



**Regional Development Australia Far South Coast Inc. (RDA FSC)  
Submission to the Joint Standing Committee on Migration:**

- **Strategies to develop regional skilled migration;**
- **Key local, state and federal initiatives for successful regional settlement outcomes;**
- **Local volunteers, employers and community organisations and their role in facilitating regional settlement;**
- **Relevant migration policy, including administration and state specific migration mechanisms; and**
- **Any other related matter.**

September 2019

RDA FSC

## PURPOSE OF THIS SUBMISSION

This submission will focus on the role of the Regional Certifying Bodies in relation to the current 187 (soon to be 494) Visa and the 489 (soon to be 491) Visa with particular reference to:

- Strategies to develop regional skilled migration;
- Key local, state and federal initiatives for successful regional settlement outcomes;
- Local volunteers, employers and community organisations and their role in facilitating regional settlement;
- Relevant migration policy, including administration and state specific migration mechanisms; and
- Any other related matter.
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## BACKGROUND

Regional Certifying Bodies across NSW currently assess both the 187 and 489 Visas. The assessment by a Regional Certifying Body (**RCB**) is a Department of Home Affairs requirement for direct entry nomination for a Regional Sponsored Migration Scheme (RSMS) 187 Visa and is currently a requirement of the NSW Department of Industry in regard to the 489 Visa program. Participating RDAs have current contracts to deliver RCB services to 2020.

187 Visa (to be replaced with the 494 Visa in November 2019):

This visa lets skilled workers, who are nominated by an employer, live and work in Australia permanently. The new Visa will provide a temporary path.

For this visa:

- Applicants must be nominated by an Australian employer;
- Applicants work for a nominating employer in regional Australia;
- The applicant occupation must be on the relevant list of eligible skilled occupations;
- Applicants must have at least Competent English.

RCBs are charged with ensuring the following three criteria are met:

1. There is a genuine need for the nominator to employ a paid employee to work in the position under the nominator's direct control;
2. The position cannot be filled by an Australian citizen or permanent resident who is living in the same local area where the nominated position exists;
3. The terms and conditions of employment applicable to the position will be no less favourable than the terms and conditions that are provided to, or would be provided to, an Australian citizen or permanent resident performing equivalent work in the person's workplace at the same location.

489 Visa (to be replaced by the 491 Visa in November 2019):

The current skilled regional nominated (489) Visa is a provisional skilled visa that allows successful applicants to live and work in regional New South Wales for up to four years. This visa provides a pathway to permanent residence. For those people holding this Visa who have lived in the region for at least two years and worked for at least one year in the specified region of NSW, they may be eligible to apply for a permanent visa at a later stage.

NSW Department of Industry currently works in partnership with participating Regional Development Australia (RDA) committees in NSW to deliver the 489 program. There are presently nine RCBs in NSW out of a possible fourteen (previously those RDAs considered 'metro' were prohibited from delivering RCB services, this is changing to include Hunter and Illawarra regions).

RCBs conduct regional Skills Audits on a regular basis, ensuring accurate and timely identification of regional skill shortages. These Skills Audits also inform the skills lists of both the NSW Department of Industry and the Department of Home Affairs (DoHA).

Key criteria for the current 489 Visa:

To apply for the 489 Visa, candidates must:

- Meet the minimum [Department of Home Affairs criteria for the 489 visa](#);
- Be suitably skilled in an occupation on the [NSW 489 Skilled Occupation List](#);
- Apply directly to the relevant NSW RDA/RCB and meet any additional criteria set by that region;
- Have successfully obtained 489 nomination from the participating RDA;
- Agree to live and work in the nominating region (this condition is currently NOT enforced).

## RDA - A National Initiative

Regional Development Australia is a national network of Committees made up of local leaders who work with all levels of government, business and community groups to support the economic development of their regions.

RDA Committees have an active and facilitative role in their communities and a clear focus on growing strong and confident regional economies that harness their competitive advantages, seize on economic opportunity and attract investment.

## About RDA FSC

Regional Development Australia Far South Coast (RDA FSC) links regional businesses, councils and industry sectors to build a connected, innovative and sustainable region.

RDA FSC is the peak regional development organisation in the Far South Coast region of NSW, with funding from the Department of Infrastructure, Transport, Cities and Regional Development and fee for service contracts including the delivery of Regional Certifying Body (RCB) services to both the Federal and State Governments for both the 187 Visa and 489 Visa respectively.

## SUBMISSION

RDAs across NSW have been delivering Regional Certifying Body (RCB) services to both the Department of Home Affairs (DoHA) and the NSW Department of Industry for some years now, in what has, to date, been a successful model.

### 187 Program – delivering services to the Department of Home Affairs

This visa lets skilled workers, who are nominated by an employer, live and work in Australia permanently. For this visa:

- Applicants must be nominated by an Australian employer;
- Applicants work for a nominating employer in regional Australia;
- The applicant occupation must be on the relevant list of eligible skilled occupations;
- Applicants must have at least Competent English.

As the RCB for the NSW Far South Coast, RDA FSC is charged with ensuring the following three criteria are met:

1. There is a genuine need for the nominator to employ a paid employee to work in the position under the nominator's direct control;
2. The position cannot be filled by an Australian citizen or permanent resident who is living in the same local area where the nominated position exists;
3. The terms and conditions of employment applicable to the position will be no less favourable than the terms and conditions that are provided to, or would be provided to, an Australian citizen or permanent resident performing equivalent work in the person's workplace at the same location.

The employer pays the RCB fee and the RCB assesses against the above criteria. Once assessment is complete the RCB notifies the DoHA and the nominator of the outcome (Recommended or Not Recommended). A Not Recommended outcome does not automatically result in a negative outcome for the application as the final decision rests with DoHA.

### Benefits of the current 187 (soon to be 494) RCB system

Benefits to the region resulting from our RCB role include:

- Local informed knowledge and awareness of regional skills shortages:
  - Comprehensive means by which this data is obtained, collated and disseminated by the RCB;
  - Bodies and industries canvassed – RTOs, JSPs, education facilities, employment/recruitment agencies, LEC's, State Training Services, ABS data etc.;

- Through the data collection process, information is shared that allows local training facilities to update their courses and ensure relevance for our regional skills needs;
- Data updated on an annual basis;
- Identification of anomalies in declared skills shortage by employers applying for RSMS.
- Labour market testing:
  - Provide informed advice to DoHA of the regional market rate for individual occupations to ensure positions offer wages and working conditions equivalent to that of an Australian worker.
- Our RCB advice reassures visa processing officers that the employer has made a genuine attempt to employ from the local labour pool and that there is a genuine skills shortage of that occupation in the region.
- Advice and assistance provided to employers and applicants re. 187 (& 489) visas where applicable.
- Knowledge of physical business/employer presence - which may or may not support Business Plans submitted with applications; first-hand knowledge allows for the identification of those businesses/employers who do not make genuine efforts to provide employment opportunities to Australian citizens or residents.
- Historical data of potential patterns of repeat sponsoring of the same nominated position by particular employers.
- The reassurance to business and the community that employment for Australian citizens and permanent residents is paramount.
- Act as an extra layer or level of “protection” to safeguard both local and overseas workers.
- Add value and transparency to the visa process.

## Key issues and concerns – 187 (soon to be 494) Visa

Our extensive community consultation has highlighted the following major concerns from our community:

1. That some employers may use the Visa process as a means to bring out family members or others when there is no actual job available;
2. That positions which could readily be filled by local job seekers are being outsourced;
3. Local job seekers will be cut out of the jobs market due to the perception that this Visa gives employers the ability to import ‘cheap labour’;
4. There is no ‘follow up’ regarding applicant outcomes. The RCB is not advised as to the outcome of the nomination and no one ever checks if the either or both the employer and employee are adhering to the Terms and Conditions of the Visa;

5. There is no 'follow up' to ensure the successfully nominated employee is being accorded the same rights and terms and conditions that are provided to, or would be provided to, an Australian citizen or permanent resident performing equivalent work in the person's workplace at the same location.

As the RCB, RDA FSC has met with representative groups, held community forums and spoken with the media on our role as an RCB and how we ensure that the right processes are followed thus allaying community concern.

RDA FSC believes our community has a right to the protections afforded by RCBs under the legislated Regional Sponsored Migration Scheme (RSMS) Direct Entry Stream employer nomination decision-making requirements and for the upcoming replacement 494 Visa.

## 489 Program – delivering services to the NSW Department of Industry

The skilled regional nominated 489 Visa (soon to be replaced by the subclass 491 Visa) is a provisional skilled visa that allows successful applicants to live and work in regional New South Wales for up to four years.

This visa provides a pathway to permanent residence. If you hold this visa and live for at least two years and work for at least one year in a specified region of NSW, you may be eligible to apply for a permanent visa at a later stage.

The Commonwealth Department of Home Affairs has announced changes to the skilled regional nominated (489) visa will likely occur in 2019.

RDAs participate in the process in order to attract highly skilled people in a range of occupations to contribute to NSW skills needs. Under the contracted arrangement, NSW RDAs participating in the 489 program select and nominate candidates whose skills are needed in their region.

Each region is different, with diverse needs ranging from agricultural to mining skills, with differing workforce requirements such as FIFO workforces, seasonal needs and specialist and niche employment capability needs. To meet these vastly differing employment/skills needs challenges, participating regions determine their own list of eligible occupations as well as any additional eligibility criteria.

This system has ensured that each RDA has been able to use its unique regional knowledge to nominate the 'best and brightest' and most suitable candidates for the regions, which in turn assures the best possible outcomes with regard to regional settlement and job uptake.

## Benefits of the current 489 (soon to be 491) RCB system

The key benefits of the current RCB system include:

- Direct input to the Visa programs at a regional level ensuring that each regions' unique needs/skill requirements are accurately met;
- Direct management at a regional and local level of stakeholder expectations. RDAs as RCBs manage the perceptions and reality of regional migrant intake and work directly with both employers and nominees to facilitate best practice models for community acceptance, city-to-region transitions, employer expectations, migrant support groups, volunteering opportunities, relocation advice and a warm and heartfelt welcome to their region;
- Tailored criteria ensuring that RDAs are able to nominate the most suitable applicants for each region which in turn ensures the continuing success of the programs on a broader basis;
- Direct input to the programs at the regional level, by respected local community members, thereby safeguarding the integrity of the program and ensuring place-based, relevant experience and insight and a clear indication of respect by Government for our unique regional needs;
- Direct regional administration of the process allowing judicious management of regional perceptions. Participating RDAs in their role as the RCB have been directly responsible for the warm acceptance of the program and have actively countered any potential negative sensitivities regarding local job safety;
- RCBs often act as first point-of-contact for the program, and, as independent, apolitical, not-for-profit, incorporated bodies are able to build relationships with applicants, migration agents and the Department itself, thereby facilitating open and informal communication. This communication is of great benefit on a number of levels including the initial welcoming attitude, which often goes a long way toward negating the more intimidating aspects of the migration process; an easily accessible point of contact when minor clarification is being sought; an independent ear when concerns relating to matters of natural justice arise and often just a friendly ear in a strange environment.

## Key issues and concerns - 489 (soon to be 491) Visa

The key issues with the current system and the changes proposed under the new Visas:

- There is no enforced requirement for a successful applicant to actually move to the nominating region. This will be further exacerbated by the new 491 Visa when nominees will have no requirement to move to a regional area, as metro areas will soon be included in the eligible 'regional' locations. There will be no requirement for the nominated applicants to actually bring their desperately needed skills to the nominating region, which seems to negate the entire reason for the Visa;
- RCBs would have far less contact with applicants wishing to seek advice from the area they intend on migrating to, if indeed they were initially intending to move to a regional



area. RCBs have established relationships with migrants, applicants and migration agents and we are the first point of contact for them, in general this is because they have chosen a particular RDA and region to apply to. This proposal would remove that connection and reduce the assistance we now offer to potential applicants further discouraging them from relocating to a genuine region.

## RECOMMENDATIONS

In order to facilitate the best possible outcome for the regions, the Federal Government, the State Government and indeed the potential applicants, RDA FSC recommends the following:

- Greater accountability and enforcement of Visa conditions to ensure that the Visa programs deliver on their intent;
- The role of RCBs to be increased to cover the role of ensuring Visa conditions are being met through regular visits to employers and the Visa holders. This will ensure greater accountability from all concerned, provide a safety net to migrants and check any perception that these Visas are not genuine;
- RCB fees to be increased to cover the facilitation of the checks noted above. This would result in the costs being born by the applicant/nominee rather than Government. A greater result/outcome directly linked to program intent with zero cost to Government;
- An understanding and acknowledgement from both Governments and the Department that each region has its own unique needs, challenges and aspirations – a cookie-cutter approach does not work;
- An acknowledgement that ‘regions’ do NOT include cities and major metropolitan areas;
- An increase in the numbers of nominations each RCB can make. As each RDA/RCB must provide documentary evidence to support its requested quota, and the Department of Industry has noted that the permanent 190 Visa is significantly oversubscribed, RDA FSC suggest that DoI reduce the number of 190 nominations and significantly increase the number of 489 (or replacement program) nominated places, which is what is currently occurring in other States and Territories in response to the recent changes in Migration policy and approach;
- Capital-city-and-metro-based RDAs to have greater input into and participation in city-based migration programs;
- RDAs, as the peak regional facilitators in their regions, must be recognised as being best placed to offer valuable insight, regionally based research, extended communication networks and detailed and relevant information regarding best practice, place-based approaches regarding the management of regional migration programs;
- RDAs as RCBs to determine, within the needs of the program, the best model for program delivery within their region – a place-based approach;
- A guarantee that RDAs continue to provide RCB services on a three yearly contracted basis. This will allow better planning and facilitation of the supporting research needed to inform the regional migration programs.

## CONCLUSION

Governments, and their Departments, are acutely aware that while our cities are oversubscribed and unable to provide the required infrastructure to cope with further population increases, regional Australia is desperately seeking suitably qualified people to fill the ever-increasing regional skill shortages. At a time when government at all levels is increasingly under pressure to address migration concerns, it would seem beneficial to regulate regional migration programs in such a way as to ensure compliance with the relevant terms and conditions, thereby ensuring suitable skill delivery to the regions.

RDA FSC urges the members of the Joint Standing Committee on Migration to carefully consider the benefits of stricter regulatory requirements and greater statutory compliance regulations in all Visas and to endorse the very real benefits of place-based representation in the migration landscape.

Greater support for regional Australia can be amply demonstrated by engaging with the regions through the auspices of the RDAs.