

Meeting objectives

- 3.1 As noted in chapter 2, the objectives of the Business Innovation and Investment Programme (BIIP) are to:
- generate employment
 - increase the export of Australian goods and services
 - increase the production of goods and services in Australia
 - introduce new or improved technology
 - increase competition and commercial activity
 - develop links with international markets
 - increase the dispersal of business migrants across Australia through State and Territory government nomination.¹
- 3.2 The chapter assesses whether the programme is meeting these objectives.
- 3.3 A number of peak bodies and individuals submitted that the BIIP was not meeting its objectives. These are summarised as follows.
- 3.4 The Migration Institute of Australia commented that the current programme would be unable to ever meet its intended 'purpose of bringing significant entrepreneurial talent and business expertise for several reasons':
- The inherently unattractive features of the programme has not resulted in attracting the business people it intended.
 - The focus of the BIIP is on high technology and high value businesses.

1 Department of Immigration and Border Protection, *Submission 14*, p. 8.

- When the Business Skills Programme (BSP) became the BIIP, it went from a situation where the BSP was sometimes exploited (eg, small retail establishments which in some cases did not last much past the visa grant date), to where the focus is on high end technology and businesses and BIIP is missing the middle ground.
- Inherent differences in national commercial practices and environment.
- Lack of support for business migrants in Australia.²

3.5 When commenting on the inherent differences in national commercial practices and environment, the MIA added:

There can be particular issues for business people from other commercial environments who may be contemplating business migration to Australia: different commercial laws, procedures and customs, and the English language, all of which are important for operating a business and gaining local knowledge and networking.

The target “market” for Australia’s BIIP may not be wide enough, as many of the top source countries for this programme operate in different commercial jurisprudences to that of Australia.³

3.6 The MIA also commented that its members submitted ‘that many business migrants would benefit from greater support and assistance in understanding their new business environment and related legislative requirements.’⁴

3.7 The Australian Private Equity and Venture Capital Association (AVCAL) agreed that the BIIP would be unable to meet its objectives, stating:

But the reality is that since the introduction of this visa stream some two years ago, very few visas – in fact, to our knowledge only one such visa has been granted thus far. In our view, this modest level of interest is unlikely to realise the program's primary objectives of increasing entrepreneurial talent and diversifying business expertise in Australia.⁵

2 Migration Institute of Australia, *Submission 15*, pp. 5-7.

3 Migration Institute of Australia, *Submission 15*, p. 6.

4 Migration Institute of Australia, *Submission 15*, p. 7.

5 Mr El-Ansary, Australian Private Equity and Venture Capital Association, *Transcript*, 13 June 2014, p. 18.

- 3.8 Immigration Solutions Lawyers (ISL) suggested that the failure of the BIIP may in part be due to the Department of Immigration and Border Protection (DIBP) acting as ‘gatekeeper’, resulting in ‘the imposition of multiple and often irrational requirements which only complicates the application and processing process.’⁶
- 3.9 ISL added:
- Its objectives are good but there have just been a number of implementation issues. The criticisms we have made in our submission are intended to be constructed so that Australia can be open for business. It has to be a benefit to Australia and just not always to the visa applicant.⁷
- 3.10 Immigration lawyers, Mr Christopher Levingston and Mr Dolf Van Zyl, also commented that the BIIP was not meeting its objectives.
- 3.11 Mr Levingston submitted that the reason the BIIP failed to meet its objectives is because applications were not processed in a timely manner and that the programme:
- ...requires a significant “adjustment” to the extent that DIBP needs to apply sufficient resources, and remove artificial barriers to the approval of applicants who intend to come to Australia and contribute to the development of Australia.⁸
- 3.12 Mr Van Zyl argued that ‘the current programme is a dismal failure and not reaching any objects whatsoever.’⁹
- 3.13 The Law Council of Australia, however, was ‘very supportive of the current programmes underlying objectives in relation to attracting international talent and stimulating economic growth.’¹⁰

Economic objectives of the programme

- 3.14 States and Territories were, for the most part, complimentary of the BIIP and advised that it had met its objectives, particularly the broader economic objectives of the programme.
- 3.15 The Western Australian Business Migration Centre (BMC) stated that there ‘is no doubt that to date business migrants coming to Western Australia are meeting the economic objectives of the program.’¹¹

6 Immigration Solutions Lawyers, *Submission 13*, p. 3.

7 Mrs O'Donoghue, Immigration Solutions Lawyers, *Transcript*, 13 June 2014, p. 26.

8 Mr Levingston, *Submission 1*, p. 1.

9 Mr Van Zyl, *Submission 2*, p. 1.

10 Ms Chowdhury, Law Council of Australia, *Transcript*, 25 June 2014, p. 1.

- 3.16 The BMC provided some statistics on the economic benefits the BIIP had provided to Western Australia, noting that:

In the last four fiscal years to June 2013, the business migrants have injected more than \$1 billion in capital into the State's economy and generated over 1,000 new jobs for Western Australians.

A critical issue faced by [the small business] sector throughout the state is under capitalisation. Business migrants are successfully filling this need having a major impact on this feature of the small business economy.¹²

- 3.17 New South Wales (NSW) Trade and Investment also noted the value that BIIP migrants make to the NSW economy:

Since 1 July 2012, the start of the current BIIP, NSW has nominated 104 applicants for the program, excluding Significant Investor Visa applicants. From 2010 to 2014, 433 migrants who had been in Australia on provisional business visas applied to NSW T&I [Trade and Investment] for nomination for a permanent visa. Cumulatively these applicants had created 412 new jobs, attracted \$36.4 million business investment and delivered just under \$90 million worth of exports.¹³

- 3.18 The Victorian Department of State Development, Business and Innovation (DSDBI) considered that the BIIP was effective in attracting business migrants to Victoria, but noted that 'more could be done to increase the value and diversity of business activity undertaken by business migrants.'¹⁴

- 3.19 The DSDBI argued that consideration be given to redirecting more investment and business activity and creating incentives to diversify investment:

Consideration could be given to how more investment and business activity can be redirected from 'passive' investments (e.g. government bonds) and 'low value' business activity (e.g. retail franchises) towards 'productive' (job creating) and other high value business activity.¹⁵

- 3.20 DSDBI pointed out that business migrants intended to invest nearly \$500 million in the Victorian economy:

11 Western Australian Business Migration Centre, *Submission 3*, p. 1.

12 Western Australian Business Migration Centre, *Submission 3*, p. 1.

13 NSW Trade and Investment, *Submission 22*, p. 5.

14 Victorian Department of State Development, Business and Innovation, *Submission 23*, p. 5.

15 Victorian Department of State Development, Business and Innovation, *Submission 23*, p. 5.

In 2013-14, under the BIIP, Victoria nominated 1679 business migrants through the 188 and 132 visa streams. Of these, 1029 were Business Innovation stream applicants whose stated intention is to invest a combined \$488,175,829 into the Victorian economy; 68 Business Talent stream applicants who intend to invest \$165,500,000; 76 Investor stream applicants who intend to invest \$114,000,000; and 506 Significant Investor stream applicants who intend to invest up to \$2,532,800,000.¹⁶

3.21 However, the DSDBI noted that 'conclusions cannot be drawn regarding the economic benefit of the program from these migrants.'¹⁷

3.22 When asked about how many additional jobs had been created under the BIIP compared with the previous programme, DSDBI stated:

In 2013-14, of the 1679 nominated business migrants, 1134 indicated that they intended to create a total of 2869 jobs as part of their business activity. In the previous Business Skills Program in 2012-13, nominated business migrants indicated that they intended to create a total of 1370 jobs as part of their business activity.¹⁸

3.23 While noting that the numbers of BIIP visa applicants sponsored by the Australian Capital Territory (ACT) are not significant compared with other States/Territories, the Economic Development Directorate stated that 'the business migrants who successfully establish a business/invest in Canberra do have a positive economic impact on the ACT economy.'¹⁹

3.24 The Tasmanian Department of Economic Development, Tourism and the Arts also highlighted that its small numbers of BIIP migrants were making a contribution to the state:

Even though Tasmania's BIIP intake is very small, the Tasmanian Government recognises the great contributions made to the state by BIIP migrants.

This goes well beyond the injection of capital. Migrants also bring a variety of benefits to the state such as creating new employment for Tasmanians, new ways of doing business, unique business cultures and stronger international linkages. I consider that the business migrants coming to Tasmania are meeting the objectives of the program.²⁰

16 Victorian Department of State Development, Business and Innovation, *Submission 23*, p. 11.

17 Victorian Department of State Development, Business and Innovation, *Submission 23*, p. 11.

18 Victorian Department of State Development, Business and Innovation, *Submission 23*, p. 11.

19 ACT Economic Development Directorate, *Submission 7*, p. 2.

20 Tasmanian Department of Economic Development, Tourism and the Arts, *Submission 9*, p. 1.

- 3.25 Trade and Investment Queensland also noted the benefits of attracting foreign companies and individuals:
- Attracting innovative foreign companies and individuals to migrate and/or invest in Australia will not only boost a competitive environment for local businesses but also introduce new ideas and opportunities.²¹
- 3.26 The South Australian Government advised that ‘the cumulative and progressive effects of the program cannot be overstated.’²²
- 3.27 The South Australian Government also remarked that long term business migrant families provide many potential benefits:
- The generational involvement of business migrant families with the potential for future enterprise growth, the interaction between business migrants and the community, including other migrant streams, and the transfer of established overseas business links within Australia are all important aspects of the BIIP. In addition, the program is still the primary vehicle for attracting overseas persons with business skills, with the general skilled migration program only catering for broad labour market as well as employer needs.²³
- 3.28 The South Australian Government did highlight that it was difficult to assess the effectiveness of the BIIP:
- Given that the BIIP was reformed less than two program years ago, the lack of data and relevant information cannot support conclusions about the success or otherwise of the program.²⁴
- 3.29 The Northern Territory (NT) Government, however, did not believe that the BIIP was meeting its objectives of ‘cultivating entrepreneurship, building business activity and injecting investment capital into the Northern Territory.’²⁵
- 3.30 The NT Government highlighted some issues which it thought prevented the BIIP from meeting its objectives in the NT, including:
- Centres on the eastern seaboard of Australia are more attractive to the majority of international migrants
 - Applicants are not basing business decisions on investment return, opportunity or market factors but rather on safety and convenience

21 Trade and Investment Queensland, *Submission 12*, p. 1.

22 South Australian Government, *Submission 13*, p. 2.

23 South Australian Government, *Submission 13*, p. 2.

24 South Australian Government, *Submission 13*, p. 3.

25 Northern Territory Government, Department of Business, *Submission 18*, p. 3.

- Quality of applicants
 - International competitiveness of the BIIP program.²⁶
- 3.31 The DIBP advised that they could not provide current details on whether the migration requirements of the BIIP are being met and that 'it is generally the states that you would have to ask about their review mechanisms.'²⁷
- 3.32 The DIBP also advised that the States and Territories were undertaking the quality control and the primary assessment of the businesses under the BIIP, adding:
- They [the States and Territories] are doing the need, yes, and whether or not what is being offered through the nomination process meets the specific economic or labour need that they may have.²⁸
- 3.33 In its submission the DIBP provided some information on whether the previous BSP had achieved its objectives. The DIBP highlighted that an internal review of the programme undertaken in 2010 and 2011 found that:
- Generally the programme achieved its objectives of generating employment in Australia, increasing competition and commercial activity, and developing links with international markets.²⁹
- 3.34 The review also concluded that:
- Probably that more things needed to be done to refine the program and to target it a bit more because we found that the previous program did not look very much at the human capital attributes that the migrants were bringing.³⁰

Committee comment

- 3.35 Administration of the BIIP is shared between the Federal Department of Immigration and Border Protection and each State and Territory Government.

26 Northern Territory Government, Department of Business, *Submission 18*, pp. 3-5.

27 Mr Wilden, Department of Immigration and Border Protection, *Transcript*, 14 May 2014, p. 3.

28 Mr Wilden, Department of Immigration and Border Protection, *Transcript*, 14 May 2014, p. 3.

29 Department of Immigration and Border Protection, *Submission 14*, p. 3.

30 Mr Fleming, Department of Immigration and Border Protection, *Transcript*, 14 May 2014, p. 3.

- 3.36 Consequently, at the commencement of the inquiry, the Committee wrote to the DIBP and the Premiers and Chief Ministers in each State and Territory inviting them to provide a submission on the terms of reference.
- 3.37 However, responses from the States and Territories, and in particular the two largest sponsoring States (NSW and Victoria), were not forthcoming.
- 3.38 As a result, the Committee wrote again to the Premiers of NSW and Victoria inviting them to participate in the inquiry and to make officials available to attend public hearings to provide evidence on the BIIP.
- 3.39 After a protracted period, each State and Territory did provide some written evidence to the inquiry.
- 3.40 However, the evidence provided by each State and Territory was quite limited and gave very little evidence that the BIIP was actually meeting any of its objectives.
- 3.41 The DIBP also appeared unable to provide evidence on the success of the BIIP in meeting its objectives, referring instead to the States and Territories significant role in the administration of the BIIP.
- 3.42 In particular, when asked about the types of businesses or investments favoured under the BIIP, the percentage of applications assisted by migration agents, and the percentage of business migrants in rural and regional areas compared to metropolitan areas, the DIBP advised that:
- The DIBP has limited nor no data
 - DIBP systems record limited information on the nature of enterprises that business migrants buy into or establish in Australia
 - Departmental systems do not record this information. The department has confirmed that the States/Territories do record some information on this matter but it is not readily available to the department on an ongoing basis.³¹
- 3.43 Based on the limited evidence received during the course of this inquiry, the Committee is unable to make an assessment of whether the objectives of the BIIP are currently being met.
- 3.44 It is the Committee's view that obtaining appropriate evidence is complicated by the States and Territories significant role in the administration of the BIIP, apparent lack of communication with the DIBP and lack of responsiveness to this Committee.
- 3.45 It would seem that the States and Territories have almost full administration of the BIIP, with the DIBP only focussing on issuing visas and compliance.
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31 Department of Immigration and Border Protection, *Supplementary Submission 14.1*, pp. 4-6.

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- 3.46 As a Federal Government Programme, oversight and ultimate responsibility for its administration rests with the DIBP. As stated above, from the evidence received it is difficult to assess the ability of the programme to attract and retain entrepreneurial talent and business expertise.
- 3.47 This situation points to what may be a systematic challenge in migration. The responsibility for the BIIP is clearly a Commonwealth matter, but in practice the administration of the programme relies on the States and Territories. This division on responsibility makes it difficult to assess the effectiveness of the programme.
- 3.48 Whether the BIIP should become the sole responsibility of the Federal Government, with elements currently administered by the States and Territories no longer delegated, is a matter that must be examined.