

# Inquiry into Australia's Skilled Migration program

Submission 2, March 2021

AMES Australia (AMES) welcomes the release of the Inquiry's Interim report delivered in early March, 2021. The recommendations highlight the urgent need to streamline employer sponsored visa pathways by removing the heavy administrative and financial obligations placed on employers and by providing greater transparency on visa processing. A new report by the Committee for Economic Development of Australia (CEDA) has highlighted that Australia's permanent skilled migration system is not realising its full economic potential.<sup>1</sup>

AMES provides this second submission to the Inquiry to address the remaining Terms of Reference.

Regarding the purpose of the skilled migration program and intended objectives of attracting migrants who make a significant contribution to the Australian economy and support regional development; **sustainable regional migration** requires longer-term structural investment in services, infrastructure and coordination between the three tiers of government to provide the right support to migrants moving to regional Australia. Skilled migrants and temporary visa holders such as international students need the right incentives and support to move to and stay in regional areas. Investment in employment support, housing, and transport in regional areas will ensure regional migration is a viable option for many skilled migrants who are eligible for the visa pathways available.

## Skills lists and the extent to which they are meeting the needs of industries and businesses and keeping pace with Australia's job landscape

We recommend that **priority skilled occupation lists align with skills and labour shortages created by the decline in temporary labour migration and seasonal workers schemes** over the last 12 months; for example; farm labour/agricultural work, health care, care work, social and community services. Skilled migrants who fill occupations on the short-term list should have access to pathways to permanent residency through their employer (besides being required to live in a regional area) similar to those who fill medium to long term occupations. This will contribute to Australia's attractiveness as a destination for migrants with critical skills who are willing to fill an immediate gap in the labour market.

At present the Department prioritises a narrow list of skilled occupations that are deemed essential but struggling industries and regional economies would benefit from access to labourers and other semi-skilled workers to fill labour shortages. Many temporary residents, who already have social networks and ties to Australia, demonstrate a readiness to access new employment opportunities, especially in industries experiencing labour shortages.

## The administrative requirements for Australian businesses seeking to sponsor skilled migrants, including requirements to prioritise job opportunities for Australians and job creation

The administrative requirements for Australian businesses seeking to sponsor skilled migrants are extremely onerous, especially for small businesses. **Labour Market Testing (LMT)** places a huge administrative burden and increases the cost of the sponsorship process for employers. LMT is the mechanism in place to ensure that Australian workers are prioritised for job opportunities.

All Australian businesses seeking to sponsor overseas workers are required to undertake LMT unless international obligations or specified exemptions apply. To meet the LMT requirements, employers must advertise the position on the government's jobactive website and place at least two advertisements on a website, print media or radio program with a national reach. As the advertisements are required to run for at least 4 weeks, businesses have to allocate significant resources to manage the applications received

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<sup>1</sup> CEDA (2021) *A good match: Optimising Australia's Permanent Skilled Migration*.

<https://www.ceda.com.au/ResearchAndPolicies/Research/Population/A-good-match-Optimising-Australia-s-permanent-skil>

through these mediums. The new requirement to advertise on jobactive has led to employers receiving high volumes of applications from applicants who do not meet the minimum criteria for the role.

In many instances when employers contact AMES to sponsor a skilled migrant, they are seeking to sponsor a temporary visa holder such as a Working Holiday Maker, Graduate visa holder or a student visa holder who is already working with them. Often they have gone through the standard recruitment process and hired the temporary visa holder as they were the best suited for the role. However, if they are to sponsor the visa holder, it is very likely that they will have to readvertise the position as their previous recruitment process would not have met the LMT requirements for sponsorship. This means they have to reallocate resources to advertise the position and assess candidates, despite having already found a suitable employee.

The prescriptive nature of LMT means that if an employer omits the smallest detail in the advertisement the application can be refused. Examples include employers forgetting to include the salary for the position or to specify the position is full-time. If the application is refused the employer would lose both the application fee and the Skilling Australian Fund Levy (SAF levy) as they are non-refundable. This could mean employers losing over \$7,500 in certain circumstances. LMT can therefore act as a deterrent for employers seeking to sponsor skilled migrants although they have genuine and extreme labour shortages.

We therefore make the following recommendations:

- Remove the LMT requirement for occupations in the Priority Migration Occupation List;
- Change the prescriptive nature of LMT and make it more flexible, in particular reducing the advertising period from 28 days, and accepting adverts that may have been published/broadcasted in the last 12 months as evidence of genuinely testing the labour market; and
- Remove the need to carry out LMT if the position within the Australian businesses has already been filled by the temporary visa holder being sponsored.

## The costs of sponsorship to businesses seeking to sponsor skilled migrants

The most significant cost of sponsorship is the **Skilling Australian Fund (SAF) Levy**. The SAF levy varies between \$1,200 - \$1,800 for temporary sponsored visas and a one-off payment of \$3,000 - \$5,000 for permanent employer sponsored visas, dependent on business turnover. The SAF levy is only refunded in very limited circumstances and it is not refundable even if the nomination application is refused. This means that the employer is contributing to the training levy even though they have not successfully sponsored an overseas worker.

The cost of the SAF levy has been a deterrent to sponsoring skilled migrants for many small and regional businesses, as it requires a significant financial commitment, especially as businesses are only reopening and beginning to adjust to the new normal in COVID-19 recovery. The fact that JobKeeper is also finishing in March, 2021, means that many businesses will also face significant financial challenges.

We therefore recommend:

- **That the SAF levy is only imposed on Medium to Large businesses**, and not on small businesses and regional employers; and
- **That employers be refunded the SAF levy** in the event the nomination application is refused, withdrawn or if the associated visa application is refused regardless of the reason for refusal.

## The complexity of Australia's skilled migration program including the number of visa classes under the program and their requirements, safeguards and pathways

Currently there are many international students and temporary visa holders in Australia who do not have a pathway to permanent residency. This is due to the reduced migration intake and prioritising limited occupations that support Australia's economic recovery and health efforts post COVID-19. With many businesses returning to business as usual, and with the boom in regional areas, it is chance for Australia to capitalise on this opportunity and substantially increase the skilled migration intake for the year 2021/22. 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.

AMES supports CEDA's recommendation to the Federal Government to **update ANZCO to cover emerging occupations**, to ensure that migrants with vital and cutting-edge skills can migrate to Australia and contribute to the maturing of the local labour market.<sup>2</sup>

In order to remain competitive when attracting skilled migrants from overseas, we also recommend:

- That **all employer sponsored visa holders have a pathway to permanent residency**. In particular, employees who are sponsored in an occupation in the short-term skills occupation list should have the option to transition to permanent residency
- That the **subclass 494 Skilled Employer Sponsored Regional visa** should be made more accessible by reducing the skilled work experience requirement and by making it more accessible to a wider occupation list which supports the real skill shortages in regional areas.

***For more information, please contact Catherine Scarth, AMES Australia Chief Executive Officer on [scarthc@ames.net.au](mailto:scarthc@ames.net.au)***

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<sup>2</sup> CEDA (2021) *A good match: Optimising Australia's Permanent Skilled Migration*. Page 11.

<https://www.ceda.com.au/ResearchAndPolicies/Research/Population/A-good-match-Optimising-Australia-s-permanent-skil>