

**Joint Standing
Committee on
Migration Inquiry into
Australia's skilled
migration program**

Submission from EY

7 May 2021

Committee Secretary
Joint Standing Committee on Migration
PO Box 6021
Parliament House
Canberra ACT 2600

7 May 2021

Email: migration@aph.gov.au

Dear Committee

Productivity beyond Population: immigration skilling Australia's future

**Submission to inquiry into Australia's skilled migration program
Response to Questions on Notice posed at public hearing held on 21 April 2021**

Thank you for the opportunity to participate further in the consultation process and contribute our views and those of our stakeholders on the inquiry into the future of Australia's skilled migration program.

As Australia's premier immigration services provider, EY is attuned to the concerns of some of the world's largest businesses as well as hundreds of small and medium established and start-up enterprises in a range of industry sectors including engineering, telecommunications, finance, property development, insurance, shipping, banking, professional services, retail and recruitment. EY's diverse practice also represents skilled and globally talented individuals.

In this submission we respond to the questions EY took on notice at the hearing. This submission focuses on the matter for further consultation posed by the Committee in the *Interim Report* and the structural change necessary to make the skilled migration system more responsive to labour market needs. In doing so we have presented some of our earlier recommendations in more detail, particularly with respect to:

- ▶ structural reform
- ▶ skilled occupation lists
- ▶ a single business sponsorship
- ▶ labour market testing, and
- ▶ Employer Nomination Scheme for permanent residence.

To assist the Committee, we have presented our recommendations in a matrix framework *Productivity beyond Population: immigration skilling Australia's future*.

Following the appearance at the public hearing, EY has also consulted further with business and provides:

- ▶ quantifiable data on skill shortages from individual businesses

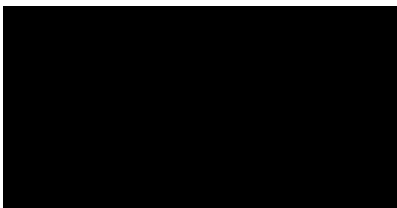
- stories from business on the impact of the current system

Several businesses wish to be identified to the Committee only and provided their input by way of letter or email. These documents are not be published.

The pandemic provides an unprecedented opportunity for reform. The skilled migration program could better meet the needs of business and the economy and remain aligned with the aspirations of the Australian people.

Our recommendations focus on enhancing Australia's skilled migration program through simplification while continuing to balance the safeguards required to retain integrity. We look forward to ongoing collaborative engagement with the Committee and welcome the opportunity to collaborate if required.

Yours sincerely



Linda Rowe
Partner
People Advisory Services
APAC Global Immigration Leader

Table of contents

1.	Recommendations - consolidated.....	1
2.	Structural reform	5
2.1	Simplifying Skilled Occupation Lists.....	5
2.2	An employer demand driven skilled permanent migration program.....	6
2.3	Demand driven skilled permanent migration for non-employment related visas	6
2.4	<i>VisaArena</i> - a new model	6
3.	Human Capital Business Sponsorship	8
3.1	Simplification through single sponsorship	8
3.2	Intra-corporate Transferees.....	8
4.	Labour market testing.....	9
5.	Employer Nomination Scheme	10
6.	Skill shortages experienced by business.....	11
7.	Reforming Australia's skilled migration program - Stories from business	12
7.1	Common themes.....	12
Appendix A	Skill shortages	13
Appendix B	Submissions from business in confidence	14

1. Recommendations – consolidated

Skilled Occupation Lists	
1.	<p>The multiple Skilled Occupation Lists be replaced by:</p> <ul style="list-style-type: none"> ▶ one list of ANZSCO lower skilled occupations, or ANZSCO Skill levels excluded from the skilled migration program, ▶ one list of excluded lower skilled occupations, for example ANZSCO groups 5 to 7 could be excluded with some exceptions where specialised skill shortages are recognised, alternatively occupations could be excluded on the basis of the ANZSCO Skill Levels with some exceptions where specialised skill shortages are recognised <p>OR</p> <ul style="list-style-type: none"> ▶ one list of occupations at the four-digit ANZSCO level rather than the six-digit level
2.	The ANZSCO be updated as soon as possible by the Australian Bureau of Statistics with priority given to adding new and emerging occupations
3.	The National Skills Commission conducts a quick targeted consultation process with business to ascertain immediate skill shortages required for economic recovery
4.	The PMSOL should be expanded immediately in response to the needs of business as an interim measure until the border restrictions ease
5.	The Skilled Occupation Lists be amended promptly in response to findings from consultation with business to ascertain skill shortages required for economic recovery
6.	Review of the Skilled Occupation Lists revert to a predictable biennial cycle
7.	Labour market analysis methodology by the National Skills Commission be examined in the context of the future of work and data on Skills for the Future (e.g. World Economic Forum's Future of Jobs Report)
Employer demand driven skilled migration program	
8.	Continue to give priority to the Employer Nomination Scheme in the Migration Program planning levels for future financial years
9.	Maintain visa categories for independent skilled migration and state/territory nominated skilled migration
VisaArena	
10.	Holders of a subclass 309 visa or subclass 820 visa with at least 2 out of the last 3 years work in nominated or closely related position in Australia may to be deemed to have applied for a subclass 186 visa with no additional visa application charge
11.	Holders of a subclass 309 visa or subclass 820 visa with Global Talent and an invitation to apply for a subclass 858 visa may to be deemed to have applied for a subclass 858 visa with no additional visa application charge

	Single Human Capital Business Sponsorship
12	<p>A single human capital business sponsorship facility be introduced to provide access to labour market testing and English language testing concessions and support the following visa categories:</p> <ul style="list-style-type: none"> ▶ business visits, priority processing ▶ short term highly specialised work, priority processing if supported by a sponsor ▶ temporary skilled migration, streamlined processing ▶ permanent skilled migration, streamlined processing
	Labour Market Testing - temporary skilled migration
13	Labour market testing not be required for occupations on the PMSOL or critical sectors lists
14	The requirement to advertise positions on JobActive in the Temporary Skill Shortage visa program be removed. Advertising on JobActive remain an option
15	Labour market testing after nomination application lodgement be accepted
16	The four-week period of advertising and acceptance of applications for the role be reduced to two weeks
17	The requirement to advertise the salary be removed in line with standard business practice
18	For Human Capital Business Sponsors alternative submission in place of LMT where annual earnings will be equal to or greater than AUD180,000
19	For Human Capital Business Sponsors no LMT where annual earnings will be equal to or greater than AUD250,000
	Labour Market Testing - permanent employer sponsored skilled migration
20	Reference to advertising and JobActive be removed from Policy for nominations under the Temporary Residence Transition stream
21	For direct entry steam, no LMT where annual earnings will be equal to or greater than AUD250,000 with appropriate integrity measures to ensure validity of proposed earnings
22	For direct entry steam, evidence of genuine recruitment efforts following standard business processes be accepted under policy as evidence of genuine position
	Intra-corporate transferee exemptions
23	English language testing exemption for Human Capital Business Sponsors relocating intra-corporate transferees

24	Skills assessment exemption for Human Capital Business Sponsors relocating intra-corporate transferees for a regional subclass 494 visa
Employer nomination scheme for permanent residence	
25	<p>Skilled occupation lists:</p> <ul style="list-style-type: none"> ▶ for transition stream, no skilled occupation list to preserve the eligibility of skilled workers at the time of temporary visa grant and protect against list changes during qualifying period of employment ▶ for direct entry stream, either a single list of excluded occupations OR list occupations at four-digit ANZSCO code
26	<p>Employment in Australia for the temporary residence transition stream:</p> <ul style="list-style-type: none"> ▶ the duration of employment with nominator requirement revert to at least 2 out of the last 3 years (reduced from at least 3 years) ▶ must have been employed in Australia in the nominated position or a closely related position
27	<p>Age:</p> <ul style="list-style-type: none"> ▶ age threshold revert to 50 years of age ▶ Fair Work high income threshold (FWHIT) age exemption apply to individuals who have worked in Australia and earned at least the FWHIT for 12 months (reduced from at least 3 years) ▶ extend FWHIT age exemption to the direct entry stream ▶ for temporary residence transition stream, preserve eligibility in respect of age at time of temporary visa grant
28	<p>Family:</p> <ul style="list-style-type: none"> ▶ for temporary residence transition stream, secondary visa criteria amended to ensure permanent residence eligibility of all family members at time of temporary visa grant is preserved
29	Any shortfall in planning levels for the global talent visa for the current financial year be allocated to the ENS program
Skilling Australians Fund	
30	The SAF levy be suspended during the COVID-19 concession period
31	<p>During the COVID-19 concession period, the SAF levy be refunded:</p> <ul style="list-style-type: none"> ▶ for any 12-month period during which time a sponsored temporary skilled migrant visa holder was out of Australia and the visa was in effect ▶ where a visa applicant is outside Australia, the Department of Home Affairs has not processed the visa application and the visa application is withdrawn ▶ where employment is terminated during the second or third years of employment due to a business downturn resulting from the COVID-19 economic conditions. JobKeeper eligibility could be used as acceptance criteria
32	<p>SAF levy refund provision be expanded permanently to include where:</p> <ul style="list-style-type: none"> ▶ the visa holder had been employed by the sponsor prior to their current visa being granted

	<ul style="list-style-type: none"> ▶ the visa holder ceases to be employed within one year <i>after grant of the visa</i> (and payment of a SAF levy in relation to that visa) regardless of when the employment first commenced
33	The SAF levy be imposed immediately prior to visa grant
Visa conditions and sponsorship obligations	
34	Temporary Skill Shortage visa conditions and sponsorship obligations be amended to allow work for multiple employers and employment in multiple roles with the same employer in accordance with standard industry practices including under legitimate business structures such as joint ventures
Global Talent visa program	
35	Retain the Global Talent visa program
36	Leverage the learning from the Global Talent program to recruit, train and empower Delegates to make discretionary decisions
37	Designation of appropriate Australian bodies such as innovation hubs by Legislative Instrument to assess an individual's claims to innovation and potential contribution to Australia
38	Minor legislative amendments to the Subclass 858 Global Talent visa be made including substitute requirement for nomination with an endorsement

2. Structural reform

In its *Interim Report* the Committee has sought views on the proposition that:

Another way of making the skilled migration system more responsive to labour market needs might be to

- ▶ *dispense with the skills lists altogether and*
- ▶ *create a demand driven employer-sponsored migration program with appropriate integrity and labour market testing measures.*

2.1 Simplifying Skilled Occupation Lists

Business with whom EY consulted when preparing our response to this Inquiry consistently report that the skilled occupation lists do not support the recruitment of global talent. This is confirmed in the stories from business provided with this submission.

EY considers that one important function that the skilled occupation lists perform is to establish a minimum skill threshold or floor and that a skilled occupation list in some form should be retained for this reason.

The inadequacies of ANZSCO are widely accepted and EY considers that ANZSCO can no longer form the foundation of skilled occupation lists. However, currently there is no other framework to replace the ANZSCO. We do not recommend a reverting to a system of discretionary assessment of skill of a person and position on a case by case given the size of the temporary and permanent skilled migration programs.

Our recommendations would work with the available toolbox and allow the current system to be more agile and responsive to the emerging and future skills needed in Australia:

- ▶ combine the multiple lists into one list
- ▶ this one list *exclude* lower skilled occupations from skilled migration programs, for example ANZSCO groups 5 to 7 could be excluded with some exceptions where specialised skill shortages are recognised, alternatively occupations could be excluded on the basis of the ANZSCO Skill Levels with some exceptions where specialised skill shortages are recognised
OR
- ▶ this one list *include* skilled occupations at the four-digit ANZSCO code rather than the six-digit code.

Listing occupations at the four-digit level would maintain the assurance that skilled migrants are meeting a minimum level of skill without needing to navigate out of date more specific occupation codes. This would be particularly appropriate for employer sponsored skilled migration where skill matching and employment outcomes are assured.

2.2 An employer demand driven skilled permanent migration program

CEDA's recent research based on comprehensive data from the Department of Home Affairs' Continuous Survey of Australia's Migrants (CSAM) from 2013 to 2018 reveals that while nearly one quarter, about 23 per cent, of surveyed permanent skilled migrants experienced skills mismatch, meaning they were working in a job that was lower than their skill level 18 months after arrival. Importantly, skills mismatch was the lowest among employer sponsored migrants at 13%.¹

The CSAM has consistently demonstrated that the ENS is the most effective category of skilled migration delivering the highest rates of migrant workforce participation at the skill level and therefore the best outcomes for the Australian economy.

Adjustments were made to the Migration Program planning levels for the current financial year to prioritise the Employer Nomination Scheme (ENS) over other skilled permanent migration categories and prioritise applications from applicants already in Australia.

EY supports the continuing prioritisation of employer demand driven migration over independent skilled migration and state/territory sponsored skilled migration.

2.3 Demand driven skilled permanent migration for non-employment related visas

EY also consider that there is an ongoing role for non-employment related skilled migration visa categories. Maintaining these visa categories will provide the government with the flexibility to make quick adjustments to attract skilled migrants to fill emerging skill shortages. State/territory sponsored skilled migration in particular, has the capacity to be highly responsive to regional labour market needs.

Reducing numbers of migrants under these categories and targeted management of invitations and state/territory nominations these visa categories can be flipped from supply to demand driven.

The expression of interest and nomination/invitation system enables cost effective and flexible administration of these visa categories.

2.4 VisaArena - a new model

In our earlier submission dated 31 March 2021, we discussed the need for new model, which among other benefits, offers flexibility for migrants to switch or combine pathways to permanent residence so the migration program as a whole can be better managed, more outcomes focused and responsive to the needs of the labour market and the economy.

¹ CEDA, *A good match: Optimising Australia's permanent skilled migration*, 26 March 2021
<https://www.ceda.com.au/Admin/getmedia/150315bf-cceb-4536-862d-1a3054197cd7/CEDA-Migration-report-26-March-2021-final.pdf>

Our matrix framework *Productivity beyond Population: immigration skilling Australia's future* proposes two examples where applicants for migration may switch pathways from family partner to skilled migration:

- ▶ holders of a subclass 309 visa or subclass 820 visa with at least 2 out of the last 3 years work in nominated or closely related position in Australia may to be deemed to have applied for a subclass 186 visa with no additional visa application charge
- ▶ holders of a subclass 309 visa or subclass 820 visa with Global Talent and an invitation to apply for a subclass 858 visa may to be deemed to have applied for a subclass 858 visa with no additional visa application charge.

3. Human Capital Business Sponsorship

3.1 Simplification through single sponsorship

EY's proposed single Human Capital Business Sponsorship is detailed in the attached matrix framework is intended to achieve:

- ▶ simplicity and efficiency by rolling together multiple sponsorship facilities for temporary visas and duplicated nominations for permanent residence
- ▶ additional benefits than the current accredited sponsorship scheme
- ▶ improved capacity for Australian business to compete in global economy by streamlining application process
- ▶ reducing administration costs for business and the Department of Home Affairs

The current accredited sponsorship scheme is now of limited value as it has been conferred on a large proportion of sponsors, frequently without a request from the sponsor. This has diluted the priority processing benefit to some extent.

More importantly, labour market testing (LMT) is the most onerous element of the current employer sponsored skilled migration program and accredited sponsorship status does not address labour market testing requirements.

The proposed criteria for approval as a Human Capital Business Sponsor include demonstrating a commitment to employing local labour against specified indicia such as percentage of local hires and graduate / trainee programs, at initial application for approval and through a mandatory Annual Return.

It is EY's view that the following benefits and LMT adjustment for Human Capital Business Sponsors are supported by this reporting framework:

- ▶ priority processing across all skilled temporary visas as well as the ENS
- ▶ no LMT where annual earnings will be equal to or greater than AUD250,000
- ▶ alternative submission in place of LMT where annual earnings will be equal to or greater than AUD180,000

Human Capital Business Sponsorship status could be revoked if the Annual Report did not satisfactorily demonstrate the sponsors' commitment to local employment and compliance with other obligations.

3.2 Intra-corporate Transferees

Proposals for an additional visa for intra-corporate transferees have been made by other stakeholders and EY in the past. It is our current view that an additional visa is not necessary for the following reasons:

- ▶ current LMT arrangements permit an alternative submission to be provided in lieu of advertising for intra-corporate transferees
- ▶ additional exemptions to criteria such as English language testing and skills assessments for intra-corporate transferees can be implemented simply by way of legislative instrument

Our matrix framework proposes an English language testing exemption for Human Capital Business Sponsors relocating intra-corporate transferees.

4. Labour market testing

The views of business regarding LMT as the most significant 'pain point' reported in our earlier submission are confirmed in the stories from business provided with this submission. Labour market testing requirements are prescriptive and disconnected from standard recruitment practices.

Further to the recommendations made in our earlier submission, additional exemptions should apply to Human Capital Business Sponsors for temporary skilled migration as described above and in the matrix framework.

In addition, for the ENS, also described in the matrix framework:

- ▶ reference to LMT be removed from Policy for temporary residence transition stream confirming that there is no expectation that LMT be conducted
- ▶ for direct entry stream, evidence of genuine recruitment efforts following standard business processes be accepted under policy as evidence of genuine position
- ▶ for direct entry stream, no LMT where annual earnings will be equal to or greater than AUD250,000, with appropriate integrity measures to ensure validity of proposed earnings.

5. Employer Nomination Scheme

In our earlier submissions in March 2021, EY made several recommendations designed to:

- ▶ remove obstacles to standard business practices and innovation that are embedded in the current ENS, such as requiring a skilled worker to work in the same position for three years before qualifying for permanent residence under the temporary residence transition stream, and
- ▶ preserve temporary skilled migrants' eligibility for permanent residence to provide certainty in order to improve Australia's ability to attract and retain the best global talent.

If the ENS is to continue to provide the bulk of skilled migrants under the Migration Program further reforms are required and we have developed our recommendations further as detailed in the matrix framework:

Streamlining:

- ▶ for human capital sponsor no criteria or documentation in relation to the business to streamline processing

Skilled occupation lists:

- ▶ for transition stream, no skilled occupation list to preserve the eligibility of skilled workers at the time of temporary visa grant and protect against list changes during qualifying period of employment
- ▶ for direct entry stream, either a single list of excluded occupations OR list occupations at four-digit ANZSCO code

Employment in Australia for the temporary residence transition stream:

- ▶ the duration of employment with nominator requirement revert to at least 2 out of the last 3 years (reduced from at least 3 years)
- ▶ must have been employed in Australia in the nominated position or a closely related position

Age:

- ▶ age threshold revert to 50 years of age
- ▶ Fair Work high income threshold (FWHIT) age exemption apply to individuals who have worked in Australia and earned at least the FWHIT for 12 months (reduced from at least 3 years)
- ▶ extend FWHIT age exemption to the direct entry stream
- ▶ for temporary residence transition stream, preserve eligibility in respect of age at time of temporary visa grant

Family:

- ▶ for temporary residence transition stream, secondary visa criteria amended to ensure permanent residence eligibility of all family members at time of temporary visa grant is preserved.

6. Skill shortages experienced by business

Following the appearance at the Public Hearing, EY has consulted further with business and obtained quantifiable data on current skill shortages. This data is not representative of national or sector skill shortages. It is sample data provided by individual business.

EY argues that with few exceptions, given Australia's size and regional diversity the concept of a national skill shortage it is not beneficial.

Refer to Appendix A and the confidential submissions.

7. Reforming Australia's skilled migration program - Stories from business

7.1 Common themes

The stories that businesses have provided in Appendix B and the confidential submission, address several common themes:

- ▶ labour market testing
- ▶ limitations of ANZSCO
- ▶ occupations genuinely in shortage being listed on the short-term skilled occupation list
- ▶ the need for certainty regarding pathways to permanent residence:
- ▶ age threshold
- ▶ occupation lists
- ▶ Skilling Australians Fund levy
- ▶ Application processing times

The experiences of business support the recommendations made in this submission.

Appendix A Skill shortages

Skill shortage data April 2021	
Global technology and management consulting firm	
Number of current vacancies	<p>>1,000</p> <p>Across the board, particularly:</p> <ul style="list-style-type: none"> ▶ ICT Business and System Analysts ▶ Software and Applications Programmers ▶ Management Consultants
Average duration those positions have been vacant	2-3 months
Where the vacancies have been advertised	<ul style="list-style-type: none"> ▶ Linked In/Social Media ▶ Industry Specific Sights ▶ Accenture website ▶ Seek ▶ Via Agencies
Other talent search activities undertaken for the occupation	Industry Recruitment Days
Estimated number of hires who are Australian citizens and permanent residents in occupation in last 12 months	~500
Reasons insufficient supply of skills	ANZ Borders remaining closed
Efforts by business to increase local supply	Double Graduate intake in 2021
Explain why the roles can't be performed effectively remotely	Client fronting roles
Impact on the business of skill shortage	<p>Inability to take on new work</p> <p>Decreased timelines for completion of projects</p> <p>Current resourcing working under pressure</p> <p>Mental wellbeing of current staff</p>

Appendix B Submissions from business in confidence

1. Global technology and business consultancy – comments from business

Labour market testing

Labour market testing is 'very clunky', however as a business we are comfortable with the process and requirements and agree that we search for talent from the local market first before seeking highly skilled workers from overseas.

Skill shortages

What we are finding as a business is that the local Australian talent do not have the depth and breadth of experience that our foreign skilled workers have sitting in our India delivery centre. Offshore resources tend to have more relevant experience as they work across clients, industry and have cross country experience.

There is also fierce competition across the tech industry. Given the border closure, any resources that are available on the ground in Australia (both temporary and permanent residents) are moving between firms at a rapid rate, often with 100% or even 200% pay increases. We are also losing key talent to our clients directly.

Open roles and vacancies are very high across our organisation, so much so, that we are in the process of recruiting an additional 4-5 recruiters to support the volume of work in this team. Roles are advertised, however the volume of responses received is overwhelming. In most instances the candidates do not appear to have the required skills or experience to fill the role. We are then having to pick candidates with the 'next best fit', and their skills are not always easily transferable as individuals may not have specific experience in certain IT platforms, know the client, or have broader international exposure and experience.

As a global organisation, the additional consequence that we see across our business due to Australia's borders being closed is that when the world starts to open up further, a big risk for us is that our pool of skilled resources in our India delivery centre for example will be allocated to other client projects in other countries like ASEAN, Europe and USA where it will be easier to travel and enter. Australia will be behind the eight ball and we will lose key talent to other jurisdictions as we can't get people in fast enough.

Unfortunately, we cannot continue to keep our resources working remotely on some client projects.

Occupation lists

We employ many senior project manager roles leading major IT programs and workstreams. Most individuals are highly experienced and often have been in technical IT roles for many years before naturally progressing to a project manager position. These roles are project managing complex and integrated client and transformation programs. There is a limited pool of resources locally who have depth of international experience and cross client experience. Whilst a project manager role is not specifically completing technical tasks (i.e. software engineer), they are overseeing and managing a number of technical team members to deliver on the project.

Following the last occupation review and submissions by business, ICT Project Manager (ANZSCO 135112) was identified as a Short-Term Skilled Occupation which was expected to move to the Medium to Long Term Skill Shortage List. This amendment did not happen, and we are unclear if and when the occupation will ever be moved to the Medium-term occupation list.

As a result, we have a number of key talent across the business who we wish to retain on major projects who can only be in Australia for a maximum period of 4 years (and no pathway for us to retain them permanently under the Employer Nomination Scheme). We have therefore needed to look at other solutions like the Global Talent Visa (which has worked in some situations), while in other cases this is not possible.

The business is now considering negotiating a Labour Agreement to amend the visa validity period for a TSS visa for this occupation on the Short-Term list and request a pathway for permanent residence. This negotiation process seems lengthy and could easily be amended in legislation by a simple inclusion in the Medium to Long Term skill shortage list.

ANZSCO

ANZSCO continues to be out of date. We would like to have the opportunity to offer flexibility to the business within roles and move within ANZSCO. For most ICT roles that we recruit, there are often elements of the position that can cross over between ANZSCO's and we often map roles to multiple occupation classifications at present. This is difficult as the interpretation of ANZSCO is very subjective.

SAF levy

Would like some more transparency on where the SAF levy is being spent by Government as we are not seeing a direct correlation to investing in upskilling Australian employees and improving skills in their industry. We have successfully managed to claim refunds where the current legislative requirements are met, however the process can be lengthy and drawn out.

2. Racing and gaming industry - told by EY

Labour market testing

Our client's skilled worker was in Australia and held a two-year Temporary Skill Shortage (TSS) visa expiring on 18 April 2021. The business advertised his position in February and March 2021 with a view to applying for a further two-year TSS visa in the event that there were no other suitable local candidates. The business followed its standard advertising practices and did not include remuneration for the position. However, as the position was remunerated at less than \$96,400, LMT rules require that the salary must mentioned in the advertising.

When the business discovered that its advertising was non-compliant, it immediately re-advertised to include salary, but unfortunately only two weeks remained before its visa holder's TSS visa was to expire. The visa holder instead had to apply for a different visa (subclass 408) to remain lawful in Australia and wait on a bridging visa for another four weeks of advertising for LMT before the application could be made for the TSS visa.

He was possibly not eligible for that other visa, and if his application for that other visa had been refused before he was able to lodge his new TSS visa application, he would have been barred (s48 of the Migration Act) from making that further TSS visa application. The business and applicant faced considerable stress and risk and expense in trying to regularise his status because they followed standard businesses practices in advertising rather than the LMT requirements.

3. Global technology and management consulting firm – comments from business

Labour market testing

We believe that some form of labour market testing is necessary but in its current form it is not doing what it is supposed to do. Like most businesses we are doing the right thing. We always look to hire locally first, there is no preference for overseas recruits.

This current LMT system is a tick a box exercise which is flooding the market, creating a false market and interfering with legitimate advertising. This is especially the case when advertising for permanent residence when we have a person in the role in the already so basically there is no vacancy.

Labour market testing needs to be more realistic and flexible and reflect legitimate recruitment activity. We have over 1000 open roles that can't be filled locally and yet when we advertise on the platforms prescribed for LMT, our recruitment team is overwhelmed by applicants who just aren't qualified. A lot of wasted effort is necessary to place ads and respond to applications etc. As a global organisation we strive to get the balance right to blend skills from the local market and overseas, in more normal times staff from Australia regularly mobilise to work in other offices as well, it's good for skills development and diversity. Labour market testing would be a more effective integrity control if it was more flexible and recognised legitimate efforts to recruit locally.

ANZSCO

A real challenge for us is working with ANZSCO because it is so out of date. We manage our temporary visa applications in house and finding the best ANZSCO is so subjective, different team members select a different ANZSCO and one of might select one ANZSCO one day and another the next. This is a genuine struggle in the IT sector as our roles are blended and more modern roles just don't find a fit in the ANZSCO, particularly with the Digital Design and Creative Services. Excluding lower skilled occupations, rather than trying to find the correct skilled ANZSCO occupation would be the way to go.

SAF levy

We've had a few situations where the SAF levy refund request was refused and we feel that wasn't reasonable. In one situation, we have applied to renew temporary visas for employees in Australia and then the visa holders left employment less than one year after their TSS visa renewal was granted. The refund was refused because the visa had been employed for more than a year, that is on their previous visa.

In another situation, we nominated a visa holder in Australia to transfer to our business who left within the first year. The refund was refused on the grounds that the visa holder had worked in Australia for more than one year.

The situation where the nomination has been approved and the visa application does not go ahead for a number of reasons is just not covered by the refund provisions.

Stories from business as told by EY						
Business	Position	ANZSCO	Issue	Solution	Impact	Relevant EY recommendation for reform
Mining	Geologist	Geologist	No pathway to permanent residence as occupation on Short Term Skilled Occupation List (STSOL). Geophysicist and Hydrogeologist are in the same four-digit occupation grouping are included on the MLTSSL despite the list of duties encompassing the entire occupation group	Global Talent visa for top candidates who meet criteria	Risk losing talent critical to business While meets criteria, not fully consistent with the intention of the Global Talent program	One skilled occupation list (either proposed alternative) and preserve eligibility for permanent residence in place a time of temporary visa grant
Engineering and infrastructure	Chief Financial Officer	?	Finance Manager possibly best match but provides no pathway to permanent residence as occupation on Short Term Skilled Occupation List (STSOL)	Approved under Cooperate General Manager due to wide scope of role Ultimately, approved as Global Talent as individual did not wish to serve three-year qualifying period or struggle with bureaucratic skills assessment application for ENS	While meets criteria, not fully consistent with the intention of the Global Talent program	One skilled occupation list (either proposed alternative) and preserve eligibility for permanent residence in place a time of temporary visa grant Revert to a two-year qualifying period for temporary residence transition stream
Superannuation	Senior manager earning approximately AUD800,000	Finance Manager	No pathway to permanent residence as occupation on Short Term Skilled Occupation List (STSOL)	Global Talent visa	As above	One skilled occupation list and preserve eligibility for permanent residence in place a time of temporary visa grant

Technology consultancy	Project Manager	ICT Project Manager	No pathway to permanent residence as occupation on Short Term Skilled Occupation List (STSOL)	Global Talent visa for some senior individuals who meet criteria No solution for individuals who do not have an internationally recognised record of achievement	While meets criteria, not fully consistent with the intention of the Global Talent program Business will lose critical highly skilled talent as cannot retain talent in Australia for more than 4 year	One skilled occupation list (either alternative) and preserve eligibility for permanent residence in place a time of temporary visa grant
Global technology and business consultancy	Consultant specialist projects in Procurement including automation and digital transformation	Management Consultant - best but not a close match	Wishes to apply for PR before three years when would be eligible under temporary residence transition stream. Therefore, must obtain a skills assessment from VETASSESS to apply under direct entry stream. While the Department of Home Affairs approves temporary and permanent visas under Management Consultant without close scrutiny, VETASSESS applies a very narrow focus and it is common for VETASSESS to refuse skills assessments for Consultants with specialist skill sets	Global Talent visa	While meets criteria, not fully consistent with the intention of the Global Talent program	Revert to a two-year qualifying period for temporary residence transition stream

EY | Building a better working world

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

© 2021 Ernst & Young, Australia
All Rights Reserved.

Liability limited by a scheme approved under Professional Standards Legislation.

In line with EY's commitment to minimize its impact on the environment, this document has been printed on paper with a high recycled content.

Ernst & Young is a registered trademark.

Our report may be relied upon for the purpose of consultation only. We disclaim all responsibility to any other party for any loss or liability that the other party may suffer or incur arising from or relating to or in any way connected with the contents of our report, the provision of our report to the other party or the reliance upon our report by the other party.

ey.com