



Submission to the Department of
Immigration & Border Protection

Proposal Paper

*Simplification of the Skilled Migration
and temporary activity visa programmes*

February 2015



AMMA is Australia's national resource industry employer group, a unified voice driving effective workforce outcomes. Having actively served resource employers for more than 96 years, AMMA's membership covers employers in every allied sector of this diverse and rapidly evolving industry.

Our members include companies directly and indirectly employing more than half a million working Australians in mining, hydrocarbons, maritime, exploration, energy, transport, construction, smelting and refining, as well as suppliers to those industries.

AMMA works with its strong network of likeminded companies and resource industry experts to achieve significant workforce outcomes for the entire resource industry.

The resource industry currently employs more than 1.1million people either directly or indirectly and accounts for 18% of economy activity in Australia¹ (double its share of a decade ago). Australia's earnings from resources and energy commodities is projected to increase at an average rate of 7% a year from 2013-14 to total \$274 billion in 2018-19².

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¹ Reserve Bank of Australia research discussion paper, *Industry dimensions of the resources boom*, February 2013

² Bureau of Resources and Energy Economics, *Resources and Energy Quarterly – September Quarter 2014*

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Executive summary

- AMMA welcomes the opportunity to provide input on the matters canvassed in the proposal paper as part of the next stage of simplifying Australia's skilled migration and temporary visa programmes.
- AMMA welcomes the acknowledgement that global mobility is accelerating at a rapid pace and must be supported by Australia's skilled migration framework.
- Deregulation in this area must involve more than simply condensing multiple visa classes into fewer streams.
- The system must become more flexible and responsive to business needs.

Guiding principles and priorities for employers

- The resource industry is committed to training and up-skilling local workers but recognises that skilled migration plays a critical role in meeting labour sourcing challenges at all stages of the labour market cycle.
- In order to support, maintain and develop the industry's contribution to the Australian economy, future policy in this area must:
 - **Recognise** the small but important role played by skilled migration as one part of the skills shortage solution.
 - **Recognise** the numerous benefits skilled migrants bring to Australia including knowledge transfer, global management capability, and contributions to economic growth and tax revenues.
 - **Recognise** the vital need for skilled migrants during the intensive construction phases of resource projects of national significance to the Australian economy.
 - **Recognise** the highly-specialised skill set that overseas workers bring to Australia.
 - **Ensure** businesses are not subject to unwarranted third-party interference in recruitment and labour sourcing while also acknowledging resource industry employers hire Australians first.
 - **Facilitate** resource industry employers' timely access to skilled labour through efficient visa processes that minimise delays and respond to changing industry needs.

- **Facilitate** the timely negotiation and implementation of umbrella agreements such as labour agreements where greater numbers of workers are needed for large projects.
- **Recognise** the unique needs of the resource industry including the globalised market for key skills, state of the art machinery, extremely high competency standards, short lead times for mobilising projects, and strict investor requirements.
- **Acknowledge** the resource industry workforce is extremely well-remunerated, supported by leading human resource services and processes, and should be supported by streamlined visa processing and documentation requirements.

AMMA's submission

- AMMA's members are focused predominantly although not exclusively on the "**Work**" stream of visas outlined in the proposal paper. This includes the Temporary Work (Subclass 400), the Temporary Work (Subclass 457) and the Employer Nomination Scheme (Subclass 186).
- Building on our earlier submission to the review, this submission responds to updated and evolving proposals in relation to:
 - The skilled migration architecture in terms of visa streams.
 - The age threshold.
 - English language proficiency requirements.
 - Skills and industry standards.
 - Skills assessments.
 - Occupations lists.
 - The points test.
 - The role of SkillSelect.
 - The sponsorship and nominations framework.
 - Appropriate concessions.
 - Labour market testing.
- To the extent that proposals are outlined in detail in the paper, AMMA has responded in terms of whether or not we support what is proposed. AMMA has also identified areas where we look forward to further clarification on the detail.

Where appropriate, we have included specific feedback from our members from their direct experiences navigating the skilled migration system.

AMMA's response to specific proposals

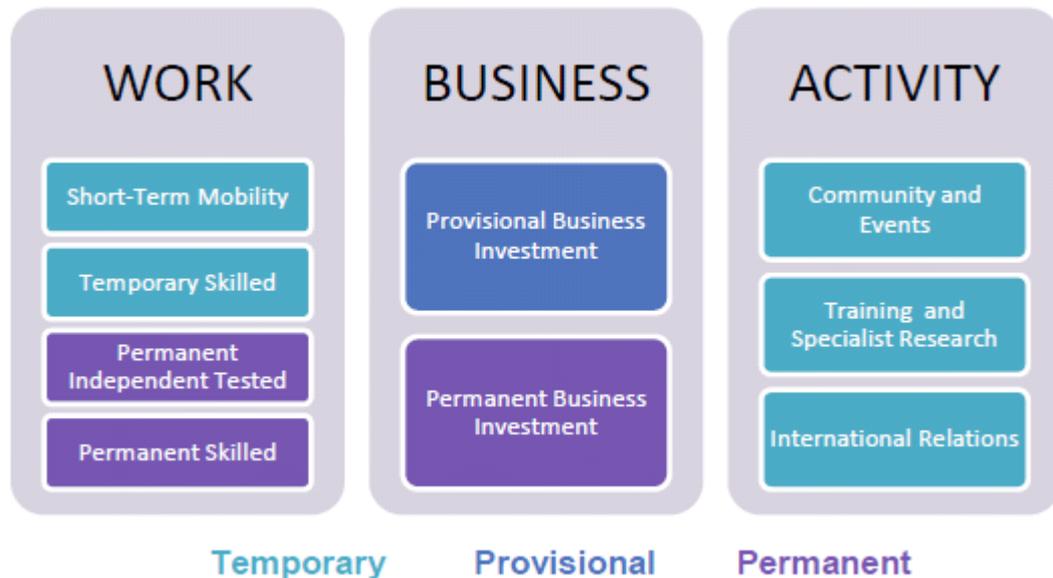
- AMMA supports the paper's proposals in the following areas:
 - **Short-term mobility** - AMMA supports increased flexibility for short-term mobility visas (e.g. the current 400 short stay activity visa, now valid for up to 6 months at a time) and an extended validity period of up to 12 months as referred to in the proposal paper. Care needs to be taken in creating a single visa sub-class for all "short-term mobility" visas to ensure no existing flexibilities and benefits are lost and that extra flexibility is gained.
 - **Intra-company transfers** - AMMA supports the proposal to streamline short-stay visa arrangements to facilitate intra-company transfers and looks forward to further discussions.
 - **Electronic lodgement** - Electronic online lodgements for all visa types, regardless of the passport nationality of the visa applicant, must be a feature of any simplified framework as AMMA highlighted in our earlier submission.
 - **Onshore and offshore applications** - AMMA supports the proposed capacity to make visa applications across the skilled migration framework while the visa applicant is either onshore or offshore.
 - **Points and sponsorship** - AMMA in-principle supports the continuation of a points system and employer sponsorship model but would like to see significant streamlining and reworking to reduce the regulatory burden.
 - **Regional areas** - AMMA agrees more could be done to enhance and encourage skilled migration to regional Australia.
 - **Responsiveness** - The new visa framework must incorporate new and more responsive levers to adjust temporary and permanent migration pathways to input from industry as to areas of skills shortage.
 - **Consistency** - AMMA is pleased the issue of consistency in processing and decision-making has been taken up in the paper. This was a key area highlighted in AMMA's earlier submission to this review and to the 457 visa integrity review.
 - **Greater clarity and simplicity** - AMMA supports the proposal to develop clearer online forms, more clear and concise information on the Department's website, and clearer and more consistently applied eligibility requirements.

- **Processing and documentation** - Visa processing timeframes and the level of documentation required should be commensurate with the length of visa validity. This makes a lot of sense from an operational perspective as AMMA members have in some cases experienced processing times longer than a visa's duration.
- **Appropriate concessions** - Appropriate concessions should be available to employer sponsors, whether through overarching agreements or other means. Those concessions could include flexibility around English language testing requirements among other things.
- **Permanent residency** - AMMA supports the proposed review of the points allocation for permanent residency, with a greater focus on employment experience than factors such as age. AMMA believes all aspects of the current points test underpinning the proposed 'permanent independent tested' visa stream should be reviewed.
- **Emerging occupations** - It is important to get the process right in relation to the permanent independent tested visa to identify new and emerging skilled occupations that are able to be subject to permanent residency applications.
- **Differentiated ceilings** – In relation to the permanent independent tested visa and the proposal to allow the use of differential ceilings for individual occupations, AMMA would welcome further consultation on those issues which we support in principle.
- **Streamlined pathways** - AMMA supports faster pathways for 457 visa holders wanting to transition to permanent residency based on factors such as skill level given there is an established employment relationship in place.
- **Tiered progression** - AMMA supports the exploration of a tiered framework to progress from labour agreements to the 'permanent skilled' stream.
- Aspects of the proposal paper that AMMA does not necessarily support, or would welcome further consultation on, include:
 - **Direct entry stream** – The paper proposes to remove the direct entry stream to permanent residency altogether. This will be an issue for AMMA members in the absence of a viable alternative.
 - **SkillSelect invitation** – AMMA does not support the continued requirement for an invitation from SkillSelect before applying for permanent residence under the "Permanent independent tested" stream.
 - **Outcomes of the 457 review** – This review is happening at a time when a separate review of the 457 visa framework has been completed and is awaiting government legislation. While simplicity and clarity should be a key

driver of the current review, this does not mean uniformly applying outcomes from the 457 visa review across other visa streams.

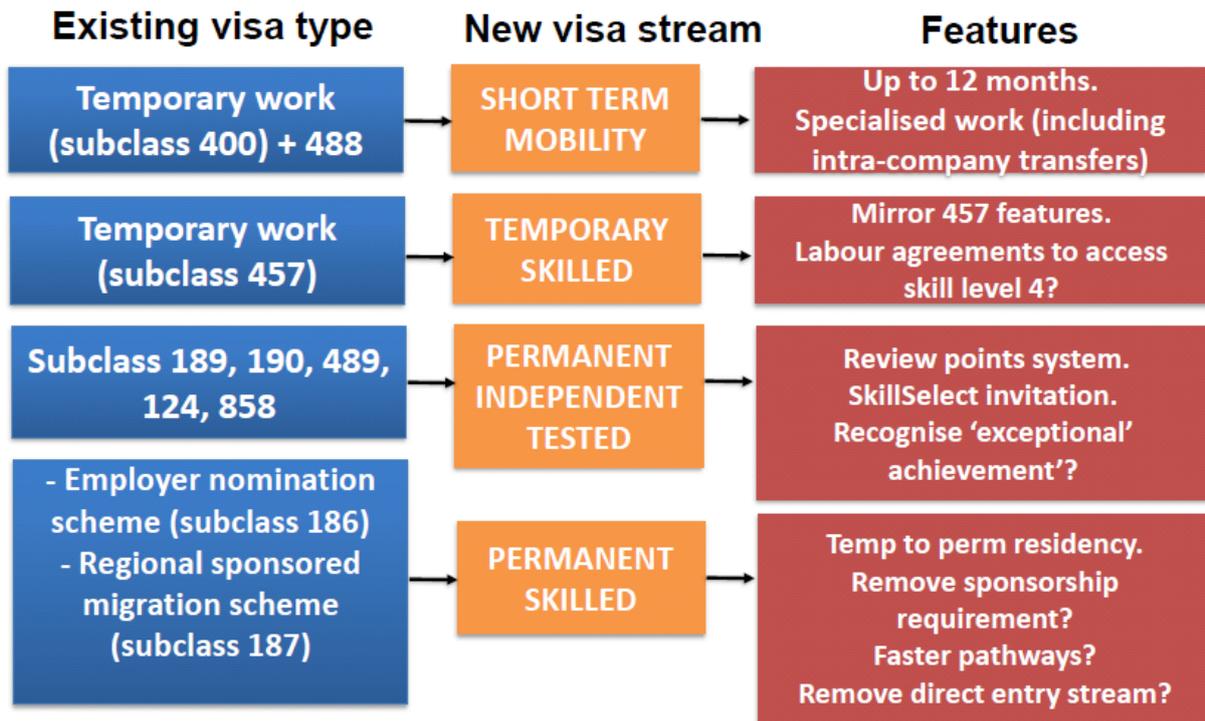
Proposed new visa framework

1. The proposal paper lays out a new visa framework to build on the existing architecture with the aim of simplifying the number of visa classes and adding greater flexibility.
2. The proposal is for fewer visa sub-classes, moving the existing plethora of visas into three main streams: **Work**, **Business** and **Activity**.
3. The **Work** stream is of most relevance to AMMA and its members and includes sponsored and unsponsored temporary and permanent visa classes to fill urgent or temporary skills needs, as well as longer term skills needs up to and including permanent migration.



4. The proposal paper notes that not all existing visa sub-classes have been mapped to the proposed new framework.
5. Some have been transposed in their entirety (such as the 457 visa into the temporary skilled stream); some have been combined with others into a brand new stream (such as the 400 series visa and the 488 into the short-term mobility stream); and others are proposed to be removed altogether (such as the Skilled Recognised Graduate (subclass 476) visa).
6. AMMA's submission concentrates on the "Work" category which is of most interest to our members, although we reserve the right to comment on other streams where they intersect with our members' interests.
7. AMMA has mapped the relevant visa categories that will go into each part of the "Work" stream below, along with some of the proposed features in each stream.

PROPOSED NEW VISA FRAMEWORK – KEY WORK VISAS



8. As a general comment, AMMA supports in principle the streamlining of the current visa categories into fewer streams provided that:
 - a. No existing benefits under specific visa types are lost in the process.
 - b. The outcome at the end of the day is reduced complexity, increased flexibility, enhanced practicality and less bureaucracy, particularly for trusted and low-risk users of the system.

The ‘short-term mobility’ stream

9. The “**Short-term mobility**” stream would rework the existing subclass 400 short stay activity visa (along with the 488 superyacht crew visa) as outlined in the diagram below.



10. According to the proposal paper, this new stream would be used for temporary migration relating to:
- a. Highly specialised work, including for intra-company transfers.
 - b. Recurring term transfers or intermittent work.
11. Getting this visa stream right is of particular importance to AMMA and its members, especially in relation to accommodating intra-company transfers between different locations of global businesses.
12. AMMA supports the paper's mooted changes to the subclass 400 visa, which since 23 November 2014 have had an increased validity period of up to six months at a time. However, there should not be additional requirements for visa durations longer than three months if the maximum duration is extended to 12 months.
13. AMMA has concerns that short-term but ongoing work will still not be sufficiently accommodated in this new visa stream, which is a key failing of the current framework for AMMA members.
14. AMMA maintains that special consideration must be given to the use of global corporate knowledge on Australian resource projects under this stream. AMMA would welcome further discussions with the government to outline industry imperatives in this area.
15. AMMA supports the paper's suggestion of allowing onshore and offshore lodgment of all visa applications, including those that would fall under the short-term mobility stream. Many other stakeholders to the review also support the universal ability to make onshore applications, particularly in relation to visas in the “Work” stream.

Online applications

16. AMMA supports online applications for all “Work” visas, including this stream. This is particularly important for AMMA members in the resource industry given that skilled foreign nationals come from many different countries and the process should be the same for all.

17. At present, while 400 visa applications are available to foreign nationals from particular countries, online applications are not available to all passport holders from those countries.
18. AMMA members report that it is not clear which specific passports are eligible for online lodgement until the visa is applied for.
19. What happens in practice is that a business will attempt to lodge a 400 visa application online for a foreign national only to receive a system notification that it is not possible to proceed with online lodgement. The system then recommends a paper lodgement be mailed to the relevant offshore Australian diplomatic office. Doing so requires considerable time and expense, creates an unnecessary delay and opens up the risk of applications being lost or delayed.
20. AMMA recommends online lodgements for short-term mobility visas be extended to all foreign nationals to whom the visas are available, regardless of the passports they hold. There is already a precedent for online lodgements being available to all individuals under the 457 temporary work (skilled) program, the 186 employer nominated scheme and the 187 regional sponsored migration scheme. For the sake of consistency and certainty, AMMA would like to see all “short-term mobility” visas able to be lodged online.
21. In summary, AMMA appreciates the proposal paper’s openness to exploring paperwork and regulatory reform options in relation to the short-term mobility stream. AMMA would welcome the opportunity to provide further feedback to ensure industry’s requirements and practices are sufficiently clear.

The ‘temporary skilled’ stream

- 22. This visa stream would allow sponsored skilled workers to come to Australia to work for an approved business sponsor for up to four years.
- 23. This stream would be a direct transposition of the current 457 visa but with potential modifications arising out of this and the separate 457 visa integrity review.
- 24. The diagram below represents the direct transposition of the 457 visa scheme into the new “temporary skilled” stream as the only visa coming across.



- 25. AMMA's comments in this section are made on the understanding that the government is still considering the recommendations of the 457 visa integrity review which will have some overlay with this review.
- 26. AMMA's views in relation to the shortfalls in the current 457 visa scheme are well-documented and appear in AMMA's [submission](#) to the separate integrity review. To fix those shortfalls, AMMA has previously recommended:
 - a. **Building** more rewards into the accredited business sponsorship scheme.
 - b. **Removing** the requirement for labour market testing.
 - c. **Streamlining** the regulatory burden for intra-company transfers.
 - d. **Ensuring** consistency in visa processing and decision making.
 - e. **Lowering** the market salary rates threshold.
 - f. **Introducing** greater flexibility to the English language testing requirements.
 - g. **Retaining** the current system of enforceable undertakings as an alternative to more punitive measures.
 - h. **Ensuring** the current occupations lists continue to serve industry needs and are reviewed regularly.
 - i. **Simplifying** the process for negotiating labour agreements.

- j. **Ensuring** industry training initiatives are recognised and supported.
27. To the extent that the above recommendations are relevant to the current review, AMMA urges the government to take them into consideration in refining the proposals being canvassed.

Skill levels

28. AMMA notes the proposal paper flags the option of providing labour agreements with access to Skill Level 4 occupations via 457 visas, which is something AMMA supports, particularly on behalf of our on-hire and labour hire members.
29. AMMA supports the paper's willingness to explore opportunities in relation to labour agreement occupation lists to potentially include more Skill Level 4 occupations such as scaffolders and locomotive drivers.

The ‘permanent independent tested’ stream

30. The “**Permanent independent tested**” stream that the paper proposes would allow highly skilled individuals to independently apply for permanent residence in Australia, incorporating in potentially modified form the following visa types, as depicted in the diagram below:
- a. Skilled – Independent (Subclass 189).
 - b. Skilled – Sponsored (Subclass 190).
 - c. Skilled Regional (Subclass 489).
 - d. Distinguished Talent (Subclass 124) (Subclass 858).



31. According to the paper, the government is exploring numerous proposals in relation to the “permanent independent tested” visa stream, including:
- a. Reviewing and revising the points system applying to relevant visa types.
 - b. Reviewing the requirement for an invitation from SkillSelect.
 - c. Recognising ‘exceptional achievement’.

The points test

32. AMMA supports a review of the way the points test is applied to this and other visa streams, particularly in relation to the respective weight given to factors like “age” and “employment experience” (see chapter on “**The points test**”).
33. AMMA would also in-principle have no objection to amending the test to include points for a “recognised record of exceptional and outstanding achievement” as proposed, although it would appear this should be enough in itself without having to score points in other areas.
34. AMMA also notes the proposal to consider allowing certain institutions or organisations to award points. AMMA is open to hearing further details on this

proposal but trusts the process would be informed by the views of industry bodies such as AMMA.

SkillSelect invitations

35. AMMA does not support the continuation of the current requirement for an invitation from SkillSelect before an individual can apply for a visa under the permanent independent tested stream.
36. Currently, certain skilled independent visa applicants cannot apply for a visa straight away because they must first lodge an “expression of interest” with the government. Applicants may be working onshore for a particular employer or be offshore when the expression of interest is lodged.
37. Under the current system, there is no guarantee an eligible applicant will be invited by SkillSelect to apply for a permanent visa. Expressions of interest can sit in a “pool” for several weeks to several years, at the end of which there is no guarantee that person will be invited to apply. This creates a great deal of uncertainty for applicants and an additional level of bureaucracy.
38. Prior to July 2012, independent permanent visa applicants could in the first instance go directly to lodging a visa application rather than having to first lodge an expression of interest. If the applicant met all the threshold criteria and had a valid skills assessment, met the English language proficiency requirements and other threshold criteria, the Department was obligated to grant the application for permanent residency.
39. Strong threshold criteria already exist under the independent skilled migration programme (including under various subclasses proposed to be included in this stream such as the 489, 189 and 190). These criteria include skills assessments, evidence of English language competency and evidence of qualifications and skills, all of which provide a strong basis for the “best and brightest” to offer their abilities to the Australian workforce without also needing an invitation from SkillSelect.
40. The current system requiring a SkillsSelect invitation first creates an additional regulatory burden and high levels of uncertainty.

Differential ceilings

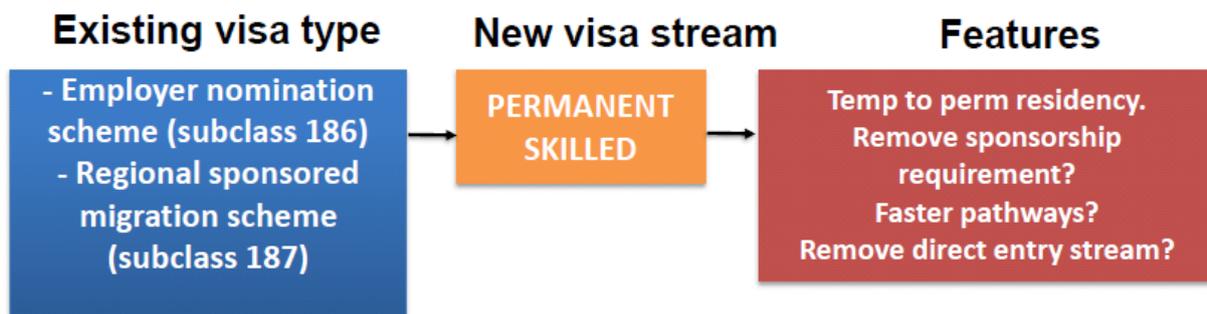
41. In the permanent independent tested stream, one proposal is to allow the use of differential ceilings (total numbers of visa holders) for individual occupations. As long as these ceilings are clearly and transparently publicised, AMMA supports the use of differential ceilings with appropriate safeguards.

Clearer transitions

42. AMMA notes many stakeholders to the review want clearer transitions from temporary to permanent residency, which is something AMMA also supports on behalf of our members. In particular, AMMA supports the exploration of the merits of an automatic progression from the current 457 programme to a permanent visa should a visa holder wish to opt in.
43. It is important to make sure the criteria underpinning this stream is as flexible and simple as possible so as not to discourage permanent skilled migration.
44. It will also be important to allow for the timely identification and inclusion of new and emerging skilled occupations in this stream.

The ‘permanent skilled’ stream

- 45. The proposed “**Permanent skilled stream**” would include the current Employer Nomination Scheme (Subclass 186) and the Regional Sponsored Migration Scheme (Subclass 187) as shown in the diagram below.
- 46. It would allow skilled individuals to apply for permanent residence in Australia to fill a vacancy in the local labour market. Family members could also be included on the application.



- 47. This would be a temporary to permanent residency pathway and each of the current streams – the temporary residence transition stream, the agreement stream and the direct entry stream - would be reviewed before being moved across (with the latter proposed to be removed altogether).
- 48. Other proposals flagged in the paper, although not in detail, include:
 - a. Faster pathways to permanent residency in some cases.
 - b. The potential to remove the sponsorship requirement in relation to some cohorts moving from temporary to permanent residency.

Faster pathways to permanent residence

- 49. AMMA strongly supports clearer and more direct transitions from temporary to permanent residence for workers with important skills for our economy, along with fewer barriers to those people coming to Australia on a temporary basis in the first instance.
- 50. The current transition and direct entry stream pathways to permanent residence involving nomination by the employer work well for most AMMA members although we are aware of certain artificial barriers preventing on-hire companies from sponsoring workers from temporary to permanent residency that should be removed.

51. AMMA definitely supports the exploration of streamlined pathways to permanent residency, especially in regional geographical areas experiencing local skills shortages. Such streamlining could include the removal of the required "expression of interest" for skilled independent visa applications.
52. In terms of other pathways, AMMA particularly supports faster pathways being considered for 457 visa holders to transition to permanent residency based on factors such as skill level given there already exists a tried and tested employment relationship and less risk for all concerned.

Removal of sponsorship

53. AMMA would welcome further consultation over the removal of sponsorship requirements for permanent skilled visas.

Removal of the direct entry stream

54. AMMA does not support the removal of the direct entry stream as a pathway to a permanent residency visa unless a viable and equally accessible alternative is being proposed.
55. On its face, the proposal would have the effect of removing a pathway that is highly utilised by AMMA members and which has the benefits of more streamlined processing than is available under other pathways to permanent residency.
56. At present, those applying for direct entry visas could be in occupations such as CEOs or diesel mechanics and AMMA does not support any proposal to reduce flexibilities around what is currently a very efficient pathway to permanent residency for those individuals.

Other eligibility requirements

57. AMMA is open to the proposal to introduce flexibilities in relation to the time required to be spent with one employer. AMMA believes that all work experience at a certain skill level should be considered relevant to an application for permanent residency, not just in relation to a minimum amount of time spent with a single employer in a particular role.
58. AMMA's members encourage the development of their employees and would not want to see them disadvantaged if they changed roles or occupations while still working with a particular skillset.
59. In instances where a 457 visa holder gets promoted within a company (for example a 'marketing specialist' is offered a role as a 'sales and marketing manager'), they are often penalised under the current system when their new role requires a new nomination to be lodged. This essentially "restarts the clock"

for the two-year qualifying period under the temporary residence transition stream for the Employer Nominated or Regional Sponsored Visa applications.

60. AMMA maintains that all Australian work experience should be counted towards the two-year eligibility period as long as the latest occupation is eligible for permanent residence.

Age limits

61. AMMA strongly supports the proposed reconsideration of the age limit for permanent residence which, as AMMA has previously pointed out, is having adverse impacts on some AMMA members and the 457 visa holders they might otherwise employ. The current framework has resulted in some skilled professionals and tradespeople with valuable experience being prevented from becoming permanent residents because they are considered too old.
62. As one AMMA member put it:

“A lot of skilled tradies we need, with awesome experience, are prevented from coming in because of this bar.”
63. Enabling employees who are over the age of 50 to transition to permanent residence would ensure their skills, knowledge and experience remain in Australia and, as an added benefit, could be passed on to local workers.
64. As stated in our earlier submission, AMMA supports an increase in the current age threshold for permanent migration from 50 to 54 years of age.
65. For employees over the age of 54, AMMA supports a discretionary waiving of the age criteria for those who can demonstrate their value to the Australian workplace and community. This could be done by reference to factors such as salary, experience and specialised skills.

Visa processing

66. The proposal paper flags some important improvements in visa processing that seem to have the support of most stakeholders to the review.
67. AMMA has previously highlighted variability in processing times and application outcomes between various offices of the Department, despite what AMMA is sure are the best efforts of all involved. This, along with variable documentation requirements, would benefit from being made more consistent.
68. AMMA is in agreement with the paper's proposals below which have widespread stakeholder support:
 - a. Greater consistency in processing times.
 - b. A review of the level of documentation required from sponsors and applicants.
 - c. Minimal duplicate requests for documents that have been provided at earlier stages of the application process.
 - d. Streamlining of processing requirements for low-risk and trusted users (ie resource industry employers).
 - e. Greater transparency in the Department's assessment criteria.
 - f. Clearer information provided on the Department's website about visa requirements.
 - g. Ensuring that small businesses and non-repeat users are able to use and understand the various visa streams as appropriate.
 - h. A goal of reducing current visa processing times by up to 25 per cent.
69. AMMA confirms our previous submissions in relation to the desirability of improved priority processing times for resource industry employers and other trusted users of the system.

Occupation lists

70. For want of a better option at the present time, AMMA advocated in its earlier submission that the Australia & New Zealand Standard Classification of Occupations (ANZSCO) list be retained for now as the reference document for skilled migration occupations.
71. However, the ANZSCO list, the Skilled Occupations List (SOL) and the Consolidated Sponsored Occupation List (CSOL) should all be reviewed and monitored to ensure their continued responsiveness to industry needs.
72. AMMA members generally support the continued use of ANZSCO, the SOL and the CSOL within the skilled migration visa programmes. Some would, however, support an expanded list which includes more ANZSCO skill level 4 occupations.
73. As the Department will be aware, the CSOL is currently used for the subclass 457 visa programme. Occupations on the CSOL are only within skill level 1 to 3 in the ANZSCO, with a minimal number of skill level 4 occupations.
74. While the current occupations lists are generally working well to meet resource industry needs, some notable exceptions could be included as they arise such as “scaffolders” which are currently not in the CSOL list but are in very high demand in the resource industry.
75. As one AMMA member said:

“Three years ago it was very easy to find [scaffolders]. Now, though, it is very difficult.”
76. Another example of a skilled occupation not on the current occupations list is locomotive drivers operating in remote areas in the mining industry.
77. If the current lists are to be retained, they also need to be reviewed and updated to take into account new occupations and emerging technologies. AMMA is pleased this is flagged in the proposal paper.
78. AMMA is a big proponent of continued research and evidence from industry helping to inform the occupations lists going forward. Particularly for less skilled ‘skill level 4’ occupations, AMMA strongly supports evidence-based criteria whereby employers can provide evidence about skills shortages to make timely additions to the lists from skill level 4.
79. In summary, while SOL and CSOL are on the whole likely to remain the best basis for listing occupations for the skilled migration stream going forward, there

must be flexibility to adapt to changing industry conditions and regional requirements.

English language proficiency

80. The proposal paper notes that stakeholders are divided in their views about the English language proficiency requirements that should underpin Australia's skilled migration framework.
81. Industry stakeholders, including AMMA, maintain there is room for additional flexibility without compromising on safety, social inclusion and knowledge of and capacity to enforce workplace rights.
82. AMMA would like to see the tests focus more on "functional" English and on-the-job requirements than technical or academic proficiency.
83. We note the Federal Government has separately indicated in response to the 457 integrity review that it is open to making the current requirements in this area more flexible.
84. Below is a snapshot of the review panel's recommendations which the government has indicated it broadly supports:
 - a. The English language requirement be amended to an average score of 5 across all competency areas rather than a strict score of 5 in each competency area. It is important to point out that if achieving less than 5 in any unit of competency, an applicant would have to achieve more than 5 in another component. AMMA believes that is reasonable and still ensures a high level of English language competency overall. In summary, AMMA welcomes the government's flagged support of increased flexibility in this area while ensuring worker safety and wellbeing remain paramount.
 - b. Greater flexibility be provided for industries or businesses to seek concessions to the English language proficiency requirements. AMMA supports this, subject to sensible safeguards.
 - c. Consideration be given to alternative English language test providers. AMMA supports this provided the alternative providers are appropriately credentialed. This would help logistically given some AMMA members report difficulties booking applicants in for tests in a timely manner.
 - d. Consideration be given to expanding the list of nationalities that are exempt from the English language testing requirements. AMMA supports this, again subject to appropriate safeguards.
 - e. Consideration be given to replacing the current exemption to English language testing that requires five years' *continuous* secondary or

tertiary study in English with one requiring five years' *cumulative* study in an educational institution where the language of instruction is English. AMMA supports this as a practical measure that acknowledges the value of a cumulative exposure to study in English rather than the more restrictive continuous study requirement.

Sponsorship and nomination

85. According to the proposal paper, most but not all stakeholders have advocated retaining some form of sponsorship and nomination scheme, albeit with greater flexibility and less bureaucracy.
86. Some stakeholders suggested linking the validity period of temporary visas to the duration of the intended work activity, which AMMA supports.
87. AMMA's earlier submission acknowledged that a sponsorship and nomination framework was useful in maintaining a set of threshold criteria and enabling assessment of a business's suitability to bring in workers from overseas.
88. However, many opportunities exist for streamlining the current system which at present imposes an unnecessarily heavy regulatory burden on users.
89. In relation to the sponsorship framework for 457 visas, AMMA notes that the integrity review panel at Recommendation 10 proposed that:
 - a. Standard Business Sponsors be approved for five years (up from three) and start-up business sponsors be approved for 18 months (up from 12). AMMA notes the Federal Government has supported the latter proposal for start-up sponsors but not explicitly the former. AMMA supports both as reasonable extensions to current sponsorship durations.
 - b. As part of the government's deregulation agenda, the department develop a simplified process for sponsor renewal. AMMA supports this and believes less documentation should be required at the renewal stage of the process.
 - c. The department consider combining as many sponsorship classes as possible. AMMA supports this in principle provided it adds value to the end user.
 - d. When more detailed information is available, the department investigate the alignment of overseas business and labour agreement sponsorship periods with the general Standard Business Sponsorship approval period. AMMA supports this further area of inquiry.
 - e. The timeframe for the sponsor to inform the department of notifiable events be extended from 10 days to 28 days after the event has occurred.
 - f. The department explore options that would enable the enforcement of the "attestation" relating to non-discriminatory employment practices. AMMA's understanding is that this would mean an employer sponsor's

statement that they have not engaged in discriminatory employment practices would be actively monitored and enforced by the Department. AMMA does not oppose this as an integrity measure.

- g. It be made unlawful for a sponsor to be paid by visa applicants for a migration outcome and this be reinforced by a robust penalty and conviction framework. AMMA supports this measure.

Opportunities for efficiencies

90. While the existence of a sponsorship framework is an effective vehicle for skilled migration, the current system can take too long to navigate and prevents smaller businesses in particular from benefiting from access to skilled labour from overseas.
91. The sponsorship system, if retained, must be reformed, consistent with the government's deregulation agenda. AMMA acknowledges that sponsorship comes with responsibilities but believes these can be balanced with a faster and more streamlined system for regular and trusted users.
92. Some stakeholders to the review advocated a dedicated processing team for accredited sponsors and this is something AMMA would support. AMMA's submission to the 457 integrity review flagged the potential for building more rewards into the accredited business sponsorship area, including reduced red tape on the visa processing side.
93. Accredited sponsors with a strong track record of compliance and rigour should have access to more streamlined processing avenues, having proven they are trusted and reliable users of the system.

Skills assessments

94. As the proposal paper points out, some stakeholders including AMMA have argued for further alignment of skills assessments (and the work of skills bodies) with industry needs.
95. Based on stakeholder feedback, there seems to be widespread support for this approach.
96. Ideally, the skills assessment framework would better support businesses and reduce their regulatory burden in accessing overseas skills to the greatest extent possible whilst maintaining core regulatory requirements and minimising delays and duplication arising from the skills assessment process.

Age limit

97. The current upper age limit of 50 years for permanent residency is discouraging individuals who possess relevant trade qualifications and professional skills from coming to work in Australia, either temporarily or permanently.
98. This approach is also at odds with the bipartisan intentions of government to increase the median working age by raising the age at which pension payments become accessible. Logically, persons above 50 will have potentially longer in the changing Australian labour market to contribute their skills, perhaps achieve residency, pay taxes, etc.
99. As such, AMMA welcomes the proposal paper's willingness to review and upwardly revise the age threshold underpinning the skilled migration scheme.
100. Based on the paper, there seems to be general support for raising the current age limit from 50 years although stakeholders differ in their views on the appropriate level.
101. AMMA advocates that for permanent residency the age limit should be 54 and it would make sense to have this apply consistently across the board. However, we are open to other views on the appropriate level of increase.
102. AMMA also welcomes the paper's willingness to give "age" criteria less weight than other factors in the application of the points test.

The points test

103. AMMA believes the current points test is unnecessarily restrictive and should be made more flexible and responsive to industry needs by giving greater weight to employment experience than to factors such as age.
104. AMMA welcomes the paper's review of those issues pending further consultation with stakeholders.
105. The paper indicates the government will review the points test and that different weightings will potentially be given to existing criteria in line with general stakeholder feedback. AMMA welcomes this initiative.

Labour market testing

106. Industry stakeholders to the review generally support the removal of labour market testing (LMT) across the skilled migration framework. The removal of LMT in relation to 457 visas is something AMMA advocated in its submission to the 457 integrity review.
107. AMMA supports the integrity review panel's finding that the imposition of LMT (which took effect on 23 November 2013) in relation to 457 visas should be removed as it is not achieving its stated aims and is merely placing more of a regulatory burden on employers.
108. AMMA notes that despite that finding, the Federal Government has said it is not of a mind to completely remove LMT. Even if that is the decision in relation to 457 visas generally, AMMA maintains there is scope to remove the application of LMT in relation to intra-company transfers as part of this review.

Concessions

109. Industry stakeholders to the review generally support justified regional concessions to the skilled migration requirements and AMMA shares that view.
110. As long as appropriate concessions to the usual requirements such as English language testing and income thresholds can be justified to the Department based on the evidence, AMMA can see no reason why such concessions should not be available. Having said that, resource industry employers do not apply for concessions to minimum salary levels as they are very high-paying sponsors.
111. In the case of Designated Area Migration Agreements (DAMAs), which the federal government introduced in mid-2014 to replace the former Regional Migration Agreements (RMAs), such concessions are available.
112. DAMAs are a labour agreement of sorts applying to a particular geographical area, usually one in which resource industry employers have attracted most of the local skilled labour due to the industry's higher wages. This has left other local employers with a shortage of some skills.
113. What is available under a DAMA that is not generally available under other labour agreements is Departmental consideration of up to a 10 per cent reduction in the temporary skilled migration income threshold (TSMIT). The TSMIT requires that an Australian worker in the same occupation is paid at least the TSMIT, which for 457 visas is set at \$53,900. If an Australian worker is not paid at least the TSMIT (with a potential 10 per cent reduction for DAMAs) then an overseas worker cannot be brought in for that occupation, even if the employer wants to pay that person more than the TSMIT.
114. The ability to apply for a concession from the TSMIT under DAMAs was misinterpreted in the media as allowing foreign workers to undercut Australian wages. However, Australian wages cannot be undercut by concessions to the TSMIT under DAMAs.
115. The minimum salary rate for workers under DAMAs is \$48,510 compared with \$53,900 under a 457 visa, but importantly, employers have to pay international workers the market salary rate (ie the same as an Australian worker in that occupation) or the TSMIT, whichever is higher. So if an employer is paying an Australian worker \$48,510 they can bring in an overseas worker under a DAMA and pay them a minimum of \$48,510. But if the comparable Australian worker's salary is \$60,000, the employer would have to pay the overseas worker that same amount.

116. Given that the government deemed such concessions fair and reasonable in relation to DAMAs, AMMA can see no reason for appropriate concessions not to be available across the skilled migration framework provided sufficient safeguards are in place.

SkillSelect

117. SkillSelect currently supports the government in managing who can apply for a skilled migration visa, when they can apply and in what numbers, with the aim of significantly reducing the time taken to process a visa application.
118. Based on the feedback in the proposal paper, some stakeholders have asked for de-identified SkillSelect data to be released annually to economists, academics, business analysts and policy makers. AMMA supports that de-identified information being collected and made available.
119. As mentioned, AMMA does not support an invitation being required from SkillSelect before someone can apply for a visa under the **“Permanent independent tested”** stream, as this adds to the regulatory burden and does not strengthen the integrity of the system.

Training and specialist research

120. While this is not part of the proposed **“Work”** stream of visas, AMMA may have an ongoing interest in this area on behalf of its members, especially if there is an intersection between professional development and intra-company transfer arrangements.
121. The new **“Training and specialist research”** stream of visas has a proposed validity period of up to three years, which could have some advantages for AMMA members if it was broad enough to accommodate professional development through intra-company transfers.
122. AMMA would like to see more details on what would be required for an Australian employer to be considered for the ‘Approved Training List’, and whether being on this list would be required for short-term training of overseas employees in Australia.
123. The Temporary Graduate (Subclass 485) visa may also have relevance to AMMA’s members in relation to graduates from mining engineering disciplines. AMMA would welcome consultation over further proposals in this area.

The 457 visa integrity review

124. According to the proposal paper, the current review plans to explore opportunities to replicate the recommendations accepted by the government in future that arise out of the separate 457 visa integrity review.
125. While AMMA supports some of the recommendations of that review for which the government has signalled support, such as making English language testing more flexible and making labour agreements simpler and faster to negotiate, AMMA would caution against adopting all outcomes of that review in a blanket way.
126. For instance, there may be options as part of this review to look at the application of labour market testing (LMT) in certain visa streams even though the federal government has signalled it may not support the LMT provisions being removed from the 457 visa stream as a whole.
127. AMMA's view is that the LMT provisions should be removed as they are not effective in achieving their purported aims, but if the government chooses not to remove them in relation to 457 visas generally (ie the new "Temporary skilled" stream), it could still do so in relation to intra-company transfers within that stream.