

## **Joint Standing Committee on Migration: Inquiry into the Business Innovation and Investment Programme**

### **Responses to Questions on Notice from Public Hearing of 14 May 2014 (Department of Immigration and Border Protection)**

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## Attachments

Attachment	Title
Attachment A	Personal documents required at time of application
Attachment B	Subclass 188: Supporting business documentation
Attachment C	Subclass 132: Supporting business documentation
Attachment D	Subclass 88: Supporting business documentation
Attachment E	Form 1010 <i>Survey of Business Skills visa holders</i>
Attachment F	Form 1139A <i>Statement of Assets and Liabilities Position</i>
Attachment G	Form 1229 <i>Consent to grant an Australian visa to a child under the age of 18 years</i>

## Questions taken on notice at hearing

### 1. Approval times

**CHAIR:** So what is the longest time it has taken for one of these visas to be approved?

**Mr Wilden:** I would have to dig to find that out. (p. 1)

Since July 2012, under the new Business Innovation and Investment Programme, 95.5 percent of applications have been finalised within the service standard of nine months. The longest time taken to grant a visa under the new Business Innovation and Investment Program is 532 days. This was for a subclass 188 visa, lodged on 26 October 2012 and granted on 11 April 2014. This delay resulted from the time taken by the applicant to fulfil the requirements of the health check.

### 2. Elements of an application

**Senator EDWARDS:** Why do you take the application if it is incomplete?

**Mr Wilden:** There are two stages you go through. To make it a lawful application, you have to have certain elements included in the application.

**Ms VAMVAKINO:** What are those elements?

**Mr Wilden:** We might have to get that for you. (p. 2)

The following elements are requirements of the visa subclasses within the Business Innovation and Investment Programme as prescribed in the *Migration Regulations 1994* Schedule 1. If an application is made that does not contain these elements, it is not valid and will not be considered.

- Form: Internet
- Visa application charge
- Other:
  - The application must be made as an internet application
  - An applicant may be in or outside Australia, but not in immigration clearance
  - An applicant in Australia must hold a substantive visa or a Bridging visa A, B or C
  - An application by a person claiming to be a member of the family unit of the person who is an applicant for the visa may be made at the same time as, and combined with, the application by that person.
  - The applicant must have been invited, in writing, by the Minister to apply
  - The applicant must apply for the visa within the period stated in the invitation
  - The applicant must be nominated by a state/territory government agency.
- For a stage two permanent visa (subclass 888): The applicant must hold an appropriate provisional visa, such as subclass 188 or 444.

The key eligibility requirements for visa in the Business Innovation and Investment Programme are set out in the department's submission (pages 8-11).

The information and documents required to make a complete application are attached for your information.

Personal documents required at the time of application are consistent across the visa subclasses. These are detailed in **Attachment A**.

The different subclasses of visas (188, 132 and 888) have varying requirements in terms of supporting business documentation. They are outlined in **Attachments B, C, and D**, respectively. Information regarding the requirements for the Significant Investor visa stream has not been included as it is beyond the scope of this inquiry.

### **3. Percentage of applications assisted by migration agents**

**Ms VAMVAKINO:** I just want to ask two things at this point. Do you have knowledge of the number of these applications that are assisted by migration agents?

**Mr Wilden:** We could probably get that. We would have to interrogate the system to do that.  
(p. 2)

The department has limited data in this area. The data that is available indicates that approximately 70 percent of Business Skills class visas were lodged by a migration agent.

### **4. Types of business: Previous programme**

**CHAIR:** Do you have any statistical evidence of the percentage or numbers around the types of business?

**Mr Wilden:** We will go back to dig out some stuff from the 2010-11 review.

Detailed data was collected from permanent stage applications lodged between July 2009 and October 2010. It shows the composition of businesses operating throughout the provisional stage. Restaurants and take-away shops comprised the largest proportion with 27.1 percent of all recorded businesses. Wine exports made up 9.3 percent and convenience stores 7.7 percent.

For more information please refer to the department's submission (Attachment B).

## 5. Types of business: Current programme

**CHAIR:** Would you have figures for now as well?

**Mr Wilden:** We will have a look at what the old review showed.

It is still early days for the Business Innovation and Investment Programme with few applicants moving through the provisional regime to permanent residence so comparable data is not available.

In addition, departmental systems record limited information on the nature of enterprises that business migrants buy into or establish in Australia.

## 6. Favoured investments

**Ms VAMVAKINO:** Could you also look at the current favoured investments?

**Mr Wilden:** Yes.

**CHAIR:** From the states' perspective.

**Ms VAMVAKINO:** Yes, and the areas in which they are trending. (pp. 3-4)

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.

## 7. Progression to permanent visas and refusal rate

**Senator DASTYARI:** Are there stats on how many people—

**Mr Wilden:** We would certainly have some stats on how many people do not go through. The reason would probably be harder to find because people just self-select out. They come in, they do two years, they realise it is not for them and they choose not to seek permanency.

**CHAIR:** If we could have any statistics about that and also refusals, people who have— (p. 6)

Between the 2003-2004 and 2012-2013 programme years, 6109 principal applicants progressed from a provisional to a permanent visa under the Business Skills programme. During the same timeframe, 15 689 provisional visas were granted. This information does not include provisional visa holders who progressed to permanent residency through other visa programmes, eg. partner visa.

Under the Business Innovation and Investment Programme, it is still too soon for anyone to apply for a permanent visa after having held a provisional Business Innovation and Investment visa as the provisional period of four years has not yet concluded.

Information on the refusal rate of applications is outlined in the response to question two in the following pages.

## **Additional questions on notice**

**1. What percentage of business migrants are located in rural and regional areas compared to metropolitan areas?**

The department has no data on this for the current programme. Please refer to the department's submission (Attachment B, page 14) for information on the previous programme.

**2. What is the refusal rate for applicants under the current programme compared with the previous Business Skills Programme?**

Under the current programme, there have been 1215 finalisations from 1 July 2012 to end May 2014. From those finalisations, 114 applications (9.38%) were refused and 155 applications (12.75%) were withdrawn. Under the previous programme between 2008 and 2012, on average 15.48 percent of visa finalisations were refusals and 7.96 percent were withdrawals. These figures are based on principal applicants only.

**3. Why has there been a decline in the number of applicants under the current programme compared with the previous Business Skills Programme?**

The decline in the number of applicants under the current programme compared with the previous Business Skills Programme is discussed in the department's submission (pages 18-20).

**4. How is this programme promoted internationally?**

- *What is the cost?*
- *Is the marketing coordinated with each State and Territory?*

There is currently no budget at a federal level for international promotion of this programme. Each jurisdiction is responsible for marketing to prospective investors and each state and territory operates their own marketing strategies. Certain industries, namely the financial services and property funds industry, also promote this programme in key international markets.

**5. How many applicants have put forward venture capital proposals? How many were successful?**

To date, the department has received and granted only one application within the Venture Capital stream. However, as of 6 June 2014, there were 131 Expressions of Interest (EOI) in SkillSelect that have not received state nomination.

**6. I note that visa holders are required to complete surveys about their business activities in Australia.**

Most business visa holders are required to complete surveys conducted by the department about their business activities in Australia. The aim of the surveys is to determine the nature and extent of a visa holder's activities in Australia and enable a visa holder to report on any difficulties being experienced in getting into business. This survey may also be used to determine an applicant's eligibility for a renewal of their provisional visa. The survey is done using Form 1010 *Survey of Business Skills visa holders*. This assists in reporting outcomes of the Business visa category.

Form 1010 *Survey of Business Skills visa holders* is attached for your information. Please see **Attachment E**.

**– *What are the findings of these surveys?***

The Business Innovation and Investment Programme started in July 2012. Under this programme, holders of visa subclass 132, Significant Business History stream are subject to monitoring during the first three years. At the two-year mark, they are required to fill in Form 1010 *Survey of Business Skills visa holders*. Due to the infancy of the Business Innovation and Investment Programme, no one has yet been required to complete this survey.

Results of surveys conducted under the previous Business Skills visa programme are in the department's submission (Attachment B).

**– *How often does an applicant need to complete the survey?***

The holders of a Business Talent (subclass 132) Significant Business History stream visa will be subject to monitoring during their first three years in Australia. The visa holder will be asked to supply information and supporting documentation regarding their business interest in Australia.

During the three-year monitoring period, the department may request information by asking the visa holder to complete a 24 month survey and provide supporting documentation regarding their business activity in Australia.

These visa holders are asked to complete Form 1010 *Survey of Business Skills visa holders* after becoming involved in business in Australia.

Visa holders in the Business Innovation stream may also be asked to complete the monitoring survey about their business activities in Australia.

**– *Does this pose an additional regulatory burden on the visa holders?***

The completion of this survey is not an additional regulatory burden on the visa holder but rather a condition of their visa and a requirement for compliance.

## 7. What are the costs and charges associated with applying for a visa under the programme?

Below is a copy of the current visa pricing table as available on the department's website. These are the department's visa application charges only. There may be other costs involved, such as the costs of health assessments, police certificates, or any other certificates or tests.

Visa subclass	Note	Base application charge	Non-internet application charge	Additional applicant charge 18 and over	Additional applicant charge under 18
<b>Business Talent (subclass 132)</b>	13a	\$6 830	N/A	\$3 415	\$1 710
<b>Business Innovation and Investment (provisional) (subclass 188)</b>	13b	\$4 675	N/A	\$2 340	\$1 170
<b>Business Innovation and Investment (Provisional)- (Subclass 188)- Business Innovation extension and significant investor extension streams</b>	13b 13c	\$575	N/A	\$290	\$145
<b>Business Innovation and Investment (permanent) (subclass 888)</b>	13d	\$2 255	N/A	\$1 130	\$565

**13a** For applicants who have turned 18 at the time of application and who are assessed as not having functional English the second instalment is:

- main applicants \$9795
- secondary applicants \$4890.

**13b** For applicants who have turned 18 at the time of application and who are assessed as not having functional English the second instalment is:

- main applicants \$9795
- secondary applicants \$4890.

This is provided that the applicant has not paid a second instalment of the visa application charge in relation to an application for a subclass 188 (Business Innovation and Investment (Provisional)) visa.



**13c** This visa is for existing holders of Business Innovation and Investment (Provisional) – (subclass 188) visas.

**13d** The second instalment of \$4890 is for an applicant who:

- has turned 18 at the time of application; and
- is assessed as not having functional English; and
- satisfies the secondary criteria for the grant of a Subclass 888 (Business Innovation and Investment (Permanent)) visa; and
- has not paid a second instalment of the visa application charge in relation to an application for a subclass 188 (Business Innovation and Investment (Provisional)) visa.

There may also be costs in application fees for state nomination, which are set by each state or territory government. For further information, below is a list of web addresses that contain more information on state nomination fees.

- ACT: <http://www.canberrayourfuture.com.au/portal/migrating/article/business-migration-visas/>
- NSW: <http://www.business.nsw.gov.au/live-and-work-in-nsw/visa-and-migration/business-migration/how-to-apply-and-application-forms>
- QLD: <http://migration.qld.gov.au/business-investor-visas/>
- WA: <http://www.businessmigration.wa.gov.au/?page=provisional-business-visas>

Victoria, South Australia and Tasmania do not have any nomination fees.

## **8. Is there an appeal process if an applicant is refused a visa?**

If the visa is not granted, the department will let the applicant know:

- why the visa was refused;
- their review rights (if any) (where applicable the sponsor can apply for the decision to be reviewed); and
- the time limit for lodging an appeal.

Applicants for the Business Innovation and Investment Programme may have a merits review right to the Migration Review Tribunal under s338(2) of the Migration Act if they were in the migration zone when the application was made. To apply for merits review the applicant must be in the migration zone when the application for review is made.

In addition, applicants for the Business Talent and Business Innovation and Investment (permanent) visas may also have a merits review right under s338(7A) of the Migration Act if they:

- were outside the migration zone at the time of the application; but
- in the migration zone at the time of refusal; and
- are in the migration zone when the application for review is made.

Applicants with a merits review right under s338(2) or s338(7A) of the Migration Act have 21 days plus notification time to apply for review.

**9. Is there a set of guidelines that govern how each State and Territory sponsor applicants under this programme?**

No.

**10. How many forms would prospective applicants need to provide to apply for a visa under the programme? Can you please provide these to the Committee? Can you describe the application process?**

The number of forms prospective applicants need to provide to apply for the visa under the programme will vary on a case by case basis. There are minimal forms required by the Department, as the application process is online.

Attached are copies of the forms, detailed below, that are required by the department for visa applications under the BIIP.

Form 1139A *Statement of Assets and Liabilities Position* is required with the application for subclass 188 and 132 visas. It should cross-reference to the applicant's supporting documentation. See **Attachment F**.

Form 1229 *Consent to grant an Australian visa to a child under the age of 18 years* or a Statutory Declaration is required for all visa subclasses of the Business Innovation and Investment Programme if the applicant is bringing a child younger than 18 with them to Australia and that child's other parent is not included in the application. See **Attachment G**.

In terms of additional documentation that needs to be supplied, this will also vary per case. More information on the documents required in the application can be found in **Attachments A, B, C, and D**.

Further information on the application process can be found in the responses to question 11 and the second question resulting from the public hearing.

Additional forms are may be required by state and territory government as part of the nomination process. The Australian Capital Territory, Tasmania and Victoria have online forms for nomination and below is a list of web addresses containing further information on the forms required for state nomination.

- ACT: <http://www.canberrayourfuture.com.au/portal/migrating/article/business-migration-visas/>
- NSW: <http://www.business.nsw.gov.au/live-and-work-in-nsw/visa-and-migration/business-migration/how-to-apply-and-application-forms>
- NT: <http://www.australiasnorthernterritory.com.au/Working/bsm/business/Pages/default.aspx>
- QLD: <http://migration.qld.gov.au/business-investor-visas/>
- SA: [https://www.migration.sa.gov.au/business\\_migrants](https://www.migration.sa.gov.au/business_migrants)
- TAS: <http://www.migration.tas.gov.au/business/visas/business/businessinnovation>
- VIC: <http://www.liveinvictoria.vic.gov.au/visas-and-immigrating/business-visas>
- WA: <http://www.businessmigration.wa.gov.au/?page=provisional-business-visas>

**11. Can you provide an overview of SkillSelect process? Is the innovation points test regularly reviewed? How does the points test assess business achievements?**

People interested in coming to Australia through the Business Innovation and Investment Programme need to lodge an Expression of Interest (EOI) through SkillSelect.

An EOI is not a visa application but an indication that someone would like to be considered for the programme.

Applicants will be asked to provide a range of information in their EOI depending on the visa they want to be considered for, such as:

- basic personal information
- nominated occupation
- work experience
- study and education
- level of English skills
- details of a skills assessment, related to their nominated occupation
- business and investment experience.

Once an applicant submits their completed EOI, they will receive a confirmation notification from SkillSelect.

The EOI will then remain in SkillSelect for a maximum of two years.

SkillSelect will calculate their points, assess their eligibility and will provide feedback when an EOI is submitted for points tested and business innovation visas. Applicants will be able to view a report to see where they were awarded points after they submit their EOI.

An EOI can be accessed and information can be updated at any time. If information is updated, which changes the points score or ability to make a complete EOI, SkillSelect will update the ranking and ability to be considered for an invitation automatically.

Upon completion of an EOI for a Business Innovation and Investment visa, an applicant will be asked from which state or territory they wish to seek nomination. They can select one state or territory, or any state or territory. If only one state or territory is selected, then staff from that government body will be able to view the EOI. If they select any state or territory, staff from all state or territory governments will be able to see their EOI for this visa type.

People who have lodged an EOI can then be found and nominated for skilled visas by Australian employers or state and territory governments, or they might be invited by the Australian Government to lodge a visa application.

State or territory governments will identify and select skilled business people or investors they may wish to nominate. State or territory governments may assess whether people meet their needs before they nominate them.

On a limited basis, sponsoring state or territory governments may award additional points towards the points test where they have determined that an applicant's proposed business is of exceptional economic benefit to that state or territory.

If a state or territory government nominates an applicant and the applicant has indicated that their points score is above the current pass mark, they will receive an invitation to apply from the SkillSelect system.

An invitation is permission that allows invitees to apply for a visa under the skilled migration programme for Australia. Invitations are issued on a monthly basis. The results of the invitation rounds are published on the department's webpage after every round.

The innovation points test has only been in use since July 2012. It has not yet been reviewed.

More information on the Innovation points test, including how the points test can assess business achievements is in the department's submission (pages 11-15; Attachment D; Attachment E).

## **12. How effective is the SkillSelect process in identifying suitable migrants?**

The effectiveness of SkillSelect has not yet been evaluated. The combination of a points test with SkillSelect should have a significant effect on improving the quality of business migrants entering the programme. A combination of the points test and objective measures of business performance is also expected to be more effective in selecting a higher quality of business migrant.

More information is available in the department's submission (pages 11-12).

## **13. What processes does the Department have in place to detect and manage fraudulent behaviour within the programme? How does the Department monitor compliance?**

Programme integrity is maintained through several policy settings, and processing arrangements.

A principal setting is the structure of the programme as a provisional/permanent programme. The current structure of the programme sees applicants apply for and be granted a provisional visa valid for up to four years. This process applies scrutiny to the applicants' existing business arrangements prior to migration, and then to their subsequent business activity in Australia.

The department also has strong quality control and quality assurance processes in place to identify and manage any fraudulent behaviour by clients within the Business Skills caseload. Examples of this approach include the undertaking of a risk assessment on each case to ensure that close scrutiny is afforded to caseloads with a higher integrity risk; random quality assurance checks for all granted cases; and integrity and

caseload-specific targeted training for processing officers. Visa processing officers are also trained in detecting fraud in documents. All refusals require a formal quality assurance check before the final decision. There are defined escalation points throughout the decision making process and where a potential area of integrity risk is identified by the Department, a number of integrity measures are available, including referral of documents for verification or further questioning or interviewing the client. Any non-genuine outcomes or inability for a client to demonstrate that they meet relevant visa criteria may result in the refusal of their application.

More information on how the department monitors compliance can be found in the responses to questions 6 and 25.

**14. In the last 10 years, how many successful applicants of this programme have obtained permanent residency?**

From the 2003-2004 programme year through to the 2012-2013 programme year, 9554 principal applicants obtained permanent residency through the Business Skills visa programme. A total of 3445 of these were through direct permanent entry and 6109 were through provisional visas that subsequently progressed to permanent visas.

This information does not account for people who held provisional Business Skills visas and progressed to a permanent visa through another programme, such as partner visas.

**15. Do you have details on the success or failure rate for businesses established under the programme?**

As previously stated, departmental systems record very limited information and the current Business Innovation and Investment Programme is still relatively new, so there is no data available for the current programme.

As detailed in answer to the previous question, there is information available about how many people progressed through the provisional stage to permanent visa under the previous programme. This data does not distinguish between those who simply chose not to proceed through to the permanent stage and those whose businesses may have failed resulting in their lack of progression. It also does not account for people that may have progressed to permanent visas through other programmes.

**16. What additional skilled streams form part of the migration programme? How much do they contribute to the economy compared with this programme?**

There are three other main skilled migration categories:

- Points based skilled migration;
- Permanent Employer Sponsored Programme; and
- Distinguished Talent.

It is noted within the department's submission that while business migration has a positive economic impact, there is very little evidence quantifying the size of impact.

There is also very little data that disaggregates the contribution made by the different categories of skilled migrants. Please refer to the department's submission (page 21) for more information on the Business Innovation and Investment Programme and economic growth.

**17. How much capital has been injected into the Australian economy as a result of this programme? How does that compare with other programmes?**

There have been 22 Investor stream (subclass 188) visas granted between 1 July 2012 and end April 2014 resulting in a minimum of \$33 million invested in Australia. Other streams do not have a minimum investment as part of the criteria so it is difficult to quantify how much capital has been injected into the economy as a result of those visa grants.

If the Significant Investor Visa stream is included, there is an additional \$1.4 billion (minimum) invested into Australia (based on 208 visa grants requiring a minimum \$5 million investment).

There is no data available to compare this to other programmes.

**18. Do you have any statistics showing how many additional jobs have been created under this programme? How does that compare with the previous Business Skills Programme?**

To apply for the Business Innovation and Investment (permanent) (subclass 888) visa through the Business Innovation stream, the applicant must have at least two full time employees. Due to the infancy of the programme, there is limited data available for subclass 888 as Business Innovation and Investment Provisional visa holders will not be eligible to apply for this visa until they have held their provisional visa for four years. The department's submission (Attachment B) has statistics on employment under the previous Business skills programme compared with all Australian businesses.

**19. The Canadian Government recently announced its intent to terminate its federal Immigrant Investor Program and Federal Entrepreneur Program.**

- ***Does the Department have any insight into the cancellations of these programmes and the similarities with our own?***

The department has no additional insight into the cancellations of Canada's Immigrant Investor Program (IIP) and Federal Entrepreneur (EN) Program. The information available on the Government of Canada's website is as follows:

The current IIP provides limited economic benefit to Canada... Eliminating the IIP and EN programs - and the associated backlog of applications – will allow the government to focus on attracting experienced business people and raising investment capital that is of maximum benefit to Canada's economy.

The government will replace these programs with more focused and effective pilot programs that will ensure that immigrants who come to Canada deliver meaningful benefits to our economy.

Source: [http://news.gc.ca/web/article-en.do?nid=814939&\\_ga=1.107119682.1389362865.1402020843](http://news.gc.ca/web/article-en.do?nid=814939&_ga=1.107119682.1389362865.1402020843)

For additional information, also visit: [http://news.gc.ca/web/article-en.do?nid=832319&\\_ga=1.52006761.1389362865.1402020843](http://news.gc.ca/web/article-en.do?nid=832319&_ga=1.52006761.1389362865.1402020843)

**20. What are the types of post-arrival business-related services that are provided to Business Skills entrants in setting up their new business in Australia? How are applicants made aware of these services?**

There are no post-arrival business-related services that are provided to Business Skills entrants by the federal government. The states/territories offer varying degrees of post-arrival business-related services.

Queensland, for example, provides a booklet that contains general information about living in Queensland and more specific information about starting and running a business in Queensland.

Business migrants to New South Wales are advised of trade and investment services such as Small Business Commissioners and investment and export advisory services.

The Small Business Development Corporation of Western Australia offers free information, guidance and advice to business migrants to assist them to establish and develop their business activities throughout Western Australia.

South Australia holds weekly open days for one-on-one appointments, for newly arrived business migrants to receive an information pack and other useful information. Applicants are made aware of these services at the time of nomination and are informed that if they are successful in obtaining their business migration visa, they are to meet with Immigration SA on arrival. South Australia also offers case management dependent on the project proposal and provides referrals to Business Enterprise Centres. Immigration SA is also looking at re-introducing networking events for onshore business migrants as well as introducing an account management process for SIV and high-worth subclass 132 (Business Talent) applicants.

Tasmania offers one-on-one orientation and follow up on a needs basis. Business migrants will also be provided with information on investment opportunities and business broker contacts on request. Information about government programs (eg. business assistance), business/ethical/local community networks and education facilities are also available. Tasmania informs the clients and their migration agents of these services at the interviews prior to nomination, at post-arrival orientation and anytime by email/telephone.

**21. What settlement services are provided to successful applicants and their families?**

There are no post-arrival settlement-related services that are provided to Business Skills entrants by the department. Responsibility for settlement services is now with the Department of Social Services portfolio. They provide general information for all new arrivals but the majority of settlement services are targeted towards refugee and humanitarian entrants. Most states also do not provide settlement services for business migrants beyond the business related services detailed in the response to the previous question.

**22. One submitter is of the view that the total asset requirements of the business innovation stream is excessively high. Do you have a view?**

The desire for more business migrants needs to be balanced against maintaining programme integrity. While to some extent lowering threshold requirements would ensure a higher level of visa lodgements, it is also likely to lower the quality of visa applicants.

Remodelling the business migration visas in 2012 was done with a view to improving the human capital of applicants. This has reduced the quantity of applicants for this visa category, however it was done to improve the quality of applicants.

At this stage, it is too early to tell to what extent this has been successful, as a limited number of the new visas have been granted, and no applicants have progressed from the new provisional visa through to permanent residence.

**23. The Western Australian Government's Business Migration Centre has suggested that all visa applicants should submit the State/Territory nomination Form 1414 with their application for a 888 visa (Submission 3, p. 2). Do you have a view?**

Currently not all applicants are required to submit Form 1414. Changing the requirement in the manner suggested would increase red tape for applicants with little gain for them or the department. It is also likely to result in other inefficiencies in visa processing through additional validity requirements.

**24. The Business Migration Centre has also suggested that case officers make a formal record of their interviews with applicants (Submission 3, p. 2). Do you have a view?**

Across all subclasses, any contact with a client/agent, whether via correspondence or verbal interaction, is recorded in a case note on the application. Additionally, all case officers within the Business Skills units keep a formal record of interviews. This process has been in place (in the Hong Kong office) since mid-2013, and forms part of the quality assurance process within the caseload. The information gathered at the interview would usually be documented in the decision record in refused cases, forming part of the basis of the refusal. Please note that while some case note records are a summary of the case officer's impressions and recollections, if there is any adverse information or if a



misunderstanding may have occurred, these are recorded and an opportunity to comment provided.

**25. The Business Migration Centre is also of the view that the Department is allowing 132 visa holders who are not meeting their economic obligations to continue without further monitoring (Submission 3, p. 3). What steps is the Department taking to ensure that all visa holders are meeting their obligations?**

The department monitors those holding subclass 132 (Business Talent) visas to:

- verify compliance with the visa requirements and take action in cases of non-compliance;
- evaluate whether or not the programme is meeting its objectives; and
- report to the government on the overall performance of the Business Skills and Business Innovation and Investment Programmes.

The department also seeks feedback from the state or territory sponsor regarding the visa holder's efforts to engage in business.

Business Monitoring for the subclass 132 visa is conducted by the Adelaide team for all subclass 132 visa holders. There may be occasions where the applicant does not receive the survey due to the department not having the current contact address.

The Monitoring Unit assesses the information received against the relevant legislation and determines whether the visa requirements are being met. Subclass 132 holders are assessed under section 134 of the Migration Act. If they meet the requirements under this section, they meet the monitoring requirement for the visa. Section 134 does not specifically mention the nominating jurisdiction, so even if the visa holder has not met the expectations of the nominating state/territory, they may still meet the requirements under the Act.

## **Attachment A: Personal documents required**

There are standard requirements for personal documents relating to identity, relationships, children, character requirements and English language proficiency across the subclasses within the Business Innovation and Investment Programme. They are detailed below.

### **Personal documents**

#### **Identity**

- Certified copies of the biographical pages of the current passports or travel documents of all people included in the application (these are the pages with the holder's photo and personal details and the issue/expiry dates).
- Two recent passport-sized photographs (45 mm x 35 mm) of each person included in the application.
  - These photographs should be of the head and shoulders only against a plain background.
  - Print the name of the person on the back of each photograph.
- If the applicant's name has changed or the name of anyone included in the application has changed: a certified copy of evidence of the name change.

#### **Relationships**

- Certified copies of marriage certificates or relationship registrations for applicant and anyone else included in the application, even if they are not joining the applicant in Australia.
- If applicant is living in a de facto relationship: independent evidence that the relationship is genuine and continuing (for example, joint bank account statements, billing accounts in joint names or joint ownership of major assets).
- If applicant or anyone included in the application has been widowed, divorced or permanently separated: a certified copy of the death certificate, divorce documents, or statutory declaration separation documents.
- Evidence of financial dependency for all family members aged 18 or older:
  - a certified copy of their birth certificate and proof of their relationship to applicant
  - proof that they live in applicant's household
  - proof that they have been financially dependent on applicant for at least the 12 months immediately before application is lodged.

### **Applicant's children**

- Certified copies of birth certificates or the family book showing the names of both parents of all applicant's dependent children.
- If any dependent child included in the application is adopted: certified copies of the adoption papers.
- If the applicant wants to bring a child younger than 18 years of age with them to Australia, and that child's other parent is not included in the application: documentary evidence that applicant has the legal right to bring that child to Australia, such as:
  - certified copies of official legal documents, such as a court-issued parental responsibility (custody), access or guardianship order
  - statutory declaration giving their permission
  - Form 1229 *Consent form to grant an Australian visa to a child under the age of 18 years*.  
If Form 1229 or a statutory declaration is used, applicant will have to attach a certified copy of the other parent's government-issued identification document (such as a passport or driver's licence) with their photograph and signature.

### **Character requirements**

- Police checks for everyone included in the visa application who is 16 years of age or older:
  - an Australian National Police Check for anyone who has spent a cumulative total of 12 months or more in Australia since turning 16 years of age
  - police certificates from each country in which anyone in the application has spent a cumulative total of 12 months or more in the past 10 years since turning 16 years of age.

Provide the original certificates. Applicants' should keep a copy for their records.

- If anyone included in the application has served in the armed forces of any country: certified copies of their military service record or discharge papers.

### **English language proficiency**

- For the applicant and each dependants aged 18 years or older at the time of application, provide one of the following:
  - to show functional English: the results of an IELTS test that they each took less than 12 months before the application is lodged
  - if the applicant or their dependents have less than functional English, a statement indicating their intention to pay the second visa application charge for each person with less than functional English.



## **Attachment B: Documentation requirements**

### **Business Innovation and Investment (provisional) visa (subclass 188)**

#### **Business Documents: Business Innovation stream and Investor stream**

- Overview of applicant's business career and intentions in Australia, which can include:
  - a statement outlining the intended business and/or investment activities
  - a description of their research or study in relevant sectors in Australia
  - a description of the business activities of the business in Australia in which they have an interest, and the period of ownership (if applicable).
- Evidence of net value of business and personal assets, which can include:
  - For cash assets: bank statements, on a single day in the three months preceding the application. All bank statements must have the same date of issue and must clearly identify the account holder
  - For real estate assets: evidence of ownership (certificate of title, title deed, valuation certificate by an accredited property valuer and/or mortgage certificate
  - For personal loans: loan agreements clearly identifying the borrower and lender, loan statements indicating amount borrowed and repayment schedule
  - For stocks and bonds: share or debentures certificates, fixed interest securities, ownership and market value of claimed marketable securities such as bonds
  - If applicant wants to include assets held by a trust, they must include a copy of the trust deed.
- Evidence of business ownership at the time they are invited to apply, such as:
  - full company extract or certificate of incorporation
  - shareholder certificate lodged with the Company Registrar, showing their share of capital annual return of the business
  - memorandum and articles of association
  - certificate of business registration, business licence or business names extract for the business

- franchise agreement, company registrar, or share transfer documents
- partnership agreements between all partners
- if the business is a trust: full trust deed and amendments (including the names of all trustees and beneficiaries at the time the trust was formed).

## Business Innovation stream

Provide the documents in this section only if applying for this visa under the Business Innovation stream.

### Business documents

- Evidence that the applicant has participated in the day-to-day management of the business for two of the four fiscal years before they were invited to apply, such as business contracts, minutes of meetings and documents initiated or authorised by them.  
The evidence needs to demonstrate their involvement in decisions about the management of all or substantial part of the business and responsibility for such areas as strategic management, recruitment, price structure, business profitability and expenditure.
- Business registration certificate or licence for their main business.
- Evidence of their ownership or share of ownership of the main business, such as:
  - evidence of purchase
  - share registers, company registers, or share transfer documents
  - historical company extracts
  - annual returns of directors and shareholders
  - partnership, trust or franchise agreements.
- A full set of financial statements for their business for two of the four fiscal years immediately before they were invited to apply for this visa (the statements must be prepared by an independent accountant to International Accounting Standards and include a balance sheet, profit and loss statement and notes to the accounts).
- A one-page organisational chart showing their position in the business, staff attribution, management reporting lines and functional responsibilities.
- Photos of business premises and business activities (maximum six photos).
- If applicable:

- details if any of their businesses has operated at a loss
- evidence if any of their businesses is or has been subject to insolvency, receivership or liquidation
- evidence of bankruptcy of any of their businesses.

#### **Net assets**

- Evidence that the applicant, their partner, or the applicant and their partner combined hold total net business and personal assets of at least AUD800 000 that are legally acquired and can be transferred to Australia within two years after the visa is granted.
- A one-page summary statement outlining all the applicant's and their partner's assets and liabilities on a day of their choice in the three months before they were invited to apply for this visa, with details of how those assets were acquired, including the source of funds.
- Evidence of their ownership of each asset, its value, and liabilities (if any) against the asset (for example, mortgages, credit cards and loans, including unsecured and third-party loans):
  - for assets held by a trust: the trust deed
  - for cash assets: bank statements, all less than three months old, with the same date of issue
  - for real estate assets: title deeds, valuation certificates by an accredited property valuer, and mortgages
  - for business assets other than the main business: business registration certificates; evidence of shared ownership; full set of financial statements for two of the four fiscal years before they were invited to apply (prepared by an independent accountant to International Accounting Standards and including a balance sheet, profit and loss statement and notes to the accounts)
  - for personal or business loans: loan agreements, loan statements indicating the amount borrowed and the repayment schedule, and loans listed in the business balance sheet (for loans to or from a business)
  - for stocks and bonds: share or bond registers, share/fixed interest securities, debentures or transfer certificates.

- If a publicly listed company operates any of their qualifying businesses: evidence that the applicant, their partner or the applicant and their partner combined own at least 10 per cent of the issued shares of the publicly listed company.
- Evidence of a business plan to indicate their intentions and efforts to actively participate in and manage the qualifying business, describing their proposed business activities in Australia and indicating how they will benefit Australia economically.

## Investor stream

Provide the documents in this section only if applying for this visa under the Investor stream.

- Overview of the applicant's eligible investment activity or their qualifying business activity and intentions in Australia, which could include:
  - their curriculum vitae or resume
  - a statement outlining intended business and investment activities
  - a description of their research or study in relevant sectors in Australia
  - a description of the business activities of the business in Australia in which they have an interest and their period of ownership, if applicable.
- If applicable:
  - details if any of their businesses has operated at a loss
  - evidence if any of their businesses is or has been subject to insolvency, receivership or liquidation
  - evidence of bankruptcy of any of their businesses.

## Management or ownership in a qualifying business

Provide these documents only if the applicant wants to prove their management or ownership in a qualifying business.

- A statement of management for one of the five fiscal years before they were invited to apply for this visa, showing their direct and continuous involvement in the management of the business and day-to-day decision-making.
- An organisational chart of the business for the same year, showing direct management reporting lines and functional responsibilities.
- A business registration certificate or licence.



- Evidence of their share of ownership, such as:
  - evidence of purchase
  - share registers, company registers and/or share transfer documents
  - historical company extracts
  - annual returns of directors and shareholders
  - partnership, trust and/or franchise agreements.

### **Management, ownership and value of eligible investments**

Provide these documents only if the applicant wants to prove their management or ownership of AUD1.5 million in eligible investments.

- A summary of eligible investments claimed for one of the five fiscal years immediately before the applicant was invited to apply for this visa, including:
  - their net value
  - a summary statement of management of each eligible investment.
- Evidence of management of investments for the above period one of the five fiscal years immediately before they were invited to apply for this visa:
  - for ownership interest in a business: evidence that they have managed the performance of the business or have been involved in the management of the business
  - for loans to businesses: a copy of terms and conditions, interest rate, record of repayments
  - for cash on deposit: evidence of having monitored interest rates and returns on this investment against other potential eligible investments
  - for stocks and bonds: evidence that they have measured the performance of these assets
  - for real estate: yield statements in terms of income from investment properties, cash flow statements and disbursements, records of property maintenance or improvements
  - for gold and silver bullion: the result of regular (at least twice yearly) valuations of bullion.
- Evidence of their ownership of each eligible investment:

- for ownership in a business: at least one of evidence of purchase; share registers, company registers, or share transfer documents; historical company extracts; annual returns of directors and shareholders; partnership, trust or franchise agreements
- for loans to a business: certified copies of loan agreements, evidence that the loan is recorded in the financial statements of the debtor business
- for cash on deposit: bank statements identifying the account holder
- for stocks and bonds: a record of share transactions verified by a stockbroker or the stock exchange as at the end of the fiscal year
- for real estate: certified copies of title deeds
- for gold or silver bullion: certified copy of the purchase contract from a registered bullion dealer; independent confirmation that the applicant still owns the bullion, indicating where it is held.

Label each document so that it clearly identifies the eligible investment. Cross-reference the investment to the appropriate item in the Statement of Assets and Liabilities Position (SALP) on Form 1139A *Statement of Assets and Liabilities Position*.

- Evidence of the net value of each eligible investment for the five fiscal years immediately before they were invited to apply for this visa.

#### **Source of funds used to make the designated investment**

- Evidence of liabilities (if any) against each investment (for example, mortgages; loans, including unsecured and third party loans; credit cards).

Label each document so that it clearly identifies the eligible investment. Cross-reference the investment to the appropriate item in the Statement of Assets and Liabilities Position (SALP) on Form 1139A *Statement of Assets and Liabilities Position*.

- Evidence that funds proposed to be used to make the designated investment were accumulated from qualifying business or eligible investment activities (for example, evidence of dividends or profit retained in the business and available for distribution).

Identify those funds or assets that will be used to make the designated investment in Form 1139A *Statement of Assets and Liabilities Position*.

#### **Net assets**

- A Statement of Assets and Liabilities Position (SALP) completed to the end of each of the three consecutive fiscal years before they were invited to apply:

- Form 1139A *Statement of Assets and Liabilities Position*
- If they lodge the application more than three months after the end of the fiscal year: a fourth SALP as at the date of the application.
- Evidence of ownership of assets with a minimum total net value of AUD2.25 million at each point of time shown in the SALPs, including evidence of:
  - the value of each asset
  - liabilities (if any) against each asset (for example, mortgages; loans, including unsecured and third-party loans; credit cards)
  - for assets held via a trust: a copy of the trust deed
  - for cash assets: bank statements for the dates nominated on their SALPs
  - for real estate assets, for the dates nominated on their SALPs: title deeds, valuation certificate by an accredited property valuer, mortgage documents
  - for personal or business loans, for the dates nominated on their SALPs: loan agreements, loan statements indicating amount borrowed and repayment schedule; listings in business balance sheets (if loan is to or from a business)
  - for ownership interests in businesses, for the dates nominated on their SALPs: evidence of ownership, such as evidence of purchase; share registers; company registers; share transfer documents; historical company extracts; annual returns of directors and shareholders; partnership, trust or franchise agreements; evidence of value, such as extracts from financial statements for each business, prepared by an independent accountant to International Accounting Standards and including a balance sheet and notes to the accounts
  - for stocks and bonds: share or bond registers, shares, fixed interest securities, debenture certificates, transfer certificates for the dates nominated on their SALPs.
- Label each document so that it clearly identifies the eligible investment. Cross-reference the investment to the appropriate item in the SALPs.

## Points test documents

Provide the documents in this section only if the applicant is applying for this visa under the Business Innovation stream or the Investor stream. There is no points test for the Significant Investor stream.

Provide documents only for items for which the applicant seeks to be awarded points.

### **English language proficiency**

- Provide either:
  - An International English Language Test Score (IELTS) of vocational or proficient English proficiency in a test that has been conducted within three years immediately before lodgement of the application
  - A score of at least 'B' in each component of the Occupational English Test (OET) in a test that has been conducted within three years immediately before lodgement of the application
  - Evidence that they are the holder of a passport from the United Kingdom, the United States of America, Canada, the Republic of Ireland or New Zealand.

### **Qualifications**

- A certified copy of the trade qualification, diploma or bachelor degree used to claim points.

### **Net assets**

- A statement of their assets and liabilities at the time they were invited to apply for this visa, with supporting documents.

### **Business turnover**

- A full set of financial statements for the business, for two of the four fiscal years before they were invited to apply for this visa, prepared by an independent accountant to International Accounting Standards, including a balance sheet, profit and loss statement and notes to the accounts.

### **Business experience**

- Evidence that they have been engaged in business activities for either:
  - at least four years in the five years immediately before they were invited to apply for this visa
  - at least seven years in the eight years immediately before they were invited to apply.
- Corporate ownership records, business financial statements, taxation records, trust deeds or other documents demonstrating their history in business.

### **Investment experience**

- Evidence that they have been engaged in investment activities for either:

- at least four years in the five years immediately before they were invited to apply for this visa
  - at least seven years in the eight years immediately before they were invited to apply.
- Documentary evidence for the first year that will establish their history of investment experience. For example, if they are seeking to demonstrate investment experience of more than seven years, provide evidence of investment activity for the first of the seven years immediately before the time of invitation.
- A statement of assets and liabilities for the first and each subsequent year for the claimed period of investment experience to indicate that the eligible investments had a value of not less than AUD100 000 throughout the claimed investment period:
  - Form 1139A *Statement of Assets and Liabilities Position*
- A statement of management of the investments over the claimed investment period.

## **Innovation**

- Registered patent or design:
  - Documentary evidence issued by the relevant national or regional intellectual property administration office to prove ownership, including sufficient information to allow an assessment of whether the applicant's ownership meets the requirement for the award of points.
  - A detailed statement outlining how the registered patent or registered design is relevant to the operations of their main business and how it is applied in the day-to-day activities of the business. The applicant must be able to provide evidence to support any claims made in the statement if asked.
- Registered trademark:
  - Documentary evidence issued by the relevant national or regional intellectual property administration office to prove ownership of the trademark. The documents should include sufficient information to allow an assessment of whether their ownership meets the requirement for the award of points.
  - A detailed statement outlining how the trademark is relevant to the operations of their main business and how it is applied in the day-to-day activities of the business. The applicant must be able to provide evidence to support any claims made in the statement if the Department asks them to.
- Joint venture agreement: A copy of the agreement showing:

- the details of the respective rights and obligations of the parties to the joint venture
  - that the agreement was entered into at least one year before they were invited to apply for this visa, and that their business is a party to the joint venture
- Joint venture agreement: A detailed statement outlining:
  - how they used their skills when actively participating at a senior level in the day-to-day management of the joint venture business evidence to support the claims made in the statement
  - that the joint venture was operated in accordance with the joint venture agreement.
- Export trade: Evidence that at least 50 per cent of the turnover of their main business related to export trade for at least two of the four fiscal years before they were invited to apply for this visa, such as:
  - monthly or annual tax returns showing the cumulative export sales of the main business for the year
  - customs declarations
  - the underlying source documents in relation to the export transactions.

The applicant might be required to provide a special-purpose report prepared by a qualified accountant attesting to their claim.

- Gazelle business:
  - A business licence or company extracts that show their main business was registered no more than five years before they were invited to apply for this visa.
  - The financial statements of the main business, with supporting tax documents, to show an average annualised growth in turnover greater than 20 per cent per year over three consecutive fiscal years.
  - Evidence that they have had 10 or more full-time employees for at least one fiscal year of in the same consecutive three-year period claimed for growth in turnover, such as taxation records, insurance or superannuation documents or similar business records identifying each employee by name.
- Receipt of grant or venture capital funding:

- Certified copies of a grant letter and bank records to show the transfer of a government grant of at least AUD10 000 from the government to applicant or their main business.
- A copy of the final contract entered into between the applicant and the venture capital firm and evidence of the receipt of the venture capital funding of at least AUD100 000.
- Evidence that funding from either the government grant or a venture capital firm was received within the four years before they were invited to apply for this visa.

## **Attachment C: Documentation requirements**

### **Business Talent (Permanent) visa (subclass 132)**

#### **Net assets**

- A one-page summary statement outlining all the applicant's assets and liabilities on a day of their choice in the three months before they were invited to apply for this visa, with details of how those assets were acquired, including the source of funds.
- Evidence of ownership of each asset and liabilities (if any) against each asset (for example, mortgages, credit cards and loans, including unsecured and third-party loans):
  - for assets held by a trust: the trust deed
  - for cash assets: bank statements, all less than three months old, with the same date of issue
  - for real estate assets: title deeds, valuation certificates by an accredited property valuer, and mortgages
  - for personal or business loans: loan agreements, loan statements indicating the amount borrowed and the repayment schedule, and loans listed in the business balance sheet (for loans to or from a business)
  - for stocks and bonds: share or bond registers, share/fixed interest securities, debentures or transfer certificates.

#### **Business documents**

- Overview of the applicant's business career and intentions in Australia, which can include:
  - a statement outlining their intended business and/or investment activities
  - a description of their research or study in relevant sectors in Australia
  - a description of the business activities of the business in Australia in which they have an interest, and the period of ownership (if applicable).

#### **Significant Business History stream**

Provide the documents in this section only if applying for this visa under the Significant Business History stream.

- Evidence that the applicant, their partner, or the applicant and their partner combined hold total net business and personal assets of at least AUD1.5 million that are legally acquired and can be transferred to Australia within two years after the visa is granted



- Evidence that the applicant, their partner, or the applicant and their partner combined held total net assets of at least AUD400 000 in one or more qualifying businesses in at least two of the four fiscal years immediately before they were invited to apply for this visa.
- Evidence of a total annual turnover of at least AUD3 million in one or more of the applicant's main businesses in at least two of the four fiscal years immediately before they are invited to apply.
- If a publicly listed company operates any of the qualifying businesses: evidence that the applicant, their partner or the applicant and their partner combined own at least 10 per cent of the issued shares of the publicly listed company.
- Evidence of a business plan to indicate the applicant's intentions and efforts to actively participate in and manage the qualifying business, describing their proposed business activities in Australia and indicating how it will benefit Australia economically.
- Evidence that the applicant have participated in the day-to-day management of the business for two of the four fiscal years before they were invited to apply, such as:
  - a full set of financial statements for their business for two of the four fiscal years immediately before they were invited to apply for this visa (the statements must be prepared by an independent accountant to International Accounting Standards and include a balance sheet, profit and loss statement and notes to the accounts)
  - a one-page organisational chart showing their position in the business, staff attribution, management reporting lines and functional responsibilities.
  - photos of business premises and business activities (maximum six photos)
  - business contracts
  - minutes of meetings
  - documents initiated or authorised by the applicant
  - if applicable: details if any of their businesses has operated at a loss, evidence if any of their businesses is or has been subject to insolvency, receivership or liquidation, or evidence of bankruptcy.

The evidence needs to demonstrate the applicant's involvement in decisions about the management of all or substantial part of the business and responsibility for such areas as strategic management, recruitment, price structure, business profitability and expenditure.

- Evidence of business ownership, such as:
  - full company extract or certificate of incorporation
  - shareholder certificate lodged with the Company Registrar, showing their share of capital

- annual return of the business
- memorandum and articles of association
- certificate of business registration, business licence or business names extract for the business
- franchise agreement, company registrar or share transfer documents
- partnership agreements between all partners
- if their business is a trust: full trust deed and amendments (including the names of all trustees and beneficiaries at the time when the trust was formed).

## Venture Capital Entrepreneur stream

Provide the documents in this section only if applying for this visa under the Venture Capital Entrepreneur stream.

- A legally binding venture capital agreement with an Australian company that is a member of the Australian Private Equity and Venture Capital Association Limited (AVCAL) to show that the applicant has obtained venture capital funding of at least AUD1 million from an Australian venture capital firm, and a letter stating that the funding is for the start-up, development or expansion of a business, or for product commercialisation in Australia.
- Evidence that the nominating Australian state or territory government agency is satisfied that the applicant, their partner or the applicant and their partner combined have sufficient assets to allow them to settle in Australia.
- Evidence of their genuine and realistic commitment to continuously maintain a substantial ownership interest in new or existing eligible business in Australia and to engage directly and continuously in the daily management and decision-making of the business.
- An overview of their business career and intentions in Australia, including a statement outlining their intended business and/or investment activities and a description of their research or study in relevant sectors in Australia.

## **Attachment D: Documentation requirements**

### **Business Innovation and Investment (permanent) visa (subclass 888)**

Requirements and additional documentation necessary

#### **State or territory nomination**

- A completed nomination form from an Australian state or territory government.

If the applicant is the holder of a provisional Business Innovation and Investment visa (subclass 188) and the state or territory that nominated them for that visa has not withdrawn the nomination, the applicant has a current nomination by that state or territory.

If the applicant is the holder of a Special Category visa (subclass 444), or requires nomination from a different state or territory than their provisional Business Innovation and Investment visa (subclass 188) they are required to obtain nomination from a state or territory before they lodge an application for this visa.

#### **Commitment to business and investment activity**

- A one-page summary of the applicant's proposed business or investment intentions in Australia in the long-term.
- Notice of or report from any investigation into the Australian business or investment operating environment.
- Evidence of compliance with the laws of the Commonwealth, and of the state or territory in which the applicant operates their business. Provide one of the following:
  - a written declaration stating the applicant has complied with the laws of the Commonwealth, and of the state or territory in which they operate their business
  - details of any incidence where the applicant has breached the laws of the Commonwealth, and of the state or territory in which they operate their business.

These laws include laws relating to taxation, superannuation and workplace relations.

#### **Documents to show changes in circumstances**

- If the applicant's name has changed or the name of anyone included in the application has changed: a certified copy of evidence of the name change.
- Certified copies of marriage certificates or relationship registrations for the applicant and anyone else included in the application, even if they are not joining the applicant in Australia.
- If the applicant or anyone included in the application has been widowed, divorced or permanently separated: a certified copy of the death certificate, divorce documents, or statutory declaration separation documents.

- If the applicant is living in a de facto relationship: independent evidence that their relationship is genuine and continuing (for example, joint bank account statements, billing accounts in joint names or joint ownership of major assets).

### Documents from each dependant who do not hold a Business Innovation and Investment (Provisional) visa (subclass 188)

- Certified copies of marriage certificates or relationship registrations for the applicant and anyone else included in the application, even if they are not joining the applicant in Australia.
- If the applicant is living in a de facto relationship: independent evidence that their relationship is genuine and continuing (for example, joint bank account statements, billing accounts in joint names or joint ownership of major assets).
- Certified copies of birth certificates or the family book showing the names of both parents of all the applicant's dependent children.
- If any dependent child included in the application is adopted: certified copies of the adoption papers.

### Applicant's dependants

- Evidence of financial dependency for all the applicant's family members aged 18 or older:
  - a certified copy of their birth certificate and proof of their relationship to the applicant
  - proof that they live in the applicant's household
  - proof that they have been financially dependent on the applicant for at least the 12 months immediately before the application is lodged.
- If the applicant wants to bring a child younger than 18 years of age with them to Australia, and that child's other parent is not included in the application: documentary evidence that the applicant has the legal right to bring that child to Australia, such as:
  - certified copies of official legal documents, such as a court-issued parental responsibility (custody), access or guardianship order
  - statutory declaration giving their permission
  - Form 1229 Consent form to grant an Australian visa to a child under the age of 18 years.  
If Form 1229 or a statutory declaration is used, the applicant will have to attach a certified copy of the other parent's government-issued identification document (such as a passport or driver's licence) with their photograph and signature.

## Character requirements

### Applying outside Australia:

Do not provide these documents at time of application. The Department will tell the applicant when to provide them.

### Applying in Australia:

Provide the following documents with the application.

- Police checks for everyone included in the visa application who is 16 years of age or older:
  - an Australian National Police Check for anyone who has spent a cumulative total of 12 months or more in Australia since turning 16 years of age
  - police certificates from each country in which anyone in the application has spent a cumulative total of 12 months or more in the past 10 years since turning 16 years of age.

Provide the original certificates and the applicant should keep a copy for their records

- If anyone included in the application has served in the armed forces of any country: certified copies of their military service record or discharge papers.

### English language proficiency

Provide the documents for family members who do not hold a Business Innovation and Investment (Provisional) visa (subclass 188).

- For each of the applicant's dependant family members aged 18 years or older when the application is lodged, provide one of the following:
  - if they have functional English: the results of an IELTS test they took during the three years before the application is lodged
  - if they have less than functional English: a statement indicating the applicant's intention to pay the second visa application charge.

## Business Innovation stream

### Business documents

- Overview of the applicant's business activities and assets in Australia. Provide a short summary (no more than two pages) addressing:
  - the applicant's ownership interest in their businesses in Australia including size and length of ownership
  - a summary of the applicant's Australian business activities
  - the applicant's management role in their businesses for the two years before application

- the applicant's net assets of their businesses throughout the 12 months before they apply
  - the turnover of the applicant's businesses for the 12 months before they apply
  - the number of people employed by the applicant's businesses during the 12 months before they apply, their citizenship or residency status and relationship to the applicant, if any
  - the applicant's net assets in Australia throughout the 12 months before they apply.
- One-page organisational chart for each business claimed, showing the applicant's position, staff attribution, management reporting lines and functional responsibilities over the two years before they apply.
- Photographs of business premises and business activities (maximum six photographs).

### **Business ownership**

- Evidence of business ownership for the two years immediately before the applicant applies for this visa. This should include one or more of the following:
  - evidence of the purchase of the business
  - partnership, trust or franchise agreements (include all pages and related schedules, with evidence of stamp duty paid)
  - evidence of the issue, purchase or transfer of shares showing:
    - date of ownership
    - if shares purchased or transferred, provide evidence from the relevant state revenue office that stamp duty has been paid, or that the shares have been registered with the Australian Securities and Investment Commission (ASIC)
    - historical ASIC company extract.
- If the applicant acquired the business ownership interest from another person who was an applicant for, or held, a Business Skills (Permanent) (Class EC) visa at the time they acquired the business, provide evidence that they held joint ownership interest in the business with that person for at least one year immediately before making an application.

### **Management**

- A detailed description of the applicant's management role.
- Evidence that the applicant has participated in the day-to-day management of the business for the two years immediately before they apply for this visa, which can include but is not limited to:
  - business contracts

- business communications (letters, emails)
- evidence of business meetings
- independent third-party business references
- documents demonstrating responsibility for such areas as strategic management, recruitment, price structure, business profitability, expenditure.

The applicant's evidence must demonstrate continuous involvement in significant aspects of the day-to-day management, and in decisions affecting the overall direction and performance, of the whole or a substantial part of the business.

- A one-page organisational chart for each business claimed, showing the applicant's position, staff attribution, management reporting lines and functional responsibilities over the two years before they apply. Include staff rosters (if applicable), trading hours and a description of activities and/or practices over a typical trading week.

#### **Taxation**

- Evidence of an Australian business number (ABN) for each business claimed.
- ATO Portal lodged business activity statement (BAS) for each business claimed. BASs must be provided for each business claimed for each period in the two years before they apply.
  - If the applicant does not have a BAS for any period within the two years, provide evidence from the Australian Taxation Office that they were not required to provide a BAS, plus supporting business documents (for example most recent business taxation returns).
- Evidence of the applicant's personal taxation returns and notices of assessment by the Australian Taxation Office for the two years before they apply.

#### **Financial documents**

- Extracts from financial statements for the applicant's business, including balance sheet, profit and loss statement and notes to the accounts. The financial statements should:
  - be signed by directors and the accountant
  - be prepared by an accountant to Australian Accounting Standards
  - cover the beginning and end of a 12-month period ending no more than three months before they apply.

#### **Evidence of employees (if applicable)**

- PAYG summaries, wage books, employee contracts, workers compensation, insurance and superannuation documents to show that the applicant provided employment in Australia to at least two employees who:

- are full-time employees or part-time employees who are the equivalent of two full-time employees
  - were employed for a 12-months period that ended less than three months before the applicant applied for this visa. This period should be the same period covered by the financial statements of the business that they have provided.
- Evidence of residency or citizenship status of employees for the employment period that the applicant has specified (for example, copy of passport, birth certificate, citizenship certificate).

### **Net assets**

The applicant must provide documents to show their (or the applicant and their partner's) net assets that are available for transfer within two years of grant.

- A one-page summary statement outlining all assets and liabilities for the beginning and end of a 12-month period:
  - ending no more than three months before they apply for this visa
  - that is the same period covered by the financial statements and employee records provided as part of their business documents.
- Evidence of ownership and value of assets: a minimum AUD600 000 of net assets must be demonstrated for the beginning and end of a 12-month period:
  - ending no more than three months before they apply for this visa
  - that is the same period covered by the financial statements and employee records provided as part of their business documents.
- Evidence of liabilities (if any) against each asset (for example mortgages, loans including unsecured and third party loans, and credit cards).
- For assets held by a trust: a copy of the trust deeds.
- For cash assets: bank statements or term deposit certificates. All bank statements must have the same date of issue for each assessed point in time.
- For real estate assets, provide:
  - evidence of ownership (title deeds)
  - evidence of value (valuation certificate by an accredited property valuer)
  - evidence of mortgage.

Valuations by real estate agents who are not accredited property valuers are usually not acceptable.

- For business net assets: evidence of ownership and value as outlined under 'Business documents'. The applicant can include a cross-reference.



- For personal or business loans in Australia:
  - loan agreements
  - loan statements indicating the amount borrowed and the repayment schedule
  - loans listed in the business balance sheet (for loans to or from a business).
- For stocks and bonds: share or bond registers, share or fixed interest securities or debentures certificates, transfer certificates.

## Investor stream

- Designated investment: evidence that the applicant has held a designated investment of AUD1.5 million for four years. If the investment has already matured, the evidence can be in the form of:
  - written or emailed confirmation from the Treasury Corporation
  - bank statements confirming repayment of the amount.
- Business or investment record and history: an overview of the applicant's business or investment activities in Australia:
  - a short summary of any activities in Australia in addition to holding the designated investment to the current date
  - plans for future activities.
- Residence requirement: evidence that the applicant has lived in Australia as a Business Innovation and Investment (Provisional) visa (subclass 188) holder under the Investor stream for a total of at least two years in the four years immediately before they apply for this visa. The two-year period in Australia does not need to be continuous.

Failure to meet this criterion can lead to the application being refused, regardless of the performance of the businesses.