Innes Willox
Chief Executive
The Australian Industry Group
Level 2, 441 St Kilda Road, Melbourne VIC 3004
PO Box 7622, Melbourne VIC 3004
Australia
ABN 76 369 958 788

15 December 2022
By Email

Australian Industry Group (Ai Group) submission to the inquiry: *A Migration System for Australia's Future*

As a national employer association representing the interests of more than 60,000 businesses employing more than 1 million staff, Ai Group is pleased to take this opportunity to make a submission to the inquiry: *A Migration System for Australia's Future.*

Ai Group is a peak national employer organisation whose members are in traditional, innovative and emerging industry sectors. We have been acting on behalf of businesses across Australia for 150 years. Our members are small and large businesses in sectors including manufacturing, construction, engineering, retail, waste management, energy, transport & logistics as well as labour hire, mining services, the defence industry, civil airlines, retail and ICT.

Migration: its role in the economy and areas for improvement

Ai Group has a long history of involvement in immigration policy issues and support for the migration program. Ai Group supports Australia's permanent migration program and its focus on skilled migration. Skilled migrants generate great benefits to the Australian community as they contribute directly to our national employment and skills base. Many also bring specialist knowledge that provides even bigger indirect benefits: by deepening our entrepreneurship and innovation; and through greater international linkages.

Skilled migrants who enter via the 'demand-driven' streams, such as employer-sponsored migration, experience a better skills match and faster entry to the labour market - therefore utilising more of their skills more quickly on arrival in Australia – than those who arrive independently to seek work. Migration helps address our demographic challenges and the substantial skills and labour gaps both current and ongoing.

While skilling and up-skilling our existing workforce should always be the top priority, skills and labour gaps persist across our economy that can only be addressed through the migration program.

Ai Group's most recent research into skills and labour shortages[1] has highlighted once again the depth of the difficulties facing businesses in recruiting staff locally. The results show a widespread increase in businesses' requirements for skilled labour across all occupational groups – in particular, Technicians and Trades Workers, Professionals and Managers:

- 69 per cent of businesses said their skill needs had increased in relation to Technicians and Trades Workers, 45 per cent in relation to Professionals, 43 per cent for Managers, 38 per cent for Machinery Operators and Drivers and 37 per cent for Labourers.

---

[1] See *2022 Skills Survey: Listening to Australian businesses on skills and workforce needs*

- 71 per cent of businesses reported difficulty meeting their requirements for Technicians and Trades Workers, showing a deep and entrenched shortage of workers in these occupations.
- 68 per cent of businesses believed 'growth in demand' was the key driver of their skills challenges, 35 per cent attributed it to 'supply chain challenges/disruption' – both factors are likely related to the uncertain and dynamic market.
- Around a quarter of businesses reported either emerging or increased skill needs as a result of the transition to a clean economy

While this survey demonstrates the economic challenges of a labour market characterised by near full employment, many of these areas of shortage have been persistently reported by businesses over decades. Skilled migration alone will not fix this, but it must be part of the solution alongside developing our own workforce, through education and training - skilling, re-skilling and upskilling - at scale.

Permanent Migration produces a 'demographic dividend' that raises incomes for everyone

Ai Group notes the enduring message from the Productivity Commission's (PC) findings in its 2016 review of Australian migration.[2] The PC found that the greatest benefits to the community come from younger, highly skilled migrants. In the long-term, the it found that immigration delivers a measurable 'demographic dividend' that will raise output and incomes for everyone:

> *"Continuing [Net Overseas Migration] NOM at the long term historical average rate [of 0.6% of the population] and assuming the same young age profile as the current intake is projected to increase GDP per person by around 7 percent (equivalent to around $7000 per person in 2013 14 dollars) in 2060 relative to a zero NOM scenario. Increasing or decreasing the level of NOM from this rate is projected to have a corresponding impact on GDP per person, all other factors equal.*
>
> *The results reinforce the importance of age and skills in the migrant intake. Increasing the average age structure of NOM to reflect that of the Australian population is projected to reduce real GDP per person, while increasing the share of migrants entering in higher-skilled occupations is projected to lead to an expansion in real GDP per person."* (PC, p. 15).

In the longer term, the benefits skilled migration bring to local labour market development should be enhanced by moving to an annual growth rate target for annual permanent migration linked to national labour market growth, instead of a fixed annual number.

Current Migration Settings

Ai Group welcomed the increase in the permanent migration program planning level to 195,000 places announced at the Jobs and Skills Summit and the Government's recognition of the importance of the migration program in helping to address our growing skills and labour shortages.

The permanent program is one element of a complex system of visas which businesses rely on to supplement their local workforce or fill skills gaps. However, it is an important one, especially given that a large proportion of the permanent program is sourced from applicants on temporary skilled visas.

The following points relate largely to the temporary skilled programs accessed by employers.

---

[2] Source: Productivity Commission, Migrant Intake into Australia, Inquiry Report, 2016.

Barriers created by high costs

Ai Group members often report that despite their critical need for skilled workers from overseas the high costs involved prevent them from accessing the program.

Higher government charges around temporary skilled migration price a lot of small and medium sized businesses out of the market for skilled worker visas. The 482 visa can cost $20,000 to $25,000 a worker while the previous 457 visa cost employers around $10,000. The obligation to pay the $7,200 Skilling Australians Fund (SAF) levy is a big part of the higher costs.

One of the biggest obstacles to using temporary skilled migration programs is the Skilling Australians Fund (SAF) levy. The cost of $7,200 per approved visa for larger businesses can quickly grow into a significant expense when applied across multiple visa applications. For smaller businesses the cost is also substantial and acts as a disincentive especially when it is considered that the visa holder can easily change employer with no SAF refund possible in many cases. The scheme is designed to raise money to support training programs without regard to the disincentives involved.

While the current SAF levy is very high for many businesses, it would not be desirable to return to the previous administratively complex hybrid system where some businesses paid a levy while others met the training requirements by demonstrating that they invested in local training. Such proof of training expenditure. as it applied in the past, was difficult to manage and particularly onerous for labour hire companies and SMEs who may lack training capacity.

The program could be improved to some extent by expanding the grounds for refunds, which are limited. This leads to cost and administrative difficulties for employers. Refunds of the 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 Temporary Skill Shortage (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 Employer Nomination Scheme or Regional Skilled Migration Scheme 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).

There are two major problems with this refund process.

Firstly, if the visa holder leaves their employ in their 13th month of work the employer has no opportunity to obtain a refund for almost three years of the levy which they had been required to pay in advance. Visa holders generally take more than a year to settle into their positions and then after a year they often move to another employer. This a positive for the visa holder in terms of their flexibility and generally favourable for economy-wide resource allocation but punitive for the original employer. Further, the new employer must pay the SAF on the remaining term of the visa and so effectively the SAF is paid twice.

Secondly, a refund of the employer's sponsorship and nomination application can be obtained if the visa is refused on “health or character grounds”. These grounds are far too narrow. In practice, this means that there is no refund unless health or character are the basis of the refusal. There are many other reasons for refusal such as mistakenly nominating the wrong occupation as can easily occur in the ANZSCO system; the applicant not having enough experience according to the assessor; or the market salary level coming in at slightly higher than the initially nominated wage with no opportunity for adjustment.

Ideally, the SAF should be put aside. However, if it is retained, the refund rules should be simplified to a single refund condition along the lines of:

- A refund in full or the balance of the SAF Levy will be paid in all circumstance where a skilled worker (visa holder) does not work for the sponsoring employer or no longer works for the sponsoring employer; or,
- If there was an option to replace the up-front payment with periodic payments while the skilled worker remained employed, this would remove many of the issues around refunds when employers change sponsors and take some of the cost pressures off smaller businesses.

Further, Labour hire companies that are in the business of providing already skilled workers should also not be penalised through the requirement to pay the SAF levy.

Tightening of Labour Market Testing is unnecessary

A further obstacle to accessing 482 visas relates to Labour Market Testing (LMT). Ai Group opposes any further tightening of the current already onerous LMT settings. Employers who urgently need staff with particular skills will know from experience if such workers are unavailable to them locally and LMT requirements can cause unnecessary delays to their overseas recruitment.

Visa sponsors should be given the ability to demonstrate in some other way that the position is unable to be sourced locally. For example, the business need may be for a specialist or rare technical skill which is widely known to be unavailable in Australia. The business could provide evidence of this as an alternative to advertising the vacancy.

There have also been calls for the publication of salaries as part of LMT. For sound business reasons company policies often avoid the publication of salaries in job advertisements. Where this is a visa requirement it becomes a barrier to businesses being engaged with the migration program.

Keep the current minimum salary level at accessible rates

Proposals are being considered for an increase to the Temporary Skilled Migration Threshold (TSMIT) from $53,900 (where it has been for some years) to as high as $90,000.

If there is any increase in the salary floor it should reflect the Wage Price Index (WPI) since the TSMIT was last amended. By this calculation the TSMIT would rise to approximately $63,000. Even this level is high and would rule out many trade level occupations which have been shown to be experiencing some of the highest levels of skill shortage.

Ideally the TSMIT should apply uniformly at a level that meets immigration needs. Considerable complexity arises with different levels apply based on occupation, industry, or regional area. This complexity is particularly relevant given the scope for mobility between industries, occupations and regions. While not totally convincing, there may be a somewhat stronger case for clear regional concessions.

Grattan economic policy director Brendan Coates has been quoted as estimating that raising the income threshold too far would *"practically knock out the entire cohort of the hospitality industry. If the temporary income threshold was raised to $90,000 you would knock out 60 per cent of temporary skilled visa workers today."* Setting the TSMIT at $90,000 would cut out many of the younger skilled workers who start out earning lower-than-average wages but form the backbone of Australia's permanent skilled migrant intake and earn much higher wages in the long term.

Create a special intracompany transfer visa category

There is a need to improve access for businesses to visas for intracompany transfers. We propose the creation of a visa category that is business friendly, that boosts local employment and training and that recognises that intracompany transfers are a two-way street that benefit numerous Australians travelling to work with their companies overseas.

One of the common concerns raised with us by our members is the difficulty they have in accessing visas to bring their own people into Australia. Often their people will be senior executives, but they may also be specialists in the company culture or management practices or have expertise with the company's in-house technology that is not available in Australia.

An example is Uniqlo. The company has active expansion plans for Australia that require managers to set up new stores. These managers can only be sourced from the company's offices overseas because the company culture, knowledge and experience they bring is not available here to a sufficient extent.

There are cases where a company wants to transfer staff to Australia on a more permanent basis. Under the SC482 regime it is difficult to attract the right talent if the skill concerned does not carry with it the ability for a pathway to permanent residence. The best talent in the world will want to know a long-term stay is possible, which is why so many other countries are successful in attracting such talent.

Other examples of companies with concerns regarding the current approach to intracompany transfers include Cochlear, CSL and ResMed whose experiences are similar to that of other companies in the pharma and tech sectors. These companies regularly transfer staff between overseas offices and their Australian headquarters for short- and medium-term assignments, often training local teams while they are here. Like Uniqlo, they will frequently be specialists skilled in company processes and equipment. No-one locally will be able to fill these roles. Yet those companies still need to jump all the administrative hurdles and pay the high costs associated with SC482 visas.

Bringing in talent breeds economic activity. Such talent is incredibly hard to find locally, which is why businesses like these need to look at global talent pools. Finding that right talent could unlock a whole range of capability in Australia and facilitate training and upskilling of local workforces.

Businesses could access a labour agreement to help facilitate the transfers. However, this would still require using the SC482 program and all the complexities and costs that entails. SC482 visas are unduly restrictive when applied to intracompany transfers and they are clearly not fit for this purpose.

The 482 visa is also only useful if the employee's skill set fits within the official occupation lists. The alternative Temporary Work (Short Stay Specialist) visas (SC400) with its three-to-six-month time frame is too short for most intracompany transfers, particularly where local training is involved.

A more desirable approach would be to create a separate visa subclass for intracompany transfers.

The importance of a globally mobile workforce in multinational corporations is well recognised internationally and most peer nations offer a specific visa for this purpose with pathways to permanent residence. In the United States it is called an'L1 Intracompany Transferee Visa', in the United Kingdom it is called a Senior or Specialist Worker visa (Global Business Mobility). By contrast, Australia does not treat intracompany transfers as a separate category and this adds unnecessary complexity and opacity to the application process.

Establishing a separate visa class for intracompany transfers with a built-in pathway to permanent residence would align Australia with our partner nations and help make Australia a more attractive proposition for global companies. A streamlined approach in the creation of such a visa would remove unnecessary barriers and encourage more companies to bring their best talent here to help upskill and grow their local workforces. It would also recognise that intracompany mobility is a two-way flow – many Australians benefit from international company assignments overseas and the professional development opportunities these afford.

Extend length of stay for SC400 Visa

As mentioned, the SC400 visa is a useful means to readily fill a 3-6 months skills gap or provide for a company to bring in a specialist to transfer skills. However, in many circumstances, longer than 6-months would be desirable. If the SC400 visa was extended for stays of 6-12 months it would do away with the need for many employers to go down the costly and more complex alternative of applying for a SC482 visa. We would recommend extending the SC400 for 6-12 months validity.

Need to expand and modernise English Language Testing

The Department of Home Affairs is undertaking an expression of interest process to determine which English language products can be used to prove English language proficiency. However, we understand that digital online testing products have been specifically excluded from consideration by the Department, and as a result, there is a likelihood that the current paper-based testing arrangement will be locked in indefinitely as Department policy for years to come.

It is our view that the Department should reconsider this approach and actively seek and assess what are highly secure, effective and cost-competitive digital products.

Currently, the United Kingdom, USA, Canada and New Zealand all allow students to prove English language capabilities to their university of choice and are able to use an online digital English language test. Ireland, which like Australia requires students to submit their English proficiency level to their immigration department, began accepting digital language tests for visa purposes in 2021. The United Kingdom is also currently assessing digital online testing for migration purposes.

Duolingo is one example of a provider that has developed a digital English language test. The Duolingo English Test can be securely taken anywhere in the world, it includes innovative Artificial Intelligence-powered security features, generates personalised unique tests for every candidate and requires 2 proctors to review every test (instead of 1 proctor for every 25 test takers, as is typical for face-to-face tests). The test's advantages have led to more than a dozen Australian universities using Duolingo to assess applicants' English capabilities.

One such advantage is cost. Language testing is expensive for applicants and employer sponsors who often pay for the testing. A paper-based English test can cost a month's salary in some countries. By comparison, digital language tests can be as much as 80% less costly than their paper-based counterparts. They also carry the added advantage of applicants being able to undertake the test remotely and avoid long-distance travel to testing centres. In the post-COVID environment, remote access to processes such as this has become the expected norm, and it is difficult to understand why the Department remains closed to this more easily accessible testing option.

Australia operates in a globally competitive environment for students and skilled migrants. For Australia to win the global race for talent not only do we need the right visa settings, but wherever possible obstacles and impediments need to be removed from our visa system.

Improving Australia's migration program: key points

- The announced increase in the permanent migration cap to 195,000 places per year is an important step.
- Within this total, greater priority should be given to the skilled migration stream, which should make up at least two thirds of the migration program.
- In the longer term, Australia should move to a growth rate target for annual permanent migration that is linked to national labour force growth, instead of a fixed annual number.
- Temporary skilled migration programs help businesses fill skill and labour gaps that persist despite historically low unemployment levels.
- The Skilling Australians Fund (SAF) Levy acts as a deterrent to hiring skilled workers from overseas. As a minimum, the SAF should be modified to allow easier access to refunds where visa holders change employers or leave the country and by exempting labour hire businesses.
- The Temporary Skilled Migration Income Threshold (TSMIT) should be increased to reflect the Wage Price Index (WPI) movement since the TSMIT was last amended. By this calculation the TSMIT would rise to approximately $63,000.
- Ai Group does not support any further strengthening of the current already onerous Labour Market Testing (LMT) requirements.
- Creating a separate, simpler and less expensive category for intracompany transfers will deliver significant economic benefits.
- Extend the length of stay for the SC400 visa from 3-6 months to from 6-12 months.

- Greater flexibility should be allowed for English language testing requirements to allow the inclusion of on-line testing.

I would be happy to discuss this submission further with the Review panel.

Yours sincerely

Innes Willox

(Note: Innes Willox AM is Chief Executive of the national employer association Ai Group. He is also Chair of the Ministerial Advisory Council on Skilled Migration (MACSM) which brings together business, union and state government representatives to advise on a broad range of migration matters. He is also Chair of Migration Council Australia, an independent, national not-for-profit body established to enhance the benefits of Australia's migration program and support better settlement outcomes for Australia's migrants and refugees).