



South Australian Centre for Economic Studies

The Potential Benefits of Reforming Migration Policies to Address South Australia's Needs

Report 2: Areas Where the Migration System Does Not Meet South Australia's Needs

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Glossary

ABS	Australian Bureau of Statistics
ANZSCO	Australia and New Zealand Standard Classification of Occupations
AQF	Australian Qualifications Framework
BIIP	Business Innovation and Investment Program
CBD	Central Business District
CSOL	Consolidated Skilled Occupations List
DAMA	Designated Area Migration Agreement
DIBP	Australian Government Department of Immigration and Border Protection
DoE	Australian Government Department of Employment
GAE	Guaranteed Annual Earnings
GDP	Gross Domestic Product
GSP	Gross State Product
GTE	Genuine Temporary Entrant
IELTS	International English Language Testing System
ISA	Immigration South Australia
LGA	Local Government Association
LMA	Labour Market Agreement
MLTSSL	Medium and Long-Term Strategic Skills List
MSL	Minimum Salary Level
NOM	Net Overseas Migration
PSW	Post-Study Work
PSWR	Post-Study Work Rights
RDA	Regional Development Agency
RSMS	Regional Sponsored Migrant Scheme
RTO	Regional Training Organisation
SA	South Australia
SIV	Significant Investor Visa
SkillSelect	Skilled Migrant Selection Register
SOL	Skilled Occupations List
SSVP	Simplified Streamlined Visa Processing
STSOL	Short-Term Skilled Occupations List
SVP	Streamlined Visa Processing
TAFE	Technical and Further Education (institutions)
TaSC	Training and Skills Commission
TSMIT	Temporary Skilled Migration Income Threshold
VET	Vocational Education and Training

Executive Overview

SACES was commissioned by a consortium of businesses and peak bodies to explore national immigration policy in the context of challenges facing economic and business development in South Australia, particularly for regional South Australia (SA). It specifically focusses on barriers that current visa regulations may impose on utilising international migration to the benefit of the SA economy, and in particular any aspects of the migration system that may be less effective for South Australian businesses relative to those in more populous, higher wage, states. In doing so, it not only considers skilled labour migration, but also business, student, and temporary graduate student visa access.

The study is built on a series of interviews with businesses and organisations representing business in SA, in particular in regional areas, but also in and around Adelaide. Additional interviews were conducted with Regional Development Agencies (RDA) in SA, organisations providing or promoting training, especially in the vocational education and training sector; and the Local Government Association (LGA). The interviews were conducted by phone, face-to-face or, in one instance, by email. In addition to gathering the views and experiences of businesses, business representatives and economic development agencies, the study analysed secondary data about key demographic trends in South Australia, the structure of the South Australian economy, including wages and costs of living, demographic and migration statistics.

Due to the complexity of the subject matter, and the significant amount of information collected, the research has been split between three reports.

This report (Report 2) takes a closer look at some of the concerns raised by business owners and representatives in the course of the consultations with regard to aspects of the Australian visa and immigration system, the potential impacts of the recently announced changes, as well as the opportunities that immigration may present in light of SA's economic challenges.

Report 1 provides a brief overview of the national and international evidence on the impact of migration on existing residents. It then goes on to review South Australia's current economic challenges and reports the experiences, opinions and suggestions we received from our interviews with regional and metropolitan businesses, business organisations and education providers with respect to skill shortages and the challenges of the current visa provisions, including for recent international graduates, from their point of view.

Report 3 concludes with suggestions for adapting the international migration system to improve its responsiveness to changing economic environments and, specifically, capable of supporting the South Australian economy.

Current Migration Policy Settings

Immigration is centrally administered by the Australian Government Department of Immigration and Border Protection (DIBP) and applies uniformly to the whole of the country, with certain specific provisions for areas classified as 'regional' by the Department giving a greater degree of flexibility to local employers and visa applicants intending to reside and work in these areas.

The Commonwealth Government recently made a number of changes to the skilled migration programs, and some specific aspects of the operation of visas noted by employers have changed (or will change shortly). These changes are summarised in Chapter 2. It is important to note that these changes are designed to address perceived over use/inappropriate use of skilled visas and so the changes do not address any of the concerns raised by employers in our research. Indeed in many cases the announced changes exacerbate the existing situation of South Australian employers (particularly in regional areas) not always being able to access employees with the skills they require.

Access to most of the skilled visa categories is governed by occupation lists, which detail which occupations are eligible for applications under which visa category. At the time of our research these were the Skilled Occupation List¹ (SOL), the Consolidated Sponsored Occupation List² (CSOL) and the RSMS Occupation List³, with the changes announced on 18 April 2017 replacing them with the Short-term Skilled Occupation List (STSOL) and the Medium and Long-Term Strategic Skills List (MLTSSL).

¹ Relevant for applicants for points-based skilled migration (not nominated by a state or territory government agency); a Family Sponsored Points Tested visa; and Temporary Graduate visa (subclass 485) - Graduate Work stream.

² Relevant for applicants for points-based skilled migration (nominated by a state or territory government agency); the Employer Nomination Scheme (ENS), Temporary Work (Skilled) visa (subclass 457); and Training and Research visa (subclass 402).

³ Relevant for applicants for the Regional Sponsored Migration Scheme (subclass 187).

There were four key visa subclasses identified by stakeholders as being (potentially) important to their ability to meet their needs for labour that they couldn't access in the local labour market, and this study has consequently been focussed on these:

- the Temporary Work (Skilled) visa (subclass 457) visa (to be replaced by the Temporary Skill Shortage visa in March 2018),
- the Temporary Graduate visa (subclass 485),
- the Business Innovation and Investment (Provisional) visa (subclass 188), and
- the Regional Sponsored Migration Scheme (RSMS) (subclass 187).

A description of these visas and their eligibility is included in Appendix A.

Immigration policy in Australia is currently geared towards facilitating and managing the influx of skilled labour through various temporary and permanent migration programs with eligibility criteria such as the lists defining visa eligible occupations (the Skilled Occupation List, SOL; the Consolidated Sponsored Occupations List, CSOL; and the RSMS Occupation List) together with the Temporary Skilled Migration Income Threshold (TSMIT) used for 457 visas adopted to maintain a strategic focus on addressing longer term skills needs with the Business Innovation and Investment Program (BIIP) used to attract high level international investment and business acumen.

TSMIT and the occupation lists are experienced as barriers to the hiring of migrant labour in the absence of suitable local labour supply. TSMIT stipulates a minimum market rate of pay for a job vacancy to be able to be filled by a 457 visa holder, with this minimum level above the going market salary rate of many occupations with supply shortages in regional SA. The occupation lists too have been criticised for not reflecting the needs of SA businesses, in this case through failing to accurately match job titles and job contents. As a result, in-demand occupations are missing from them. At the same time, there is a mismatch between the semi- and low-skill needs of many regional businesses in SA and immigration's focus on skilled labour. The bureaucracy and cost of lodging visa applications and the time taken for visa processing were also criticised.

The extent to which the current migration system meets the SA economy's needs and options for reform

The Australian temporary work and business investment visa systems present both opportunities and challenges for the SA business and education provider communities. The SA economy faces a triple challenge of population and labour force ageing, a disproportionate reliance on owner managers of unincorporated businesses with an old age structure, and regional depopulation. In combination, the three lead to and accentuate skill and more general labour shortages in particular, but not exclusively, in regional SA. These labour shortages affect semi and low skilled occupations as well as skilled occupations.

Our research found a number of aspects of the current migration system that did not meet the needs of the South Australian economy or South Australian firms:

- the use of a single level for the TSMIT makes visas which are required to meet it much less useful in lower wage regions, which is most of South Australia;
- the use of ANZSCO definitions to classify jobs to occupations and skill levels can disadvantage employers in sectors where ANZSCO no longer reflects contemporary usage;
- the skills gaps identified by many regional South Australian employers are often for occupations that require Certificate III or equivalent, but such occupations are not typically eligible for skilled worker visas;
- the lack of regional flexibility on the occupations listed, and the fact that such lists do not take into account that in rural areas an employee will often be required to cover aspects of several jobs, means that the occupation lists do not do a good job of reflecting the needs of regional SA (or indeed regional employers elsewhere);
- South Australian owner/managers of small businesses have a high average age, making identifying potential purchases for their businesses important. In theory, the BIIP visa could allow South Australia to draw on the savings and business experience of potential migrants to meet some of this need. However, the value of investment required for a the Business Innovation stream of the BIIP visa is high relative to the typical value of South Australian small and medium enterprises, making most of them ineligible for purchase by someone entering on such a visa;
- South Australia's educational institutions currently recruit a large share of their students (and a larger share than other jurisdictions) from countries which are treated by the Department of Immigration and Border Protection as higher risk under the new Simplified Student Visa Framework. Visa applicants from these countries must meet particularly stringent evidentiary requirements to demonstrate that they are

a genuine temporary entrant, and can complete their course. If this discourages such students from applying, and/or results in student visa refusals, then South Australia's share of international VET students (already disproportionately low) may fall further; and

- it was felt that BIIP visas generally do a poor job of increasing the number of entrepreneurs in Australia, or in assisting retiring business owners find potential purchasers, and that the local business environment, and the national investment levels set for key streams of this visa made it even less suitable for South Australia's needs.

More details of each of these issues is provided below.

Temporary Skilled Migration Income Threshold (TSMIT)

Australia's Temporary Work (Skilled) visa (subclass 457) and all General Skilled Migration visas (subclasses 175, 176, 475, 189, 190, 489, 485) are focussed on facilitating skilled and highly skilled migration, with little scope provided for attracting the supply of labour at other occupational and skill levels often in demand in regional SA. Only the RSMS (subclass 187) currently provides an entry point for Direct Entry applicants (nominated by an employer) with qualifications at ANZSCO levels I (degree), II (diploma, associate degree) and III (AQF Certificate levels III and IV). It also grants permanent residency. SA currently attracts a greater than proportionate share of RSMS visa in Australia, but a lower than proportionate share of subclass 457 visas.

Many businesses reported that the TSMIT was a significant barrier to using the migration system to address skills shortages. The justification for the TSMIT is that it acts as a proxy for the skill level of a position, and that it ensures migrants have an adequate income. However often quite large differences in wage levels and in the cost of living across regions of Australia mean that a single level for the TSMIT cannot fulfil its functions in all regions of the country (see the discussion in Section 3.1 of this report).

The Australia-wide uniform application of the TSMIT to subclass 457 visas (and its planned extension in 2018 to also cover RSMS visas) systematically disadvantages businesses located in low wage regions, which is a feature that characterises much of SA. Our research with businesses found that the TSMIT makes this visa sub class unusable for many regional SA business whose market salary rates are typically below this minimum level, meaning their vacancy cannot be filled by a 457 visa holder even if the employer would be willing to pay the TSMIT rate (unless they are in an industry with an exception such as the meat industry with a labour agreement that allows salaries to be inflated to meet the TSMIT).

Identifying and naming skilled occupations

A further specific concern to SA businesses have been the occupation lists (CSOL, RSMS Occupation List), which apply to subclass 457 and 187 visa applications, and the specification of occupations on those lists, which it is felt do not always and accurately reflect how job contents relates to job titles, with some stakeholders feeling that this problem is exacerbated by limitations in the ANZSCO classification framework. This was said to be leading to confusion over the types of labour and skill shortages experienced in regional SA and, alongside the focus on skilled occupations, is preventing the use of immigration to meet labour demand.

Training packages published by training.gov.au provide a useful source of more up-to-date industry relevant descriptions of occupational skill and capability requirements and these could be used in the migration system to ensure that jobs were properly categorised.

Business Innovation and Investment Program (BIIP)

Alongside but separate from the work visas, the BIIP seeks to attract business investment and management expertise to Australia, but has had little exposure in SA and may, arguably, not yet have been used to its full potential. An emerging business succession challenge, especially in regional SA, may be helped and addressed through BIIP, but this may require some differential treatment for South Australia (and other similar jurisdictions). As such, the minimum investment level of the business innovation stream excludes many more South Australian and Tasmanian businesses than it does in other states and territories.

One feature of most of the streams of the BIIP visa, which is at least somewhat at odds with its stated objectives, is that only in the Business Innovation Stream are visa holders required to invest in establishing or purchasing an Australian company. For the other streams investment is generally directed into 'passive' vehicles such as government bonds and equities. This seems counter intuitive as there is no shortage of funds flowing to government bonds, listed stocks or commercial property in Australia. The gaps that exist are concentrated in funding of small and medium enterprises and in early stage and venture capital. As such the benefits to Australia from the required investments of most streams of the BIIP are likely to be very small.

In theory the entrepreneur stream of the BIIP visa should provide a good pathway to attract entrepreneurial talent to Australia. However its requirement that applicants have a minimum investment of \$200,000 from a limited set of funding bodies (essentially a venture capital fund, or a government, or a university) excludes most potential entrepreneurs (including those already in SA on other visas such as international students). A better approach would be one that – like the Business Innovation stream – placed restrictions on what type of business could be established under the visa, and required a credible business plan as part of the application, but which allows the migrant to source the funding from wherever they can.

The international student sector

While regional businesses consulted for this study were often looking for semi-skilled and lower skilled workers who could also be trained 'on the job', there may be fewer opportunities for filling current or future vacancies with recent international graduates of domestic VET programs as Temporary Graduate work visas have become more restrictive and, for those with less than degree qualification who can only apply for the Graduate Work stream, limited to 18 months.

Consultations in the VET sector highlighted a widespread concern as to the impact on South Australian VET providers of the Simplified Student Visa Framework (SSVF) for student visas, particularly the introduction of the GTE test and the associated immigration risk rating of countries. SA's educational institutions currently recruit a large share of their students (and a larger share than other jurisdictions) from what were until recently known as Assessment Level (AL) 3 countries, which are treated by the Department of Immigration and Border Protection as higher risk. Course and student visa applicants from these countries must meet particularly stringent evidentiary requirements that verify their ability to support themselves financially, their English language and academic competencies, and to satisfy the GTE test, and experience higher refusal rates. If this discourages such students from applying then South Australia's share of international VET students (already disproportionately low) may fall further.

1. Introduction

1.1 Background

In Australia, as in most OECD member economies, the primary focus of labour market policy is on developing a training system that is responsive to (and ideally anticipates) the skills demanded by employers, and on increasing participation in the labour force. Migration policy in this context is focussed on attracting and managing the intake of skilled migrants to fill medium or long term vacancies that could not be filled by training labour locally (at least not in the time available), or encouraging those with the required skills back into the labour force.

Immigration is centrally administered by the Australian Government Department of Immigration and Border Protection (DIBP) and applies uniformly to the whole of the country, with certain specific provisions for areas classified as 'regional' by the Department giving a greater degree of flexibility to local employers and to visa applicants planning to reside in such regions.

The Commonwealth Government recently made a number of changes to the skilled migration programs, and some specific aspects of the operation of visas noted by employers have changed (or will change shortly); see Chapter 2. It is important to note that these changes are designed to address perceived over use/inappropriate use of skilled visas and so the changes do not address any of the concerns raised by employers in our research. Indeed in many cases the announced changes exacerbate the existing situation of South Australian employers (particularly in regional areas) not always being able to access employees with the skills they require.

Access to most of the skilled visa categories is governed by occupation lists, which detail which occupations are eligible for applications under which visa category. At the time of our research these were the Skilled Occupation List⁴ (SOL), the Consolidated Sponsored Occupation List⁵ (CSOL) and the RSMS Occupation List⁶, with the recently announced changes replacing them with the Short-term Skilled Occupation List (STSOL) and the Medium and Long-Term Strategic Skills List (MLTSSL).

There were four key visa subclasses identified by stakeholders as being (potentially) important to their ability to meet their needs for labour, and this study has consequently been focussed on these:

- the Temporary Work (Skilled) visa (subclass 457) visa,
- the Temporary Graduate visa (subclass 485),
- the Business Innovation and Investment (Provisional) visa (subclass 188), and
- the Regional Sponsored Migration Scheme (RSMS) (subclass 187).

A description of these visas and their eligibility, and the recent set of changes, is included in Appendix A.

In addition to raising the bar for immigration by limiting eligibility to specific occupations and minimum qualifications, Australian immigration policy also enforces requirements that market rates be paid to those on temporary skilled worker visa, as well as requiring that the existing wage for the position being filled meets a set threshold⁷ (the Temporary Skilled Migration Income Threshold (TSMIT), set at \$53,900 per annum at the time this report was being prepared). The three objectives of setting a minimum salary level are to ensure that migrants are paid a wage that secures a decent standard of living, protecting existing local labour wages from undercutting by migrant labour, and acting as a check that the position is genuinely high skilled through requiring its normal wage to be equal to the TSMIT. Such wage thresholds, however, mean that many job vacancies (particularly in regional areas) cannot be filled using temporary skilled migration as their market wage is below the TSMIT, a factor acknowledged in the 2014 review of the 457 program (Azarias et al. 2014, p. 57). And there is no reason to believe that a single national rate can identify the skill level of a position given the substantial variations in salary levels between regions, nor is a salary level that is the minimum reasonable wage for a migrant in a high cost region necessarily the minimum reasonable wage in a lower cost region. These issues are discussed in Chapter 3.

⁴ Relevant for applicants for points-based skilled migration (nominated by a state or territory government agency); a Family Sponsored Points Tested visa; and Temporary Graduate visa (subclass 485) - Graduate Work stream.

⁵ Relevant for applicants for points-based skilled migration (nominated by a state or territory government agency); the Employer Nomination Scheme (ENS), Temporary Work (Skilled) visa (subclass 457); and Training and Research visa (subclass 402).

⁶ Relevant for applicants for the Regional Sponsored Migration Scheme (subclass 187).

⁷ A limited exception to this exists for employers in the meat industry, which, whilst they still have to pay at least the TSMIT to workers brought in under a 457 visa subclass can fill positions where the existing market wage does not meet the TSMIT.

TSMIT and the occupation lists are experienced as barriers to the hiring of migrant labour in the absence of suitable local labour supply. TSMIT stipulates a minimum market rate of pay for a job vacancy to be able to be filled by a 457 visa holder, with this minimum level above the going market salary rate of many occupations with supply shortages in regional SA.

At present the TSMIT is only required for 457 visas, however one element of the recently announced set of changes is to extend the TSMIT to the RSMS visa program. This is potentially a substantial issue for South Australian employers as the RSMS visa has been an important tool for addressing regional skills shortages allowing firms to operate at capacity, or maximise their productivity and if South Australia's RSMS visa outcomes fall back in line with 457 outcomes then there will be many businesses facing renewed skill shortages.

The occupation lists too have been criticised for not reflecting the needs of SA businesses, in this case through failing to accurately match job titles and job contents. As a result, in-demand occupations are missing from them. At the same time, there is a mismatch between the semi- and low-skill needs of many regional businesses in SA and immigration's focus on skilled labour. The bureaucracy and cost of lodging visa applications and the time taken for visa processing were also criticised.

BIIP is a relatively little used resource for business and management expertise and investment in South Australia. There may be scope for a more pro-active use of BIIP, for instance, to attract investment into regional businesses, such as those with retiring owner managers who want to sell their otherwise viable enterprise. Equally, making it feasible for potential migrants or those already in SA (for example, individuals on student or 457 visas) to set up businesses in South Australia may help address the below average rate of business formation in SA and help establish a more entrepreneurial culture.

International students are reasonably well represented at SA's universities, but are much less likely to choose SA VET programs when compared with enrolment statistics for Australia as a whole. In particular, animal care and management; food product manufacturing; and agriculture training packages have relatively few international student enrolments. These are also sectors that businesses consulted in the course of the study identified as experiencing particular labour shortages. High drop-out rates adversely affect all VET programs. At the same time, VET providers are concerned that new immigration risk ratings introduced with the Simplified Student Visa Framework (SSVF) may disadvantage providers in SA because of their greater focus on attracting international students from 'high risk' countries, and because of the additional administrative burden imposed by the genuine temporary entry test.⁸

1.2 Migration to South Australia

Net international migration plays an important part in maintaining the South Australian working age population. South Australia has experienced net outward interstate migration at least since 1981 (as far back as the relevant ABS publication goes). Indeed over this 35 year period there have only been two financial years in which net interstate migration was positive.

This means that if South Australia is to maintain and grow its labour force it needs strong migration rates, particularly in the skilled categories, and ideally from individuals in the relatively younger age groups who are being lost interstate.

Data on visa program outcomes show that South Australia has very low rates of migration in most of the employer driven categories (see Report 1 for details). In 2014/15 SA attracted only 3.0 per cent of 457 visas and 1.6 per cent of grants under the Employer Nomination Scheme, well below our population share of 7.1 per cent. Visa grants for business owner visas were also low at 4.2 per cent of the national total.

Outcomes for the Regional Sponsored Migration Scheme and for General Skilled Migration are much more positive (indeed above our population share), although it is not clear if this can continue following the recent changes to the RSMS program.

1.3 This research

Notwithstanding South Australia's above average unemployment rate, and a range of policies aimed at moving the unemployed and those out of the labour force into work, consultations with business suggest that there remain a substantial number of unfilled vacancies, particularly in regional South Australia. These unfilled vacancies are not just in the higher skill levels that have been the recent focus of the migration system, but extend down to much lower skill levels.

⁸ Countries are considered 'high risk' because students recruited from these countries have in the past tended to violate visa conditions more so than students from other countries.

South Australia also faces some demographic challenges, with the population having experienced a considerable degree of 'hollowing out' as younger working age South Australians moved interstate and overseas in the wake of the collapse of the State Bank.

These challenges form the background which lead to a group of South Australian organisations to commission the SA Centre for Economic Studies (SACES) to explore national immigration policy in the context of challenges facing economic and business development in South Australia. It specifically focusses on barriers that current visa regulations may impose on utilising international migration to the benefit of the South Australian economy. In doing so, it not only considers skilled labour migration, but also business and graduate student visa access, with a particular focus on the four key visa subclasses identified by stakeholders as being (potentially) important to their ability to meet their needs for labour.

The study built on a series of interviews with businesses and organisations representing business in South Australia (many of which were located in regional South Australia). Additional interviews were conducted with Regional Development Agencies (RDA) in SA, organisations providing or promoting training, especially in the vocational education and training sector; and the Local Government Association (LGA). The interviews were conducted by phone, face-to-face or, in one instance, by email. In addition to gathering the view and experiences of businesses, business representatives and economic development agencies, the study analysed secondary data about the structure of the South Australian economy, including wages and costs of living, and migration statistics.

Due to the complexity of the subject matter, and the significant amount of information collected, the research has been split between three reports.

The discussions with industry and other stakeholders undertaken as part of this project identified a number of aspects of the current skilled migration system where it was felt that the current policy settings did not meet the needs of South Australian employers or the South Australian economy.

This report (Report 2) takes a closer look at some of the concerns raised by business owners and representatives in the course of the consultations with regard to aspects of the Australian visa and immigration system, the potential impacts of the recently announced changes, as well as the opportunities that immigration may present in light of SA's economic challenges. Specifically:

Chapter 2 reviews the recently announced changes to the 457 visa, the RSMS and ENS visas and to the occupation lists.

Chapter 3 discusses the extent to which the TSMIT delivers on its dual role of acting as a proxy for skill level, and ensuring temporary migrants earn enough to enjoy an acceptable standard of living. It also considers the potential implications of extending the TSMIT to the RSMS and ENS programs.

Chapter 4 examines the way in which occupations experiencing skills shortages are identified and defined, and, in particular, the role of the relevant occupation lists, and potential alternatives that might more accurately characterise the positions businesses are experiencing difficulty in filling.

Chapter 5 discusses some reasons why the potential of the Business Innovation and Investment Program (BIIP) to encourage business managers, investors and entrepreneurs to migrate to SA is not being realised.

Chapter 6 assesses elements of the international student visa framework that appear to be disadvantaging the SA VET sector relative to its peers in some other states, and which are reducing its potential to contribute to addressing skills shortages.

Report 1 provides a brief overview of the national and international evidence on the impact of migration on existing residents. It then goes on to review South Australia's current economic challenges and reports the experiences, opinions and suggestions we received from our interviews with regional and metropolitan businesses, business organisations and education providers with respect to skill shortages and the challenges of the current visa provisions, including for recent international graduates, from their point of view.

Report 3 concludes with suggestions for adapting the international migration system to improve its responsiveness to changing economic environments and, specifically, capable of supporting the South Australian economy.

2. Recent Changes to Skilled Migration Programs

Since the fieldwork for this research was undertaken, there have been a number of changes made to Australia's skilled migration system, particularly the RSMS and the 457 Visa. Details of these changes have been taken from two fact sheets prepared by the Department of Immigration and Border Protection, the Department's website, and the May 2017 edition of the Department's '457 agent news'.

As our consultations preceded the announcement of these changes, employers' experiences relate to the previous policy settings. However, as all of the announced changes act to reduce access to skilled migrants, the difficulties identified by employers are likely to be if anything exacerbated by these changes. The restrictions on the RSMS program are particularly concerning for South Australia as this is one of the few skilled visa categories where we achieve a share of outcomes that is above our population share.

Throughout this report we will use 457 visa to refer to both the 457 visa and its replacement the TSS visa.

Important changes to Employer Nomination Scheme (ENS) and Regional Sponsored Migration Scheme (RSMS) visas

The Employer Nomination Scheme (ENS) and Regional Sponsored Migration Scheme (RSMS) visas will be modified (with changes introduced progressively from April 2017 to March 2018) to:

- require the position to meet the TSMIT for its normal earnings (currently \$53,900), bringing it into line with the 457 Visa;
- reduced the number of eligible occupations for the ENS in April 2017 (removing 216 occupation from eligibility, with applications for the ENS program restricted to the occupations listed on the 'combined occupation list' which brings together occupations on the new STSOL and selected occupations on the MLTSSL. There are also a further 24 occupations which can only be used for ENS applications where the position will be located in regional Australia);
- reduced the number of eligible occupations for the RSMS from March 2018 when the current occupation list specifically for the RSMS will be abolished, with eligible occupations for these visa classes to be restricted to the occupations on the new Medium and Long-Term Strategic Skills List (MLTSSL), of which there are currently 184, with some additional (regionally focussed) occupations eligible for the RSMS (no details have been provided on what these additional RSMS specific occupations may be);
- increase the minimum English language proficiency requirement;
- require at least 3 years relevant work experience (which effectively removes the current pathway whereby international VET students could previously apply for a RSMS visa at the end of their studies if they could find a sponsoring employer);
- reduce the age limit from 50 to 45 for the direct entry stream of the ENS and RSMS in June 2017, with the minimum age for all streams of these visas reducing to 45 in March 2018; and
- inflows to the RSMS visa are also likely to be reduced due to the new two tier structure for the 457 visa, with a number of occupations now being precluded from transitioning from a 457 visa to an RSMS visa.

Important changes to 457 visas

The 457 visa is being abolished and replaced with a new Temporary Skill shortages (TSS) visa in March 2018, with broadly similar eligibility, however it differs from the 457 visa in several important ways (with changes being introduced in a staggered fashion over the period to March 2018). Most importantly, the new approach to temporary skilled migration:

- has a 'two-tiered' structure of 2 year and 4 year visas;
- the 2 year visa can be used for (almost) all occupations on the STSOL, although 59 occupations have a caveat restricting the circumstances in which a 457 visa can be used to fill a vacancy, but it can no longer lead to permanent residency, reducing its attractiveness to potential migrants (and to employers who will need to fill the vacancy again after 2 years);
- the 4 year visa can only be applied for if the migrant's occupation is one of the 168 occupations included on the new MLTSSL and eligible for the 457 visa, however this visa can lead to permanent residency (with the residency requirement for permanent residency raised from 2 to 3 years);
- requires 2 year's relevant work experience from applicants;
- increases the minimum English language proficiency requirement (and removes the existing limited English language exemptions);
- strengthens the mandatory labour market testing required;

- reduces the number of occupations eligible for the two year visa from 651 to 435 (with access to 59 of the remaining occupations restricted for 457 applicants in some way);
- increases the fees payable by employers sponsoring 457 visas, for example the fee for a primary applicant and for a secondary adult increases from \$1,060 each currently to \$1,150 for the 2 year visa and \$2,400 for the four year visa. For a family of two adults and two children applying for a 4 year visa the total cost will increase from \$2,650 currently to \$6,000; and
- introduces a (subjective) 'genuine temporary entrant' test where an officer of the Department will make an assessment as to whether the applicant is only seeking to move to Australia temporarily.

Changes to training requirements

The training requirement for employers sponsoring a 457 visa holder have also changed.

Under the old arrangements for the 457 visa, a sponsoring employer was required to demonstrate that they were spending an amount equal to at least 1 per cent of their payroll on training (or pay a training levy equal to 2 per cent of payroll).

Under the April 2017 changes, sponsoring employers are now required to pay an annual training levy of \$1,200 per year or part year for small businesses (those with annual turnover of less than \$10 million) and \$1,800 per year or part year for other businesses.

It has not yet been announced what will happen to the training benchmark, e.g. will it be abolished, retained at its current level, or if it will be lowered or increased? The Department has also flagged that the policy settings for training benchmark requirements are being clarified and tightened, by setting out the types of training funds and training expenditures that are acceptable for meeting the benchmark. These changes are expected to be announced in July 2017.

The implications for South Australia depend on what the Department does with the training benchmarks:

- if they are abolished, responsible businesses who invest in their workers are likely to face substantially higher costs, whilst businesses who would prefer not to train their workers could save money. With the net impact on South Australia (and/or its regions) being a likely **reduction** in the availability of training as there is currently no commitment that funds collected from the training levy will be spent in the region from which they derive;
- if they are retained at their current level, then the training levy will represent a substantial increase in costs to employers accessing 457 visas, but training should remain constant; and
- if there is some way for employers who invest more than the industry benchmark to access a rebate on the training levy then it could result in increased access to training in South Australia.

Changes to the occupation lists

The previous system of having three occupation lists used by the migration system, the CSOL, the SOL and the RSMS occupation list is being consolidated slightly into two lists, the Short-term Skilled Occupation List (STSOL) and the Medium and Long-Term Strategic Skills List (MLTSSL), although the RSMS will only transfer to using the MLTSSL in March 2018.

As part of this change the total number of occupations eligible for skilled migration programs has fallen from 651 occupations to 435 occupations.

The 'combined occupations list' which joins the STSOL with most of the occupations on the MLTSSL (although certain occupations are only available to jobs that will be located in regional areas) includes 435 occupations and will be used for applications for the following programs:

- Employer Nominated Scheme (subclass 186) – Direct Entry Stream, up to March 2018;
- Skilled Nominated visa (subclass 190);
- Skilled Regional (Provisional) visa (subclass 489) - State or Territory nominated;
- Temporary Work (Skilled) visa (subclass 457) (once the TSS has replaced the 457 visa, an occupation which is listed on the STSOL but not the MLTSSL will only be eligible for the 2 year stream of this visa, occupations in the 168 occupations listed on the MLTSSL and eligible for 457/TSS applications will be eligible for the 4 year visa. There are also a number of occupations which have a caveat restricting access to the 457/TSS program to some subset of the occupation or requiring additional minimum experience); and

- Training visa (subclass 407) - Nomination eligibility type 2 – Occupational training to enhance skills in an eligible occupation.

The following visa types can only be applied for if they relate to one of the 184 occupations on the MLTSSL:

- Skilled Independent visa (subclass 189), this visa also sees its maximum age reduced from 49 to 44;
- Skilled Regional (Provisional) visa (subclass 489) - Family nominated;
- Temporary Graduate visa (subclass 485) – Graduate Work Stream;
- (from March 2018) the Regional Sponsored Migration Scheme visa (subclass 187); and
- (from March 2018) the Employer Nominated Scheme (subclass 186).

3. Temporary Skilled Migration Income Threshold

The Temporary Skilled Migration Income Threshold (TSMIT) is an integral part of the temporary skilled migration visa subclass 457, and is soon to be extended to cover the RSMS and ENS visas which had previously only required that the position paid a market salary. It defines the market salary rate that an occupation must attract in order to be eligible for consideration for a 457 visa (and it is important to remember that a position can only be filled using a 457 visa if its normal earnings are at least equal to the TSMIT, currently \$53,900, so even if an employer were willing to meet the TSMIT for positions whose usual salary was lower, they could not access a 457 visa.⁹ The TSMIT has two stated purposes:

- to act as an easy to administer proxy for the skill level of a particular job; and
- to ensure that temporary migrant workers receive a wage high enough that they can enjoy a reasonable standard of living, given that they are not eligible for the range of income supplementing benefits available to permanent residents such as Child Benefit A and B, and given that they face a higher cost of living being required to hold private health insurance as a substitute for Medicare, and potentially paying higher school fees for any children.

However, there is a single TSMIT for all of Australia, even though there is no reason to believe that either of these factors will be consistent across the country.

3.1 TSMIT as a proxy for skill level

A nationally applied wage threshold will only be an effective proxy for the skill level of a position if jobs with similar skill and experience requirements attract similar salaries across the country. This is generally not the case as wages for employment at a particular skill level vary widely across the country as they are largely driven by regional supply and demand for labour (and in particular the wages of alternative occupations in that region) and regional cost of living. Therefore there is no reason to believe that a position paying \$53,900 in Inner Sydney is of a comparable skill level to a position paying \$53,900 in the Murraylands in South Australia where average wages are lower.

By way of example, Figure 3.1 shows the proportion of Automotive Electricians/Mechanics in full-time employment who were earning \$52,000/annum or less at the time of the 2011 Census (the closest approximation of the TSMIT possible using Census data) to individuals who are earning an income that is below the TSMIT) by ABS Statistical Area Level 4 (SA4) region.¹⁰

None of the 'Automotive Electricians/Mechanics' in full time employment in 'Other Territories' earned less than \$52,000 per annum, and only 32 per cent of those resident in 'Western Australia – Outback' and 42 per cent in 'Perth – Inner' reported full-time incomes below \$52,000 (the national average share is 65 per cent). In those regions the TSMIT appears to be quite a good indicator that a position is skilled.

In contrast, in 19 of the 88 SA4 regions 75 per cent of Automotive Electricians/Mechanics in full time work had salaries below \$52,000 per annum. It is clearly not the case that this occupation is high-skilled in high wage regions and low skill in low wage regions; rather it is a clear illustration that salary levels are much more influenced by local economic conditions. As such it is not clear that a nationally applied wage level can act as a meaningful indicator of the skill level of a job. Instead it is the salary of a position relative to the norms of its local labour market that is going to be a proxy for the skill level of a position.

This practice of treating wage levels as a proxy for the skill level of a position is likely to disproportionately affect non-mining regional areas, and the states such as South Australia and Tasmania with lower average incomes, locking many employers in these areas out of the skilled migration system.

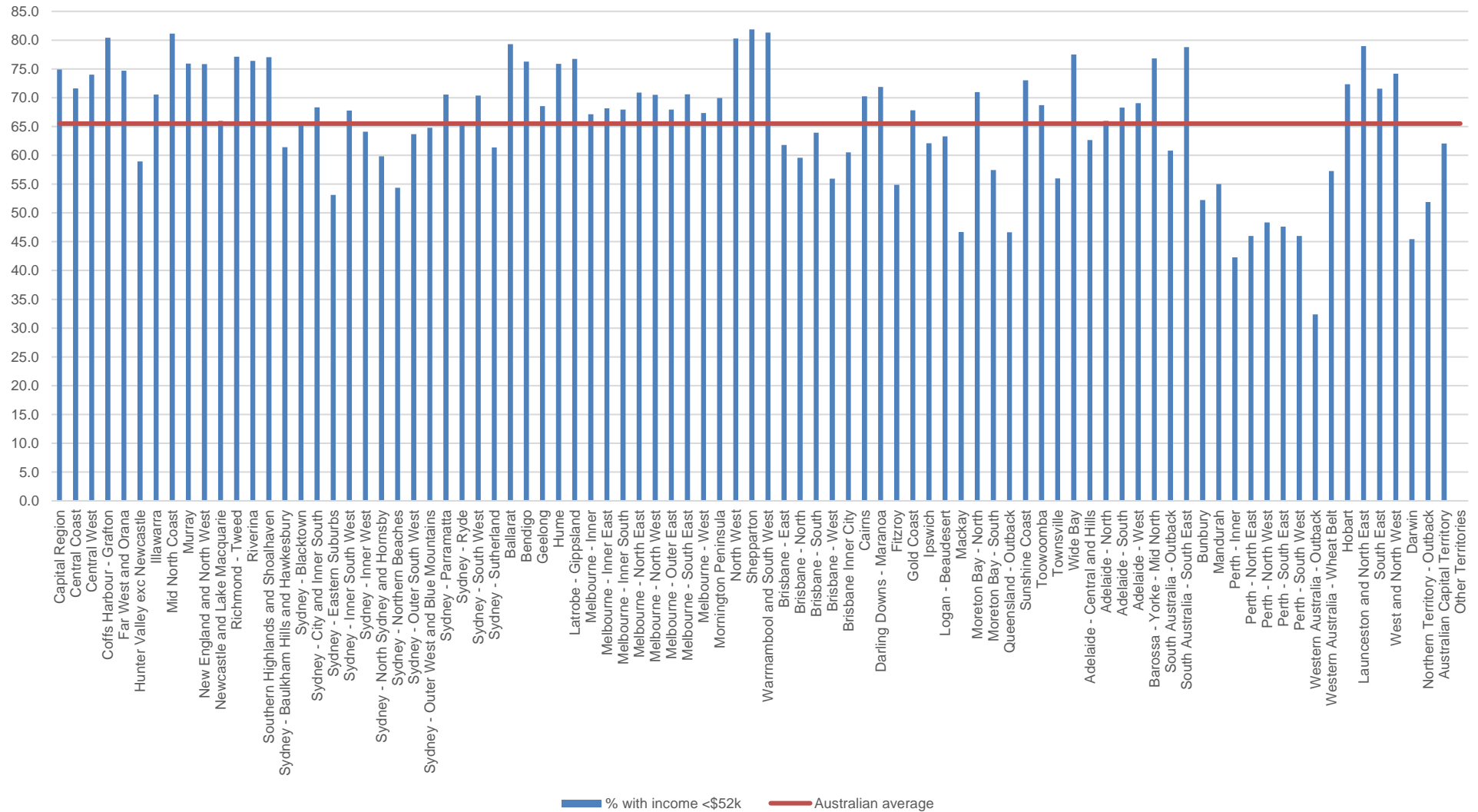
This, in turn, will reduce the competitiveness of these businesses by either:

- reducing their output if the position remains unfilled; or
- reducing their productivity if the position is filled by an individual without all of the necessary skills or experience; or
- increasing their HR costs (and potentially reducing productivity) if businesses fill the position with shorter term labour such as those on working holiday visas requiring them to recruit, train and induct new employees every 6 months.

⁹ The one exception to this are employers covered by the Meat Industry Labour Agreement, in that industry a position can be filled using a 457 visa even if its normal salary does not meet the threshold, providing the employer is willing to pay the 457 visa holder a wage at least equal to the TSMIT.

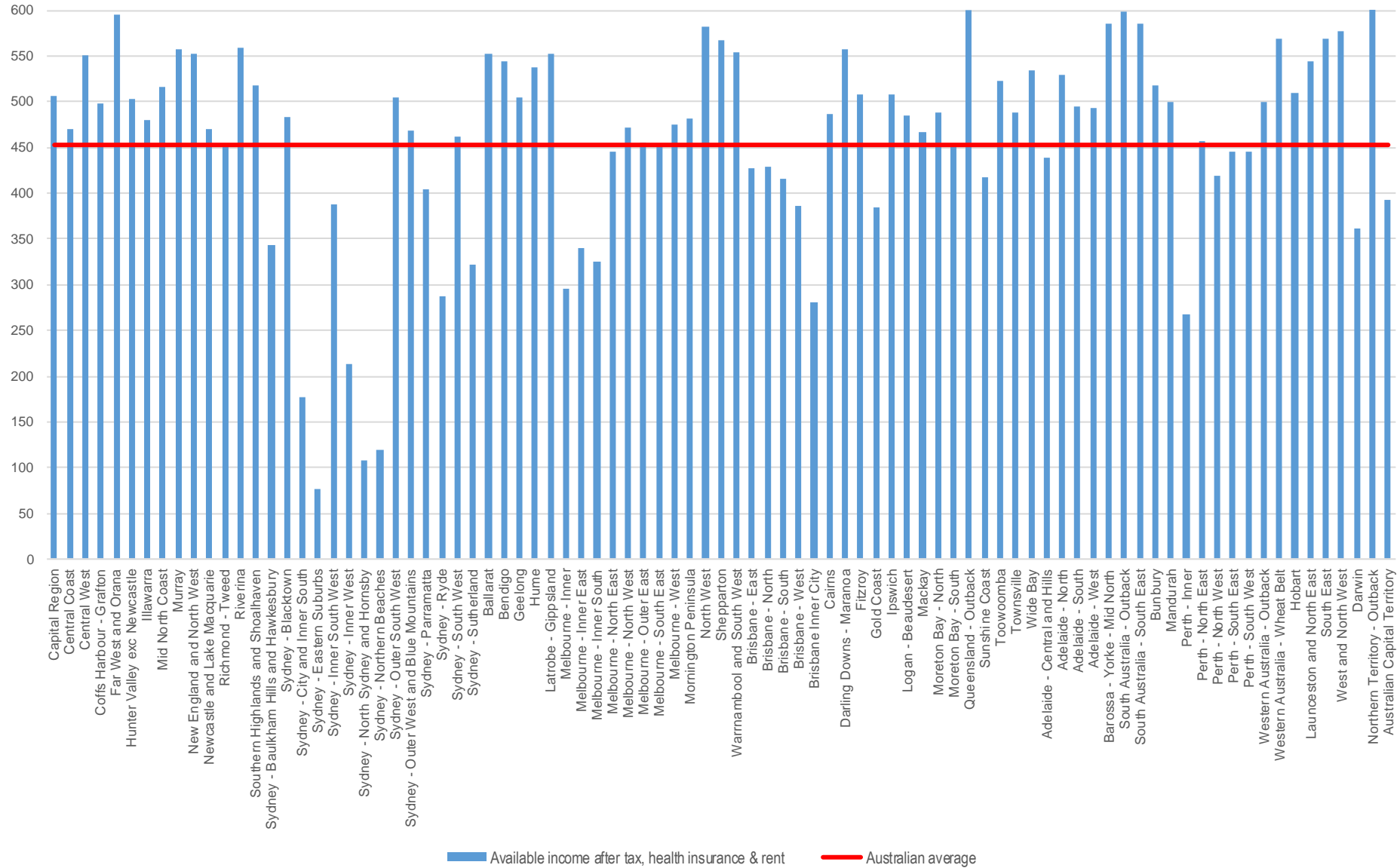
¹⁰ SA4 regions are typically made up of a small group of council areas and generally have populations of between 100,000 to 300,000. For example the Adelaide metropolitan area is split into four SA4 regions.

Figure 3.1: The Proportion of Automotive Mechanics/Automotive Electricians in Full-Time Employment Whose Personal Income in the 2011 Census Was Below \$52,000, by ABS SA4 Region



Source: ABS 2011 Census of Population and Housing, Tablebuilder database, calculations by the author.

Figure 3.2: 'Disposable' income after income taxation, health insurance costs, and average rent on a 3 bedroom dwelling in the region for a single income household earning the current TISMIT (\$53,900), by ABS SA4 regions, \$ per week



Source: ABS 2011 Census of Population and Housing, Tablebuilder database, ATO, Medibank Private website, calculations by the author.

3.2 TSMIT as a measure that a reasonable living standard can be achieved

As is the case for wages of skilled and semi-skilled occupations, the cost of living (or at least some important components of it, such as housing costs) varies widely across regions. Unfortunately, reliable data on cost of living is not readily available at the regional level. Instead a rough proxy of the most regionally variable components of living costs was created, based on the cost of accommodation, private health insurance and income tax. This was used to calculate the income available for other expenditures for a temporary migrant in Australia with their family and earning the TSMIT after paying income taxation (\$9,064.50); private health insurance that meets the requirements of a subclass 457 visa (\$4,965.6, based on the rate quoted by Medibank Private on their website for family cover as at 4 March 2016), and the average rent for a 3 bedroom dwelling in the relevant ABS SA4 region (as at the time of the 2011 Census). This leaves the amount of disposable income available from a gross income of \$53,900 to cover all other expenses including food, utilities, transport costs, school fees etc.

The results of this calculation is shown in Figure 3.2. It is clear that the components of the cost of living that we have captured varies widely, ranging from as low as \$75.70 per week for someone resident in the Eastern Suburbs of Sydney, to a high of \$616.40 for a resident in the 'Northern Territory – Outback'.

Clearly these figures cannot be taken at face value, as in a major city employees do not need to reside in the same statistical region as their place of employment, and for regions with high levels of public or community housing the average rent from the Census may be lower than could be realised on the private market. It is also possible that some important costs not captured in our calculation vary significantly between regions (and this may be in patterns that differ from the costs which were fed into our calculation).

They do suggest that there are a number of regions in which the TSMIT may not be sufficient, or only be barely sufficient, to both meet the day to day needs of a family (particularly one with school age children with school fees to be paid) and to allow a modest surplus to be saved for contingencies. On the other hand, there are other regions in which an income lower than the TSMIT would still appear to meet the needs of a household and allow modest saving

3.3 Appropriateness of a single TSMIT

Our conclusion is that it is unlikely that a single uniform level of TSMIT can effectively perform either of its functions (to serve as a proxy for the skill level of a particular job; and a wage that ensures a reasonable standard of living). And the use of a single national income threshold acts to disadvantage lower wage/lower cost of living regions as it makes it much more difficult for them to use the migration system to address skills shortages.

As such there is a good case to allow some degree of regional variation in its level. However as many costs are consistent or broadly consistent across regions, it would seem prudent to keep the degree of flexibility constrained, perhaps limited to 10 or 15 per cent from the national benchmark. The substantial variation within regional areas also suggests that the optimal policy is unlikely to be a universal discount for non-metropolitan areas, but rather establishing a process whereby the TSMIT can be adjusted for specific regions where there is evidence that this lower level of TSMIT would be consistent with both of its objectives.

The broad principle of allowing some flexibility in TSMIT where warranted by local labour market conditions was supported by the Australian Government's recent review into the skilled migration system 'Robust New Foundations - A Streamlined, Transparent and Responsive System for the 457 Programme'. Recommendation 5.4 of the review was: "That the government give further consideration to a regional concession to the TSMIT, but only in limited circumstances where evidence clearly supports such concession", and the Australian Government indicated in its response to the review that it accepted this recommendation¹¹.

In theory, the ability to apply for Designated Area Migration Agreement (DAMA) status should provide a level of flexibility in the TSMIT to reflect regional conditions (and it can also provide flexibility in terms of occupation lists). However, the feedback from stakeholders aware of the process was that the difficulty of preparing an application for a DAMA was too difficult for any regional organisation to undertake it. As far as we are aware the Northern Territory is the only region to have been granted DAMA status at the time of writing, which provides further evidence of the relative difficulty of the process (and that application was prepared with the full resources of a territory government).

11 See <https://www.border.gov.au/about/reports-publications/reviews-inquiries/independent-review-of-the-457-programme/response-to-integrity>

3.4 Potential impact of extending the TSMIT to the RSMS visa

One of the recently announced changes to skilled migration system was to extend the TSMIT to the RSMS visa, which had previously only been required to demonstrate that a market salary rate was being paid, with this change being one of the recommendations of the recent review into the TSMIT (Azarias 2017, p. 54).

As South Australian employers are disproportionately reliant on the RSMS visa to address their skilled labour shortages this change has the potential to significantly affect the South Australian economy, both directly through lower business output and/or productivity and indirectly by worsening the age structure of the population and reducing the ability of the skilled migration system to increase the share of South Australia's population who are of prime working age.

Immigration SA has made available data on the proportion of RSMS applications they received for assessment as the regional certifying body (RCB) for South Australia whose wage was below the TSMIT. This is the applications made under the 'direct entry' stream of the RSMS. The other two streams of the RSMS visa – the Temporary Residence Transition and Agreement streams – are only open to workers already on a 457 visa who are already being paid the TSMIT or who are covered by a labour agreement which allows a discount to the TSMIT, and so rates of this type of grant will not be affected by extending the TSMIT to the RSMS visa (although the new 'two tier' structure of the TSS visa, with many occupations now no longer eligible for permanent residence, may further reduce RSMS visas granted).

There is a slight limitation in this data in that it only covers the number of individuals whose applications were assessed as having satisfied the criteria, rather than the number who achieved a successful immigration outcome, but there is no reason to believe that it will be significantly different.

Whilst the proportion whose income was below the TSMIT has been declining slightly even in the most recent years' data it still represents 39 per cent of the applicants for this stream assessed as satisfying the criteria.

Table 3.1: Income levels of 'direct entry' RSMS applications assessed by Immigration SA as satisfying the program criteria

Year	\$53,900 or more	Less than \$53,900	Per cent below \$53,900
2016/17 (year to April)	333	216	39.3
2015/16	377	265	41.3
2014/15	338	259	43.4
2013/14	277	358	56.4
Total	1,325	1,098	45.3

Source: Immigration SA, pers. comm.

This suggests that if the TSMIT had been in place for RSMS visas since 2013/14 then there would have been over 1,000 fewer skilled workers migrating to SA over that period, leaving the employers with the choice of either producing less output or with lower productivity as they fill positions with less skilled or less experienced workers. The impact on regional labour markets would have been even more significant than this as a proportion of RSMS applicants are accompanied by family members of working age who are active in the labour market.

4. Identifying and Naming Skilled Occupations

A second pillar of the skilled migration visa program are the relevant occupation lists; formally the SOL, CSOL and RSMS Occupation List, with the SOL and CSOL already replaced by the STSOL and MLTSSL respectively, and with the RSMS occupation list to be replaced with the MLTSSL, supplemented by some additional yet to be announced occupations, in March 2018. These occupation lists define occupations eligible for most of the skilled visa classes such as subclass visa 457 and the RSMS. In the course of this study, SA business owners and industry representatives expressed concern about the identification and naming of occupations that qualified for inclusion in the CSOL/SOL/ RSMS Occupation List and the occupations included in ANZSCO levels 1-3.

Criticism of the CSOL/SOL/ RSMS Occupation List was primarily directed at what was perceived to be the exclusion of certain sectors, occupations and levels of qualification from the list, in particular the exclusion of skill levels below Certificate IV. The purpose of the occupation lists is to record medium to long-term¹² skills needs; with migration activity traditionally focussed at higher skill levels than the shortages identified by many South Australian businesses. The reason for this focus is that addressing a shortage for a higher skill level through the training system takes, at a minimum, several years due to the time required to complete the qualification. In theory at least, shortages for lower skill levels should be able to be addressed by offering short courses to existing lower skill level employees or to individuals who are currently unemployed. And in larger metropolitan areas this largely works, however in the smaller labour markets such as Adelaide, and particularly in regional SA, there are not necessarily suitable individuals able to be upskilled in this way, and so even occupations at a lower skill level can experience medium- to long-term skill shortages of the type that are typically addressed at least in part through the skilled migration system. Report 1 provides more details on the types of labour South Australian firms are reporting as experiencing unmet demand. Concerns were also expressed that as the lists were developed nationally, they did not always reflect regional variations in skills shortages.

It should be noted that the new structure of the STSOL and MLTSSL does not address any of the concerns raised in our consultations, and if anything will exacerbate the problems.

The greater industry preference for Certificate III and lower level qualifications amongst South Australian employers appears to be reflected in the Training and Skills Commission's (TaSC) 2016 Report on South Australia's Industry Priority Qualifications (the TaSC's role is to advise "the Minister for Higher Education and Skills on South Australia's skills and workforce development priorities and is responsible for the regulation of the State's apprenticeship and traineeship system"). However, the Department of Immigration and Border Protection has no apparent mechanism to take into account state based analyses of skills shortages and incorporate their evidence into decisions on occupation lists.

A further criticism concerned the use of the ABS's ANZSCO classification system as the basis of the description and naming of occupations that appeared in the CSOL/SOL/ RSMS Occupation List (and this is being carried over into the new structure of the Short-Term Skilled Occupation List (STSOL) and the Medium and Long-Term Strategic Skills List (MLTSSL)). The ANZSCO classification structure was developed to allow the statistical agencies of Australia and New Zealand to group jobs in a systematic and consistent manner when processing survey and Census data, and to provide administrative agencies with a framework to record occupation data systematically. The basis of the classification system is to group jobs into occupations based on their skill level and level of skill specialisation.

Whilst the ANZSCO framework has generally performed its functions well for most of the uses to which it is put (particularly in the labour force survey and Census), the naming of occupations raised concerns among individuals and organisations consulted in this study who thought them not to reflect current industry and employee terminology. Some industry representatives felt that a lack of shared understanding of occupations, their contents and titles resulted in occupations being left off the relevant occupation list while industry believed them to be in short supply. Similarly, their job content descriptions that are currently being used for identifying visa-eligible occupations were seen to be ill-aligned with the experiences and daily working practices of employers, particularly in primary industries. The potential for such changes in usage is recognised in ANZSCO which has undergone two minor sets of revisions since it replaced the ASCO classification in 2006 to reflect contemporary usage in job titles and job descriptions.

For occupations which normally require some level of VET qualification (or equivalent experience) **training packages** provide up to date descriptions of the skills, competencies and capabilities required for occupations, including details of the nature of activities that might be undertaken by those working in the occupation. And

¹² Defined as a period of around two to ten years.

this information is well sourced and verified and has been accepted by the Commonwealth Government as the appropriate way to design the content of VET courses. However this rich, industry led, data source only appears to feed into the migration system when they influence periodic revisions to ANZSCO (if at all). A number of individuals consulted in this research suggested that training packages could be used as an alternative way to demonstrate the skill level of a position or to map a job opening at an employer to an occupation on the relevant skills list.

A good example of this problem is **Production Horticulture**. This occupation involves the management of production in horticultural establishments spanning the range of crops from orchards to vegetables to mushroom cultivation. Individuals filling this role manage a range of production activities including preparing soil, managing the harvest, controlling pests, and managing teams of horticultural labourers on site. For horticulture businesses (particularly the larger ones) having appropriately skilled individuals to undertake this role is critical, however a number of employers indicated that they found it difficult to fill these positions. Despite the skill shortage in this area, and despite it being a well-defined occupation linked to a specific training courses in the VET system as part of the Agriculture, Horticulture and Conservation and Land Management Training Package¹³, employers cannot fill these positions using the current skilled migration system as the occupation is not included in ANZSCO. This problem could be avoided if the Department were willing to include other forms of evidence for the nature and skill level of an occupation, such as the training packages approved for the VET sector.

It is important to note that an occupation not being included in ANZSCO is not evidence that the Australian Bureau of Statistics does not believe that it is a valid occupation, as occupations are only included if there were a minimum number of Australian's who could be coded to that occupation as at the 2011 Census.

A second problem with the applicability of the classification system was that, especially in the primary industries sectors, it is not unusual for workers to have jobs that straddled two or more occupations, however this is not recognised in the visa eligible occupation lists. Skilled visa applications, which must be for a single specified occupation, then risk being rejected if the employers' nominated position and/or the applicants' work experience were more diverse than stipulated in the ANZSCO codes. The visa applicant then appears not to meet the minimum set of skill requirement pertaining to the nominated occupation.

Employers also reported that a number of the occupations they experienced difficulty in filling were coded in ANZSCO under generic 'not elsewhere classified' categories, grouped with a number of other only loosely related occupations. These more generic categories are typically not eligible for inclusion in the occupation lists as they contain a range of occupations not all of which will be facing unmet demand (e.g. none of the n.e.c. groupings of technical and trades workers are included in the occupation lists).

The ANZSCO list was last revised in 2013. Given the concerns expressed by business, **we recommend** a systematic collation of these concerns and review of their relevance to, and effect on, economic activity in regional Australia. **We also recommend** that the scope for drawing on other sources of evidence of regional skill shortages (such as those collected by state government bodies, and regional organisations such as RDAs) be explored, together with the use of region specific supplementary lists, and the use of training packages as an alternative way to describing the skills required from, and tasks expected of, a job vacancy.

13

See for example <https://training.gov.au/Training/Details/AHC30616> and

5. Business Innovation and Investment Program

5.1 Potential contribution to South Australia

The stated objective of the BIIP is to attract investment, and business and managerial expertise to Australia and, thus, to support the economy both financially and in terms of the managerial skills at its disposal. South Australia currently receives a disproportionately small share of BIIP (Permanent) visa (subclass 888) applications and grants issued in Australia (Table 5.1).¹⁴ In the last two financial years for which these statistics are readily available, around four per cent of all permanent BIIP visas granted in Australia were lodged by individuals investing and/or living¹⁵ in South Australia. As a reminder, South Australia accounts for about seven per cent of Australia's population and six per cent of GDP.

Table 5.1 Business Innovation and Investment Programme (permanent) visa applications granted, 2014/2015, by State and Territory

	2013/14		2014/15	
	BIIP (permanent) visas granted (number)	BIIP (permanent) visas granted (per cent)	BIIP (permanent) visas granted	BIIP (permanent) visas granted (column per cent)
Australian Capital Territory	5	0.1	9	0.1
New South Wales	568	9.2	865	13.3
Northern Territory	6	0.1	<5	
Queensland	244	4.0	274	4.2
South Australia	240	3.9	272	4.2
Tasmania	87	1.4	26	0.4
Victoria	4,283	69.5	4,329	66.8
Western Australia	654	10.6	666	10.3
Not specified	73	1.2	39	0.6
TOTAL	6,160	100.0	6,484	100.0

Source: DIBP 2014 State and territory migration summary, Table 1.09; DIBP 2015 State and territory migration summary, Table 1.09.

The BIIP is split into five streams requiring varying levels of investment into Australia by successful applicants¹⁶:

- Business Innovation stream: people with business skills (including experience of having managed a business that achieved turnover of \$500,000 in two of the last four years) who want to establish, develop and manage a new or existing business in Australia; applicants must be able to transfer a minimum of \$800,000 in business or personal assets to Australia within two years of visa approval.
- Investor stream: people who want to invest at least \$1.5 million immediately (or \$1 million in a regional area) and maintain business and investment activity in Australia; applicants must invest in government securities for at least four years and must be able to transfer at least \$2.25 million in assets to Australia within two years of visa approval.
- Significant Investor stream: people who are willing to invest at least \$5 million and want to maintain the complying significant investment in Australia; investments must be kept for at least four years and be spread across the designated categories in the required proportions.
- Premium Investor stream: people wanting to invest at least \$15 million and to maintain the complying investment in Australia; investments must be in one or more of the approved categories which include government or corporate bonds, deferred annuities, philanthropic contributions and commercial or industrial property. Premium investors must be nominated by the Australian Trade Commission (Austrade).
- Entrepreneur stream: people with third party funding agreements of at least \$200,000 from an approved funder¹⁷ with a view to commercialise a product or service or develop "complying entrepreneur business" in Australia.

We have no information about the actual size of investment that supported successful visa applications, however, separately recorded data for the BIIP (temporary) visa subclass 188 Significant Investor Visas (SIV)¹⁸ are available from the DIBP (Table 5.2). This shows that South Australia received an even more

14 Whereas DIBP's "State and territory migration summary" reports include statistics on permanent BIIP visa applications, they do not report temporary BIIP application statistics.

15 BIIP (permanent) visa (subclass 888) applicants must already be in possession of a BIIP (temporary) visa (subclass 188) and, hence, already be investing and/or living in the country.

16 As well as making a complying investment of the correct size, applicants have to meet a range of other criteria which vary by stream but which include a points test, relevant experience managing a business of a specified size for many of the streams, the ability to bring in additional funds to invest etc.

17 The funding must come from one of: a Commonwealth Government agency; a State or Territory Government; a Publicly Funded Research Organisation; an Investor registered as an Australian Venture Capital Limited Partnership or Early Stage Venture Capital Limited Partnership; or a Specified Higher Education Provider

18 The BIIP (Temporary) Visa (subclass 188) currently includes five streams: (i) the Business Innovation stream, (ii) the Investor stream, (iii) the Significant Investor stream, (iv) the Premium Investor stream, and the Entrepreneur stream. For details see Appendix A.

disproportionately small share of visa applications and grants under this, relatively high-investment, stream, measured over the slightly longer period between late 2012 and mid-2015. This would tend to suggest that investments into South Australia linked to BIIP visas are smaller than those flowing to the eastern states.

Table 5.2 BIIP (temporary) Significant Investor stream visa applications lodged and granted, November 2012 - June 2015, by State and Territory

	Applications lodged (number)	Applications lodged (per cent)	Visas granted (number)	Visas granted (per cent)
Australian Capital Territory	<5	-	0	0
New South Wales	734	28.5	282	32.1
Northern Territory	0	0.0	0	0.0
Queensland	119	4.6	45	5.1
South Australia	62	2.4	17	1.9
Tasmania	<5	-	0	0.0
Victoria	1,584	61.6	506	57.6
Western Australia	68	2.6	29	3.3
TOTAL	2,573	100	879	100

Source: After DIBP (2016) Significant Investor visa statistics.
<https://www.border.gov.au/about/reportspublications/researchstatistics/statistics/workinaustralia/significantinvestorvisastatistics>. Accessed 8 June 2016.

One feature of most of the streams of the BIIP visa, which is at least somewhat at odds with its stated objectives, is that only in the Business Innovation Stream are visa holders required to invest in establishing or purchasing an Australian company. In contrast those in the 'Investor Stream' must invest all of their \$1.5 million (\$1 million in regional area) complying investment in State or Territory Government bonds, those in the Significant Investor Stream are only required invest \$0.5 million of their \$5.0 million total investment in 'venture capital and growth private equity funds which invest in start-ups and small private companies'; and for those in the Premium Investor Stream, none of their \$15 million required investment needs to be allocated to establishing their own business or funding emerging firms.

This seems illogical as there is no shortage of funds flowing to government bonds, listed stocks or commercial property in Australia (and no reason for those funds to come from Australian residents). As such the benefits to Australia from the required investments of most streams of the BIIP are likely to be very small. The gaps in access to funding that do exist are concentrated in funding of small and medium enterprises and in early stage and venture capital, and a program that directed funding to these uses would be much more likely to deliver broad based benefits to the country.

The extremely limited range of bodies which can provide the required \$200,000 in funding for applicants for the entrepreneur stream of the BIIP significantly reduces its capacity to draw on the entrepreneurial talents of potential migrants (including those already in SA on other visas such as international students). A better approach would be one that – like the Business Innovation stream – placed restrictions on what type of business could be established under the visa, and required a credible business plan as part of the application, but which allows the migrant to source the funding from wherever they can. This is low risk for the Australian taxpayer as BIIP visa holders cannot access income support benefits, with the decision about whether they can transition to a permanent visa dependent on the success of the business they have established.

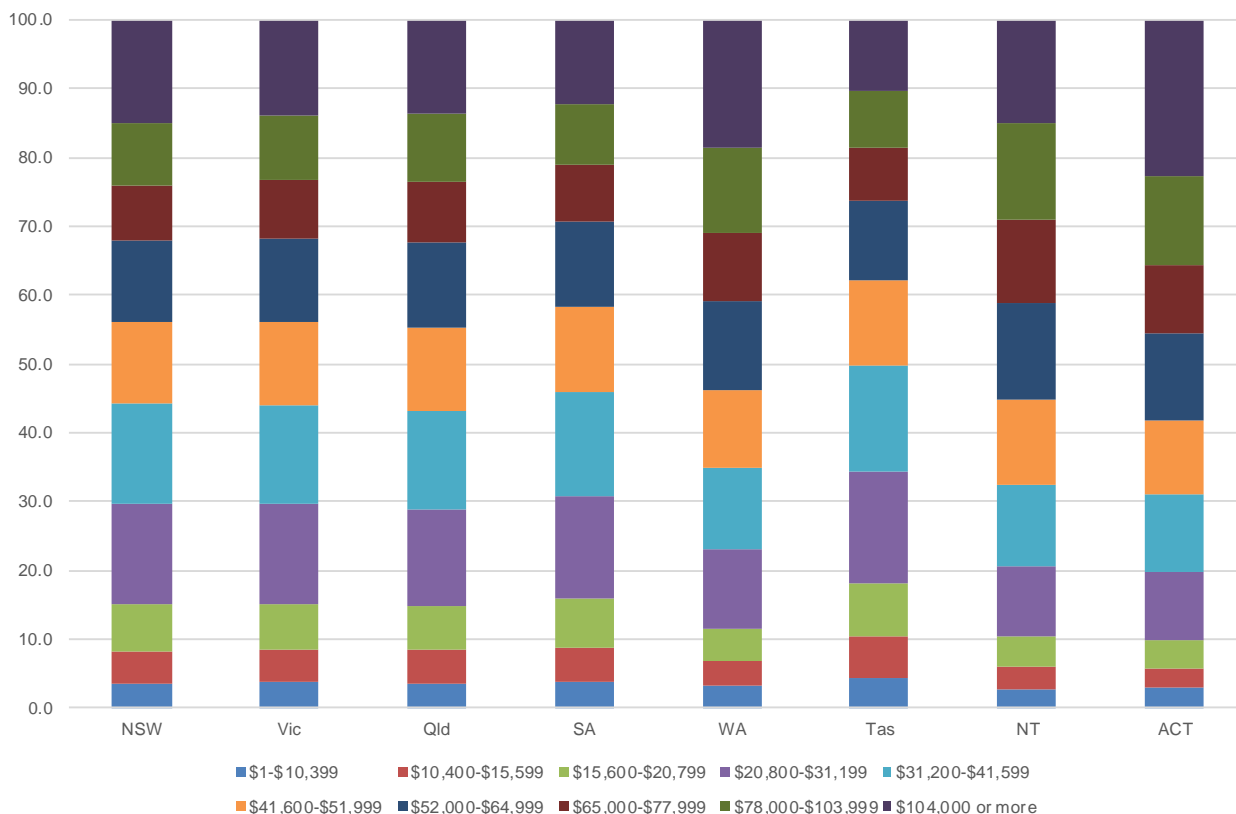
5.2 Business succession and business visas

Our consultation with regional businesses, business representations and RDAs suggested some owner managers wishing to reduce their involvement in a business or retire from it entirely, were reporting difficulties in finding buyers for their business or passing the project on to their children. Besides the next generation's preference for a more urban lifestyle, several businesses cite short-term and long-term commercial uncertainty as the main obstacles to finding a prospective buyer. This was not a challenge faced solely in regional South Australia. In the Greater Adelaide area, some accommodation and food services businesses were reportedly also struggling to find buyers for their ventures.

While much of this evidence remains largely anecdotal, it is worth reflecting on the potential that foreign interest in investment in the South Australian economy may present for addressing the emerging challenge of business succession. BIIP (Business Innovation stream) visa conditions require visa holders to invest in or purchase businesses in Australia. This could conceivably offer opportunities for retiring owner managers to sell their business and, thus, for these operations and employment to be retained, where currently closure might be considered. The extent to which this can be a realistic option does depend on knowing the value of 'for sale' enterprises. This information is not readily available, but may be estimated indirectly, albeit very approximately.

However, as with most other aspects of the skilled migration system a national approach is used to the size of the business investment that qualifies under the business innovation stream, when the national distribution of business incomes (and therefore values) varies. The degree of this variation (as at the last Census which is the only publicly available dataset sufficiently detailed to support this calculation) can be seen in Figure 5.1. In particular it is clear that earnings in the highest four income bands are much less common in South Australian and Tasmania than the rest of the country and much more common in the ACT and WA.

Figure 5.1 Distribution of incomes of owner/managers of businesses (incorporated and unincorporated), 2011



Source: ABS 2011 Census TableBuilder.

There is no 'off the shelf' way to converting business incomes to potential purchase prices for small/medium businesses, as the price buyers are willing to pay will also depend on their assessment of the expected future trend in income for the business and the sector it is in, the tangible assets held by the business, the working hours (and any specialised skills) required from the owner, and a range of intangible features related to the quality of life and satisfaction the potential purchaser believes they will derive from running the business. However, as a very rough rule of thumb a profit to equity ratio of 5 to 10 is broadly reasonable on average (abstracting away from any sector specific risks or sector specific growth expectations). This suggests that if the former were used then only those businesses with a profit in excess of \$160,000 (a portion of the purple band at the top of the stacked bars, as the maximum income category is greater than \$104,000) would be a large enough purchase to qualify for the business innovation stream. If the latter then it would be businesses in the two highest income categories. In either case it is clear that significantly fewer businesses in South Australia or Tasmania could potentially be purchased for the qualifying investment of \$800,000 than in other jurisdictions, suggesting this program is much less useful in addressing succession planning for business in those two states.

6. The International Student Sector

6.1 VET enrolments

Since 2013, post-study work rights have been more strictly controlled, with access to the Post-Study Work stream restricted to those completing a qualification at Bachelors' degree level or higher (there is a shorter duration, 18 month, 'Graduate Work' stream of the Temporary Graduate visa (subclass 485) available to those completing diploma or trade qualifications but they must have undertaken two years of study in Australia and the position they are taking in Australia must be closely related to their qualification and their position must relate to an occupation on the MLTSSL). Industry representatives were concerned that these changes were already adversely affecting international student enrolments in VET in SA and that, in turn, this would further reduce an already insufficient pool of sufficiently trained and qualified workers in the state.

SA's main challenge in attracting international students is arguably not in the higher education sector but rather the state receives a smaller than proportionate number of international students to its VET programs. Our consultations suggest that industry and business representatives see opportunities for developing this area of the education sector, which would also help to meet the skills needs of regional businesses.

A closer inspection of recent (2013, 2014) enrolment statistics for selected training qualifications most relevant to the business sectors consulted in this study shows that SA's seafood; animal care and management; food product manufacturing; and agriculture training packages received few, if any, international students (Table 6.1, column E). With the exception of seafood, these are also the sectors that those consulted from SA businesses felt were most affected by current labour shortages.

Larger, but relative to the size of the SA economy still disproportionately small shares of international students were enrolled in tourism, travel and hospitality; and health training packages in 2013 and 2014. These were also the sectors with the largest overall number of enrolments. Hospitality businesses nonetheless reported facing difficulties in recruiting and retaining staff, in particular in regional SA. The data thus suggest that SA is trailing behind other states in engaging international students in their VET programs, and there is scope for boosting the intake of international students into VET.

Increasing the size of the international student population in VET, however, is under current arrangement not likely to translate into greater labour supply, particularly for regional SA where Certificate II or Certificate III qualifications were reported to be most sought after. Restrictions of post study work rights for international students under the reformed Temporary Graduate visa (subclass 485)¹⁹ have made it harder to attract foreign students and workers with below under-graduate qualifications (excluded from the Post-Study Work stream) and exclude anyone below diploma level or that of a trade qualification (in the Graduate Work stream). Graduate Work stream visas are also only available to occupations listed on the MLTSSL and may be less attractive to some international graduates because the visa is limited to 18 months rather than the two to four years of the Post-Study Work stream (depending on the level of qualification achieved in Australia).

The recent changes replacing the 457 visa with the TSS and introducing minimum relevant work experience for 457 and RSMS visa applicants, effectively exclude international VET students from filling skilled and semi-skilled vacancies, which not only potentially reduces South Australian employers' ability to recruit employees with the right skills, but may also reduce the attractiveness of South Australia as a destination for international VET students.

This challenge is, of course, not peculiar to SA but one that businesses across Australia face. However, the SA economy's focus on, and need for, Certificate II and Certificate III (trade) qualifications, especially in its regional areas, renders the Post-Study Work stream in its current form unsuitable for accommodating and retaining recently trained migrant labour. As in the case of the TSMIT, a more flexible Post-Study Work format that is responsive to identified localised labour needs might be considered to yield better outcomes for regional SA.

Insufficient labour supply is arguably exacerbated by the fact that often less than half of all students who commence a training package also complete it (Table 6.1, column J), although this information is only available for government funded students. Again, this is not atypical for SA, but observed across Australia. It does however indicate scope for enhancing labour supply at all skill levels if completion rates could be improved.

¹⁹ See Appendix A for details.

Table 6.1 Selected National Training Package Qualification enrolments and completions, 2013, 2014 (000s)

Training Package Name	Total VET program enrolments, 2014						Government funded students		Government funded completions	Completions (per cent)
	A Code	B All	C Domestic	D Overseas	E Overseas (per cent)	F SA as % of all Australian enrolment (per cent)	G 2014	H 2013	I 2013	J 2013
Tourism, Travel and Hospitality	SIT	14.6	14	0.6	4.1	5.7	8.3	11.6	5.6	48.3
Health	HLT	7.4	7.1	0.3	4.1	6.1	4.6	4.5	2.1	46.7
Agriculture, Horticulture and Conservation and Land Management	AHC	7	6.7	0.2	2.9	8.8	4.3	4.1	1.6	39.0
Animal Care and Management	ACM	1.2	1.2	0	0.0	5.5	0.7	1	0.5	50.0
Food product manufacturing Industry	FDF	3.8	3.7	0.1	2.6	18.9	3.1	2	0.8	40.0
Seafood Industry	SFI	0.2	0.2	0	0.0	12.5	0.1	0.2	0	0.0
All above (aggregate)		34.2	32.9	1.2	3.5	6.8	21.1	23.4	10.6	45.3
All NTPQ enrolments		174.7	171.1	3.5	2.0	6.3	99.6	129	61.2	47.4

Source: NCVET, own calculations.

6.2 Streamlined visa processing

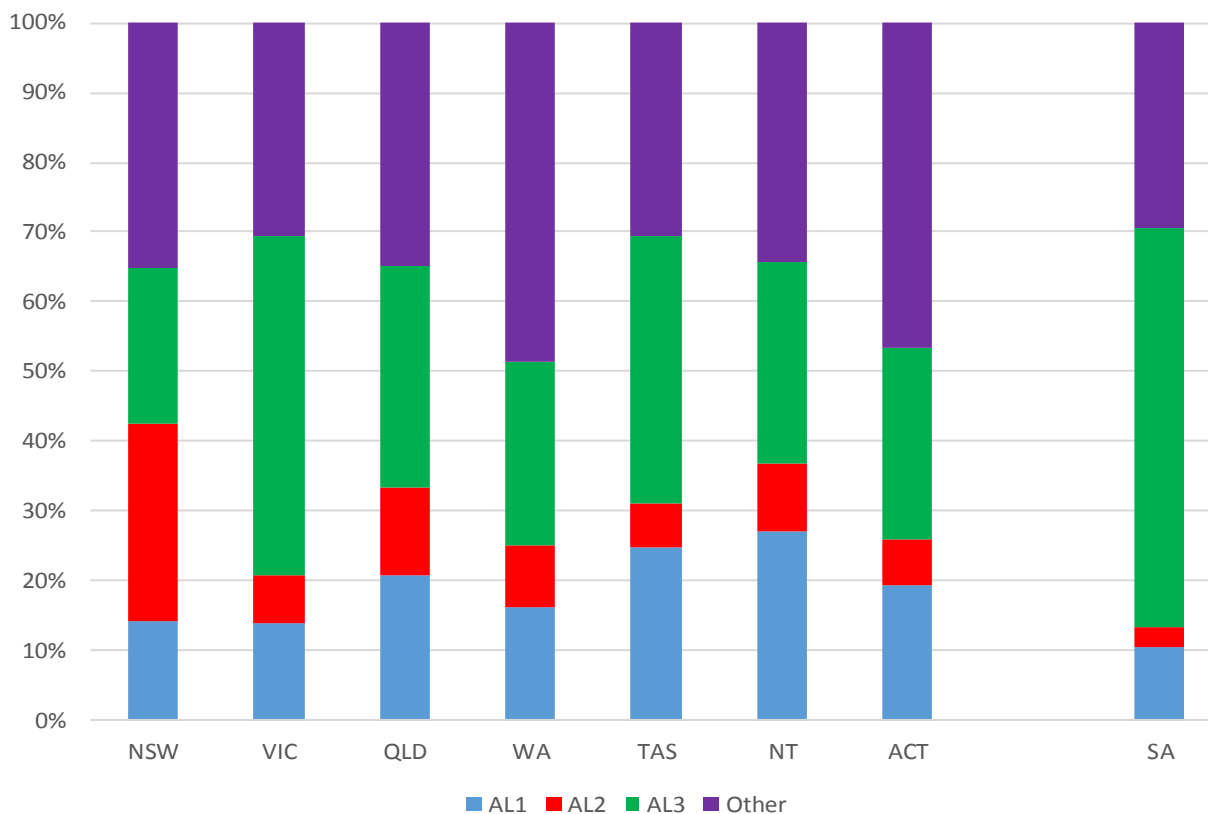
More recently introduced changes to student visa processing were anticipated to have a more direct and immediate effect on VET providers who are now expected to vet students in order to ensure they will meet the Department of Immigration and Border Protection's subjective criteria for being a "genuine temporary entrant" who is in Australia solely for the purpose of completing their studies. VET providers expressed concern about the immigration risk rating they will receive twice a year from the Department of Immigration and Border Protection (DIBP), with the Department indicating that the rating is calculated on the basis of the proportion of their students who might subsequently have their visa applications refused, visas cancelled or who become "unlawful non-citizens" (DIBP not dated - c, p. 3). The risk rating will determine the financial and English evidentiary requirements for student visa applicants, as well as making it more difficult to get visa applications approved.

Our consultations also encountered apprehension among industry bodies and VET providers as to how recent reforms to post-study work rights and the introduction of Streamlined Visa Processing (SVP), particularly the Genuine Temporary Entrant test for potential students, might affect VET providers and, more broadly, the supply of locally trained migrant workers.

A more immediate challenge to international VET and university student registration may result from the new Streamlined Visa Processing (SVP) and Simplified Student Visa Framework (SSVF) for student visas, including the introduction of the GTE test and the associated immigration risk rating of countries. SA's educational institutions currently recruit a large share of their students from what were until recently known as Assessment Level (AL) 3 countries (Figure 6.1). Course and student visa applicants from these countries must meet particularly stringent evidentiary requirements that verify their ability to support themselves financially, their English language and academic competencies, and to satisfy the GTE test. Under the SSVF, student country risk ratings (similar to AL) and provider risk ratings will be combined to determine the level of evidentiary proof required from student visa applicants.

Figure 6.1 is based on official published statistics on the 10 nationalities most strongly represented among Australia's international students, which were matched to the AL1 (lowest risk) to AL3 (highest risk). Over half (57 per cent) of South Australia's international students originate from AL3 countries, mainly from India, China, Vietnam and the Philippines. Across Australia, 38 per cent of VET students originate from AL3 countries.

Figure 6.1 International students enrolments by Assessment Level, top 10 nationalities, December 2015



Note: "Other" refers to all remaining students from countries outside the top 10 nationalities.
Source: After AEI International Student Enrolment Data 2015 (own calculations).

This greater reliance on AL3 country students is likely to pose an additional administrative burden on South Australian education providers relative to their competitors interstate for two reasons. First, under the new SSVF, education providers are required to determine that a prospective student meets the Genuine Temporary Entrant (see Appendix A) conditions at the point of course application. Second, the risk rating system implicitly encourages education providers to monitor successful student applicants' compliance with visa conditions. This is because a high rate of students failing to comply would most likely adversely affect the institution's future immigration risk rating and may discourage future student applications.

Although neither provider, nor country, risk ratings will be published (and providers are discouraged from sharing their own risk ratings), it remains to be seen if this will be sufficient to "reduce the likelihood of unintended market impacts"²⁰. Student country risk rating under the previous AL system are publically available²¹ and some providers are concerned that students and education agents might use this and information about universities' and colleges' student composition to select their place of study, a concern that may not be unfounded.

The 2015 DIBP report on the "Future directions for streamlined visa processing" (DIBP 2015, p. 15) implicitly argued that education providers were reasonably well prepared for the changes brought about by the SSVP. Notably, many providers were already interviewing international course applicants to assess their course suitability and genuine study intentions. If this is indeed the case, little adverse effect in terms of increased administrative costs for SA education providers may be expected. The greater challenge may arise from the prospect of education providers turning towards marketing their course to students in lower risk countries. Such a strategic reorientation would require considerable upfront investment and would take some time to show a return on investment.

20 DIBP Policy overview – combined country and provider immigration risk. <https://www.border.gov.au/Busi/Educ/policy-overview-combined-country-and-provider-immigration-risk>

21 e.g. <http://studyinaustralia.com.au/wp-content/uploads/2013/10/assessment-levels.pdf>

7. Summary and Conclusions

The Australian temporary work and business investment visa systems present both opportunities and challenges for the SA business and education provider communities. A review of key economic and population statistics shows that the SA economy faces a triple challenge of population and labour force ageing, a disproportionate reliance on owner managers of unincorporated businesses with an old age structure, and regional depopulation. In combination, the three lead to and accentuate skill and more general labour shortages, in particular in regional SA. These labour shortages affect semi and low skilled occupations as well as skilled occupations.

These specific challenges faced by the South Australian economy mean that the nationally consistent approaches adopted in most aspects of the skilled migration system do not meet the needs of South Australia's economy nor its employers.

Australia's Temporary Work (Skilled) visa (subclass 457) and Temporary Graduate visa (subclass 485) are focussed on facilitating skilled and highly skilled migration, with little scope provided for attracting the supply of labour at other occupational and skill levels often in demand in regional SA (although those awarded visas through the Post-Study Work stream of the Temporary Graduate visa are not restricted in the occupations within which they can work and would be free to take a semi- or low-skilled position if they chose). Only the RSMS (subclass 187) currently provides an entry point for Direct Entry applicants (nominated by an employer) with lower level occupational qualifications, but eligibility is limited to those identified in the RSMS Occupation List (and the recently announced changes to the RSMS will make it much less effective in addressing South Australian skill needs). SA currently attracts a greater than proportionate share of RSMS visa in Australia (assisted by the designation of the whole state as regional for the purposes of the migration system), but a lower than proportionate share of subclass 457 visas. However, in the view of business and industry representatives consulted in this study, neither visa program currently enables migration to be used as a strategic tool for addressing acute and persistent occupational skill and labour shortages in regional and, albeit to a lesser extent, metropolitan SA.

Specifically, the country-wide application of a uniform TSMIT to subclass 457 visas makes this visa subclass not possible for many regional SA businesses whose market salary rates for the occupations they need to recruit are often below this minimum level and therefore (outside the sectors with exceptions built into their labour agreement) not eligible for a 457 visa. And for those employers who are covered by an LMA which allows them to pay above market rates to meet the TSMIT this creates a wedge between wages paid to local employees and wages paid to migrant labour. TSMIT does not, however, currently affect the ENS and RSMS visas, which only requires migrant workers to be paid market salary rates, however this will change from March 2018 when the TSMIT is extended to both the ENS and RSMS.

Besides the TSMIT, a further concern to SA businesses has been the skilled occupation list which governs the occupations which are eligible for a subclass 457 visa applications, and the specification of occupations on that list, which is felt do not always and accurately to reflect how job contents relate to job titles. This was said to be leading to confusion over the types of labour and skill shortages experienced in regional SA and, in combination with the prevailing focus on skilled occupations, is preventing the use of immigration to meet labour demand. Indeed the narrow nature in which jobs are defined was reported as creating problems in other areas of the skilled migration system as similar problems exist with the other occupation lists used.

The changes announced in April 2017, with the CSOL, SOL and (from March 2018) the RSMS occupation list being replaced by two new consolidated lists, has not addressed any of these concerns, and indeed, by reducing the number of occupations included, and restricting a number of other occupations to 2 year visas with no pathway to permanent residence, is likely to have made the available occupations even less reflective of the needs of South Australian employers particularly in regional areas.

Alongside, but separate from the work visas, the BIIP seeks to attract business investment and management expertise to Australia, but has had little exposure in SA and may, arguably, not yet have been used to its full potential. An emerging business succession challenge, especially in regional SA, may be helped and addressed through BIIP, but this may require some concessional treatment for South Australia as the minimum business requirements for many of the streams of the BIIP (such as the value of businesses previously managed and owned, and the minimum value of investment) are set at levels that appear high compared to the average value of SA enterprises. It is also likely that greater use of the BIIP would require direct pro-active involvement of the SA state government as the agent who may nominate BIIP applicants and link these to regional business opportunities.

Business were also finding the visa sponsoring and nomination process bureaucratic and expensive; and were critical of the time taken for visa application to receive a decision.²²

While regional businesses consulted for this study were often looking for semi-skilled and lower skilled workers who could also be trained 'on the job', there may be fewer opportunities for filling current or future vacancies with recent international graduates of domestic VET programs as the Graduate Work stream of the Temporary Graduate visa have become more restrictive and only allows 18 months of work (and the occupation must relate to the qualification the individual gained in Australia and be one of the 184 occupations listed on the MLTSSL).

Consultations in the VET sector highlighted a widespread concern as to the impact on South Australian VET providers of the Simplified Student Visa Framework (SSVF) for student visas, particularly the introduction of the GTE test and the associated immigration risk rating of countries. SA's educational institutions currently recruit a large share of their students (and a larger share than other jurisdictions) from what were until recently known as Assessment Level (AL) 3 countries, which are treated by the Department of Immigration and Border Protection as higher risk. Course and student visa applicants from these countries must meet particularly stringent evidentiary requirements that verify their ability to support themselves financially, their English language and academic competencies, and to satisfy the GTE test. If this discourages such students from applying then South Australia's share of international VET students (already disproportionately low) may fall further.

22 Officially reported (actual or indicative) visa processing times are that for 457 visas 75 per cent of applications will have been processed within 53 days and 90 per cent will have been processed within 7 months; for the RSMV subclass 187 visa 75 per cent of applications are expected to have been processed with 13 months and 90 per cent within 14 months (see: <https://www.border.gov.au/about/access-accountability/service-standards/visitor-visa-processing-times>).

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Appendix A

A1. Current Migration Policy Settings

Australia operates a complex system of national and regional temporary and permanent migrant visas, for both employees and employers, which is separate from provisions for refugee and humanitarian migration. Immigration is centrally administered by the Australian Government Department of Immigration and Border Protection (DIBP). Important elements of the visa regulatory system are the occupation lists that determine eligibility for the skilled migrant visas. At the time of our research these were the Skilled Occupation List²³ (SOL), the Consolidated Sponsored Occupation List²⁴ (CSOL) and the RSMS Occupation List²⁵, with the changes announced in April 2017 replacing them with the Short-term Skilled Occupation List (STSOL) and the Medium and Long-Term Strategic Skills List (MLTSSL), although the RSMS occupation list will not be preplaced until March 2018. The occupation lists identify skilled occupations considered to be in short supply in the Australian economy. Visa applicants seeking a temporary and/or permanent work visa or general skilled migration visa must demonstrate that they have qualifications and/or work experience in those occupations. Besides the principal work and general skilled migration visas, visas are also available for business and investment interests and international students who have graduated with appropriate qualifications from an Australian university or VET college. Concessionary rules apply to permanent employer sponsored work visas for regional parts of Australia. This Appendix describes features of these visas, which are the main actual and potential sources for hiring skilled migrant labour medium to long term to work in Australia.

A1.1 Temporary worker visas

The Temporary Work (Skilled) Visa **Subclass 457** is the main Australian temporary work visa. It was introduced on 1 August 1996 and currently allows successful applicants to remain in Australia for up to four years to undertake sponsored employment in a nominated occupation. As part of the recently announced changes certain aspects of the 457 visa were changed immediately in April 2017, with the visa being replaced by the Temporary Skill Shortages visa in March 2018.

In order for a job to be eligible for a 457 visa, the occupation to which it relates must be included in 'combined occupation list' which include all of the occupations on the STSOL and most of the occupations on the MLTSSL (although a number of occupations have caveats restricting their use in 457 visa applications).

Employers' sponsorship of 457 visas was subjected to greater scrutiny following the 2008 Visa Subclass 457 Integrity Review (the Deegan Review). It had concluded that, at the time, overseas workers were frequently being paid less than Australians doing the same job, while at the same time facing higher costs of living (notably as a result of compulsory private health insurance). In order to curtail this practice, a new **market salary requirement** for positions paying up to \$180,000 per annum was legislated in 2008/09.²⁶ In 2013, the threshold was raised to \$250 000 per annum. The market salary may be demonstrated with reference to an equivalent position in the same location or, where this is not possible, with reference to relevant industry awards, recent jobs ads, ABS earnings data or union or employer association estimates.

In addition, in order to meet the eligibility criteria for the 457 temporary visa, the market salary rate for a nominated occupation has to match or be above the so-called **temporary skilled migration income threshold** (TSMIT), which is currently set \$53,900. If *guaranteed* annual earnings are above the market base rate, these may be considered instead when determining whether a position may be eligible for the subclass 457 program. Earnings calculations may then include *guaranteed* non-salary related earnings, such as allowances or fringe benefits.²⁷

Since late 2013, employers intending to nominate skilled workers in certain specified occupations have also been required to provide evidence that they have sought to fill their nominated position by recruiting an Australian permanent resident or eligible temporary visa holder in the local labour market, prior to lodging a nomination (**labour market testing**).

Legislation also requires sponsoring employers to meet annual '**training benchmarks**'. Employers either need to provide an agreed level of workforce training or pay a training levy. They also need to pass a '**genuineness**' test. The test requires evidence that the position an employer seeks to nominate fits the scope and scale of the business and is necessary to the operations of the business.

²³ Relevant for applicants for points-based skilled migration (nominated by a state or territory government agency); a Family Sponsored Points Tested visa; and Temporary Graduate visa (subclass 485) - Graduate Work stream.

²⁴ Relevant for applicants for points-based skilled migration (nominated by a state or territory government agency); the Employer Nomination Scheme (ENS), Temporary Work (Skilled) visa (subclass 457); and Training and Research visa (subclass 402).

²⁵ Relevant for applicants for the Regional Sponsored Migration Scheme (subclass 187).

²⁶ <https://www.border.gov.au/ReportsandPublications/Documents/discussion-papers/discussion-paper-tsmit.pdf>

²⁷ See <https://www.border.gov.au/ReportsandPublications/Documents/discussion-papers/discussion-paper-tsmit.pdf>

Recent changes to skilled migration

Since the fieldwork for this research was undertaken, there have been a number of changes made to Australia's skilled migration system, particularly the RSMS and the 457 Visa. Details of these changes have been taken from two fact sheets prepared by the Department of Immigration and Border Protection, the Department's website, and the May 2017 edition of the Department's '457 agent news'.

As our consultations preceded the announcement of these changes, employers' experiences relate to the previous policy settings. However, as all of the announced changes act to reduce access to skilled migrants, the difficulties identified by employers are likely to be if anything exacerbated by these changes. The restrictions on the RSMS program are particularly concerning for South Australia as this is one of the few skilled visa categories where we achieve a share of outcomes that is above our population share.

Important changes to Employer Nomination Scheme (ENS) and Regional Sponsored Migration Scheme (RSMS) visas

The Employer Nomination Scheme (ENS) and Regional Sponsored Migration Scheme (RSMS) visas will be modified (with changes introduced progressively from April 2017 to March 2018) to:

- Require the position to meet the TSMIT for its normal earnings (currently \$53,900), bringing it into line with the 457 Visa;
- Reduced the number of eligible occupations for the ENS in April 2017 (removing 216 occupation from eligibility, with applications for the ENS program restricted to the occupations listed on the 'combined occupation list' which brings together occupations on the new STSOL and selected occupations on the MLTSSL. There are also a further 24 occupations which can only be used for ENS applications where the position will be located in regional Australia);
- Reduced the number of eligible occupations for the RSMS from March 2018 when the current occupation list specifically for the RSMS will be abolished, with eligible occupations for these visa classes to be restricted to the occupations on the new Medium and Long-Term Strategic Skills List (MLTSSL), of which there are currently 184, with some additional (regionally focussed) occupations eligible for the RSMS (no details have been provided on what these additional RSMS specific occupations may be);
- Increase the minimum English language proficiency requirement;
- Require at least 3 years relevant work experience (which effectively removes the current pathway whereby international VET students could previously apply for a RSMS visa at the end of their studies if they could find a sponsoring employer);
- Reduce the age limit from 50 to 45 for the direct entry stream of the ENS and RSMS in June 2017, with the minimum age for all streams of these visas reducing to 45 in March 2018; and
- Inflows to the RSMS visa are also likely to be reduced due to the new two tier structure for the 457 visa, with a number of occupations now being precluded from transitioning from a 457 visa to an RSMS visa.

Important changes to 457 visas

The 457 visa is being abolished and replaced with a new Temporary Skill shortages (TSS) visa in March 2018, with broadly similar eligibility, however it differs from the 457 visa in several important ways (with changes being introduced in a staggered fashion over the period to March 2018). Most importantly, the new approach to temporary skilled migration:

- Has a 'two-tiered' structure of 2 year and 4 year visas;
- The 2 year visa can be used for (almost) all occupations on the STSOL, although 59 occupations have a caveat restricting the circumstances in which a 457 visa can be used to fill a vacancy, but it can no longer lead to permanent residency, reducing its attractiveness to potential migrants (and to employers who will need to fill the vacancy again after 2 years);
- The 4 year visa can only be applied for if the migrant's occupation is one of the 168 occupations included on the new MLTSSL and eligible for the 457 visa, however this visa can lead to permanent residency (with the residency requirement for permanent residency raised from 2 to 3 years);
- Requires 2 year's relevant work experience from applicants;
- Increases the minimum English language proficiency requirement (and removes the existing limited English language exemptions);
- Strengthens the mandatory labour market testing required;
- Reduces the number of occupations eligible for the two year visa from 651 to 435 (with access to 59 of the remaining occupations restricted for 457 applicants in some way);

- Increases the fees payable by employers sponsoring 457 visas, for example the fee for a primary applicant and for a secondary adult increases from \$1,060 each currently to \$1,150 for the 2 year visa and \$2,400 for the four year visa. For a family of two adults and two children applying for a 4 year visa the total cost will increase from \$2,650 currently to \$6,000.
- Introduces a (subjective) 'genuine temporary entrant' test where an officer of the Department will make an assessment as to whether the applicant is only seeking to move to Australia temporarily.

Changes to training requirements

The training requirement for employers sponsoring a 457 visa holder have also changed.

Under the old arrangements for the 457 visa, a sponsoring employer was required to demonstrate that they were spending an amount equal to at least 1 per cent of their payroll on training (or pay a training levy equal to 2 per cent of payroll).

Under the April 2017 changes, sponsoring employers are now required to pay an annual training levy of \$1,200 per year or part year for small businesses (those with annual turnover of less than \$10 million) and \$1,800 per year or part year for other businesses.

It has not yet been announced what will happen to the training benchmark, e.g. will it be abolished, retained at its current level, or if it will be lowered or increased? The Department has also flagged that the policy settings for training benchmark requirements are being clarified and tightened, by setting out the types of training funds and training expenditures that are acceptable for meeting the benchmark. These changes are expected to be announced in July 2017.

The implications for South Australia depend on what the Department does with the training benchmarks:

- If they are abolished, responsible businesses who invest in their workers are likely to face substantially higher costs, whilst businesses who would prefer not to train their workers could save money. With the net impact on South Australia (and/or its regions) being a likely **reduction** in the availability of training as there is currently no commitment that funds collected from the training levy will be spent in the region from which they derive;
- If they are retained at their current level, then the training levy will represent a substantial increase in costs to employers accessing 457 visas, but training should remain constant; and
- If there is some way for employers who invest more than the industry benchmark to access a rebate on the training levy then it could result in increased access to training in South Australia.

Changes to the occupation lists

The previous system of having three occupation lists used by the migration system, the CSOL, the SOL and the RSMS occupation list is being consolidated slightly into two lists, the Short-term Skilled Occupation List (STSOL) and the Medium and Long-Term Strategic Skills List (MLTSSL), although the RSMS will only transfer to using the MLTSSL in March 2018.

As part of this change the total number of occupations eligible for skilled migration programs has fallen from 651 occupations to 435 occupations.

The 'combined occupations list' which joins the STSOL with most of the occupations on the MLTSSL (although certain occupations are only available to jobs that will be located in regional areas) includes 435 occupations and will be used for applications for the following programs:

- Employer Nominated Scheme (subclass 186) – Direct Entry Stream, up to March 2018;
- Skilled Nominated visa (subclass 190);
- Skilled Regional (Provisional) visa (subclass 489) - State or Territory nominated;
- Temporary Work (Skilled) visa (subclass 457) (once the TSS has replaced the 457 visa, an occupation which is listed on the STSOL but not the MLTSSL will only be eligible for the 2 year stream of this visa, occupations in the 168 occupations listed on the MLTSSL and eligible for 457/TSS applications will be eligible for the 4 year visa. There are also a number of occupations which have a caveat restricting access to the 457/TSS program to some subset of the occupation or requiring additional minimum experience); and
- Training visa (subclass 407) - Nomination eligibility type 2 – Occupational training to enhance skills in an eligible occupation.

The following visa types can only be applied for if they relate to one of the 184 occupations on the MLTSSL:

- Skilled Independent visa (subclass 189), this visa also sees its maximum age reduced from 49 to 44;
- Skilled Regional (Provisional) visa (subclass 489) - Family nominated;
- Temporary Graduate visa (subclass 485) – Graduate Work Stream;
- (from March 2018) the Regional Sponsored Migration Scheme visa (subclass 187); and
- (from March 2018) the Employer Nominated Scheme (subclass 186).

A1.2 Post-study work rights

Opportunities for graduates to remain in Australia after completing their studies were significantly revised in 2013 with the introduction of the **Post-Study Work** (PSW) stream to the Temporary Graduate visa (subclass 485). Access to this visa is strictly regulated and open only to students who had applied for and were granted their first student visa on or after 5 November 2011. The visa allows international graduates holding an Australian bachelor, masters or doctoral degree to remain in the country for up to four years, but duration varies with the students' type of qualification. A shorter 18-month visa is available under the **Graduate work stream** to international students whose graduate skills and trade, diploma or degree qualifications relate to an occupation on the SOL.

The introduction of the PSW stream is one of a range of measures introduced following a review of the student visa system in 2011 (the Knight Review), which included the Genuine Temporary Entrant (GTE) requirement and Streamlined Visa Processing (SVP). The GTE is a subjective assessment of whether a student visa applicant's entry request is genuinely intended only for a temporary stay in Australia; this assessment is based on information gained about the applicant's personal circumstances and his or her immigration history. While the GTE is part of the check undertaken by the DIBP, when assessing student visa applications, education providers are encouraged²⁸ to implement their own GTE check as part of their due diligence when considering applications for admission by international students.

From 1 July 2016, a Simplified Student Visa Framework was put into place, reducing the number of student visa subclasses and, importantly, introducing a single immigration risk framework for all students regardless of their intended course program. The new system combines a country immigration risk assessment, which rates students, and an education provider immigration risk assessment, which rates providers according to their track record in hosting students from what are considered high or low risk countries of origin. The combined rating determines whether a student will be required to provide detailed evidence of financial capacity and English language capability in addition to satisfying the DIBP that his or her true reason for seeking a visa is to temporarily stay in Australia in order to pursue a CRICOS accredited education.

Education provider ratings are to be reviewed and updated regularly, based on recent student intakes.

A1.3 Business Innovation and Investment, and Talent Programmes

A1.3.1 Business Innovation and Investment (Provisional) visa (subclass 188)

The Business Innovation and Investment (Provisional) visa (subclass 188) is available to people who want to:

- own and manage a business in Australia (the Business Innovation stream)
- conduct business and investment activity in Australia (the Investor stream, the Significant Investor stream and the Premium Investor stream).
- undertake an entrepreneurial activity in Australia (Entrepreneur stream).²⁹

More specifically, the five streams' are:

- business innovation stream: people with business skills who want to establish, develop and manage a new or existing business in Australia; applicants must be able to transfer a minimum of \$800,000 in business or personal assets to Australia within two years of visa approval;
- investor stream: people who want to invest at least \$1.5 million immediately and maintain business and investment activity in Australia; applicants must invest in government securities for at least four years and must be able to transfer at least \$2.25 million in assets to Australia within two years of visa approval;

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DIBP (not dated) Managing Immigration Risk. Strategies for education providers. Accessed from <http://www.mia.org.au/documents/item/891>, 4 August 2016.
See <https://www.border.gov.au/Trav/Visa-1/188-#>.

- significant Investor stream: people who are willing to invest at least \$5 million and want to maintain the complying significant investment in Australia; investments must be kept for at least four years and be spread across the designated categories in the required proportions.
- premium Investor stream: people wanting to invest at least \$15 million and to maintain the complying investment in Australia; investments must be in one or more of the approved categories which include government or corporate bonds, deferred annuities, philanthropic contributions and commercial or industrial property. Premium investors must be nominated by the Australian Trade Commission (Austrade).
- entrepreneur stream: people with third party funding agreements from an approved funding body³⁰ of at least \$200,000 with a view to commercialise a product or service or develop “complying entrepreneur business” in Australia.

Each stream also has a range of additional eligibility criteria, which vary by stream, but include a maximum age limit, a points test, and for certain streams evidence of having managed a business of a certain size.

Applicants for a subclass 188 visa lodge an expression of interest through the **Skilled Migrant Selection Register** (SkillSelect; see A1.5), and must then be nominated by a state or territory government or by Austrade in order to submit an application.

A1.3.2 Business Innovation and Investment (Permanent) visa (subclass 888),

Subclass 188 holders may subsequently apply for permanent residence under the Business Innovation and Investment (Permanent) visa (subclass 888), providing applicants have fulfilled the requirements of their provisional visa, can meet subclass 888 requirements and can demonstrate that the government entity that had nominated the applicants for their provisional visa (subclass 188) has not withdrawn that nomination. Additional conditions apply for holders of a Special Category visa (subclass 444) for New Zealand citizens.

A1.3.3 Business Talent (Permanent) visa (subclass 132)

The Business Talent (Permanent) visa (subclass 132) is designed for “high calibre”³¹ business owners or part-owners, and those with access to venture capital. The visa allows successful applicants to establish a new or develop an existing business in Australia. Expressions of Interest must be submitted via SkillSelect (see A1.5) and followed by an invitation to submit an application form nomination by a state or territory government. If the state or territory chooses to nominate the applicant they are then invited by the Department of Immigration and Border Protection to lodge an application for the visa.

Visa applicants under the **Significant Business History stream** of this visa subclass must have net business and personal assets of at least \$1.5 million and an annual business turnover of at least \$3 million. Those seeking visa subclass 132 via the **Venture Capital Entrepreneur stream** must have sourced venture capital funding from an Australian Venture Capital Association Limited (AVCAL) member to the value of at least \$1 million with the intention to commercialise and develop a high-value business idea in Australia.

A1.4 The regional migration policy settings

All of South Australia currently qualifies for regional visas, with no distinction made between the State's rural, regional or metropolitan parts.

Until a few years ago, skilled migration to regional Australia was primarily facilitated by the Regional Sponsored Migration Scheme (visa subclass 857 for onshore and 119 for offshore applicants) and Skilled – Regional Sponsored visas (subclass 487), in addition to skilled migration visas that did not specifically targeting regional areas. The two schemes were closed to new applications in 2012, and replaced with the **Regional Sponsored Migration Scheme (RSMS) visa (subclass 187)** and the **Skilled Regional (Provisional) visa (subclass 489)**.

The Skilled Regional (Provisional) visa is intended for skilled workers who have been nominated by an Australian state or territory government agency or sponsored by an eligible relative living in a *designated area*, which in the case of SA is again the entire state (“Invited pathway”). The invited applicant's occupation must be included in the relevant occupation list (STSOL for state/territory sponsored, MLTSSL for family sponsored). A skills assessment is also required. In addition, holders of now closed regional and designated area visa subclasses (475, 487, 495, 496) may apply for this visa subclass under its “Extended pathway”. In both instances, this visa offers temporary residency for up to four years.

30 The funding must come from one of: a Commonwealth Government agency; a State or Territory Government; a Publicly Funded Research Organisation; an Investor registered as an Australian Venture Capital Limited Partnership or Early Stage Venture Capital Limited Partnership; or a Specified Higher Education Provider
31 see <https://www.border.gov.au/Trav/Visa-1/132-#>

In contrast, the RSMS is a permanent residency visa for skilled workers in regional Australia, and operates under three streams. The Direct Entry stream is for employer nominated applicants who have never, or only for a short time, worked in Australia. The Temporary Residence Transition stream is for those who do not qualify for the direct entry scheme. Applicants must have held a Temporary Work (Skilled) Visa subclass 457 for at least two years and have been nominated by their employer for a permanent position. Finally, the Agreement stream covers subclass 457 visa holders who are nominated by their employers under a company-specific or industry labour agreement, a project agreement or a designated area migration labour agreement. Direct Entry stream applicants must demonstrate that their nominated occupation is listed on the relevant legislative instrument³² and that they have relevant qualifications and/or work experience. Failing that applicants must “demonstrate that [they] have the qualifications listed in ANZSCO as necessary to perform the tasks of [their] occupation”³³. Employers, on the other hand, must obtain formal advice from their regional certifying body in support their nomination. In the case of SA, the certifying body is Immigration SA.

Designated area agreements may, in principle, consider occupations at ANZSCO Skills Level 1- 4 for nomination, that is, AQF Certificate II or III, and higher.

A1.5 Skilled Migrant Selection Register (SkillSelect)

The Skilled Migrant Selection Register (SkillSelect) is an online registration tool by which skilled migration applicants and business people who would like to migrate to Australia can submit an Expression of Interest to the DIBP to be considered for a skilled visa. Those lodging an EoI are asked for information about themselves (e.g. age, nominated occupation, education, qualifications; work, business and/or investment experience; English language competency). This information is used to score each EoI. An invitation to submit a visa application may then be issued to those reaching a minimum score and, where relevant, subject to an occupation ceiling, which limits the selection of EoI in comparatively heavily subscribed occupations. State and territory governments, employers and, in the case of BIIP, Austrade acting on behalf of the Australian government, may use SkillSelect to identify and nominate skilled workers, or business people or investors.

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Migration Regulations 1994 - Specification of Occupations and Assessing Authorities - IMMI 12/096.

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see <https://www.border.gov.au/Trav/Visa-1/187-#>.