



SUBMISSION

Submission to the Commonwealth  
Government on Revised Occupation  
Lists for Temporary Skill Shortage  
Visas

JUNE 2017

The Business Council of Australia is a forum for the chief executives of Australia's largest companies to promote economic and social progress in the national interest.

## About this submission

This is a Business Council submission to the Commonwealth Government consultation on revisions to the Medium and Long-term Strategic Skills List (MLTSSL) so that certain occupations, which are important for business competitiveness and economic growth, can qualify for a four-year temporary skill shortage visa.

## Key recommendations

The Business Council recommends:

- that the government re-assign the roles in Table 1 on page 8 from the Short-Term Skilled Occupation List (STSOL) to the Medium and Long-term Strategic Skills List to allow access to a four-year temporary skilled work visa
  - these roles require company-specific, technical or global skills and experience that are not always available in Australia. Companies facing a genuine skill shortage need to be able to appoint the best qualified skilled workers from overseas to these roles for a period of longer than two years
- if the government elects to retain these occupations on the STSOL beyond 1 July, the Business Council proposes as an alternative that the four-year visa be allowed for these occupations above a minimum salary threshold of \$180,000, in line with the top marginal tax rate
  - this will help to ensure the temporary skilled migration scheme continues to be targeted at highly skilled roles
- the government consider the introduction of a 'trusted companies' program that provides greater flexibility and less red tape for low-risk employers
- the relaxation of the English language requirements for senior executive roles in multinational companies where there is no risk of exploitation and no serious safety concerns.

## Main submission

### The case for change

The Business Council welcomes the government's continuing commitment to temporary skilled migration and understands the need to make changes to the program, as were announced on 19 April, to prioritise Australian workers and improve public confidence in the scheme.

Australian companies overwhelmingly prefer to develop and hire local workers wherever possible because it is lower cost and easier to do so. Australian workers have knowledge and experience of local markets and laws which is highly-valuable to employers. The considerable costs and uncertainties in hiring and relocating staff from other countries means companies generally only seek this option when suitable local workers are unavailable.

When companies face genuine skills shortages and need to bring highly qualified people to Australia, they usually need to do so for a period of greater than two years.

The placement of certain occupations on the two-year visa list will reduce the global competitiveness of Australian companies and could have detrimental impacts on innovation and economic growth. The changes are already causing major uncertainty for Australian businesses with senior executives on temporary work visas, or that are in the process of hiring for these roles.

A two-year visa is not long enough for many of the occupations on the STSOL – it does not suit the businesses wanting to bring in a temporary worker to address a skill shortage, nor the skilled migrants for whom relocating to Australia can be a costly and disruptive change in their life and have many other options to work around the world.

The two-year visa has been described as a ‘two plus two’ visa, meaning it can be renewed after two years, effectively allowing a temporary migrant on the STSOL to be in Australia for four years. However, there is no guarantee of renewal being approved, and every chance that an occupation may even be removed from the STSOL by the time the renewal application is submitted. Therefore, businesses and prospective migrants can only plan with certainty for a stay of two years.

### ***The two- year visa will not work in practice for many businesses***

For many occupations on the STSOL, a two-year visa does not give businesses sufficient continuity to use temporary skilled labour to fill important roles. This submission provides a list of such occupations in Table 1 below. This is particularly the case for senior management teams which lead and manage change that in most cases takes a lot longer than two years to implement.

Australia’s economic growth relies on globally competitive businesses with strong leadership teams and technical specialists investing, employing and doing business here. These companies develop new products and introduce new knowledge and technologies to Australia and pay significant amounts of tax.

It is vitally important for the competitiveness of these companies to be able to appoint executives and specialists with the best skills and experience, and to do so for a reasonable period of time. Temporary skilled migrants may be needed because the company-specific, technical or global skills and experience required for a role means there are not enough available workers in Australia or the most suitably-qualified candidate may be located outside of Australia.

While most large Australian companies invest in training and development opportunities for their Australian staff, it is not always a simple matter of producing Australian workers that are able to do these jobs at the level required within two years.

For example:

- A world leading Australian accounting software firm organises its development teams around a leader. Leaders need at least ten years of experience in specific software development, often in areas where Australia does not have tremendous depth. Having the capacity to bring a person with that skill and experience into Australia allows the business and its Australian staff, including recent graduates, to create the next generation of Australian developers – working at the business, or starting their own firms.

- For a major global company providing expert technical services in the oil and gas sector, Mechanical Engineering Technicians with global skills are needed to guarantee service levels. There are not enough qualified and experienced workers in Australia to fill vacancies, and putting this role on the two year list will make it more difficult and costly for the company to fill enough of the roles with suitably skilled foreign workers.
- For a major retailer, while the role of ‘store manager’ roles may appear at first glance to be easily filled by Australian workers, there are occasions when the role requires sophisticated, technical skills to manage a network for stores, for which there are few people qualified in Australia. Bringing these skilled migrants to Australia means their knowledge and skills can be imparted to the local workforce.

If companies in Australia cannot access the talent they need to be globally competitive, they risk losing out to foreign businesses that are headquartered offshore and which can sell goods and services into the Australian economy from overseas. It will make it harder to produce goods and services in Australia that are competitive in export markets.

Capital and talent are highly mobile, and companies will look to locate their regional headquarters or high value business activities in more globally competitive jurisdictions.

### ***The two-year visa will not attract the best highly skilled migrants***

A two-year visa will not attract high quality candidates with the required global talent and experience to Australia. For many highly qualified candidates a two-year visa, coupled with no path to permanent residency, does not justify moving to Australia. Australia is in an increasingly competitive contest for the best global talent. We cannot assume a sufficient supply of skilled migrants willing to come here to fill jobs on a short term basis.

A number of overseas-based candidates have already withdrawn their applications for roles in Australia since the changes were announced. Recruitment processes for very senior roles (e.g. Chief Financial Officer, Chief Information Officer) have been halted, leaving companies in limbo and interrupting business plans. For example, a major Australian retail company recruiting for an experienced strategy manager identified an ideal candidate with unrivalled global experience, however the candidate withdrew from the recruitment process due to the change to the two year visa and the removal of the pathway to permanent residency.

Global senior executives possess highly transferable skills and have options to work all around the world. They will not risk their careers or bear the financial costs and inconvenience of uprooting their lives and their families’ lives to move to Australia for a maximum guaranteed period of two years.

The two-year visa will severely limit the global talent pool from which Australia’s largest companies can recruit, particularly at the corporate general manager level, and will lead to companies in Australia cannibalising each other’s staff, which will drive up costs.

It is also in Australia’s interest to reinstate the pathway from temporary migration to permanent residency for senior executives and highly skilled professionals, which would follow if these occupations are reassigned to the four-year list. The Australian lifestyle is highly regarded and the option of eventual permanent residency can be a major incentive for skilled migrants. Some executives on temporary postings decide to make Australia

their permanent place of residence and go on to make a valuable contribution to the community and Australian public life.

### ***It will take many years to train Australians to fill some roles on the two-year list***

Business Council members agree that large Australian and foreign companies should train and recruit Australians to fill skilled positions in Australia wherever possible and the vast majority do this very well. Many local arms of multinational businesses are managed by Australians.

However, as mentioned earlier, for many of the highly skilled roles on the STSOL, it will take a lot longer than two years to train enough Australians to be able to fill the vacant roles in the economy. And given the dynamic nature of the global economy and constantly changing product markets, there will always be cases where job vacancies cannot be matched with Australian workers with the requisite global experience or specialist knowledge.

More flexibility is needed in the scheme to enable more occupations on the two-year list to be filled with skilled migrants for longer periods, especially where global experience and expertise, or specific technical knowledge, is an important factor.

Australian workers will benefit from the attraction of global talent to Australia. Skilled migrants can impart their knowledge and transfer their skills to the local workforce. The recruitment of highly skilled migrants will create opportunities for high value Australian businesses to grow and be headquartered here, to hire locally and pay high wages and tax.

### ***Skilled migrants fill critical roles but the proportion of total jobs is small***

While skilled migrants play a critical role in filling skills shortages, as a proportion of total jobs their numbers are low. The number of primary Temporary Skilled Migration visa holders has fallen below 100,000, and represents less than 0.8 per cent of the total workforce. For major corporations in Australia the ratio of temporary skilled migrants to total employment can be very small. For example, one major business has over 100,000 team members across Australia, and only around 120 subclass 457 visas holders. However those subclass 457 visa holders are playing very important roles that cannot be filled by the local workforce.

Any concern that temporary migration has been misused as a short cut to permanent residency should not really apply for large, established companies. While the option of future permanent residency is an incentive for some temporary migrants taking up roles in Australia, in reality few temporary migrants in major corporations go on to become permanent residents. Many come to Australia to complete a posting or a specific job and then either return home or move to their next international posting.

### ***Unintended consequences of leaving the skilled occupation lists unchanged***

The Business Council believes it is important for innovation and Australia's long term prosperity that the current skilled occupation lists are changed on 1 July 2017 to reflect the recommendations in this submission. We see the following unintended consequences if the lists are not amended to provide more occupations with access to the four-year visa.

### *The competitiveness of Australian companies will be harmed*

The exclusion of many occupations from the four-year visa will deprive Australian companies of the global talent they need to innovate and to compete with foreign companies.

### *Harmful to the innovation economy.*

If we are going to pursue the National Innovation and Science Agenda in competition with the United States (US), Singapore and New Zealand, we need to access globally competitive skills.

### *Risk of relocation of headquarters; Australia a branch economy*

Australia risks losing the contest for talent and seeing corporate head offices of multinational businesses moving to more flexible jurisdictions, leaving the Australian operations as little more than a 'branch office' in many sectors. Some Australian companies are already considering moving whole teams to other countries where they can more easily assemble a full management or project team with the required skills and global experience.

### *Risk to delivery of infrastructure projects*

The roll out of projects in the government's infrastructure program is at risk due to inability of companies to assemble integrated teams of specialists covering the full range of disciplines.

### *Reciprocity of visa arrangements in other countries at risk*

Australia is a global leader in migration policy and there is a risk other countries will follow suit and impose similar restrictions on temporary skilled visas for Australian workers. Australian executives and skilled professionals are working under similar temporary work arrangements in other countries managing the expansion of an Australian business into new markets, or gaining valuable experience in a foreign business that they can one day bring back to Australia. This is unquestionably good for Australia.

### *Risk of losing valuable economic activity*

The restrictions associated with the two-year visa – along with the other changes to the program that increase fees, introduce a training levy and add red tape – will raise the difficulty and cost of hiring offshore, and potentially lead many businesses to choose not to fill skill shortages at all and forgo innovation, new projects or business expansion. Opportunities for knowledge transfer and development and training of local workers will also be foregone.

## **Recommendations**

### ***Changes to occupations lists***

The Business Council recommends the occupations in Table 1 below should be transferred from the *Short-term Skilled Occupation List (STSOL)* to the *Medium and Long-term Strategic Skills List (MLTSSL)*, under the Migration Regulations 1994 - Specification

of Occupations, a Person or Body, a Country or Countries 2016/059, Compilation No.2 (19 April 2017).

The occupations in Table 1 have been identified for inclusion on the four-year list due to the need for:

- companies to be able to appoint employees to these roles with company-specific skills, global expertise or technical skills that cannot be found in the local workforce or which cannot be realistically developed by training Australian workers within a two-year period
- a longer guaranteed period of employment (of more than two years).

(The list is not exhaustive and we expect individual companies to put forward other occupations to the Department that also have a strong case for inclusion on the MLTSSL.)

In particular, prioritisation should be given to ensuring transfer of:

- senior change management roles : Chief Executive Office, Corporate General Manager, Chief Financial Officer (Finance Manager) and Chief Information Officer
- roles that support business innovation, such as Sales and Marketing Managers and Management Consultants
- Technical roles that can support high quality service levels and safety such as ICT Specialists and Engineers.

### ***Minimum salary threshold***

For highly skilled occupations that remain on the STSOL after 1 July, the Business Council recommends the introduction of a minimum salary threshold above which the government has the option to issue a four-year visa. A minimum salary threshold could be set at \$180,000 per annum, in line with the top marginal tax rate.

The threshold recognise the need for four-year visas for occupations where company-specific, technical or global expertise are the reason for the existence of a genuine skills shortage. It would allow companies to access the best global talent and be beneficial to the Australian economy.

This approach would protect against dilution of the four-year visa for senior executive occupations. The threshold would restrict access to the four year visa to well remunerated roles that are typically in larger companies, where risks of misuse are low. In the case of start-ups that need access to global executive skills, four year visas could be restricted to priority innovation sectors, like the IT sector.

### **‘Trusted companies’ program proposal**

The Business Council proposes the introduction of a ‘trusted companies’ program to streamline visa processing and create more flexibility for low-risk businesses with a good track record of hiring and training locally.

Under the program:

- visa application and approval processes would be less costly and faster
- more skilled occupations would be eligible for the 4-year visa
- there would be relaxation of some conditions e.g. English language

- safeguards would be designed to ensure the integrity of the temporary migration program is maintained

The program should be designed to be consistent with the recommendation of the 2014 Independent Review of Integrity in the subclass 457 program (the Azaria Review) for a 'streamlined model for processing sponsorship, nomination and visa applications based on certain risk factors'. It could be based on the labour agreement model and/or the 'Australian Trusted Trader' initiative which 'recognises businesses with a secure supply chain and compliant trade practices, rewarding accredited businesses with a range of trade facilitation benefits.'<sup>1</sup>

For qualifying businesses, the program would speed up recruitment into critical roles, lift business competitiveness and support growth in the Australian economy. We would welcome an opportunity to discuss this proposal further with the Department of Immigration and Border Protection.

### **Relaxation of minimum English language standards**

The Business Council proposes that the government relax the minimum English language standards for certain highly skilled or senior occupations where there are low risks of exploitation or serious workplace safety concerns. For example, there is no obvious need for Chief Executive Officers and senior executives of multinational corporations (e.g. trading and investment companies) who are posted to Australia and critical to the presence of their companies operating in Australia to be able to speak English at the levels required under the new program.

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1. See <http://www.border.gov.au/Busi/cargo-support-trade-and-goods/australian-trusted-trader>.



**Table 1: Recommended occupations to transfer to the MLTSSL (four-year Temporary Skilled Visa stream)**

| Occupation                                   | ANZSCO | Rationale  |
|--|--------|--|
| Chief Executive Officer                      | 111111 | Company-specific skills or global talent and experience that can deliver organisational change and lift competitiveness  |
| Corporate General Manager                    | 111211 | Attract personnel with company-specific skills or global talent with experience and strategic leadership and influencing and leading change in complex organisations. (E.g. in the retail sector, candidates need broad retail capability, knowledge of global retail practices and have experience developing strategies to address new entrants and digital retailers) |
| Sales and Marketing Manager                  | 131112 | Attract retail specialists with experience in managing complex retail operations networks, building and managing large teams across multiple locations and delivering large sales targets  |
| Finance Manager                              | 132211 | Company-specific skills or global talent and experience. Includes Chief Financial Officers   |
| Research and Development Manager             | 132511 | Research Laboratories need to complement their teams of Australian post-doctoral researchers and managers with highly qualified and specialised researchers from around the world if they are to operate at the cutting-edge of international research   |
| Importer or Exporter                         | 133311 | E.g. experts in US International Traffic and Arms Regulations (ITAR) to support large Australian-led defence programs which include US technology  |
| Chief Information Officer                    | 135111 | Company-specific skills or global talent and experience  |
| ICT Managers nec                             | 135199 | Company-specific skills, technical skills or global talent and experience  |
| Financial Dealers nec                        | 222299 | Includes a range of specialisations that require extensive international experience which cannot always be sourced in Australia, achieving change in such roles usually takes longer than a maximum of four years  |
| Training and Development Professional *      | 223311 | Training professionals with detailed product knowledge e.g. aircraft   |
| Organisation and Methods Analyst             | 224712 | Requires targeted expertise in business improvement, particularly in areas of risk and compliance, where it is difficult to find such expertise in the local market.   |
| Management Consultant                        | 224711 | Specialists requiring global sectoral experience of five to 10 years to solve issues, create value, maximise growth and improve business performance in their area of responsibility   |
| Marketing Specialist                         | 225113 | In retail, the need to attract merchandising specialists with skills in retail category management that have been developed in competitive international grocery markets   |
| Sales Representative (Industrial Products) * | 225411 | Field service representatives or training professionals with detailed product knowledge e.g. aircraft  |

|  |        |  |
|--|--------|--|
| Sales Representative (Medical and Pharmaceutical Products) * | 225412 | Candidates are scarce locally based on product knowledge and technical capability  |
| Urban and Regional Planner                                   | 232611 | Required for integrated teams of specialists engaged in major infrastructure projects  |
| Mining engineer  | 233611 | Specialist technical skill set.  |
| Engineering professionals nec                                | 233999 | Specialist technical skillset. E.g. required for integrated teams of specialists engaged on major infrastructure projects, site manager, field service technician etc. |
| Environmental consultant                                     | 234312 | Required to assist with permitting for major projects  |
| Environmental scientists nec                                 | 234399 | Required to assist with permitting for major projects  |
| Nurse Manager  | 254311 | Where a Registered Nurse gets promoted to become Nurse Manager, they revert back to a short-term visa. This at a time of serious workforce shortage                    |
| Developer Programmer   | 261312 | Sparse skill set in Australia around cyber-security and the immediacy of the challenge of protecting individuals and corporates from malicious attacks                 |
| ICT Business Analyst   | 261111 | Sparse skill set in Australia around cyber-security and the immediacy of the challenge of protecting individuals and corporates from malicious attacks                 |
| ICT Security Specialist                                      | 262112 | Global expertise needed to support technology systems that can withstand internal and external threats   |
| ICT Support Engineer   | 263212 | Need people with international experience to ensure technology systems can withstand internal and external threats   |
| Computer Network and Systems Engineer                        | 263111 | Sparse skill set in Australia around cyber-security and the immediacy of the challenge of protecting individuals and corporates from malicious attacks                 |
| ICT Systems Test Engineer                                    | 263213 | Global expertise needed to support technology systems that can withstand internal and external threats   |
| Mechanical Engineer  | 312512 | Large numbers often required on complex projects, specialist technical skillset required to guarantee service levels   |
| Building and Engineering Technicians nec *                   | 312999 | Large numbers required on complex projects, specialist technical skillset required to guarantee service levels   |
| Aircraft Maintenance Engineer (Avionics) *                   | 323111 | Field service representatives or training professionals with detailed aircraft knowledge   |
| Aircraft Maintenance Engineer (Mechanical)                   | 323112 | Rare technical skillsets e.g. repairing propellers.  |
| Contract Administrator                                       | 511111 | High level of technical, commercial and product knowledge required   |
| Program or Project Administrator                             | 511112 | Project managers with key technical, product and project delivery experience on high value projects  |

\* removed from two-year list

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