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**New Skilled Regional  
Visas (Consequential  
Amendments) Bill  
2019 [Provisions]**  
Submission to the Senate  
Standing Committee on  
Legal and Constitutional  
Affairs  
September 2019



Australian  
Chamber of Commerce  
and Industry



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# 1 Introduction

The Australian Chamber of Commerce and Industry (Australian Chamber) welcomes the opportunity to make a submission to the Senate Standing Committees on Legal and Constitutional Affairs Committee on the New Skilled Regional Visas (Consequential Amendments) Bill 2019 [Provisions].

This submission supports the proposed Bill. However, it does so in the context that there are some broader reservations about the decision to convert the employer-sponsored Regional Sponsored Migration Scheme into a provisional visa.

We note that the Joint Standing Committee on Migration's Inquiry into Migration in Regional Australia is relevant to this discussion. In that submission, we highlighted the barriers to regional migration in Australia and the policy changes that could encourage regional migration. In this current submission, we take the opportunity to elaborate specifically on the potential impact of the shift in the employer-sponsored migration pathways for regional workers.

## 2 Regional Migration is important to all of us

Although Australia is largely an urbanised country, strong and vibrant rural communities are important for all of us. With a concentrated population, cities have become the jobs and innovation hub of Australia delivering productivity and growing our economy. Large population centres also support increased building activity and attract infrastructure and services funding which in turn creates more jobs. All of this activity attracts migrants to the capital cities, as does the connection of cultures and families to live near one another. This urban activity does not well serve the needs of regional Australia. There is a strong call from the regions for solutions that will ensure they have access to the skills and labour they need to keep their businesses and communities sustainable. It is essential that we support migration policies that successfully meet regional skill and labour needs. This is about putting positive policies in place that support regional jobs growth, and encouraging migrants to fill job vacancies.

With the abolition of the Regional Sponsored Migration Scheme visa (RSMS) (subclass 187) in March 2019, the Federal Government removed the only exclusive employer sponsored permanent migration pathway into regional Australia<sup>1</sup>. With the interim Regional Occupations List allowing access to all skilled occupations, the RSMS was a more suitable pathway for employers to access the skills they needed and for migrants to settle in regional Australia. With the removal of the RSMS and the introduction of the new Skilled Employer Sponsored Regional (Provisional) visa (subclass 494) in its place, which has a wait time of three years before they can access permanent residency, this creates a level of uncertainty which may prove to be an impediment to attract migrants to the regions.

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<sup>1</sup> Department of Home Affairs 2019, Skilled Visa eNews – Special edition March 2019, < <https://immi.homeaffairs.gov.au/what-we-do/skilled-migration-program/skilled-visa-newsletters/special-edition-march-2019>>.

Talented migrants looking for opportunities may choose the metro areas under a different stream that grant immediate permanent residency.

The submission highlights key issues with the abolition of the RSMS and the introduction of the three new visa classes and its impact on regional skill needs.

### 3 New Regional Visas

The Federal Government in March 2019 introduced a number of measures to with the objective to encourage and increase regional skilled migration. The new visa classes introduced aim to direct up to 23,000 skilled migrants annually to the regions on a provisional permanent residency visa for 3 years. Two skilled regional visas come into effect on 16 November 2019 and have a pathway to permanency<sup>2</sup>. To be eligible for permanent residence, holders of the skilled regional provisional visas will need to demonstrate they have lived and worked in regional Australia for at least three years.

**Independent Skilled:** A new Skilled Work Regional (Provisional) visa (subclass 491), with a new and enhanced points-test for applicants nominated by a state or territory government agency or sponsored by an eligible family member residing in a designated regional area. This will replace the Skilled – Regional (Provisional) visa (subclass 489).

**Employer Sponsored:** A new Skilled Employer Sponsored Regional (Provisional) visa (subclass 494), with two streams: Employer Sponsored and Labour Agreement. This will replace the Regional Sponsored Migration Scheme visa (subclass 184) once existing applications are dealt with.

**Permanent:** A new Permanent Residence (Skilled Regional) visa (subclass 191) from 16 November 2022, for those who hold the above two provisional visas and satisfy the below eligibility criteria

- Hold a regional provisional visa when they apply for the permanent residence visa and have held that visa for at least three years;
- Have earned a minimum income for at least three years as the holder of a regional provisional visa; and
- Have complied with the conditions of the regional provisional visa.

Our key concern is with the change to the employer-sponsored visa as employers who reach out to permanent migrants to fill skills gaps need to offer as attractive a package as possible to ensure they obtain highly skilled workers to help their businesses grow and create jobs.

The provisional nature of the visas and the need to wait for three years to apply for permanent residency is a key factor in the decision making for migrants looking to make a move. This is especially the case when there are other alternative migration pathways that do not impose such restrictions on movement as well as permanency – the Employer Nominated Scheme, State Sponsored and the Points tested Independent skilled. It is worthwhile to note that these

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<sup>2</sup> Subclass 491 - Skilled Work Regional Provisional visa and the subclass 494 - Skilled Employer Sponsored Regional Provisional visa



alternatives pathways are not restricted to the regions and open up a range of options for the migrant. The RSMS was a pathway of equal standing to these alternate streams with the larger occupation list, the Regional Occupations List (ROL) underpinning it.

There may be some basis for trialling a new approach to independent skilled migration, which accepts migrants on the basis that they only settle in the regions. The key concern will be that in a country as large as Australia, the ability for new migrants to find those jobs will be challenging.

The new visas are due to come into effect on 16 November 2019 and it will likely be a few years before we are able to gauge the interest and uptake of the visas. It is unlikely to translate into a like for like interest when compared to the RSMS.

These comments do not detract from the need to support the Bill, but they put migration stakeholders on notice that the new regional visas may not have the successful outcomes hoped for.

## 4 Proposed Changes under the New Skilled Regional Visas (Consequential Amendments) Bill 2019 [Provisions]

The **New Skilled Regional Visas (Consequential Amendments) Bill 2019 [Provisions]** currently under consideration in the Federal Parliament looks to amend seven Acts to provide holders of these provisional skilled regional visas with the same access to welfare payments and government services as permanent visa holders, where eligible<sup>3</sup>. This amendment is meant to remove any disadvantage that regional skilled migrants on a provisional visa perceive, in comparison to permanent skilled visas, which allows them to settle anywhere in Australia and avail welfare such as Medicare and Family Benefit immediately. These favourable provisions are also an incentive for the migrants to settle in the regions as opposed to metropolitan areas.

Access to social security benefits is generally restricted to people who are Australian permanent residents or citizens residing permanently in Australia. Migrants granted a permanent visa must wait between one and four years before they can access certain welfare payments and concession cards. The Newly Arrived Resident's Waiting Period (NARWP)<sup>4</sup> means that most migrants do not have access to the majority of payments for up to four years after their arrival. Payments for the long-term contingencies of life, such as old age and disability, are further restricted to those people with a long-term connection with Australia (unless, in the case of Disability Support Pension, the disability occurs while the person is an Australian resident). The waiting period rules changed on 1 January 2019.

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<sup>3</sup> New Skilled Regional Visas (Consequential Amendments) Bill 2019, accessed 23 September 2019, <<https://www.legislation.gov.au/Details/C2019B00150?fbclid=IwAR2o41WOaGvCjkZvA5Vkr5WdN-tgm7iur2dE11CT8N6O12-A-mleHjArNE0>>.

<sup>4</sup> Department of Social Services n.d, Changes to waiting periods for migrants from 1 January 2019, accessed 20 September 2019, <<https://www.dss.gov.au/living-in-australia-and-overseas/updates>>.



For people granted a permanent visa on or after 1 January 2019, the following waiting periods apply:

- A four-year waiting period applies to most working age payments.
- A two-year waiting period applies to Parental Leave Pay, Dad and Partner Pay and Carer Payment.
- A one-year waiting period applies to Carer Allowance and Family Tax Benefit Part A.
- There is no waiting period for Family Tax Benefit Part B.
- Those granted a permanent visa before 1 January 2019 are subject to the old rules. They can access Family Tax Benefit Part A, Parental Leave Pay, Dad and Partner Pay and Carer Allowance immediately, if they are eligible. They have a two-year waiting period for most other payments.

With the proposed amendments under consideration in the Bill for the provisional visas, the NARWP for provisional skilled regional visa holders starts when they become the holder of that visa and does not re-start once granted a permanent visa. This brings the waiting period in line with a newly arrived permanent migrant (say under the Regional Sponsored Migration Scheme) for most Government benefits.

The Australian Chamber supports the expansion of government benefits to include provisional skilled migrants. These amendments even out the playing field in terms of the disparity in Government benefits between permanent migrants and regional migrants on a provisional visa. However, the premise of the provisional visa fails to take into account the most critical aspect of a migrant's decision to move countries and make regional Australia their home – the stability and assurance of a permanent life in our country.

## 5 Regional Sponsored Migration Scheme

The Regional Sponsored Migration Scheme (RSMS), subclass 187 visa, allowed skilled overseas workers to live and work in regional Australia permanently.

Basic eligibility criteria for the visa:

- is to be nominated by an approved Australian employer for a job in regional Australia
- be under 45 years of age
- meet the skills, qualifications and English language requirements.
- The migrant also needs to be nominated for an occupation that is on the ROL.

The RSMS (subclass 187) and the Employer Nominated Scheme (ENS) (subclass 186) are currently the two employer sponsored - permanent migration visas available to businesses in the regions to access skills and labour. The RSMS visa is due to be phased out with the introduction of the new subclass 494 Skilled Employer Sponsored Regional (Provisional) visa, which has two streams, the employer sponsored and the labour agreement. This creates substantial issues by removing the option of permanency on arrival (currently available to RSMS migrants), making the new provisional visa less attractive compared to other migration pathways as mentioned above.



While this may seem like a small hurdle in the pursuit of tying more migrants to the regions, it has the potential to severely affect regional businesses that need skills and look to the migration system as a last resort but will be unable to find any takers due to the provisional nature of the visa.

## 5.1 RSMS Trends

From a high of 20,510 visas in 2012-13, the RSMS outcome fell to a historic low of 6,221 visas in 2017-18. There was a slight uptick in the 2018-19 program year to 8,987 visas. Over ten years, from 2008-09, the RSMS outcome is down 29.4 percent. In comparison, the demand for places has always been considerably good.

The outcome trend reflects the delay in the processing of applications, so applications may be high one year with the outcome picking up in subsequent years. However, the demand for places has not always been met by the program. This is in part due to the annual caps, but heightened integrity concerns also factor in.

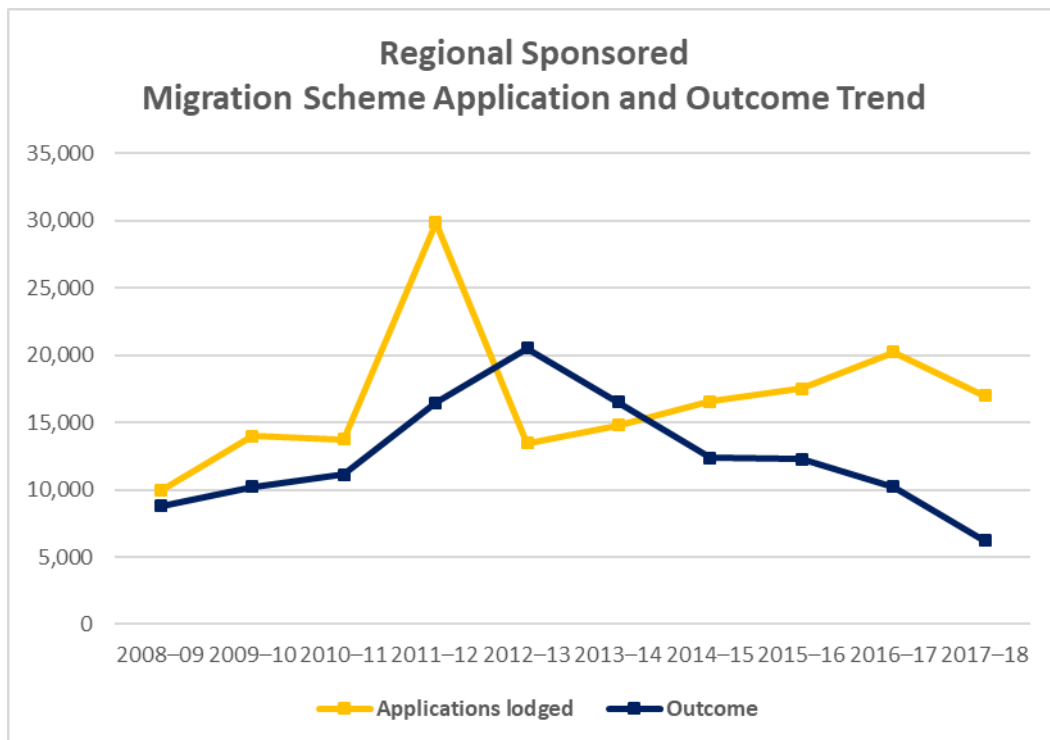


Figure 1: RSMS applications and outcomes trend over the past decade<sup>5</sup>

The trend in applications lodged reflects the reality that employers and migrants find the scheme useful and that it suits their needs. There are issues with the system (section 4) but the main

<sup>5</sup> Department of Home Affairs 2019, Migration Trends Statistical Package 2017-18, accessed 20 September 2019, <<https://data.gov.au/data/dataset/australian-migration-statistics>>.



premise of the scheme was to allow migrants to settle in the regions with a job already in hand, an employer and a community ready to support the migrant's integration. This approach also has the best economic outcomes with employer sponsored permanent migrants getting better labour market outcomes compared to the permanent streams.

## 5.2 Economic Outcomes of Employer Sponsored Permanent Migration

According to the Continuous Survey of Adult Migrants (CSAM) employer-sponsored migrants have the best labour market outcomes at the six-month stage of settlement compared to other migrant cohorts (for cohort 4)<sup>6</sup>. These outcomes are for the RSMS and ENS migrants who have consistently outperformed other permanent migrant streams on arrival.

- Employment to population ratio—93.2 per cent (figure 3)
- Labour force participation rate—95.1 per cent (figure 4)
- Unemployment rate—2.1 per cent (figure 5)
- A larger percentage of employer-sponsored migrants are in highly skilled jobs compared to other cohorts (figure 6).

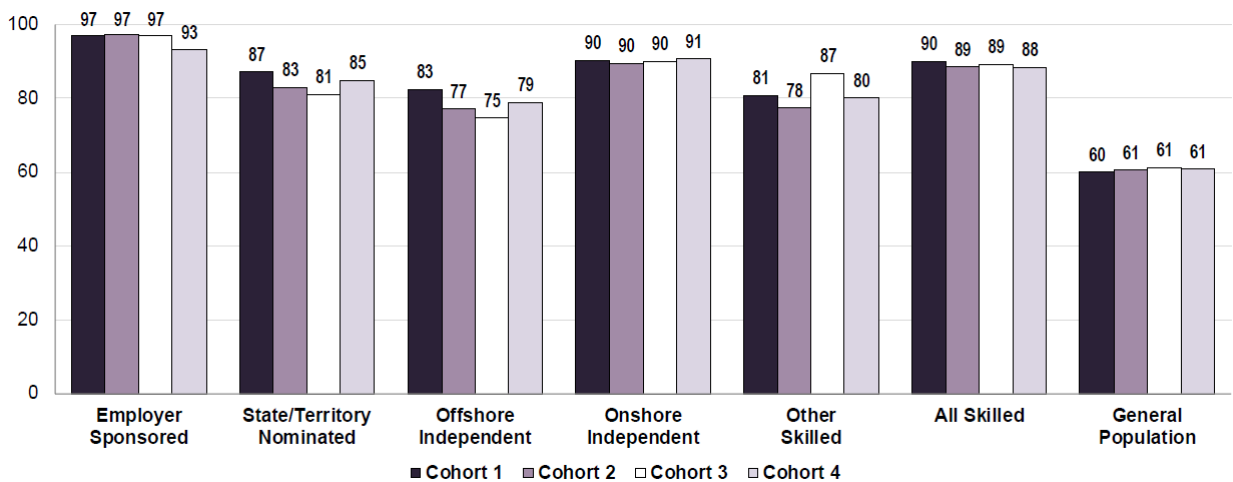


Figure 2: Employment to Population Ratio<sup>7</sup>

<sup>6</sup> Department of Home Affairs 2018, Continuous Survey of Australia's Migrants, Cohort 4 Report—Introductory survey 2016, accessed 17 September 2019, < <https://www.homeaffairs.gov.au/research-and-stats/files/csam-cohort4-report-introductory-survey-2016.pdf>>.

<sup>7</sup> ibid

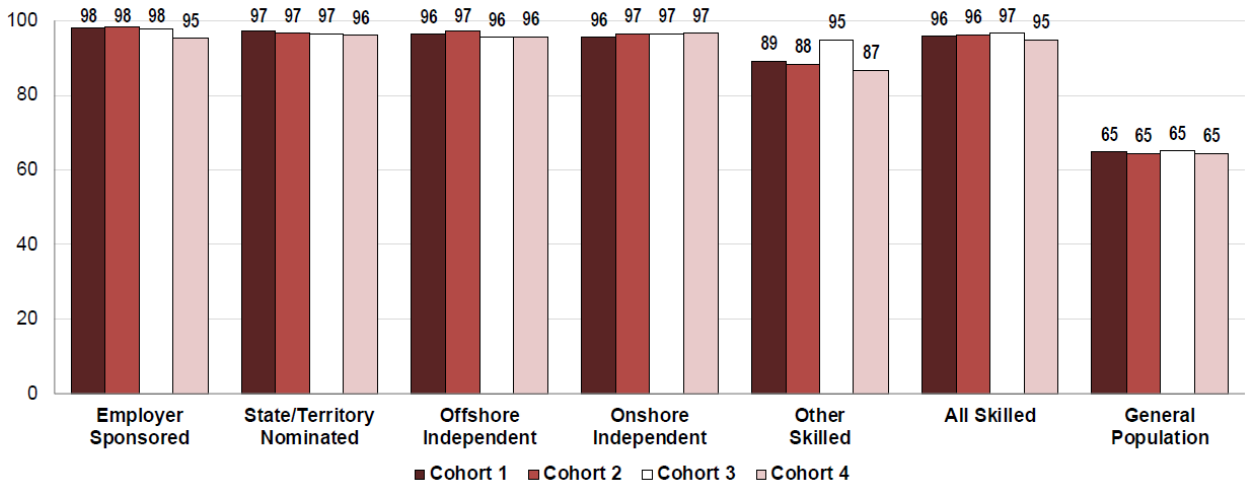


Figure 3: Labour Force Participation Rate<sup>8</sup>

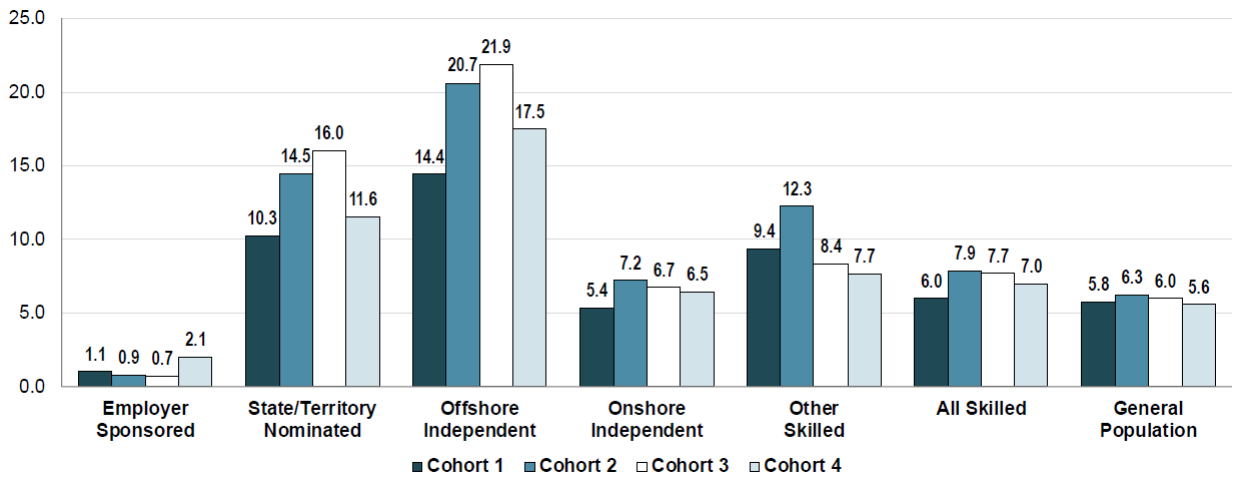


Figure 4: Unemployment Rate<sup>9</sup>

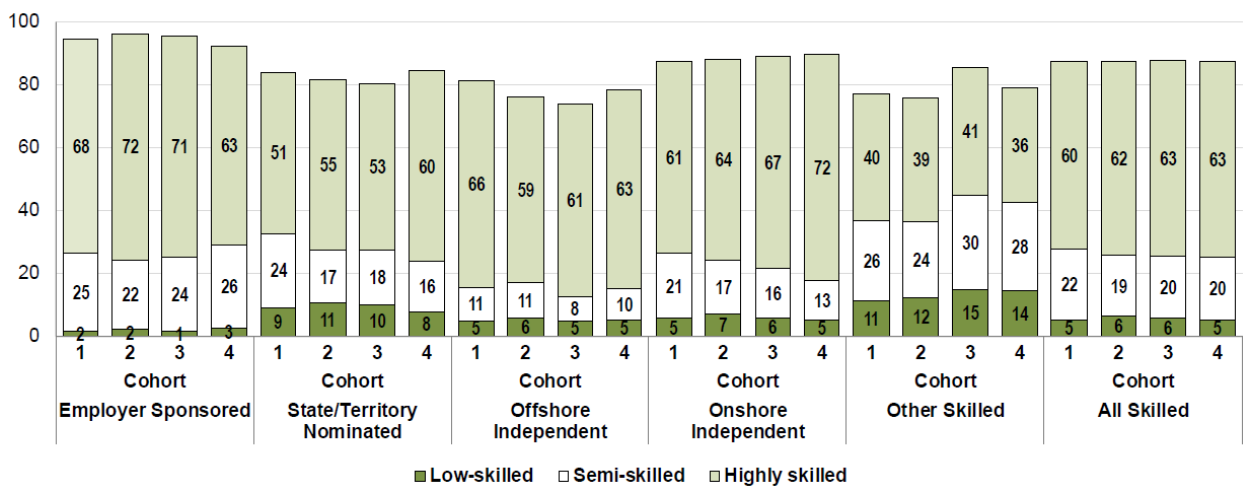


Figure 5: Skilled Employment to Population Ratio<sup>10</sup>

<sup>8</sup> ibid

<sup>9</sup> ibid

<sup>10</sup> ibid



These relatively positive outcomes are attributable to Employer Sponsored migrants having a job waiting for them on arrival and a positive relationship with someone connected to a local community. The social connections made with the business employing them allows them to set up roots in the community much faster as is the assurance that they are permanent migrants of Australia. The pull factor of a job in the regions accessed through employer-sponsored migration is the best approach to increase migration as well as population growth in the regions. However, migration settings need to be adjusted to incentivise a move to the regions. It is unclear whether the provisional subclass 494 visa is an effective way to tether migrants to the regions. The provisional nature of the new visa, even with the promise of a permanent residency at the three-year mark, does not compare with the security and stability provided by the RSMS, which was permanency on arrival.

## 6 Conclusion

The Australian Chamber supports the amendments proposed in the Bill to ensure that the new categories of regional migrants can access the benefits that would have been available to them in the previous visa categories.

We have taken the opportunity in this submission to caution that replacing the Regional Sponsored Migration Scheme with the Skilled Employer Sponsored Regional (Provisional) visa may not tether migrants to the regions and will potentially disadvantage regional migration further, due to the provisional nature of the new visas and the lack of certainty for migrants who wish to make the move to Australia. The employer sponsored Regional Sponsored Migration Scheme was more suitable in that it encouraged regional migration over the rest of Australia through key settings such as enabling employers to sponsor regional migrants under all occupations. Although the new visa allows the same occupational access, its provisional nature may prove less attractive to migrants, which may reduce its take up.



## 7 About the Australian Chamber

The Australian Chamber of Commerce and Industry is the largest and most representative business advocacy network in Australia. We speak on behalf of Australian business at home and abroad.

Our membership comprises all state and territory chambers of commerce and dozens of national industry associations. Individual businesses are also able to be members of our Business Leaders Council.

We represent more than 300,000 businesses of all sizes, across all industries and all parts of the country, employing over 4 million Australian workers.

The Australian Chamber strives to make Australia the best place in the world to do business – so that Australians have the jobs, living standards and opportunities to which they aspire.

We seek to create an environment in which businesspeople, employees and independent contractors can achieve their potential as part of a dynamic private sector. We encourage entrepreneurship and innovation to achieve prosperity, economic growth and jobs.

We focus on issues that impact on business, including economics, trade, workplace relations, work health and safety, and employment, education and training.

We advocate for Australian business in public debate and to policy decision-makers, including ministers, shadow ministers, other members of parliament, ministerial policy advisors, public servants, regulators and other national agencies. We represent Australian business in international forums.

We represent the broad interests of the private sector rather than individual clients or a narrow sectional interest.

# OUR MEMBERS



## INDUSTRY ASSOCIATION

