors, particular those with high-net worth, 'may consider investment in Australia "too difficult" and opt to set up their businesses or invest their wealth' elsewhere.⁸²

3.88 As a result, KPMG recommended the establishment of key performance indicators for visa processing times, and 'accrediting specialist third parties to review visa eligibility'. According to KPMG, this would make these visa categories more 'adaptable and responsive to market changes in growth sectors'.⁸³

3.89 The Government of South Australia noted that it had 'heard from regional employers who have been waiting well over the published' processing times for visa grants.⁸⁴

3.90 The Government of South Australia saw a need for enhanced capacity in Home Affairs 'to implement and oversee a strong employer-sponsored skilled migration program'. According to the Government of South Australia:

This requires a renewed emphasis on resources to maintain integrity over the program, rather than relying on restrictive requirements, cost and processes that effectively limit uptake.⁸⁵

Navigating the system

3.91 ACCI commented on the barriers that businesses face in accessing the skilled migration program. Specifically, ACCI noted that the 'frequent changes to

⁸¹ KPMG, *Submission 152*, p. 13.

⁸² KPMG, *Submission 152*, p. 13.

⁸³ KPMG, *Submission 152*, p. 13.

⁸⁴ Government of South Australia, *Submission 168*, p. 4.

⁸⁵ Government of South Australia, *Submission 168*, p. 4.

the standard employer sponsored migration program', such as new visa classes and labour agreements, has led to 'employers finding it hard to understand the process, eligibility and suitability' of the skilled migration program.⁸⁶

3.92 In this regard, ACCI told the Committee that:

The Industry Outreach Officers Program, which was discontinued in 2014, was a highly regarded and valuable program that attached experienced migration professionals from the Department to industry employer bodies. The program assisted employers to navigate the system, understand and overcome the barriers, and provided guidance to ensure business are aware of their obligations and requirements as a sponsor.⁸⁷

3.93 According to ACCI, this program assisted in building trust and strengthening the relationship between Home Affairs and industry. ACCI stated that 'given the increased complexity in the system, the program will be even more valuable than before'.⁸⁸

3.94 The Motor Trades Association of Australia (MTAA) was one of the organisations that received an outplacement officer during the Industry Outreach Officers Program. According to MTAA, it was a 'brilliant exercise':

They became a reference point which enabled businesses to channel their queries through to the [MTAA]. Invariably, that came from the individual business to one of my member associations. They cascaded that up to this outposted officer, who spent a couple of days a week in the MTAA office. They would provide the necessary information, including the coordination of touchpoints.⁸⁹

3.95 Support for the reintroduction of liaison officers was also identified by Ramsay Health Care Australia:

With the previous system several years ago we would have had a direct contact and we would have been able to identify which case officer was looking at a file and see their contact details to discuss any specific issues. Also in the past businesses such as ours had access to a liaison from the department. We would have been able to contact them with any particular issues that were coming up. Unfortunately, we haven't had such a system for a

⁸⁶ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 20.

⁸⁷ Australian Chamber of Commerce and Industry, *Submission 64.1*, pp. 20-21.

⁸⁸ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 21.

⁸⁹ Mr Richard Dudley, Motor Trades Association of Australia, *Committee Hansard*, 25 June 2021, pp. 16-17.

number of years now. That's definitely something that would benefit businesses such as ours, particularly given the size of our recruitment and our use of the program. It would definitely be of assistance if we had a particular contact person. I think that would be of benefit for most accredited sponsors in that program.⁹⁰

3.96 This view was also supported by the Interactive Games and Entertainment Association.⁹¹

3.97 More generally, MTAA noted feedback from its membership that most businesses, particularly smaller businesses, are 'very put off by the complexity'. These businesses 'don't have the time and resources to spend hours trying to find the information they need'.⁹²

3.98 Clubs Australia sought feedback from its member clubs and found that many clubs were being contracting migration agents to access the skilled migration program due to the complexity of the system.⁹³ Mr Simon Sawday added:

Reforms are also necessary to remove unnecessary red tape and make the system more accessible for clubs. We support measures that would make the system more simple and transparent so clubs can access the system themselves rather than relying on costly services.⁹⁴

3.99 The need for open and timely communication channels between Home Affairs and sponsoring organisations is particularly important for specialised industries such as healthcare. Regional health service, Goulburn Valley Health highlighted how ineffective the current communication practice is:

At the moment, you can wait hours if you ring the 131 number. They took away the ability to speak to case officers when trying to ask for advice. They became very stringent, where they wouldn't speak over the phone—it was email only—and they weren't providing advice to the health services and nominators. You had to seek third-party advice, again, with additional fees if you need to go to a migration lawyer to ask a question. The 457 visa branch,

⁹⁰ Ms Chloe Sauermann, Ramsay Health Care, *Committee Hansard*, 12 April 2021, p. 35.

⁹¹ Mr Jens Schroeder, Interactive Games and Entertainment Association, *Committee Hansard*, 12 April 2021, p. 28.

⁹² Mr Richard Dudley, Motor Trades Association of Australia, *Committee Hansard*, 25 June 2021, pp. 16-17.

⁹³ Mr Simon Sawday, Clubs Australia, *Committee Hansard*, 25 June 2021, p. 7.

⁹⁴ Mr Simon Sawday, *Committee Hansard*, 25 June 2021, p. 7.

located in Melbourne previously used to meet with all medical workforce managers in Victoria on an annual basis to assist us... That has since stopped for a number of years.⁹⁵

3.100 Greenham, a meat processing business, identified communication as one of the top three priority areas for reform of the skilled migration program, noting that the objective should be to allow ‘the end users to get on with what they are good at—and that isn't bureaucracy’.⁹⁶

3.101 Greenham also highlighted that engaging migration agents does not result in greater responsiveness or engagement with Home Affairs. They noted that recently:

[O]ur migration agent sought feedback on no less than 19 occasions, only to receive two template responses and no response on 17 other occasions. Business cannot plan with response rates such as these.⁹⁷

3.102 Home Affairs noted that it has business industry and regional outreach officers in place:

It's distinct from the industry outreach program in that they're not embedded, if you like, in a particular industry or sector, but they are available for those purposes which you describe to make sure people have got information about how the system works and to understand what different sectors are thinking about regarding migration.⁹⁸

3.103 In terms of time-poor businesses accessing information directly from officials about the migration program, Home Affairs noted that in line with broader government initiatives it has been moving towards encouraging digital self-service.⁹⁹

3.104 While Home Affairs still maintains ‘a dedicated call centre that provides a level of service’, as well as providing for ‘interaction on an individual visa application process’, there is no place for sponsors to access general advice ‘in part because there are restrictions on our ability to provide individualised advice to applicants’.¹⁰⁰

⁹⁵ Ms Amy Dainton, Goulburn Valley Health, *Committee Hansard*, 23 April 2021, p. 8.

⁹⁶ Mr Glenn Southward, HW Greenham & Sons Pty Ltd, *Committee Hansard*, 23 April 2021, p. 13.

⁹⁷ Mr Glenn Southward, HW Greenham & Sons Pty Ltd, , *Committee Hansard*, 23 April 2021, pp. 12-13.

⁹⁸ Mr Michael Willard, Department of Home Affairs, *Committee Hansard*, 25 June 2021, p. 30.

⁹⁹ Mr Andrew Kefford PSM, Department of Home Affairs, *Committee Hansard*, 25 June 2021, p. 31.

¹⁰⁰ Mr Andrew Kefford PSM, Department of Home Affairs, *Committee Hansard*, 25 June 2021, p. 31.

3.105 In regard to making and processing applications, Home Affairs noted that their current 'core visa processing systems are 25 to 30 years old', and that while it would 'like to be in a position to offer a much better level of service', even simple things like the provision of push messaging via SMS is 'far more complicated than it should be'.¹⁰¹

Committee comment

3.106 From the evidence received during this inquiry, it is clear to the Committee that the skilled migration program is complex and difficult to navigate.

3.107 The Committee received evidence outlined both here and in the Interim Report that many skilled visas are difficult to apply for, information is hard to understand for most sponsors and that once an application is made processing times both lack transparency and are lengthy.

3.108 The Committee believes that improvements must be made to the way the program is administered if this perception is to change. Some of the necessary improvements are relatively simple. In order for sponsors and businesses to access accurate and timely information, reinstating the industry liaison officer program could provide an immediate boost to the accessibility of information. The work of the new industry liaison officers would not be purely focussed on providing advice to sponsors and applicants. The industry liaison officers could also provide Home Affairs with more information about the workforce challenges faced by the industry they are liaising with direct from the coalface.

3.109 Further, the Committee sees a need for a greater capacity for sponsors and individuals to have a point of contact within Home Affairs for skilled visa related questions. Notwithstanding Home Affairs' evidence that there is some capacity for interaction in regard to individual visa applications, the Committee believes that greater effort and resources should be put into ensuring that individuals and businesses have the capacity to quickly and easily engage with Home Affairs on the skilled migration program.

3.110 As such, the Committee sees the need to enable greater resources to be made available for direct interaction with departmental officials, as well as an immediate update to the legacy software to facilitate improved functionality both for Home Affairs and for applicants and sponsors.

3.111 At the time that the Committee had completed its work and its draft report, answers to some questions on notice from the 25 June public hearing remain

¹⁰¹ Mr Andrew Kefford PSM, Department of Home Affairs, *Committee Hansard*, 25 June 2021, p. 31.

outstanding from the Home Affairs. Once received the Committee will publish these on its website.

Recommendation 12

3.112 The Committee recommends that the Department of Home Affairs update their visa processing system to ensure a more streamlined visa application process for applicants and employers.

Recommendation 13

3.113 The Committee recommends that the Department of Home Affairs undertake to improve their customer service in the skilled migration program with consideration given to:

- **Establishing industry liaison officers to assist businesses in navigating the skilled migration program and provide feedback to the Department on emerging conditions in industry**
- **Provision of a specialist triage system to provide advice on complex visa applications including**
 - **Making officials available to discuss visa applications over the phone**
 - **Allowing skilled visa applicants and employers the opportunity to correct minor discrepancies without having to restart the application.**
 -

4. Other matters

- 4.1 Following the Interim Report the Committee received further evidence which expanded on the issues related to Labour Market Testing (LMT) and the Skilling Australia Fund (SAF) and the extent to which they are impacting on businesses as they seek to sponsor skilled migrants.

Labour market testing

- 4.2 In its Interim Report the Committee highlighted the complexities of LMT processes for businesses, particularly the balance between the need to recruit skilled overseas workers and prioritising Australian jobs.
- 4.3 Much of the evidence received after the Interim Report supported and added to this view. Ajuria Lawyers considered that the current LMT process may create unnecessary work and potentially confusion for businesses.¹
- 4.4 The Accommodation Association of Australia explained that LMT is seen to be an onerous and time-consuming administrative requirement which is faced by businesses who wish to sponsor a prospective migrant worker.²
- 4.5 The Australian Chamber of Commerce and Industry (ACCI) contend that there are already multiple existing barriers faced by employers when using the ‘highly regulated and expensive’ skilled migration program which they consider presents a ‘very strong incentive for employers to employ Australian workers as a first priority’.³

¹ Ajuria Lawyers, *Submission 135*, p. 9.

² Accommodation Association of Australia, *Submission 148*, p. 11.

³ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 14.

- 4.6 ACCI expressed that LMT ‘significantly adds to the red tape burden’.⁴ Additionally, ACCI noted the likelihood that ‘numerous attempts to recruit Australian workers were made before reaching out to a migrant’.⁵
- 4.7 Consult Australia considered the current LMT process creates a burden for its membership, results in unnecessary red tape and does not improve desired outcomes.⁶
- 4.8 The Association of Mining and Exploration Companies noted that the administrative processes of LMT create an additional burden on top of other requirements that need to be met.⁷ Fragomen agreed, describing LMT as an unnecessary administrative burden imposed on businesses, particularly on how positions are advertised.⁸
- 4.9 Fragomen further noted that in their experience with LMT, the ‘highly prescriptive rules’ informing how positions should be advertised do not ‘reflect the realities of how companies now recruit’.⁹ Fragomen explained that some employers use different advertisement protocols with specific platforms; for others, there may be circumstances in which advertising roles, particularly senior ones, are a commercially sensitive topic.¹⁰
- 4.10 Fragomen elaborated:
- For appointments to positions such as Chief Executive Officer, Chairman, and senior operational management roles, it is usually the case that the departure of the incumbent is not publicised until their replacement is announced, because of the harmful effects this may have on the company’s stability...¹¹
- 4.11 The Accommodation Association of Australia conducted a survey within its own membership and found that 40 per cent of respondents viewed the LMT administrative process as a major barrier to sponsoring skilled migrants.¹²

⁴ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 14.

⁵ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 14.

⁶ Consult Australia, *Submission 154.1*, p. 8.

⁷ Association of Mining and Exploration Companies, *Submission 30*, p. 6.

⁸ Fragomen, *Submission 61.1*, p. 9.

⁹ Fragomen, *Submission 61.1*, p. 9.

¹⁰ Fragomen, *Submission 61.1*, p. 9.

¹¹ Fragomen, *Submission 61.1*, p. 9.

¹² Accommodation Association of Australia, *Submission 148*, p. 11.

4.12 The Restaurant and Catering Industry Association considered that LMT acted as a hand brake on economic growth and business recovery through Australia's post-pandemic recovery period.¹³

4.13 EY provided evidence from its *Selected Commentary – EY Survey of Business March 2021* to illustrate the impact of LMT on businesses. One respondent stated:

The current advertising requirements are not protecting the local labour market, especially as the roles we look to fill by foreign talent are due to the lack of available specialised skills. Advertising simply becomes a tick box exercise, as we know we need to recruit internationally due to the skills shortage in Australia.¹⁴

4.14 Another respondent to the survey mentioned LMT as being too onerous and ineffective for occupations in high demand:

We would hire locals if they were available. The LMT process is time consuming and inhibitive if we wish to issue an offer to a candidate, but essentially have to wait 28 days before we can do that. By then the horse has bolted.¹⁵

4.15 EY's survey respondents also regarded LMT as an 'unnecessary administrative, time consuming and costly process that has no relevance to the decision to fill a position with a local or global talent'.¹⁶

4.16 EY also provided these comments on the requirement to advertise on JobActive with one respondent to the survey stating:

The current labour market testing requirements, in particular the JobActive advertisements are not designed practically for employers to properly prioritise Australian applicants. In particular, the JobActive website does not review the applications and applicants applying do not meet the minimum experience or qualifications to do the job. It would be helpful if the candidates applied via this channel are first vetted before the applications are sent through.¹⁷

¹³ Restaurant & Catering Industry Association, *Submission 50.1*, p. 2.

¹⁴ EY, *Submission 71.1*, p. 9.

¹⁵ EY, *Submission 71.1*, p. 9.

¹⁶ EY, *Submission 71.1*, p. 9.

¹⁷ EY, *Submission 71.1*, p. 10.

4.17 Another respondent to the EY survey stated that JobActive is:

‘...not a suitable job board and we rarely receive any suitable candidates for highly skilled roles such as nurses or doctors’.¹⁸

4.18 EY’s survey found the majority of business respondents viewed current LMT requirements including JobActive advertisements as being an ineffective means of ensuring that employers are prioritising jobs for Australians and local job creation.¹⁹

4.19 ACCI argued that JobActive does little to represent the differences in skillsets and experience of those who are long-term unemployed and skilled migrants nominated by an employer to fill a skills gap within their business.²⁰ ACCI stated:

Public perception that the unemployed on JobActive could fill vacancies that are ultimately having to be filled by skilled migrants is a flawed one.²¹

4.20 Australian International Skilled Recruitment Services further stated that local unemployed, experienced and semi-skilled workers would not be able to make a transition to another sector without undergoing re-training and experience which could take approximately three to four years and ‘...this is why skilled migration fills the gap where there are shortages’.²²

4.21 In contrast, the Construction, Forestry, Maritime, Mining and Energy Union (CFMEU) regard LMT as an important mechanism to gauge if there are sufficient Australian workers with the appropriate skills willing to perform the work required.²³ According to the CFMEU:

[Labour Market Testing] is the only mechanism to keep employers who are seeking foreign labour accountable before recruiting overseas. Without the requirement seeking Australian workers by advertising, employers can simply recruit foreign workers without any checks or balances.²⁴

¹⁸ EY, *Submission 71.1*, p. 10.

¹⁹ EY, *Submission 71.1*, p. 9.

²⁰ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 14.

²¹ Australian Chamber of Commerce and Industry, *Submission 64.1*, p. 14.

²² Australian International Skilled Recruitment Services, *Submission 75.1*, p. 3.

²³ CFMEU, *Submission 54.1*, p. 10.

²⁴ CFMEU, *Submission 54.1*, p. 10.

4.22 EY recommended a range of adjustments to LMT:

- advertising on JobActive be an option and not be prescribed for all occupations
- labour market testing after application lodgement be accepted
- the four-week period of advertising and acceptance of applications for the role be reduced to two weeks, and
- the requirement to advertise the salary be removed in line with standard business practice.²⁵

4.23 Mapien recommended some improvements to current LMT processes based on *Recommendation 1* of the Interim Report.

- 1 Removing the requirement for accredited sponsors to advertise occupations classified at Skill Level 1 and 2 completely, or provide greater flexibility around the time frame within which this must have been completed.
- 2 Amending the exemption to LMT available in cases where the sponsor already has a 457/487 visa holder performing the role – currently an exemption is available where the individual has been employed in the position on a full-time basis for at least two years. Reducing this to six or 12 months would no longer force businesses into effectively running a ‘false advertising’ campaign which may occur in circumstances where the position is one which requires extensive proprietary knowledge.
- 3 Removing the expectation for a position to have been advertised prior to lodgement of a permanent residence application under the Temporary Residence Stream of the employer nomination scheme.²⁶

4.24 Mrs Whiting, Chief Executive Officer and Director of Regional Development Australia Riverina, also raised with the Committee the issue of regional employers being required to conduct labour market testing despite a migrant having filled the role for 12 months and continuing to fill the role:

Regional employers who have been employing a migrant in a position for which they are qualified for a period of 12 months should not be required to undertake labour market testing. If a regional employer can find a person that fits their business and has tested them out in a position for a period of 12 months, and they want to keep them on staff, it is counterproductive to force

²⁵ EY, *Submission 71.1*, p. 11.

²⁶ Mapien, *Submission 129*, p. 14.

them to undertake labour market testing to see if there is a complete stranger who is an Australian citizen or permanent resident who can fill the position.²⁷

- 4.25 In contrast, although some submitters agreed with the premise of the Interim Report's first recommendation, Australian International Skilled Recruitment Services highlighted that if the recommendation is implemented it could lead to a perception that Australians are not being afforded the opportunity to apply for roles.²⁸

Committee comment

- 4.26 As many different businesses advertise vacancies on a regular basis, in the public domain, requiring them to advertise in adherence with strict LMT measures results in additional bureaucracy.²⁹ The evidence the Committee received suggests that LMT is not efficient or effective.
- 4.27 The highly prescriptive approach taken to the timing of LMT is, in the Committee's view, out of touch with the way modern businesses operate. The expense and complexity of accessing skilled migrant workers alone leads businesses to exhaust all their options for employing local workers before they even commence the process of seeking overseas workers, as has come up time after time in the evidence presented to this inquiry.
- 4.28 Requiring businesses to demonstrate via prescribed criteria that they have sought local workers before seeking to sponsor a migrant makes little sense, in light of the extensive efforts businesses often undertake to avoid the expense and complication of employing skilled migrants.
- 4.29 The requirements set by Home Affairs for advertising means that existing advertising protocols are not appropriate in serving Australia's skilled migration program (for example having two advertisements on one or more platforms with national reach for no less than 28 days). Positions also have to be re-advertised if the advertisement has not previously met the criteria specified by Home Affairs. The requirement to re-advertise a position when an individual has been employed in the position on a full-time basis for less

²⁷ Mrs Rachel Whiting, Regional Development Australia Riverina, *Committee Hansard*, 22 April 2021, p. 1.

²⁸ Australian International Skilled Recruitment Services, *Submission 75.1*, p. 3. See also the Australian Institute of Marine and Power Engineers, *Submission 178*, p. 2.

²⁹ Ms Angela Chan, *Submission 183*, p. 2.

than two years or prior to lodgement of a permanent residence application also makes little sense.³⁰

- 4.30 The fact that, in order to qualify for skilled visas, individuals must possess skills that appear on a skilled migration list, which in turn means that these specific skills are subject to an established labour shortage, further demonstrates that the prescriptive approach and limited timeframes for LMT place an additional layer of red tape on businesses seeking to sponsor migrants.
- 4.31 In the Interim Report, the Committee recommended 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.
- 4.32 On balance, the Committee believes that LMT plays some role in maintaining public confidence in the skilled migration program, and reassures the public that steps are taken to ensure that Australian workers receive a chance at filling jobs before overseas migrants are sought.
- 4.33 As such, the Committee is of the view that LMT in some form should be maintained. However, it is important that LMT continues to be reformed to take better account of current business recruitment timelines and practices. The Committee considers that, further to the recommendation made in the Interim Report, an extension of time for LMT to have taken place will assist employers and reduce some of the administrative burden.

Recommendation 14

- 4.34 The Committee recommends that the Government temporarily extend the timeframe for employers to undertake Labour Market Testing prior to nomination from 4 months to 6 months during the pandemic recovery.**

³⁰ EY, *Submission 71.1*, p. 10.

Recommendation 15

- 4.35 The Committee recommends that the Government exempt businesses from Labour Market Testing when a 457 or 482 visa holder has been employed in the position on a full-time basis for twelve months or more and prior to their lodgement of a subsequent visa application or a permanent residence application.**

Skilling Australia Fund

- 4.36 In its Interim Report the Committee received evidence that, amongst other things, the Skilling Australia Fund (SAF) levy was a significant cost, had to be paid too early in the nomination process and was difficult to obtain a refund from if particular circumstances changed. More evidence was received in regard to the SAF and its impact which is described below.
- 4.37 Industry associations, such as the Restaurant and Catering Industry Association (RCIA), argued that it is unreasonable for businesses to incur the heavy financial burden of the training levy, particularly smaller businesses that operate on low margins.³¹ The RCIA considers that the SAF is a strong disincentive for businesses to invest in other training as they are already paying the SAF levy.³²
- 4.38 Cairns Chamber of Commerce echoed a similar viewpoint, in that the SAF levy presents a financial burden to smaller businesses, especially where a nomination application is denied and there are no refund provisions in place.³³
- 4.39 In contrast the CFMEU noted that the role of the SAF levy is to train local workers in Australia. CFMEU stated that contributions to the levy are one way of 'levelling up' between companies who are reliant on overseas workers, and other companies who 'do the right thing' investing time and money on training Australian workers.³⁴ However, CFMEU acknowledged the importance of making further amendments to increase the transparency over where the SAF is spent.³⁵

³¹ Restaurant and Catering Industry Association, *Submission 50.1*, p. 2.

³² Restaurant and Catering Industry Association, *Submission 50.1*, p. 2.

³³ Cairns Chamber of Commerce, *Submission 110*, p. 3.

³⁴ CFMEU, *Submission 54.1*, pp. 10-11.

³⁵ CFMEU, *Submission 54.1*, pp. 10-11.

- 4.40 The Accommodation Association of Australia recommended that over the medium term, the Government should endeavour to halve the cost of the SAF levy across all visa products to increase the intake of qualified, skilled and experienced cohorts to address recognised skills needs.³⁶ Further, extending the ability for employers to access refunds where nomination applications, in all cases, are unsuccessful should be considered.³⁷
- 4.41 Cairns Chamber of Commerce added that the SAF should be refundable in the event of ‘adverse decisions’, or be made a ‘time-of-decision’ criterion.³⁸

SAF Levy and Universities

- 4.42 Universities Australia noted that:

Payment into the SAF Levy, which largely funds apprenticeships and traineeships, does not contribute to funding the development of local capacity in the highly specialised skills and expertise for which universities recruit.³⁹

- 4.43 According to Universities Australia universities should be exempt from the levy:

The global nature of university endeavour is such that while universities always seek to recruit locally, it is also necessary to complement the research and higher education workforce with skills and expertise from other countries.⁴⁰

- 4.44 Ms Catriona Jackson noted that as universities educate a large number of domestic students there seemed to be little sense in the fact that universities were required to pay into the Skilling Australia Fund but weren’t able to draw from the fund.⁴¹

SAF Levy and Healthcare

- 4.45 Ramsay Health Care Australia stated that, as an employer who invests in training programs for their current and future workforce in partnership with the tertiary sector, the SAF levy imposes unnecessary financial burden

³⁶ Accommodation Association of Australia, *Submission 148*, p. 11.

³⁷ Accommodation Association of Australia, *Submission 148*, p. 11.

³⁸ Cairns Chamber of Commerce, *Submission 110*, p. 3.

³⁹ Universities Australia, *Submission 175*, p. 8.

⁴⁰ Universities Australia, *Submission 175*, p. 8.

⁴¹ Ms Catriona Jackson, Universities Australia, *Committee Hansard*, 28 May 2021, p. 38.

particularly as employers already financially commit to other modes of training outside of the levy.⁴²

4.46 Ramsay Health Care Australia stated the following in regard to the SAF:

The revenue raised by the SAF is being managed by the Department of Education, Skills and Employment, and there is no evidence to indicate funds are being spent to address the health care sector's skills shortage issues.⁴³

4.47 Fragomen noted that in the current COVID-19 climate, healthcare is considered a fast-growing sector in Australia's labour market where state and territory health departments are increasingly utilising employer-sponsored visas to address acute skills shortages.⁴⁴

4.48 Fragomen explained that for public hospitals, 'the effects of the SAF levy can be prohibitive'⁴⁵ as overseas doctors in training require many TSS nominations to facilitate changes in occupation or specialisation.⁴⁶ The result is that each additional nomination requires another payment of the SAF levy.

4.49 Goulburn Valley Health explained the increased costs incurred by the introduction of the SAF levy with the introduction of the 482 visa:

There's a huge burden on the health service with respect to advertising and substantiating the fact that there are no Australian-trained local doctors available on market, so we have to go to international. As a result, there's obviously a big cost to the organisation to employ overseas doctors with the visa cost. It can potentially cost the organisation \$7,500 now for a four-year 482 visa. Previously that cost was \$330 for the same visa, so obviously there's a large cost burden to the health service.⁴⁷

Time of Collection of SAF Levy

4.50 The concerns about the timing of the collection of the SAF levy at the time of nomination were echoed in the additional evidence. Additionally, concerns were raised about the SAF being non-refundable and there being only one

⁴² Ramsay Health Care, *Submission 67*, p. 7.

⁴³ Ramsay Health Care, *Submission 67*, p. 7.

⁴⁴ Fragomen, *Submission 61.1*, p. 13.

⁴⁵ Fragomen, *Submission 61.1*, p. 13.

⁴⁶ Fragomen, *Submission 61.1*, p. 13.

⁴⁷ Mrs Carla Jewell, Goulburn Valley Health, *Committee Hansard*, 23 April 2021, p. 5.

exemption, which is that ministers of religion and religious assistants nominated under the Labour Agreement streams of the TSS or ENS visas are exempt.⁴⁸

4.51 Employers, including Commonwealth entities, are required to make the SAF levy payment at the same time a nomination application is lodged.⁴⁹

4.52 Ms Angela Chan argued that the ‘collection of the SAF at the time of nomination’ can be described as a ‘money grab’ by the government where proceeds from the SAF go into consolidated revenue.⁵⁰

4.53 Ms Chan also explained that:

It is inappropriate for the government to collect and retain monies from employers of the SAF unless and until both nomination and visa applications have been approved as it is possible that many different scenarios may arise between the nomination and visa applications being finalised which may result in the refusal of either the nomination and/or visa application.⁵¹

4.54 Fragomen contended that:

...the complexities of the current LMT advertising or ‘alternative evidence’ requirements, mean that sponsors can easily make mistakes which have major implications, including the loss of a substantial Skilling Australians Fund levy payment.⁵²

4.55 Mrs Samantha Norman explained that under the current environment with closed borders and longer processing times, \$7000 needs to be paid up-front for a long-term occupation with a four year stay when:

...we’re not even sure when the visa will come through or when the person can join. If that is collected at the time of employment or time of entry, that would be great – or done away with completely.⁵³

⁴⁸ 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 12 July 2021

⁴⁹ Fragomen, *Submission 61.1*, p. 12.

⁵⁰ Ms Angela Chan, *Submission 183*, p. 3.

⁵¹ Ms Angela Chan, *Submission 183*, p. 3.

⁵² Fragomen, *Submission 61.1*, p. 9.

⁵³ Mrs Samantha Norman, Mapien, *Committee Hansard*, 25 June 2021, p. 11.

Refunds of the SAF Levy

4.56 Refunds of the SAF levy are only available in the following scenarios:

- 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).⁵⁴

4.57 Fragomen noted that the limited refund provisions do not cater for new nominations of TSS visa holders looking to extend employment with their current sponsor which result in the SAF levy being paid twice for the same employee.⁵⁵

4.58 Ms Angela Chan's submission raised two specific examples of situations where employers should be entitled to a refund for the SAF levy. For instance, where workers do not commence or continue to work:⁵⁶

- 1 An employer had a 4 year nomination approved for their worker, however, requested to withdraw their support for the visa applicant *before* the visa was finalised as the visa applicant had severe personal problems. The employers were not entitled to a refund as the nomination had been approved. Had the employer allowed the visa application to proceed, they would have been entitled to a partial refund, however, this would have tested the integrity of the migration process, as the employer had lost confidence in their visa applicant and circumstances arose where they could not continue with the application. The visa applicant was entitled to a

⁵⁴ Department of Home Affairs, Cost of Sponsoring, <www.immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/learn-about-sponsoring/cost-of-sponsoring>accessed 12 July 2021

⁵⁵ Fragomen, *Submission 61.1*, p. 12.

⁵⁶ Ms Angela Chan, *Submission 183*, p. 3.

refund of their visa application charges as they were applying for a long term temporary visa which is not contested here

- 2 A worker was granted their two year SC482 visa and worked for their employer for 2 weeks but had to travel, immediately prior to the lockdown resulting in them not being able to return to Australia. The employer received a “partial” refund of the SAF as the worker had worked for two weeks for the employer. The visa applicant was entitled to a refund of their visa fees as they were unable to return to Australia because of the border restrictions.⁵⁷

4.59 Fragomen underscored that consideration should be given to the following exemptions to the SAF levy:

... where a new nomination is only required to enable the TSS visa holder to continue employment with their sponsoring employer in circumstances where there has been a:

- Change in occupation;
- Decrease in earnings; or
- Transfer of employment and sponsorship to a different entity as part of a corporate restructure, merger or acquisition.⁵⁸

4.60 Home Affairs noted that a legislated Independent Review of the *Migration Amendment (Skilling Australia Fund) Act 2018* is scheduled for 2021 but that the review had yet to commence⁵⁹ and also that Labour Market Testing settings will be considered as part of the process.⁶⁰

Committee comment

4.61 The Committee notes evidence that businesses are frustrated about having to pay the SAF levy to enable them to source the skilled labour for their business’ effective operation. At the same time, these businesses cannot see any tangible increases in the availability of skilled local workers. As a result, regardless of the presence of the SAF levy, the shortage of locally trained skilled workers remains; and having paid the levy businesses still have to fund the training of their own staff without deriving benefit from the levy.

⁵⁷ Ms Angela Chan, *Submission 183*, pp. 3-4.

⁵⁸ Fragomen, *Submission 61.1*, p. 13.

⁵⁹ Mr Andrew Kefford PSM, Department of Home Affairs, *Committee Hansard*, 25 June 2021, pp. 27-28.

⁶⁰ Department of Home Affairs, *Submission 16.2*, p. 7.

- 4.62 The SAF levy imposes significant financial costs on businesses. These costs are in addition to the lack of payment exemptions and limited refund provisions associated with the levy.
- 4.63 Much of the evidence received put the view that it is not appropriate for Governments to retain an employer's investment into the SAF levy prior to the approval and subsequent finalisation of a nomination application. It is important for a nomination application to become finalised, as there are multiple circumstances that may arise during the processes which could result in the refusal or termination of an application. The majority of the evidence suggested that employers should not be required to invest into the SAF levy until the visa application is, or at least ready to be, granted by Home Affairs.
- 4.64 The Committee agrees that the way the SAF is collected, refunded and applied needs to be changed. In the Interim Report, the Committee made recommendations that the SAF be collected at the point of commencement, rather than application, and that greater transparency regarding its use be implemented. The Committee also recommended that consideration should be given to waiving the levy if the business demonstrates the same amount or more money being invested in training in the previous 12 months. The Committee reaffirms these recommendations, as they would in part alleviate many of the concerns raised during the inquiry.
- 4.65 However, further reform is needed. At minimum, the SAF should be collected only once per applicant, whether this applies to minor errors made in the application process or for subsequent visa applications by the same sponsor for the same employee.
- 4.66 Further, the Committee was convinced by the arguments made by Universities Australia that, as educational institutions, it makes little sense for universities to pay the SAF. Given their main role in Australian society is the provision of education and the development of skills, making universities pay the SAF levy appears to be an unfair impost on this sector.

Recommendation 16

- 4.67 The Committee recommends that employers should be exempt from paying the Skilling Australia Fund levy twice for the same applicant, or for a subsequent visa, where the employer has already paid the Skilling Australia Fund levy for that employee.**

Recommendation 17

- 4.68 The Committee recommends that universities should be exempt from the Skilling Australia Fund levy.**

Recommendation 18

- 4.69 The Committee recommends that the Government guarantee a refund of the Skilling Australia Fund levy where the visa application is unsuccessful and where there is no evidence of fraud on the part of the sponsor or applicant.**

**Mr Julian Leeser MP
Chair**

A. List of submissions

- 1 *Name Withheld*
- 2 Mr Chuhn Hung Goh
 - 2.1 Supplementary to submission 2
- 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 Confidential
- 15 *Name Withheld*
- 16 Department of Home Affairs
 - 16.1 Supplementary to submission 16
 - 16.2 Supplementary to submission 16
- 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 Northern Territory, Department of Industry, Tourism and Trade
- 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
- 40.1 Supplementary to submission 40
- 41 Australian Catholic Migrant and Refugee Office
- 42 VETASSESS
- 42.1 Supplementary to submission 42
- 43 The Australian Federation of Islamic Councils Inc
- 44 Hitchcock and Associates
- 45 Chartered Accountants Australia and New Zealand & CPA Australia
- 45.1 Supplementary to submission 45
 - 45.2 Supplementary to submission 45
- 46 The Group of Eight
- 47 Innovative Research Universities
- 48 Kingsley's Chicken Pty Ltd
- 48.1 Supplementary to submission 48
 - 48.2 Supplementary to submission 48

-
- 48.3 Supplementary to submission 48
 - 49 Australian Working Adventures / Visitoz
 - 50 Restaurant and Catering Industry Association
 - 50.1 Supplementary to submission 50
 - 51 Australian Computer Society
 - 51.1 Supplementary to submission 51
 - 52 Business NSW
 - 53 Australian Medical Association
 - 54 Construction Forestry Maritime Mining and Energy Union (Construction and General Division)
 - 54.1 Supplementary to submission 54
 - 55 Maritime Industry Australia Ltd
 - 56 Australian Hotels Association and Tourism Accommodation Australia
 - 56.1 Supplementary to submission 56
 - 57 Milestone Migration
 - 58 AMES Australia
 - 58.1 Supplementary to submission 58
 - 59 Australian Veterinary Association
 - 60 Immigration Solutions Lawyers
 - 61 Fragomen
 - 61.1 Supplementary to submission 61
 - 62 Australian Investment Council
 - 63 Newland Chase Pty Ltd
 - 63.1 Supplementary to submission 63
 - 64 Australian Chamber of Commerce and Industry
 - 64.1 Supplementary to submission 64
 - 65 Association of Australian Medical Research Institutes
 - 66 Australian Technology Network of Universities
 - 67 Ramsay Health Care Australia Pty Limited

- 67.1 Supplementary to submission 67
- 68 Dr George Tan, Associate Professor Andrew Taylor & Professor Ly Tran
 - 68.1 Supplementary to submission 68
- 69 Australian Catholic University
- 70 Teachers on Wheels
- 71 EY
 - 71.1 Supplementary to submission 71
- 72 Baking Association of Australia
- 73 National Electrical and Communications Association (NECA)
 - 73.1 Supplementary to submission 73
- 74 Department for Innovation and Skills
- 75 Australian International Skilled Recruitment Services
 - 75.1 Supplementary to submission 75
- 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
 - 80.1 Supplementary to submission 80
- 81 Law Institute of Victoria
- 82 Migration Institute of Australia
 - 82.1 Supplementary to submission 82
- 83 Atlassian and Canva
- 84 Night Time Industries Association
 - 84.1 Supplementary to submission 84
- 85 Boyd Migration & Legal
- 86 Mrs Fernanda Hauser Galarca Pereira
- 87 Mr Mohit Patel

-
- 87.1 Supplementary to submission 87
- 88 *Name Withheld*
- 89 Mr Komalpreet Singh
- 90 *Name Withheld*
- 91 Mr Mark Glazbrook
- 91.1 Supplementary to submission 91
 - 91.2 Supplementary to submission 91
- 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
- 96.1 Supplementary to submission 96
- 97 Mr Mueen Shaheen
- 98 Brown Dog Fishing Company Pty Ltd
- 99 Interactive Games & Entertainment Association
- 100 Australian Trade and Investment Commission (Austrade)
- 100.1 Supplementary to submission 100
- 101 *Name Withheld*
- 102 Mr Jaswinder Singh
- 103 Mr Shayne Chester
- 104 *Name Withheld*
- 105 Mr Peter Lindsay
- 106 *Name Withheld*
- 107 *Name Withheld*
- 108 Australian Small Business and Family Enterprise Ombudsman
- 109 Navitas
- 110 Cairns Chamber of Commerce
- 111 *Name Withheld*

- 112 Mr David Morgan
- 113 *Name Withheld*
- 114 *Name Withheld*
- 115 Linda McGowan Pty Ltd
- 116 Berkeley Engineering
- 117 Franck Provost
- 118 Planning Institute of Australia
- 119 Mr Andrew Mincher
- 120 Telstra
- 121 The Chinese Australian Forum
- 122 Engineers Australia
- 123 Association of Consulting Surveyors National
- 124 Mr Nilesh Nandan
- 125 *Name Withheld*
- 126 *Name Withheld*
- 127 Council of International Students Australia - ANU Law Reform and Social Justice Research Hub
- 128 University of Wollongong
- 129 Mapien Pty Ltd
- 130 Migrant Workers Centre
- 131 National Farmers Federation
- 132 IEAA (International Education Association of Australia)
- 133 VisAustalia
- 134 Regional Development Australia Tropical North
- 135 Ajuria Lawyers
- 136 *Confidential*
- 137 Sustainable Population Australia Inc
- 138 Visa Solutions Australia
- 139 Australian Pork Limited

-
- 140 Australian Trucking Assoc, Western Roads Federation & NT Road Transport Assoc
- 141 Regional Australia Institute
- 142 Massage & Myotherapy Australia
- 143 Indian Students' Association of Victoria Inc.
- 144 Minerals Council of Australia
- 145 No Borders Law Group
- 146 Aged Care Workforce Industry Council
- 147 Urban Taskforce
- 148 Accommodation Association of Australia
- 149 Dr Jane O'Sullivan
- 150 CEDA
- 151 National Union of Students
- 152 KPMG
- 153 Innovative Research Universities
- 154 Consult Australia
- 154.1 Supplementary to submission 154
- 155 *Name Withheld*
- 156 The Kotzur Group
- 156.1 Supplementary to submission 156
- 157 Roads Australia and Australasian Railway Association
- 158 Master Builders Australia
- 159 Dr John Byron
- 160 Clubs Australia
- 160.1 Supplementary to submission 160
- 161 Griffith Business Chamber
- 162 Offshore Migration Agents
- 164 A collective of 12 religious/multifaith organisations
- 165 Australian Hairdressing Council

- 165.1 Supplementary to submission 165
- 166 Colourmax Coating Sololutions
- 167 Property Council of Australia
- 168 Government of South Australia
- 169 Yean Shan NG
- 170 Robertson-Kirkwood Salons
- 171 Ausfilm
- 172 Department of Foreign Affairs and Trade
- 173 Sarah Humphries
- 174 Queensland Department of Department of Employment, Small Business and Training
- 175 Universities Australia
- 176 Merivale
- 177 Mr Greg Baker
- 178 Australian Institute of Marine and Power Engineers
- 179 Housing Industry Association Ltd (HIA)
- 180 Swinburne University of Technology
- 181 Department of Education, Skills and Employment
- 182 National Skills Commission
- 183 Ms Angela Chan
- 184 Platinum Immigration Pty Ltd
- 185 Australian Public Policy Committee
- 186 Grattan Institute

B. Public hearings

Wednesday, 17 February 2021

Parliament House, Canberra

Department of Home Affairs

- Mr Andrew Kefford PSM, Deputy Secretary, Immigration & Settlement Services
- Mr Robert Ewing, Chief Economist
- Mr Andrew Chandler, First Assistant Secretary, Global Business & Talent Attraction Taskforce
- Mr Michael Willard, First Assistant Secretary, Immigration Programs Division
- Mr Andrew Rice, Ag. First Assistant Secretary, Immigration Integrity, Assurance & Policy Division

Wednesday, 24 February 2021

Parliament House, Committee Room 1R4, 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
- Ms Julie Toth, Chief Economist

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 Manger

Australian Veterinary Association

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

Hampton Capital

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

National Skills Commissioner

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

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

- Brendon Harper, Head of Policy & Research
- Robyn Tolhurst, Public Affairs Manager
- Mr Yasser El-Ansary, Chief Executive

Wednesday, 3 March 2021

via Teleconference, Canberra

Council of Small Business Organisations Australia

- Mr 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, Global Business & Talent Attraction Taskforce
- Mr Andrew Chandler, First Assistant Secretary, Global Business & Talent Attraction Taskforce
- Mr Andrew Rice, Ag. First Assistant Secretary, Immigration Integrity, Assurance and Policy Division

Australian College of Nursing

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

Australian Nursing and Midwifery Federation

- Ms Annie Butler, Federal Secretary

Monday, 12 April 2021

NSW Parliament, Sydney

Australian Hotels Association

- Mr Stephen Ferguson, National CEO
- Mr Michael Johnson, CEO Tourism and Accommodation Australia
- Mr Bernhard Langer, General Manager Sydney Harbour Marriott Hotel
- Mr David Allen, Licensee, Cobargo Hotel-Motel
- Ms Jessica Furolo, Chief Human Resources Officer, Merivale

Night Time Industries Association and Businesses

- Mr Karl Schlothauer, President Independent Bars Association of NSW
- Mrs Rachel Checinski, General Manager Human Resources, Australian Venue Co.
- Mrs Sarah Jacka (Maxwell), People & Performance Director, Solotel

Interactive Games & Entertainment Association

- Mr Ron Curry, CEO
- Dr Jens Schroeder, Director of Industry & Members Services
- Mr Steve Wang, General Manager, Wargaming Sydney

Ramsay Health Care Australia Pty Limited

- Ms Chloe Sauermann, Migration Advisor
- Mrs Amanda Markie, Registered Migration Agent, Senior HR Advisor

Restaurant and Catering Industry Association

- Mr Wes Lambert, CEO
- Mr Tom Green, Head of Policy, Government & Public Affairs
- Mr Bill Drakopoulos, Board Member
- Mr Chris Lucas, CEO/Chairman Lucas Restaurants

National Electrical and Communications Association (NECA)

- Mr Carl Copeland, Branch Secretary NECA WA
- Mr Steve Hall, General Manager College of Electrical Training

Wednesday, 21 April 2021

Melbourne

VETASSESS

- Mr Robert Thomason, Executive Director
- Dr Mamta Chauhan, Group Manager, Skills Recognition Professional Occupations

Association of Australian Medical Research Institutes

- Dr Peter Thomas, Executive Director

Victorian TAFE Association

- Mr Jeremy Irvine, Executive Director
- Mr Dan Mabilia, Director, Policy & Advocacy
- Ms Pamela Jonas, Senior Adviser

Centre for Economic Development of Australia (CEDA)

- Mr Jarrod Ball, Chief Economist
- Ms Gabriela D'Souza, Senior Economist

EY

- Mrs Merryn Rider, Partner, Global Immigration, People Advisory Services
- Mr Wayne Parcell, Associate Partner, Global Immigration, People Advisory Services
- Mr Rupert Timms, Special Counsel
- Ms Helen McCulloch, Special Immigration Advisor
- Mrs Linda Rowe, Asia Pacific Global Immigration Leader

Construction Forestry Maritime Mining and Energy Union (Construction and General Division)

- Mr Stuart Maxwell, Senior National Industrial Officer

Electrical Trades Union (ETU)

- Mr Trevor Gauld, National Policy Officer

Law Institute of Victoria

- Mr Chris Spentzaris, Co-Chair of the Migration Law Committee
- Ms Catherine Farrell, Member, Migration Law Committee

Linda McGowan, Private capacity

Thursday, 22 April 2021

Albury

Regional Development Australia - Riverina

- Mrs Rachel Whiting, CEO & Director Regional Development

Regional Development Australia - Murray

- Mrs Edwina Hayes, CEO & Director Regional Development

Kotzur

- Mr Andrew Kotzur, Managing Director

InfraBuild Wire Pty Ltd (Cyclone Products)

- Mr Andrew Fisher, Bulk Storage Manager

Friday, 23 April 2021

Shepparton

Committee for Greater Shepparton

- Mr Sam Birrell, CEO

Goulburn Valley Health

- Mr Matt Sharp, Chief Executive
- Ms Carla Jewell, Manager, Medical Workforce
- Ms Amy Dainton, Hospital Medical Officer, Coordinator

Greenham, Tongala

- Mr Glenn Southward, Group Human Resources Manager

The Apprenticeship Factory

- Ms Paula Ryan, CEO

Jeftomson

- Mr Brent Reeve, General Manager Orchards
- Mr Venkata Gadde, General Manager Supply Chain

Wednesday, 12 May 2021

via Teleconference, Canberra

National Skills Commission

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

Friday, 28 May 2021

via Teleconference, Canberra

Australian Computer Society

- Mr Rupert Grayston, CEO

Australian Trade and Investment Commission (Austrade)

- Ms Christie Sawczuk, General Manager, Government Division
- Ms Lynne Ashpole, Head of Policy & Coordination Branch, Government Division
- Ms Carla Giuca, Head of Policy Futures Branch

Atlassian

- Mr David Masters, Director of Global Public Policy
- Mr Andy Moutney, Global Head of Talent Acquisition

Government of South Australia

- Ms Nari Chandler, Executive Director, Strategy, Policy & Migration
- Ms Alison Lloyd-Wright, Executive Director, Strategic Policy
- Ms Louisa Newstead, Director Strategic Policy

Engineers Australia

- Mr Jonathan Russell, General Manager, Policy & Advocacy
- Mrs Jane MacMaster, Chief Engineer
- Mr Robin Liu, Senior Manager, Assessments

TAFE Directors Australia

- Mr Craig Robertson, CEO

Universities Australia

- Ms Catriona Jackson, Chief Executive
- Dr John Wellard, Policy Director, International

Department of Education, Skills and Employment

- Dr Angela Tidmarsh, Ag. Assistant Secretary, Workforce & Apprenticeships Industry Branch
- Ms Benedikte Jensen, First Assistant Secretary, Labour Market Strategy Division
- Ms Margaret Kidd, First Assistant Secretary, Delivery & Employer Engagement Division
- Mrs Jane Hayden, Assistant Secretary, Trades Recognition Australia Branch
- Mr David Atkins, Assistant Secretary, Quality Frameworks Branch
- Ms Eve Wisowaty, Ag. Assistant Secretary, Seasonal Work Policy Branch

Wednesday, 16 June 2021

via Teleconference, Canberra

Grattan Institute

- Mr Henry Sherrell, Migration Policy Fellow
- Mr Will Mackey, Senior Associate
- Mr Brendan Coates, Economic Policy Program Director

Friday, 25 June 2021

via Teleconference, Canberra

KPMG

- Dr Brendan Rynne, Partner
- Mrs Belinda Wright, Partner

Clubs Australia

- Mr Anthony Trimarchi, Executive Manager of Policy & Government
- Mr Simon Sawday, Manager of Policy & Government

Motor Trades Association of Australia

- Mr Richard Dudley, CEO

Mapien

- Mrs Samantha Norman, Principal Consultant

Fragomen

- Mr Sasko Markovski, Partner
- Ms Cherie Wright, Special Counsel

Department of Home Affairs

- Mr Andrew Kefford PSM, Deputy Secretary, Immigration & Settlement Services
- Mr Michael Willard, First Assistant Secretary, Immigration Programs Division
- Mr Steven Biddle, Ag. First Assistant Secretary, Immigration Integrity, Assurance & Policy Division
- Mr Brett Schuppan, Ag. First Assistant Secretary, Global Business & Talent Attraction Taskforce
- Mrs Anna Lutz, Assistant Secretary, Skilled Visas Branch
- Mr Peter Verwer AO, Prime Minister's Special Envoy, Global Business & Talent Attraction Taskforce

Additional comments

Australian Labor Party members

This report is a missed opportunity to rethink the skilled migration program to attract younger, highly skilled migrants and boost Australia's long-term economic prospects and wealth.

Overall, the recommendations are reactive, piecemeal administrative tinkering, lacking significant policy reform. At its worst, people could well view this inquiry as a low-rent complaints shop run by the government, to make it easier for employers to bring in migrants yet doing nothing to boost Australian wages or our long-term national wealth.

Australia has, right now, a once in a generation opportunity to reform our migration program. The international borders won't stay shut forever, nor should they. Australia is a nation built great by migration – namely, permanent skilled migration, and that should continue.

But the unprecedented and sudden impact of Covid-19 on Australia's immigration program provides an opportunity to reshape the size and composition of Australia's migration program to ensure it best supports Australian workers, creates jobs, and gets wages moving again.

The Morrison Government has not taken the opportunity for reform offered either by the Productivity Commission, or the closure of the borders during the pandemic.

This report is also a remarkable and blatant repudiation by Government Members of Peter Dutton's tenure as Minister for Immigration, recommending a reversal of many of his changes and vindication of Labor's criticisms. These include:

- restoring pathways to permanency in the migration program (recommendation 7) and ensuring skilled visa holders can settle permanently, to send their children to school, to get an education, to join their local communities, to start doing business, to build careers;
- addressing confusion from the multiple skills shortage lists by consolidating them back into one list (Recommendation 4) and the lack of transparency about why certain occupations end up on the lists (Recommendation 3); and
- bringing back good old-fashioned customer service in the form of human beings available to liaise with industry and assist applicants with complex cases (Recommendation 13). This is long overdue but can only be achieved with additional resources, reversing some of the massive cuts to budgets and staff the Government has made over many years and which the report conveniently fails to mention.
- It is disappointing but telling that Government Members did not rule out privatisation or further outsourcing of the visa system in recommendation 12.

Labor Members are pleased that the Committee was persuaded to recommend an increase to the Temporary Skilled Migrant Income Threshold (TSMIT) which has been frozen for eight years. The report does not go far enough however in acknowledging the damage this freeze has done and the downwards pressure on Australian wages that has resulted and is too weak in its recommendation for change. This is discussed in detail below.

Predictably, Government members propose to relax Labour Market Testing in multiple places throughout the report. Labor Members do not agree with the extent of the Government's weakening of this important regime to ensure Australians always get a first go at jobs. This is part of the Morrison Government's ongoing push to undermine labour market testing. The Government moves continue to reduce incentives for businesses to employ Australian workers.

There is only a limited case to allow some reforms to labour market testing while the borders are closed, such as outlined in recommendation 15 and for intra-company transfers.

It is astounding that no attention is given in the Committee's report to the Grattan Institute's submission and appearance at a public hearing.

Labor Members do not agree with all of the recommendations of the Grattan Institute, however, it was at least an attempt to provide an intellectual rigour and evidence-based argument for reform to boost the economic value that Australia gets from the skilled migration program. It is telling that there is no mention of,

analysis of or response to this significant piece of work and its challenging recommendations anywhere in the Committee's report, aside from the fact they appeared.

Throughout the inquiry including in the Interim Report government members sought to open up the Priority Migration Skilled Occupation List (PMSOL) to numerous additional occupations, with little acknowledgment that this would come at the expense of 38,000 stranded Australians abandoned overseas by the Government. The PMSOL provides an automatic travel authorisation to exempt recipients from border closures, meaning every person who comes in under the PMSOL takes a precious quarantine place from a stranded Australian, or the partners and family of Australians.

It has been constantly bemusing throughout the inquiry to watch Government MPs get frustrated with public servants explaining they do not have enough resources to undertake critical work, yet fail to join the dots and take any responsibility for the Government's decisions to cut resources. The public service is not a magic pudding – it's a critical national institution that the Government should steward and invest in, not attack and cut.

Similarly, Government MPs express frustration at the failure of the training system in many areas yet take no responsibility for having inflicted billions of dollars of cuts since Tony Abbott was elected Prime Minister.

The report also fails to address the integrity concerns regarding the Global Talent Investment Visa which has been described by a former Deputy Secretary of Immigration as "a cronies dream". The Grattan Institute also raised concerns regarding this program.

The Department refused to properly answer questions from Labor members or provide transparency as to who is being selected for this visa and why. At a minimum, a proper and transparent evaluation of this program should be undertaken urgently to ensure integrity and to demonstrate that the maximum economic value is being achieved.

Raising the TSMIT

Since 2014, the TSMIT has been frozen at \$53,900, creating not a floor in wages, but in effect a ceiling on wages for Australian workers and temporary work visa holders alike across several sectors.

Further, the gap between the TSMIT and annual average wages of \$26,000 has made it far more attractive to hire a temporary work visa holder, rather than an Australian worker.

Labor believes that Australia's post-pandemic migration program must ensure that it delivers genuinely highly-skilled migrants who are properly paid. It should add to the growth of the Australian economy and its composition should ensure that it enhances real wages and GDP per capita.

Skilled migration should complement and enhance Australia's existing skills base, which should be strengthened with far more investment in our training system, which has been savagely cut under this Morrison Government. A properly designed migration program weighted towards valuable skills and with safeguards such as a higher and indexed TSMIT can achieve this.

Significantly raising the TSMIT and ensuring its ongoing indexation would act as a safeguard against the type of temporary migrant worker exploitation and wage stagnation that had become systemic features of the pre-COVID labour market. It is also important to note that the 2017 report which Government MPs rely upon in the recommendation explicitly considered and recommended against providing lower wages in regional areas.

Labor believes that a properly designed skilled migration program which attracts genuinely highly skilled and properly paid can add to growth and demand without placing downwards pressure on wages, most importantly at the lower end of the labour market.

Further comments

Recommendation 1 proposes a 'dynamic national workforce plan'. This sounds nice and is unobjectionable, however it highlights the failure of the Government after 8 years to get labour market analysis right. The National Skills Commission was established with great fanfare by the Government, and should be responsible for this work, and it's a sign of the Government's failure that the Committee makes this recommendation.

Recommendation 2 proposes scrapping ANZSCO codes to underpin skilled migration lists and replacing it with a new, "more flexible" system. A myriad of issues were identified with ANZSCO and reform is urgently needed. The situation has been exacerbated by the Government's budget cuts to the ABS and failure to provide adequate resources to update the list.

However, the proposal to simply scrap the current list and develop a new system is ill-defined, uncosted and has not adequately considered unintended consequences or the efficacy and cost-benefit of pragmatic alternatives raised by submitters. For example: urgent targeted updates to ANZSCO in priority areas; use of the '4-digit' code level instead of the rigid 6-digit occupation code; and addition of additional 'not elsewhere classified' occupations to the skills lists.

An entirely new system may ultimately be the best approach however it is premature to be clear that such a significant change and investment is necessary and that the current system cannot be made to work better.

Recommendation 3 proposes that the Government develop accepted definitions of acute skills shortages and persistent skills shortages. This is welcome, and may go some way to improving the transparency with respect to how certain occupations end up on the list and concerns regarding lobbying and pressuring of Ministers by vested interests.

Recommendation 5 proposes when the pandemic is over that the PMSOL be replaced by an Acute and Persistent Skills Shortage List. The only purpose of this list would appear to be to provide priority processing, as the other purpose of the PMSOL – to provide an automatic travel authorisation to exempt recipients from border closures – would be redundant.

Recommendation 6 states the obvious – that skills shortage lists should be regularly reviewed. That would of course require adequate resources for the public service to do this work and a reversal of damaging cuts to funding and staffing caps.

Recommendation 10 proposes welcome changes to post study work rights and pathways to permanency for the highest performing international students studying and working in critical skills shortage areas.

The report acknowledges the situation of current international student graduate visa holders (485 visa) who are stuck outside Australia. As raised by Labor Members in the public hearings, these people made an investment in Australia and were made a promise of post study work rights in return. However with the borders closed thousands remain stuck offshore, with no commitment from the Government to extend or allow renewal of their visas. This is damaging to Australia's reputation and denies Australia a proven source of highly skilled and well adapted young migrants. Australia can do better by these graduates and the government must urgently address this issue.

Recommendation 11 proposes greater enabling of intra-company transfers for executive employees of multinational companies to Australia where necessary to expand operations in Australia, with exemptions from labour market testing and subject to integrity measures. There was relatively little evidence received to substantiate the recommendation although Labor members are not opposed to examining changes in this area, subject to ensuring it does not open up another port that disadvantages Australians workers.

Ms Maria Vamvakinou MP
Deputy Chair

Mr Julian Hill MP

Mr Steve Georganas MP

Senator Raff Ciccone

Dissenting comments

Australian Greens

The Australian Greens thank everyone who made a public submission and/or public representation to this inquiry into Australia's Skilled Migration Program.

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.

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.

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, 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). The Australian Greens do not support a weakening of labour market testing.

The Australian Greens are concerned about recommendations that would permit wealthy individuals and corporations to access visas in a way that everyday workers can't. 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 support moves to provide temporary visa holders with better pathways to permanent residency. 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.

The Australian Greens do not support the part of Recommendation 7 that recommends:

...conditions for permanency should continue to include ... competent English language ability; and [that] applicants should be under the age of 45.

Nor do we support the part of Recommendation 10 that recommends:

...the Government consider changes to post-study work arrangements for a subset of international student graduates where those graduates have ... [met] relevant English language standards.

The Australian Greens do not support the contention that to be worthy of Australian citizenship, or to be permitted to enter a pathway towards Australian citizenship, a person must possess a particular level of English language proficiency.

Establishing an arbitrary criterion that temporary migrants on a pathway to permanent residency should be under the age of 45 is also not supported.

The Australian Greens note that Australia's Age Discrimination Act 2004 prohibits discrimination in employment on the basis of age. As it is wrong to discriminate against local workers on the basis of age, so should we recognise that it is wrong to discriminate against workers from other countries on the basis of age.

Applying different age policies based on which region a foreign worker can, or wants to, find work in is also not supported by the Australian Greens.

Senator Nick McKim