

# Temporary Work (Skilled) Visa (Subclass 457) Program

*Integrity Review*

Australian Mines & Metals Association (AMMA)

*May 2014*



## ABOUT AMMA

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 these industries.

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

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## INTRODUCTION

1. AMMA welcomes the opportunity to provide input into this important review into the integrity of the 457 visa scheme.
2. This submission focuses for the most part on the “transactional” nature of the current system, including how it operates and is administered. It identifies the main problems for AMMA and its members in using the current system, as well as proposing solutions.
3. A key aspect of the submission is highlighting problems caused by the former Labor government’s 2013 amendments to the Migration Act 1958 and Regulations. Many of those measures have had an unnecessarily punitive effect on employers with little to no benefit to employees or Australia’s skills base.
4. In particular, the new requirement for business sponsors to conduct labour market testing (LMT) before filling roles overseas is regulation for regulation’s sake and should be removed.
5. Notwithstanding the overwhelmingly detrimental aspects of the 2013 changes, several provisions were positive and AMMA supports their retention. These include the extension of the time a worker from overseas can stay in Australia without a sponsor from 28 days to 90 days.
6. Enforceable undertakings as an alternative to other punitive measures for certain alleged breaches by business sponsors is also supported as a sensible approach to enforcement.

### Increased regulation is not the answer

7. In terms of the broader policy debate around 457 visas, AMMA’s very strong view is that it would be misguided to attempt hold the 457 scheme responsible for overcoming current and future skills shortages. That is a much larger and longer-term challenge that cannot be addressed in the context of the current review nor by any temporary migration pathway.
8. Increasing regulation and imposing punitive measures on business as part of the 457 program are not effective ways to address broader skills questions.
9. The 457 visa scheme currently accounts for one-third of 1% of the Australian labour force. It can never be a primary vehicle for driving skills development in the short or long term. Broader collaboration between industry stakeholders, policy makers and the vocational education and training (VET) sectors is required to achieve that.
10. The 457 visa scheme can, however, help to shine a light on the skills most consistently in long-term demand under that scheme and feed that information back into the skills development and VET policy machinery.
11. This is perhaps the most useful thing the 457 visa scheme can do in terms of skills development – ensuring that occupations consistently being filled by 457 visa

holders are identified, not with a view to assigning blame or punishing the users, but to ensure training and upskilling in those areas receives necessary attention and resources.

12. This feedback mechanism would, of necessity, centrally involve industry stakeholders to identify which skills are the most important for the future and which areas of skills development will support industry most effectively.

### Broader skills initiatives

13. This submission also highlights positive initiatives by resource industry employers to train Australians to fill specialised roles in the longer term (see *chapter 18 – Industry training initiatives*).
14. AMMA maintains it is important to recognise the hidden agendas and deliberate misinformation behind much of the rhetoric in this area that attempts to paint employers as getting a “free ride” by using overseas skills and failing to train Australians. This is not accurate and AMMA’s submission outlines key examples of training, including on the job training for engineering graduates on offshore and onshore drill rigs in order to ensure they are “work ready” and ready for the unique demands of a career in the resource industry.
15. The submission also highlights the stewardship of the industry, led by AMMA, in developing programs to match domestic skills with employers, along with initiatives aimed at building women’s participation in the industry to boost available skills (see *Chapter 17 – Industry jobs programs*).
16. AMMA is one of the few organisations that has commissioned research into the costs and benefits of using 457 visa workers. That research, conducted by Edith Cowan University in 2012 (see *chapter on ‘AMMA-commissioned research into 457 visas’*), identified many benefits to the Australian economy and workforce from 457 visa arrangements, far outweighing any perceived detriments.
17. Key benefits of 457 visa working arrangements identified in the research include:
  - a. Providing access to immediate skills for business growth;
  - b. Making important contributions to the future domestic skills pool including through knowledge transfer;
  - c. Increasing labour market flexibility; and
  - d. Enabling the construction phase of projects to be completed on time and on-budget, thus paving the way for long-term employment of Australians.

### Unique and cyclical nature of the resource industry

18. The resource industry operates uniquely in terms of its cyclical demand for employment which is highly dependent on the investment cycle. There will always be peaks and troughs of labour demand in the industry due to fluctuations in the

commodity cycle and other market factors. Therefore, not every use of 457 visa workers reveals the potential for long-term upskilling or employment opportunities for Australians.

19. Construction of resource projects is extremely labour and capital-intensive and often requires the use of 457 visa workers as a “top-up” to existing domestic skills.
20. In less capital-intensive phases, while there may still be a need for specialist skills from overseas, the need will be less intensive. AMMA would stress that as part of any exercise aiming to identify training needs for the resource industry in the longer term would need to take account of the industry’s cyclical demand for skills. As an example, the Australian resource industry is currently moving out of a phase of high capital investment and construction and into a phase marked more by production and export, which is less labour intensive. This means that skills that may have been in high demand during the past several years of the construction phase are not necessarily going to be in as high demand over the next phase.
21. Another unique aspect of the resource industry, particularly in offshore construction, is that some of the skills required on projects will be company-specific or vessel-specific. In some cases, workers from overseas travel around the globe with one company or one vessel. This is a legitimate practice given the highly specialised equipment and technology used on offshore vessels, but is another factor to keep in mind when assessing the long-term training needs of Australians.
22. The above type of work may not exist within Australia per se, but on international vessels permanently crewed by a highly-skilled, global workforce operating in Australian waters. The global pool for such skills may only number in the hundreds of workers.
23. Deliberately making the 457 visa system more difficult, costly and cumbersome to access for those who have no choice but to access it in the short term misses the point entirely. Unfortunately, this appeared to be the driving force behind many of the measures put in place by the former government in 2013.
24. AMMA would like to see a return to a more sensible approach to policy making in this area that will enable timely access to skilled labour rather than demonise it, especially given how important it is to building Australia’s wealth and employment prospects for the future.
25. AMMA would like to see this review recommend changes to fix the inefficiencies, punitive regulation and artificial administrative burden that are a feature of the current system, while also recommending the establishment of the necessary feedback loop to help inform the broader skills debate outside the context of this review.
26. AMMA would, of course, welcome contributing to further skills initiatives and collaborative efforts going forward.

## The right policies to support the resource industry

27. AMMA welcomes recent comments by Minister for Industry, the Hon Ian Macfarlane MP<sup>1</sup>, that the resource industry has been central to the Australian economy over the past decade, with its contribution set to be more important than ever in the years ahead.
28. The minister quoted the latest figures from the Bureau of Resources and Energy Economics (BREE)<sup>2</sup> showing that Australia will reap an 8% gain in export earnings each year for the next four years, reaching \$284 billion by 2018-19, thanks to the resource industry.
29. The value of Australia's mineral and energy commodity exports is forecast to increase from \$176 billion in 2012-13 to \$199 billion to 2013-14, with Minister Macfarlane commenting that:

*"The Coalition has always valued the economic contribution of the resources sector and cautioned against taking it for granted, not only because of the clear value it adds to the national economy, but also because it employs tens of thousands of Australians, in both direct and indirect jobs."*
30. According to the Minister:

*"That's why it's so important that the right policies are in place to ensure the mining industry can continue to grow, and that investors have confidence in new and existing projects."*
31. Minister Macfarlane points out that the Coalition government has acted to "end the uncertainty and constant policy changes that the resource sector endured from the previous government".
32. Some of the more recent legislative and regulatory changes to the 457 visa program set in motion by the former government had the effect of making doing business more difficult and uncertain for the resource industry, thereby undermining the economic benefits to Australia flowing from this important sector. Many were policy changes deliberately designed to create uncertainty and discourage the filling of critical temporary skills gaps.
33. AMMA therefore welcomes the Coalition tasking this independent panel with the review of this important scheme and supports a return to more sensible, balanced and practical policies in this area arising from this review.

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<sup>1</sup> "Economic report reinforces value of Australia's resource industry", media release, The Hon Ian Macfarlane MP, Minister for Industry, 26 March 2014

<sup>2</sup> Resources and Energy Quarterly – March Quarter 2014, published by the Bureau of Resources and Energy Economics



## SNAPSHOT OF AMMA'S RECOMMENDATIONS

34. Below is an overview of the key areas of the current 457 visa program that are having the most impact on resource industry employers.
35. In each case, the snapshot below provides a brief overview of the problems being experienced along with potential amendments to improve the operation of the system. Each area is considered in greater detail in the corresponding chapter of this submission.

Key aspects of the 457 program	AMMA's position and recommendations for reform
<b>Accredited business sponsorship</b> <i>Chapter 1</i>	There is the potential to build more rewards into this area of the system and reduce bureaucracy on the visa processing side. Accredited sponsors with a strong track record of compliance and rigour could enjoy more streamlined processing requirements, having proven they are trusted and reliable users of the system.
<b>Labour market testing (LMT)</b> <i>Chapter 2</i>	The imposition of labour market testing that took effect on 23 November 2013 should be removed.
<b>Intra-company transfers</b> <i>Chapter 3</i>	Special consideration should be given under the 457 visa scheme for intra-company transfers and streamlining the regulatory burden for visas used in this context.
<b>Visa processing and decision-making</b> <i>Chapter 4</i>	Consistency should be ensured in terms of visa processing times and administrative requirements for lodgement and approval, which at the moment can be inconsistent and unpredictable.
<b>Compliance and enforcement</b> <i>Chapter 5</i>	The expansion of the compliance regime from 1 July 2013 to allow Fair Work Ombudsman inspectors to exercise powers under the Migration Act should be removed. Only Department of Immigration & Border Protection inspectors should be empowered to enforce the Migration Act and Regulations.
<b>Market salary rates</b> <i>Chapter 6</i>	The market salary rates threshold should be lowered to at least the former threshold of \$180,000 a year but preferably to the unfair dismissal high income threshold of \$129,300. Employer sponsors hiring 457 visa workers earning more than those salaries should not be put to the time and expense of having to do a comparison with an Australian worker performing equivalent work as there can be no suggestion that workers on those salaries are being exploited. If there is no equivalent Australian worker at an enterprise, a 457 visa worker's terms and conditions should not have to be compared with Australian workers external to the enterprise.
<b>English language testing requirements</b> <i>Chapter 7</i>	The mid-2013 changes to English language testing requirements removed some pre-existing exemptions which should be reinstated. Testing should also be made more accessible in terms of logistics and location; and the objectives of the testing regime should be made more practical and "fit for purpose" rather than academic. The requirement to have at least five years' education taught in English should also be reduced.

Key aspects of the 457 program	AMMA's position and recommendations for reform
<b>Enforceable undertakings</b> <i>Chapter 8</i>	AMMA welcomes the 1 July 2013 introduction of a system of enforceable undertakings as an alternative in some cases to punitive measures against employer sponsors. This is one of the changes made by the previous government that should be retained.
<b>Explicit numbers of visas</b> <i>Chapter 9</i>	AMMA welcomes the Coalition government's recent removal of the requirement to stipulate the number of 457 visa holders that will be brought in under a business sponsorship. AMMA supports the current rules being retained going forward.
<b>Visa renewals</b> <i>Chapter 10</i>	The visa renewal process should be made more streamlined than the initial application process given the Department already has large amounts of information on file that will not have changed.
<b>Transferring between employers sponsors</b> <i>Chapter 11</i>	AMMA welcomes the extension from 28 to 90 days the time a 457 visa holder can stay in Australia without a sponsor. This is a further change by the previous government that should be retained. However, transfers from one employer sponsor to another should take effect upon lodgement rather than approval to minimise the time an employee is out of work as well as minimising delays by new employer sponsors to accessing those skills.
<b>Labour mobility</b> <i>Chapter 12</i>	Issues of domestic labour mobility must be taken into account when reviewing the 457 visa scheme in the context of training and employment for Australians, particularly in relation to a documented unwillingness of workers from the East Coast to relocate to remote areas on the West Coast for work.
<b>Nominated occupations</b> <i>Chapter 13</i>	The nominated occupations list is currently working well to meet resource industry needs but must be regularly reviewed and amended as necessary to ensure it remains consistent with and responsive to industry requirements for skilled labour.
<b>Skills assessments</b> <i>Chapter 14</i>	The existing skills assessment process is sometimes logistically cumbersome and could be improved in terms of ease and accessibility. A salary threshold above which a skills assessment would not be required for particular occupations also warrants consideration.
<b>Labour agreements</b> <i>Chapter 15</i>	Labour agreements currently take years to negotiate and months to approve. This process should be made simpler and more practical to ensure the benefits of labour agreements flow through to the economy.
<b>Enterprise migration agreements</b> <i>Chapter 16</i>	Until now it has been impossible to successfully negotiate and have an EMA approved. As with labour agreements, the EMAs system must be made workable and accessible if it is to meet its stated aims in relation to current and future resource industry skills shortages.
<b>Industry training and jobs programs</b> <i>Chapters 17 and 18</i>	Industry training and skills matching initiatives must be recognised and better supported by policymakers.

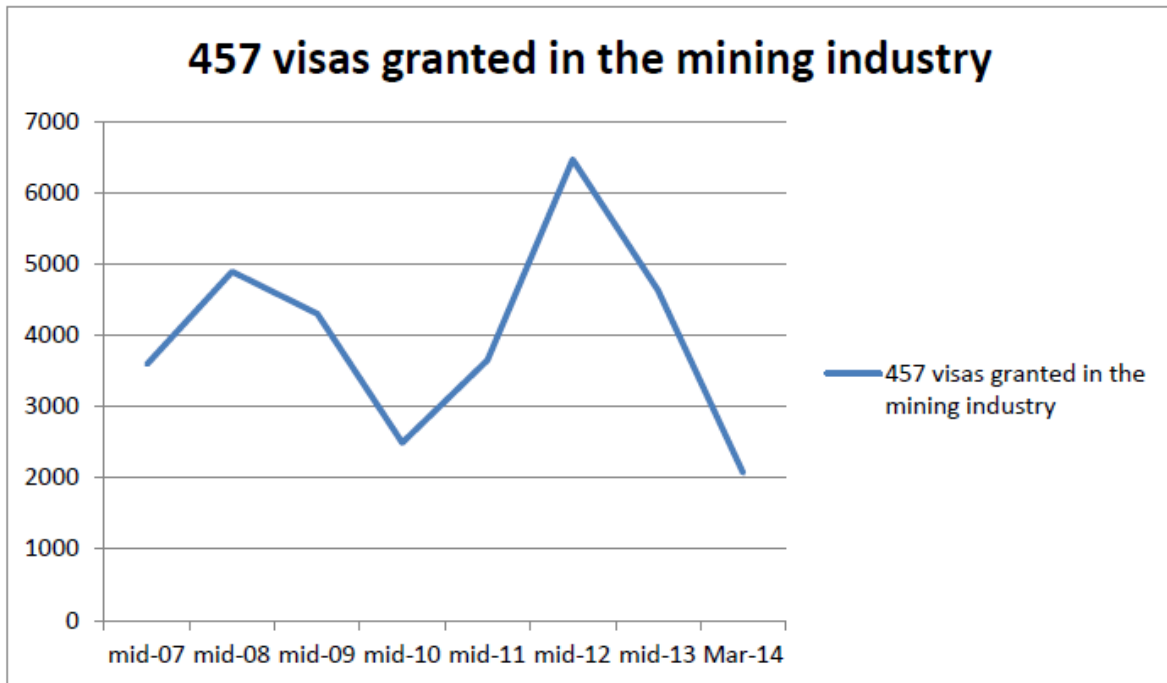
## OVERVIEW OF 457 VISA USE

36. AMMA has real problems with some of the purported or assumed nexuses in this area that seek to hold the 457 visa program responsible for driving skills development and apprenticeships.
37. In arriving at its recommendations, the review panel must have regard to the latest [figures](#) on 457 visa use which show<sup>3</sup>:
- a. The number of 457 visa applications lodged in the 12 months to 31 March 2014 was 35,440 – 36.3% lower than the same period 12 months earlier (across all industries). The number of visas actually granted was 23.2% lower than the previous year.
  - b. The number of 457 visa applications lodged in the mining industry in the year to 31 March 2014 was 1,970 - 46.1% down on the 3,660 applications lodged in the previous 12 months (the graph on the following page shows what has happened to 457 visa use in the mining industry since mid-2007).
  - c. The resource-rich states of Western Australia and Queensland saw 49.1% and 43.6% reductions respectively in the number of applications lodged across all industries in the 12 months to 31 March 2014.
  - d. The average base salary for 457 visa workers in the mining industry as of 31 March 2014 was \$136,700 a year (the highest of any industry using 457 visas) and \$94,800 in construction (the fourth highest of any industry). This shows that contrary to some of the public discourse, these are highly paid individuals, with 457 visa holders in mining earning more on average than their Australian-based counterparts. This gives lie to prejudicial and even xenophobic fears that 457 visa workers undercut Australian wages. In reality, the cost of employing overseas employees is higher<sup>4</sup>.
  - e. The number of 457 visa holders who were granted permanent residency in the year to 31 March 2014 was 35,520 – 39.6% higher than the preceding 12 months. What this means is that “temporary” skills brought in under 457 visas are increasingly converting to a permanent skills base that Australia can use, another important benefit to using 457 visa workers identified in AMMA-commissioned research (see *chapter on ‘AMMA-commissioned research into 457 visas’*).

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<sup>3</sup> *Subclass 457 quarterly report, quarter ending at 31 December 2013*, Department of Immigration and Border Protection

<sup>4</sup> Full-time adult ordinary time earnings in the mining industry as a whole as of November 2013 were \$2470 a week or \$128,420 a year - 6302.0 – *Average weekly earnings, Australia, November 2013*, published by the ABS on 20 February 2014



*Source:* Subclass 457 annual and quarterly reports – starting from June 2007 to March 2014, published by the Department of Immigration & Border Protection

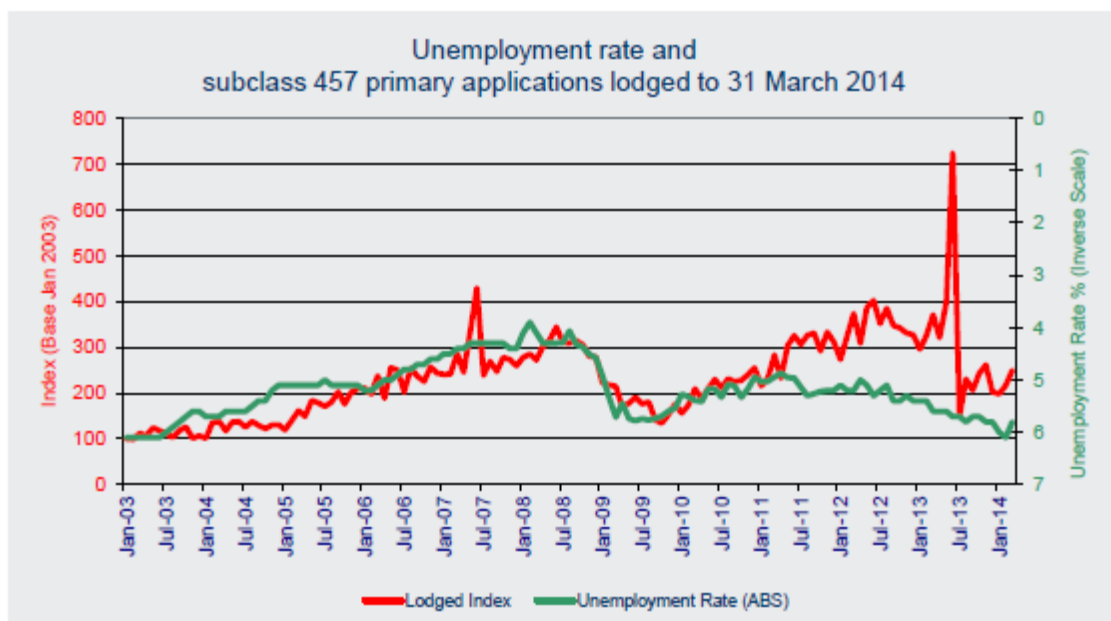
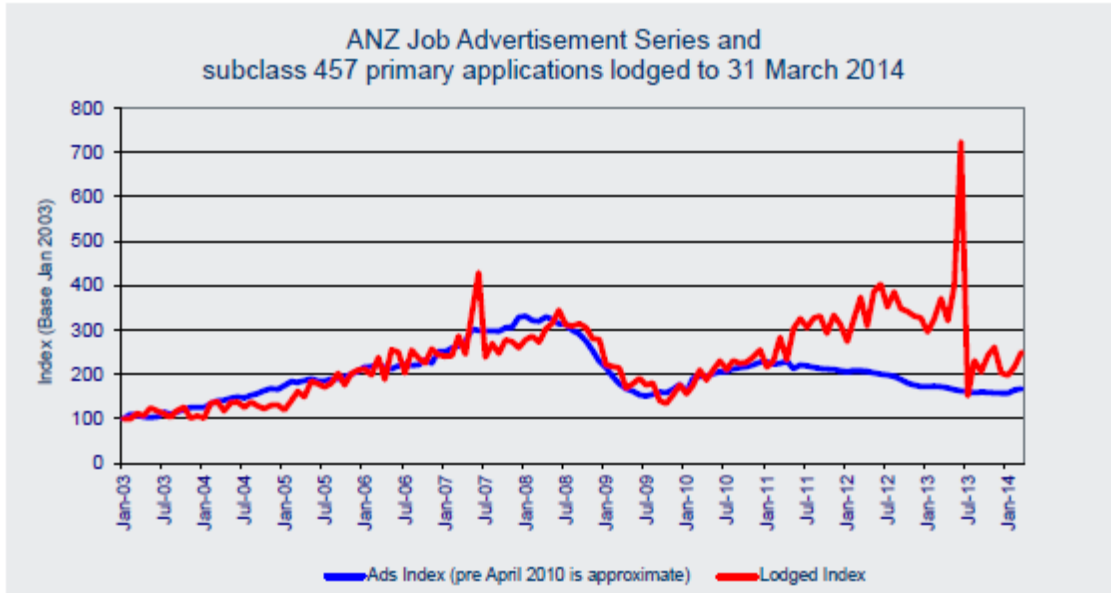
## Domestic employment versus skilled migration

38. There were 11,531,600 Australians employed as of March 2014 and 730,400 unemployed Australians at the same time<sup>5</sup>. This means that the number of 457 visa applications granted in the year ending 31 March 2014 (39,760)<sup>6</sup> equates to 5.4% of unemployed Australians and 0.3% (or one third of 1%) of employed Australians.
39. How is the 457 visa program, which brings in from overseas the equivalent of just 0.3% of the Australian labour market, supposed to have a meaningful impact on long-term skills development in this country, no matter the level of cumbersome and resource-diverting regulation that is applied with that objective in mind?
40. At the very best, the program may shine a light on small areas of skills shortage to feed into the wider policy framework for skilling and employing Australians in the long term.
41. Concerns recently emerged given that 457 visa usage had historically tracked in sync with domestic fluctuations in job advertisements and the unemployment rate (that is, as job ads went down and the unemployment rate went up, the use of 457 visas went down) but had recently diverged.

<sup>5</sup> 6202.0 – *Labour Force, Australia, March 2014*, published by the ABS on 10 April 2014

<sup>6</sup> *Subclass 457 quarterly report, Quarter ending at 31 March 2014*, Department of Immigration & Border Protection

42. The former Labor government used as the rationale for its punitive amendments to the 457 visa system last year the divergence of those two economic indicators from 457 visa usage. The two graphs below illustrate the historical nexus of 457 visa applications with the unemployment rate and domestic job ads.



43. The above graphs show there was a divergence from mid-2011 to mid-2013 when, which has now all but rectified itself and the indicators appear roughly in sync once again.
44. In AMMA's view, these graphs are blunt tools at best to assess exactly what is happening in terms of labour demand and supply, particularly in relation to highly specialised skills. In relation to that, there are several factors worth pointing out:

- a. The spike in 457 visa applications seen in mid-2013 was likely due to the soon to be increased visa application fees and other regulatory changes that took effect on 1 July 2013. A similar spike can be seen in July 2007 just before the increased English language testing requirements took effect.
  - b. Referring to the graph on page 8 as well as to the two graphs on page 9, the upturn in resource industry visa applications from mid-2010 to mid-2012 that deviated from domestic employment indicators coincided with a construction- and labour-intensive phase of the resources boom. With the resource industry now moving out of the construction-heavy phase of the boom and into the production phase, the need for specialist labour has reduced and the number of applications has gone down.
  - c. The overall domestic unemployment rate should not be seen as something that would necessarily affect to a high degree the resource industry's demand for highly skilled labour in boom times given these are extremely specialised skills for which there is a recognised domestic and often a global skills shortage. The shortage of construction trades labour, for example, was well-documented in the National Resource Sector Employment Taskforce (NRSET) final [report](#) in June 2010, with shortages predicted to be in the tens of thousands by 2015.
45. In short, the current tracking of 457 visa applications against domestic unemployment and job ads is an blunt tool at best, particularly in relation to the highly skilled and highly paid individuals brought in from overseas to work in the resource industry.

### Minimal nexus between 457 visas and apprenticeships

46. In terms of attempting to solve problems in the apprenticeship and skills system, there are many barriers to training apprentices and greater systemic challenges other than the use of 457 visas to fill positions that are in shortage.
47. In fact, only around 20% of 457 visa holders are used to fill occupations that would be trained via an apprenticeship, according to the Department of Immigration & Border Protection's latest figures. That means that only around 20% of apprenticeships could in any way be influenced by the 457 visa scheme, and even then only marginally so. With the other 75% of 457 visa workers filling positions that would not be trained via apprenticeships (because they demand higher-level skills), it becomes clear there are much more complex factors at work.
48. Apprenticeship training dilemmas tend to dominate political rhetoric in the skilled migration area as a deliberate tactic by the trade union movement and others allied to them. However, in reality there is only a very narrow nexus between the apprenticeship system and the 457 visa scheme.
49. It should also be remembered that training is not just about apprenticeships, despite the political rhetoric tending to focus on that one narrow area.

50. A transactional process such as the 457 visa scheme should therefore not have to answer for fundamental systemic inadequacies such as domestic skills shortages, labour mobility and declining apprenticeships. It is the wrong tool, erroneously applied, and cannot in any way address the challenges it has been held responsible for in some quarters.
51. The false nexus engendered by opponents of overseas employees ill-serves employers confronting skill shortages, ill-serves overseas employees and ill-serves the creation of career-sustaining skills for Australians.

## AMMA-COMMISSIONED RESEARCH INTO 457 VISAS

52. In 2012, AMMA commissioned Edith Cowan University (ECU) to conduct a research project, '457 visa workers in the Western Australian resources industry – The benefits and costs for business, migrant families and the community'.
53. This [research](#) was the first of its kind to look into 457 visa working arrangements from an Australian and industry perspective.
54. The research found that the majority of costs associated with employing workers on 457 visas were incurred by industry, with relocation costs alone ranging from \$7,000 to \$65,000 for each individual worker brought in from overseas.
55. There was also evidence to suggest that Australian workers with the skills required sometimes resided on the East Coast. Resource industry employers interviewed for the study said they sometimes encountered reluctance from those workers about relocating to WA. This is consistent with failed relocation incentives programs trialled by the former government (see Chapter 12 – Labour mobility).
56. The ECU research also suggested that not only were specific skills sought for resource projects, but relevant experience in the industry was just as important:

*“Potential employers sought employees who were familiar with the industry culture and the issues of working in remote areas.”*

57. To this end, resource industry employers have embarked on their own initiatives to ensure recent graduates in fields such as engineering receive training to ensure they are “work ready” (see Chapter 18 – Industry training initiatives).
58. The ECU research also confirmed there was fluctuating demand by Australia for skilled workers based on how many projects were under construction at any given time:

*“The resources industry is challenged by sharp demands for experienced skilled workers, the limited pool of Australian skilled labour who are willing to relocate, the reducing numbers of workers taking up apprenticeships and traineeships, and the lack of experience of new graduates.”*

59. Importantly, the research acknowledged the important role access to skilled labour from overseas played in encouraging investment given that the construction of projects could be achieved on time and on budget often only with the use of specialist skills from overseas:

*“Many Australian resource projects are supported by overseas investment, and cost blow-outs for projects that over-run create nervousness with a further risk and a reluctance to reinvest in future projects. The advantage to the Australian economy of using workers on 457 visas with the necessary skills is the security of completing project phases within budget as they can be completed on time and move into the subsequent production phases. The data revealed that an additional benefit to Australia is the exposure and subsequent knowledge transfer of skills that*



*accompany the design, construction, operation, and maintenance of specialised machinery."*

60. The research also acknowledged an increasingly global labour force that should not necessarily be delineated in terms of Australian workers versus workers from overseas and that the appropriate paradigm was more nuanced:

*"The evidence from this study confirms the recognition that the labour market, and especially the highly-skilled labour market, is increasingly global."*

### Key costs and benefits of 457 visa working arrangements

61. The key benefits for businesses identified by the ECU research as arising from the use of 457 visa working arrangements in the WA resource industry included:

- a. Access to immediate skills for business growth;
- b. Contributions to Australia's future skills pool;
- c. Enhanced labour market flexibility; and
- d. Construction phases completed on-time and on-budget.

62. Key benefits to the Australian economy included:

- a. Skilled migrants in the Australian resource industry paying the highest rate of tax compared with domestic workers;
- b. Foreign workers spending their wages in Australia while based here and permanently if they obtained permanent residency;
- c. Knowledge transferred to Australian workers given that 457 visa workers were often at the forefront of innovation and technology.

This type of on-the-job training and knowledge transfer is impossible to measure under the 1% or 2% of payroll training benchmark that accompanies the 457 visa scheme. This type of training has nothing to do with "spend" but everything to do with what is happening on the job which is critically important to upskilling the industry and reducing the need for skilled migrants in the longer term; and

- d. Access to global project construction and management capabilities.

63. Key benefits to the 457 visa workers themselves identified in the study included:

- a. Being treated with equality and respect in Australia;
- b. The opportunity for career advancement;
- c. Increased quality of life; and
- d. The possibility of permanent residency in Australia.

64. The research also identified the costs of using 457 visa working arrangements in the WA resource industry, which for businesses included:
  - a. A cost ranging from \$7,000 to \$65,000 per worker from overseas in terms of relocation expenses alone;
  - b. Visa costs, airfares and ongoing support expenses;
  - c. In many cases expensive temporary accommodation for initial periods of relocation; and
  - d. Providing access to relocation agents to some workers.
65. Costs to the Australian economy included the potential loss of jobs for Australian workers due to a lack of skills unless the government found ways to simultaneously:
  - a. Increase the number of apprenticeship training places and encourage completions;
  - b. Encourage skilled workers from other Australian states to relocate to the resource-rich states of WA and Qld; and
  - c. Continue to allow access to skilled workers from overseas under programs such as the 457 visa program.
66. This was important first of its kind research that took a balanced look at the cost-benefit ratio of employing 457 visa workers from overseas, which in the end concluded this was an ongoing necessary and positive adjunct to domestic upskilling.
67. Importantly, the research was conducted in 2012 prior to the previous government's politicised tinkering with the 457 system at the behest of the trade union movement.
68. Deliberate disincentives and engineered complications call into question the net positives of the system for all concerned, and no government can assume overseas skilled migration will always play its instrumental, supporting role for our economy in the face of poor policy and punitive regulation.

## 1. ACCREDITED BUSINESS SPONSORSHIP

69. One way to maintain the integrity of the system while removing some of its administrative burden would be to expand the benefits of [accredited business sponsorship](#). Those benefits are currently limited to:
- a. A sponsorship duration of six years rather than three for standard business sponsors; and
  - b. Fast-tracking of applications, which in the resource industry tends to happen (more or less) in any case (see *Chapter 4 – Visa processing and decision-making*).
70. The panel could consider recommending the introduction of an industry or compliance record-based differential for accredited business sponsorship going forward to ensure the continued integrity of the scheme. That way, there would be no suggestion that overseas workers would be exploited or there would be an advantage to substituting overseas workers for Australian workers at the lower end of the skills or salary scale.
71. An alternative way of doing this would be to introduce a salary cut-off, such as the unfair dismissal high-income threshold of \$129,300, above which the administrative and documentation requirements of the 457 visa application process could be streamlined, either inside or outside the accredited business sponsorship framework.
72. Another option would be to do it on an industry basis, so that the resource industry, which is a trusted user of the 457 system, could bypass the onerous regulatory requirements that go along with some aspects of the application process. That is not to say that sufficient documentation would not be required at some point in the process, only that it would not be an ongoing, repetitive requirement.
73. Because the current accredited sponsorship duration is six years, if burdensome administrative requirements are considered necessary as a feature of the scheme, it would be preferable to have those “frontloaded” on a one-off basis at the point of applying for accredited business sponsorship every six years rather than for every visa lodged, keeping in mind the resource industry’s preference for reduced regulation overall.
74. It could also be argued it is a little out of step to have a three or six-year sponsorship period and a four-year 457 visa length. Consideration may want to be given to making standard business sponsorship four years and similarly increasing accredited business sponsorship to eight years.
75. The Department would have to be mindful of working with industry to ensure any entry requirements for the accredited sponsorship or other fast-tracked or reduced-regulation scheme were able to be met by genuine employer sponsors.
76. AMMA would be happy to work with policymakers to help inform the introduction into the 457 visa framework a set of provisions that reward those with a strong history of compliance and respect for the system, or that have demonstrated

excellent training practices, good numbers of apprentices and / or solid corporate citizenship in other ways. Among other benefits, those trusted users could be assured of even faster visa processing within the system.

77. If there was later a proven breach against them, they could lose that status.

## 2. LABOUR MARKET TESTING (LMT)

78. The imposition of “punitive” measures such as labour market testing (LMT), enacted by Labor and taking effect in relation to 457 visa applications from 23 November 2013, are not appropriate ways to address Australia’s ongoing skills challenges.
79. All such measures do is make the necessary process of applying for 457 visas more onerous, expensive and resource and paperwork-intensive, without any genuine benefit to Australian employees or the nation’s skills base.
80. LMT only makes a difference to the regulation of the 457 visa scheme, not to the long-term need for it or to niches of skills demand that cannot be met domestically.
81. As the Senate Legal and Constitutional Affairs References Committee highlighted in its June 2013 [report](#) on the *Framework and operation of subclass 457 visas, EMAs and regional migration agreements*, industry opposes LMT for a number of reasons including:
- a. Previous iterations of an LMT program have proven ineffective in achieving the purported aims;
  - b. Employers are often seeking highly specialised skills that are in scarce supply globally, rendering LMT burdensome and unnecessary;
  - c. Employers are already well aware, through channels other than LMT, that the skills they need are not available locally. Alternative avenues for such knowledge include industry or government information that clearly demonstrates a skills shortage in a particular occupation or region; and
  - d. In such situations, LMT requirements impose unnecessary delays and costs that could ultimately frustrate the economic benefits of the 457 visa program.
82. In not paying heed to these issues and imposing LMT regardless, the previous government regulated punitively and engineered deliberate disincentives to Australian businesses in meeting their labour market needs.

### Labor’s legacy

83. A requirement for LMT for all positions nominated to be filled by 457 visas took effect on 23 November 2013. While this requirement became operational under the current Coalition government, the legislation requiring it was put in place by the former government.
84. The introduction of LMT for subclass 457 visas was rushed through without hard evidence of problems with the former legislative framework, without justification and without properly considering its impact against the likely return.

85. No evidence was provided to show that LMT would address the problem it purported to address, if such a problem existed – that skilled Australians were being overlooked for work that was instead being given to skilled migrants.
86. Nor has any evidence been provided about the cost-benefit of applying LMT in the short or long term, and there has been no proper engagement with the risks and how LMT will impact on operations, construction, etc in this country.
87. There has been no consideration of the broad-reaching impact across the economy of this change, including on professions such as nursing, information technology and small business operators.
88. What is clear, however, is that an extra layer of bureaucracy has been imposed that employer sponsors have to go through in order to access the skilled labour they desperately need. AMMA maintains that incentives are already built into the system to hire Australians first, which include the high cost of bringing workers in from overseas, the ongoing support and assistance they require during their stay and the requirement to pay minimum salaries.
89. The cost of a 457 visa application has also doubled since 1 July 2013, from \$455 per application to \$900, providing a further deterrent to using skilled labour from overseas where it might otherwise be alleged it is available locally, negating the need to retain LMT as a further punitive measure.
90. There is no question employers would like to find people in Australia to perform the roles that are in shortage. However, giving them more hoops to jump through is not going to change shortages in the skills employers need when they need them, especially when considered in light of the well-documented lifestyle preference for highly-skilled Australians to reside on the East Coast close to amenities (see *Chapter 12 – Labour mobility*).
91. The application of LMT has significantly increased the regulatory burden on businesses and their ability to meet labour shortages in a timely manner. Conducting LMT before filling a position can add one to two months on average to the recruitment process, thus delaying projects by that much each time a skilled worker is sought.
92. Businesses have to post the job ad first, then wait until people have had enough time to reflect on the ad and apply. Then they have to go through the responses to see what sort of “catch” they have. And for some roles they know they are never going to find what they are looking for domestically, even though that would be ideal, because, if they want someone with “bespoke engineering experience” or an experienced installation engineer, he or she needs to have five years’ experience in the industry doing that sort of work in order to perform the job. If that person existed in Australia, chances are they would have already been found.
93. The application of LMT to 457 visa applications should be removed as it is imposing a significant cost and compliance burden on businesses with no corresponding benefit in terms of protecting Australian jobs.

94. LMT is an unnecessary and deliberately onerous step in the recruitment process that does not fit well with business processes and which harms business with no corresponding practical benefit.
95. Many AMMA member companies already advertise jobs as a matter of course on their company websites, on AMMA's [mininoilandgasjobs.com](http://mininoilandgasjobs.com), on [seek.com](http://seek.com) or in regional newspapers, etc. Having to provide the documentation to the Department to prove they are doing so provides no extra benefit but a lot more paperwork.

### Case study - AMMA member company

96. The additional requirement for LMT is particularly onerous when workers are only coming into Australia's migration zone to work for a short period of time, as is the case with this AMMA member company operating offshore.
97. Its 457 visa workers are typically in the migration zone for five to six weeks at a time, then go home for five or six weeks, then come back for five or six weeks. The amount of paperwork required to be submitted for 20 to 25 people who are only working for a total of three months is phenomenal under the current system.
98. It is not just the cost of paying for a migration agent's time in compiling and handling the paperwork, it is finding all the documentation in the first place, then submitting it, then having to advertise for the position locally, either on the company website or on a sub-contractor's website.
99. This is advertising for advertising's sake. The skills to do this work are often either facility-specific or globally scarce and are just not present in Australia. This is already established yet the LMT charade must be performed each time.
100. This eats up time by the company's HR department as well as having to deal with external or inhouse migration services. All this effort is for naught. There is no Australian that could do the work at the start of the LMT process and no Australian who could do the work at the end of the process.
101. Together with the other burdensome aspects of the current 457 visa system, AMMA's member has estimated that they are under the current requirements stimulating the Australian economy to the tune of \$200,000 for the net result of 20 or 25 people on 457 visas working in Australia's migration zone for three months. If you look at this as a per day cost of doing business, it is a massive burden.
102. The fact is that the application of LMT causes delays, and those delays are without purpose, justification or benefit.
103. It is also important to recall that any job ad containing the word "mining" or "resources" gathers a plethora of unqualified applications that must be trawled through.
104. As one AMMA member put it:

*“So in those types of cases you know the outcome but you have to go through the process of proving that outcome to yourself – that the person you want cannot be obtained locally. That’s a crude way of expressing it, but it’s true. If we knew we could do it with a local, we’d do it with a local.”*

## Recognised global skills shortages

105. There is a recognised global skills shortage in many areas of engineering, particularly those necessary to get resource industry projects off the ground, yet engineering is one of only two professions, along with nursing for which there is also a recognised shortage, that cannot be exempted from LMT requirements under the current system.
106. It seems absurd to have to justify recruiting a mining engineer from overseas by placing an ad locally when the employer knows there is a severe shortage of engineers globally.
107. These perverse outcomes underscore the need for these very recent LMT requirements to be removed in their entirety.



### 3. INTRA-COMPANY TRANSFERS

108. In the resource industry, there is as much of a premium on industry experience as on technical skills. This is not only to do with the technology used in the industry but also the safety-critical nature of the work.
109. There must be some recognition that industry-specific experience, and in many cases company-specific experience, is essential for a multitude of roles in the resource industry.
110. It is for that reason that some AMMA members exclusively use the 457 visa scheme for “intra-company transfers” given the premium on industry and company understanding. This needs to be recognised as a legitimate recruitment practice and the visa processes surrounding intra-company transfers for trusted users of the 457 system should be simplified as a result.
111. Unfortunately, when it comes to intra-company transfers, the current 457 visa regime is a clumsy instrument.
112. As one AMMA member said, if a business is able to demonstrate that a person has worked for the company for several years and the company is a trusted user of the system, why should they have to meet all of the current 457 visa criteria?
113. Several AMMA member companies only use 457 visas to bring in expats who are company employees from around the world to work on their Australian projects. For them, skilled migration is all intra-company transfers. They will commonly send someone to Australia to develop their career and experience so they can later send them to another part of the world with that experience in tow. They also develop the global skills of Australians during the time they are working on projects here.
114. There needs to be greater recognition from the government and regulators that shows they understand the concept of intra-company transfers and the ability to simplify this part of the system without undermining its overall integrity. Companies need the flexibility to bring people in from anywhere in the world to their Australian operations at specific times and this should be facilitated.
115. One option would be to introduce an alternative visa type used purely for intra-company transfers, obviously having appropriate checks and balances in place to ensure adequate protections for visa holders.
116. It should be remembered that not only is part of growing Australian employees professionally them being able to work all over the world, but also that bringing global experience to bear on multi-billion projects will make Australian projects cheaper, faster and better in the long run. If we are to compete with the US, Canada and the EU, we need to be smart and leverage off their experience and world’s best knowledge and skills.
117. AMMA member companies, particularly those operating in the highly-specialised offshore environment, need people with experience at their global operations to

work in Australia on large projects. Organisations like that need internal company experience to bring to these critical roles and our system should be better at facilitating that.

118. Global exposures and transfers are also fundamental to how many companies can do business on our shores. If Australia is to compete for their investment, we have to recognise and support their people strategies. Or else, contrary to Prime Minister Tony Abbott's comments, we will not be "open for business" <sup>7</sup> in the long term.

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<sup>7</sup> *Tony Abbott claims victory and says Australia is 'open for business'*, by Ben Packham and Sid Maher, The Australian, September 8, 2013

## 4. VISA PROCESSING AND DECISION MAKING

119. Visa processing times under the current framework are often dependent on which office the file is allocated to. In some states, a 457 visa application can be approved within a week while in others the same application can take up to four weeks from lodgement to approve (this is the case with “decision-ready” applications where no further information is required by the Department of Immigration & Border Protection to approve the visa).
120. Processing times can also very much depend whether applications are lodged electronically or in hard copy. If the latter, the process is protracted and time consuming.
121. There are therefore opportunities to reform administrative practice and performance. Consistently fast processing times would make the whole system more productive and responsive, as would consistent documentation requirements.

### The case for streamlined documentation requirements

122. The current process of applying for a 457 visa is viewed as document-heavy, cumbersome and repetitive by many frequent users of the system.
123. It is frustrating in the extreme for companies to have to provide all their company data again and again for each 457 visa application, especially when the Department already has it on file and it has not changed.
124. This creates more expense for business as it means they have to send all that documentation to their migration agent each time who then has to charge for the handling of that information before sending it to the Department. It also makes the Department’s case officers’ life much more difficult by having to wade through wads of documents each time, even when they have been sent previously and accepted.
125. In keeping with the Abbott government’s commitment to cutting red tape, this is an area much in need of review and improvement.
126. One option would be to require business sponsors to provide company-specific information once at the start of their business sponsorship and not to have to do so again unless their circumstances have changed. This should be acceptable for trusted and regular users of the program, and could be simplified further for accredited sponsors and other trusted users of the system (see *Chapter 1 – Accredited business sponsorship*).
127. A streamlined system could also be used for cases where workers transfer from one sponsor to another (see *Chapter 11 – Transferring between employer sponsors*), removing the need for the new sponsor to provide afresh all the information relating to that worker which is already on file with the Department.
128. The current system is extremely cumbersome from a paperwork perspective and the implementation of streamlined processes, either for all users of the system or

proven trusted users, would go a long way towards consistently improving processing times and thereby reducing red tape in line with the government's objectives.

### **Inconsistently applied requirements**

129. It is also at times difficult for resource industry employers and their migration agents to predict exactly what documentation will be required to accompany a 457 visa application.
130. As is the case with varying processing times depending on which office a visa application is allocated to, documentation and approval requirements can be inconsistently applied at times depending on which case officer an application is allocated to.
131. Consistency in requirements and expectations would go along way in giving business sponsors certainty about their obligations and enable them to factor that into their work processes and timelines. It would improve the operation of the 457 system for all concerned.

## 5. COMPLIANCE AND ENFORCEMENT

132. AMMA and its members support a sensible approach to enforcement along with clear obligations and sanctions for transgressing the law.
133. However, we believe the Department of Immigration & Border Protection should be the sole investigative agency for compliance with migration laws, and that inspectors of the Fair Work Ombudsman's office should not have powers under this legislation.
134. Prior to 1 July 2013, the then-Department of Immigration and Citizenship had 32 active inspectors appointed under the Migration Act to monitor compliance with sponsorship obligations.
135. From 1 July 2013, the compliance regime was expanded to enable Fair Work Ombudsman inspectors to exercise dual powers under the Migration Act as well as the Fair Work Act 2009. Fair Work inspectors can now investigate compliance with 457 visa sponsorship obligations to ensure visa holders are working in their nominated occupations and being paid market salary rates.
136. It is vitally important that enforcement happens through the migration area, not the industrial relations area where third party agendas such as those of trade unions come into play and may motivate misinformation campaigns and allegations that, while patently untrue, can cause untold reputational damage.
137. The migration legislation / regulations should be changed so that FWO inspectors are not jointly badged for migration. If this requires the allocation of further resources for the Department and further training of its inspectors, that should be supported.
138. Some further matters of note are:
  - a. Dual badging or responsibility threatens to diminish the effectiveness of labour inspection, which is a treaty obligation for Australia. The ILO has expressed concern about this, which can be captured in the adage 'Jack of all trades, master of none'.
  - b. In April 2013, while he was Immigration Minister, Brendan O'Connor admitted he had no hard evidence for his claim that there were up to 10,000 individual cases where the 457 visa system had been rorted<sup>8</sup>. A spokesperson for the minister acknowledged the evidence was "anecdotal", with Department of Immigration statistics showing just 125 sponsors were formally sanctioned in 2011-12, while another 449 were warned and 49 were issued with an infringement notice.
  - c. This insertion of anecdote in the place of hard evidence was simply unjustified. It also stands to reason that, if overall demand for 457 visas has

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<sup>8</sup> *O'Connor's 10,000 visa rorts anecdotal*, The Australian Financial Review print edition, 30 April 2013

fallen, as it has, the need for inspection will also have fallen. So it is quite possible in the current environment at least to return to Department-only inspectors, at least in the short term.

## 6. MARKET SALARY RATES

139. When looking at the 457 scheme as a whole, there are ways to streamline the administrative processes for both the users of the system and the administrators of it. This is certainly the case in terms of imposing a market salaries threshold as high as the one that currently exists.
140. From 1 July 2013, the “market salary rates” provisions were expanded to impose that particular regulatory burden on employer sponsors in relation to a wider range of visa holders, by increasing the market salary assessment exemption threshold from \$180,000 a year to \$250,000.
141. What that means is that any 457 visa worker earning less than \$250,000 (rather than \$180,000) is required to be subject to a detailed comparison of pay rates, terms and conditions with an equivalent Australian worker.
142. This means a significant proportion of workers in the Australian resource industry must be subject to comparison by their employer with an equivalent Australian worker. That is, their employer must go to the effort of comparing their terms and conditions of employment and salary to that of an equivalent Australian worker as long as they are earning below \$250,000 a year.
143. AMMA maintains that those people are earning a sufficiently high salary that exploitation is not an issue. Not only should the market salary threshold be reduced to its pre-1 July 2013 level of \$180,000 a year, it should be lowered further to be consistent with the unfair dismissal high-income threshold which currently sits at \$129,300.
144. Anyone earning below that salary can have their salary and terms and conditions compared with equivalent Australian workers, but those earning above that threshold do not need further protections and it does not warrant putting employers to the onerous task of performing a market rates assessment.
145. The market rates equation can also be deceptive in that often it will require employers to pay 457 visa workers more in pay and benefits than Australian workers would receive given there are some expenses that cannot be included in the calculation, albeit still represent a cost for employers. These might include fringe benefits tax and relocation expenses.
146. Put simply, employers have to prove to themselves that the package they are offering is above the market rates requirement for nearly all workers they employ. This is unnecessary regulation for most 457 visa holders in the resource industry and is imposed without justification.
147. There is also currently a requirement for employer sponsors, even where there is no Australian worker performing equivalent work at their enterprise, to conduct a detailed comparison of pay rates, terms and conditions in relation to other workers in the same regional locality and industry (ie outside of their enterprise).

148. For the same reasons AMMA has concerns with the “prevailing industry standards” provisions proposed for greenfield agreements for new projects in the industrial relations space under the Fair Work Amendment Bill 2014<sup>9</sup> (currently before federal parliament), we have problems with this concept of prevailing industry standards being applied to salaries, terms and conditions in the migration space.

### Offshore wages in Australia versus international wages

149. Australian workers’ offshore construction salaries have risen 45% to 50% over the past five years as recent AMMA [research](#) has demonstrated, whereas in the international market, inflation-only wage increases have been the norm since the advent of the global financial crisis.
150. On average, in the major OECD countries where some AMMA member companies’ workers reside (Canada, the UK, the US, Spain and the Netherlands), inflation has been running at between 2% and 3% a year.
151. This means that in the past five years, Australian labour costs have risen between 45% and 50% in comparison with Euro or US dollars where the costs of international labour have only increased from 10% and 15% over that five-year period.
152. For example, overseas salaries for welders offshore are US\$160,000 or Euro \$120,000 depending on the country of origin (this is for working an eight on, four off roster). In comparison, an equivalent Australian welders’ salary would be AU\$300,000 for which they work three on, three off rosters. This is more than double the salary cost and double the oncost of logistics due to the shorter (even-time) roster which requires more workers to man the spread of shifts.
153. When Australian salaries are used as the benchmark for 457 visa holders earning less than \$250,000, operators find they are paying exponentially larger salaries, often double or triple in the offshore environment.
154. This is not only bad news for employer sponsors of 457 visa holders but for the economy as a whole. As one member put it:
- “That’s why you see the procession of projects in Australia is drying up. Because in the end, the gas or oil is still sold in a world market and if the labour content and royalty content of the Australian product is that high, and it’s easier and more economic to take it out of South Africa, the Yemen or Malaysia, then people will explore and produce in those countries. Our labour costs here since 2008/09 have probably doubled as an element of our operating costs but our productivity hasn’t doubled at all.”*
155. Put succinctly, since 2009 there has been an increase in labour costs in offshore construction in Australia of around 100% but no corresponding increase in productivity. That is also to do with the Australian dollar because, while labour costs have gone up by up to 50% since 2009, the Australian dollar has also gone up as a

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<sup>9</sup> AMMA [Submission](#) to the Senate Education and Employment Legislation Committee Inquiry into the Fair Work Amendment Bill 2014, April 2014



unit of currency against the Euro and US dollar, making things even less competitive in Australia.

156. What that means is not only has the cost of labour gone up, the currency of the cost of labour has also gone up. While individual workers cannot be blamed for the movement of the domestic currency, it is still part of the cost of doing business in Australia and something to take into account when considering whether to set a reduced threshold for market salary rates as part of the 457 visa scheme.

## 7. ENGLISH LANGUAGE TESTING REQUIREMENTS

157. Prior to 1 July 2013, in order to be granted a 457 visa an applicant had to demonstrate they met the English language requirements or were otherwise exempt.
158. One of the previous exemptions was for applicants whose sponsor indicated their annual earnings were above the English Language Salary Exemption Threshold (ELSET) of, at the time, \$92,000 a year.
159. If, after the grant of the visa, that sponsor made a new nomination with a salary lower than the ELSET, the visa holder was not required to demonstrate they met the English language requirement.
160. However, after 1 July 2013, if a 457 visa holder who was previously exempt from the English language requirement because they were above the earnings threshold is renominated at a salary level below the threshold, the visa holder is required to show they either meet the testing requirement or are otherwise exempt, such as in an exempt occupation.
161. Post-1 July 2013, occupation-based exemptions have been removed while the following exemptions remain:
  - a. Having a salary above the earnings threshold (now increased to \$96,400);
  - b. Having a passport from Canada, the US, the UK, Ireland or New Zealand; or
  - c. Having completed at least five consecutive years of full-time study in a secondary and/or higher education institution where the instruction was delivered in English.

### Key issues for AMMA members

162. Future exemptions from the English language testing requirements should recognise industry experience and on the job experience as well as formal qualifications.
163. At present, when people have practical work experience rather than tertiary qualifications where the instruction was in English, they will have acquired a competent level of English through their knowledge on the job and practical experience, despite not having been taught in English or for five consecutive years. The fact is the industry would not hire people if they did not have sufficient English, but the testing requirements need to be more flexible, practical and fit for purpose.
164. Some AMMA members have also had issues with logistical aspects of organising workers to travel to the testing centres even if they would have no trouble passing the test.
165. One AMMA member experienced issues with having a worker do the test in Spain because the testing centres were not always accessible at the times the business or visa applicant needed to attend.

166. Again this creates a cost. If employers want someone who lives in the north east of Spain to sit the test and the only place they can do so is Madrid, the employer has to pay the worker to travel there, do the test and travel home again, which can take up to three days.
167. If the test could be done online it would make the logistics significantly easier.
168. The English language testing requirements are often more of a time issue for companies than anything else. Early university graduates, for instance, would have no problem passing the test but it is an extra requirement that means they have to travel from their work location to take the test. This sometimes results in a two to four-week delay before getting their visa and starting work on a project.
169. The fact is that since 1 July 2013, more qualified people have to go through English language proficiency testing than they did previously.
170. Increased numbers of people going through the system means delays in booking tests through testing facilities which are often now booked up further in advance.
171. Even if a person would have no problem passing the test, they may have to wait several weeks before they can sit it.
172. Assignees sometimes also have difficulties obtaining the requisite confirmations from universities to prove they have the minimum five years' education taught in English to exempt them from the testing requirement. There may also be a cost attached to obtaining that documentation from educational institutions.
173. For some people the testing requirements themselves are too onerous. But while they might struggle to pass the formal test, they have no trouble conversing or having sufficient English to do their jobs safely and efficiently.
174. The testing requirements should therefore be reviewed to ensure they are practical and fit for purpose and not overly academic.

## 8. ENFORCEABLE UNDERTAKINGS

175. Before 1 July 2013, the enforcement framework for sponsorship of non-citizens seeking entry to Australia for work, including administrative sanctions, existed along with an infringement notice scheme and civil penalty scheme.
176. From 1 July 2013, enforceable undertakings became an additional enforcement option in the event of a failure by an approved sponsor or former approved sponsor to satisfy an applicable sponsorship obligation.
177. Such undertakings are “court enforceable promises” made between the minister and a sponsor. This is a favourable alternative to substantial legal costs associated with litigation in the courts and is supported by AMMA.
178. This was one of the few Labor changes to the 457 visa program in 2013 that AMMA supports as it represents a sensible and collaborative approach to compliance and enforcement.

## 9. EXPLICIT NUMBERS OF VISAS

179. Prior to 1 July 2013, sponsors were able to sponsor and nominate unlimited subclass 457 visa holders. There was no arbitrary “cap” in place by requiring sponsors to specify the exact number of visas they would apply for during the term of their sponsorship.
180. Between 1 July 2013 and 14 February 2014, sponsorship accreditations or standard business sponsorships approved were subject to the old requirement to keep to a specific number of 457 visas under the Migration Regulations for the three or six-year term of their sponsorship.
181. AMMA welcomes the Coalition government’s removal from 14 February this year under the Regulations of that arbitrary requirement.
182. In removing the restriction for new business sponsors and renewed business sponsorships, a spokesperson for Assistant Minister for Immigration and Border Protection, Michaelia Cash, defended the move against critics:

*“While the Coalition is a government committed to deregulation and the removal of unnecessary red tape, we are equally committed to ensuring the integrity of the 457 visa program.”*

183. While AMMA welcomes the removal of the cap for new business sponsors and renewed business sponsorship, it should also be removed for existing sponsors.

### History of caps on the scheme

184. Prior to 14 September 2009, companies had to specify the number of foreign nationals they planned to bring in over the successive three years (the life of a business sponsorship approval). If that number was met or the three years expired, the company had to re-apply for another business sponsorship (creating an unnecessary regulatory burden for business).
185. The Labor government from 14 September 2009 until 30 June 2013 removed that restriction. During that period, which in AMMA’s view was a step in the right direction given the economic climate at the time, companies that applied for and obtained an approved business sponsorship could bring in an unlimited number of foreign nationals on 457 visas over the following three years.
186. From 1 July 2013, Labor changed the regulatory requirements back to what they were prior to 14 September 2009 and reintroduced the restrictions. This has since been removed by the Coalition government.
187. Valid business sponsorships now only cease at the three or six-year expiry date regardless of numbers of visas applied for, which is something that AMMA welcomes.

188. The previous restrictions were red tape for the sake of red tape and AMMA supports their continued removal. This should not be part of the system going forward for either new or existing sponsors.
189. The fact is that employers do not control globalised labour markets or economic fluctuations and cannot know definitively three or six years in advance of a project mobilising how many workers they will need for their operations.
190. Businesses do not have to say how big they will grow when they start a business and apply for an ABN. Nor do they have to say how many people they will employ when they register to make superannuation contributions on behalf of employees.
191. Given that businesses have to pay the 457 fee and meet the other 457 visa requirements each time they apply for a visa to prove it is genuine, there is no justification for this additional hurdle.
192. The Coalition's sensible change removes previous incentives for employers to understandably "overestimate" the number of workers they may need during the term of their sponsorship.
193. It must be remembered that the previous "cap" did not put an explicit ceiling on numbers, it just held employers to the number of visas they stipulated in their sponsorship application, requiring them to justify any increase.
194. The imposition of this restriction alone does not explain the reduction in 457 visa applications that has happened in recent months, which has more to do with economic factors and, in the resource industry, the move from the construction phase to the less labour-intensive production and export phase.

## 10. VISA RENEWALS

195. At present, when an employer sponsor seeks to renew a 457 visa during a worker's stay in Australia, they are required to go through the entire visa application process afresh, including having to nominate the position again.
196. A lot of the bureaucracy and paperwork associated with visa renewals seems unnecessary to employers given the Department already has workers' certificates and other documents on file. Why then is it necessary for the employer to resubmit the documents in their entirety with the renewal application unless something has changed?
197. In situations where a visa is simply being renewed, the process can and should be streamlined. Shorter processes that only require the employer sponsor to state that all aspects of the role are the same, aside from a new expiry date for the visa, should be available for visa renewals, particularly for trusted users of the system.

## 11. TRANSFERRING BETWEEN EMPLOYER SPONSORS

198. The former system contained unnecessary impediments in situations where workers who were sponsored under 457 visas changed employer sponsors during their stay in Australia.
199. This is not an uncommon occurrence in the resource industry and should be appropriately recognised by the system, not punished.
200. Before 1 July 2013, if a visa holder ceased employment with a business sponsor, the period during which they were unemployed in Australia could not exceed 28 consecutive days before they had to leave the country. This was often not enough time to allow a 457 visa holder to find a new sponsor before being required to leave our shores.
201. Post-1 July 2013, the period between ceasing employment with a sponsor and having to depart Australia or commence work with another sponsor was extended to 90 consecutive days.
202. This extension of time is welcome and sensible and should be retained.
203. However, other problems arise from the inability of a worker to start work with the new employer sponsor until the sponsor's application has been approved by the Department, which in practice can use up the entire 90 days.
204. What this means is that the worker is potentially unemployed for up to 90 days in Australia after finishing work with one sponsor while they could be gainfully employed and paying taxes while working for a new employer sponsor who requires access to their skills sooner rather than later.
205. It is reasonable to require the employer to lodge the new sponsorship application within 90 days but the employee should be able to work from the date of lodgement rather than the date of approval.
206. As an alternative, transfers between employer sponsors could be fast-tracked in order to minimise the downtime in employment.
207. When an employee is working under a 457 visa for one sponsor company and a new employer plans to take over that sponsorship, the new sponsor should be able to nominate a date on which the new sponsorship arrangements will apply, ie. the date on which the new worker will begin work for the new employer, which may be before or after the new visa application is approved.



## 12. LABOUR MOBILITY

208. Labour mobility is a key issue that tends to get overlooked in the skilled migration debate.
209. AMMA-commissioned research into the costs and benefits of 457 visa arrangements (see *chapter on 'AMMA-commissioned research into 457 visas'*) cited a marked reluctance by many skilled workers from the east coast of Australia to move to remote locations on the west coast for work.
210. AMMA's [submission](#) to the Productivity Commission's inquiry into geographic labour mobility detailed the complex interaction of issues at play.

### The failure of relocation incentives

211. Starting in January 2011, the former Labor government trialed a two-year worker relocation incentives program. As part of the program, the government offered unemployed individuals up to \$6,000 each in relocation expenses and offered families up to \$9,000 to move to regional areas for work.
212. As of June 2012<sup>10</sup>, only 33 people had taken up the incentives to move interstate to work in the mining industry. While 559 people had at that stage taken up the incentives, less than 6% of those had done so to participate in mining.
213. The \$29.2 million program was intended to encourage 4,000 places over the two-year trial. Given the low take-up of incentives under the program, policy makers need to think realistically about the practical challenges of filling some remote and regional mining jobs with skilled Australian workers.
214. A particular reluctance of skilled Australian workers to move to WA from the East Coast was confirmed in the research commissioned by AMMA and conducted by Edith Cowan University in 2012.
215. The research revealed that at that time the limited pool of skilled labour in Australia was exacerbated by the fact that even when firms could source Australian workers with the required skills on the east coast, they were often reluctant to move to WA.
216. A number of reasons were cited for this, including:
- a. Workers having to move away from family, friends and amenities;
  - b. A lack of accommodation with reasonable rental rates in parts of WA; and
  - c. The high cost of living in WA.

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<sup>10</sup> 'Jobless snub offer to move interstate for mining jobs', The Australian newspaper, Patricia Karvelas, 5 June 2012

217. This reluctance of Australian workers to relocate to WA is juxtaposed with significant numbers of workers from countries like Ireland and the UK who are keen to take up the work on offer.
218. For the purposes of this review, it remains the case that while there may be workers with the skills available domestically, they will not always be willing to undergo the necessary lifestyle changes to relocate to where the work is.
219. This signifies an area where the use of skilled labour from overseas is not necessarily a problem and enables Australian workers to maintain their current lifestyle preferences of living on the East Coast closer to cities and amenities.
220. AMMA maintains that not in all cases of structural and sustained demand for 457 visas is there a problem, with diverse cultural and lifestyle issues also at play. Research such as that commissioned by AMMA is important in identifying the reasons behind a lack of labour mobility in Australia.

### 13. NOMINATED OCCUPATIONS

221. The current occupations list is working reasonably well to meet the resource industry's needs for skilled labour, having improved in recent years.
222. Occupations that AMMA member companies typically fill with 457 visa workers because of an inability to source the skills domestically include:
- a. On land-based drill rigs - drillers;
  - b. On water-based drill rigs – drillers, subsea technicians and superintendents;
  - c. At metal ore mining companies – mining engineers, geologists, surveyors, machine operator tradespeople;
  - d. At gold mining companies – mining engineers;
  - e. In service providers to mining – chefs;
  - f. At offshore operations – welders, electrical engineering technicians, medics, mechanical engineering technicians.
223. While occupations brought in by resource industry employers can be diverse depending on the projects at hand, mining engineers and drillers are two occupations currently in short supply domestically.
224. While the current 457 skilled occupations list is able to ensure the industry's access to the above types of skilled labour, there are some issues that have been experienced in relation to the nature of the work performed under some occupations.
225. In the case of one AMMA member company that "headhunted" a worker from another mining company to work as a "diesel plant fitter", that person already held a 457 visa but was previously sponsored as a "diesel mechanic". Under the ANZSCO code, diesel mechanics are automobile engine mechanics but the diesel machinery that diesel plant fitters works with is not a vehicle. The AMMA member had to make representations to the Department that the diesel plant fitter (by function) had previously been employed for the same work under a different occupational banner of diesel mechanic, which is a light vehicle mechanic.
226. AMMA would have no objections to closer monitoring of the functions that visa holders are actually performing in designated roles under 457 visas to ensure the continued integrity of the scheme. This would also ensure that professions included on the occupations list are correctly linked with the skills and work functions most in demand.
227. In short, the current skills occupation list is working well in terms of resource industry needs but needs to be regularly reviewed and updated as necessary depending on industry input as to skills gaps that would delay important national interest projects.

## 14. SKILLS ASSESSMENTS

228. Prior to 1 July 2013, occupations that were not otherwise eligible to use the 457 visa program could access it via the occupation of “program and project administrator” or “specialist manager not elsewhere classified” because those occupations were defined in general terms on the ANZSCO list.
229. This led to some allegations that lower-skilled workers were being brought in under those classifications.
230. Post-1 July 2013, “program and project administrators” and “specialist managers not elsewhere classified” are required to undertake a formal skills assessment.
231. Some AMMA member companies employ specialist managers within their businesses that do not fall into the other “manager” occupations but are highly-skilled nonetheless.
232. The requirement for such senior people to undertake a skills assessment is onerous and unnecessary for managers earning significant salaries. One option to correct this would be to introduce a salary threshold above which managers would not need to undergo a skills assessment, even when they fall within the “specialist manager not elsewhere classified” group.
233. A salary-based exemption for the skills assessment requirement makes sense and could be set at either the former market salary rates exemption threshold of \$180,000 or the unfair dismissal high-income threshold of \$129,300.
234. Skills assessments depend on the occupation but essentially it is a process whereby a person takes their formal qualifications or relevant experience to an assessment organisation such as [Vetassess](#) or [Trades Recognition Australia](#). These bodies then assess whether a potential worker is up to the Australian standard in terms of skills and qualifications, and only after approval is obtained from those bodies can the Department issue a 457 visa.
235. Concerns for resource industry employers arise when assessment timelines are protracted. It can sometimes be up to three months before an assessment is finalised. In relation to permanent residency assessments, those tend to be done in a shorter timeframe of four to six weeks on average.
236. Permanent residency assessment timeframes are not such an issue because the person is already in Australia working and they are just waiting for permanent residency to be approved (or declined).
237. But in the case of 457 visa workers, because people are usually based overseas at the time of skills assessment, processing times can create concerns and delays. So can some of the logistical issues around undergoing a practical skills assessment.
238. For instance, a Filipino national who wants to come to Australia to take up a welding position in the resource industry must first undergo a skills and qualification assessment. People in those types of roles and locations usually find it difficult to

travel to Australia and must do the process via mail, which adds further to the assessment timeframe.

239. In some cases, assessment authorities will be happy with someone's educational qualifications and employment levels but will want to also measure workers' practical skills. This can also create some logistical and cost difficulties.
240. As an example, several years ago an AMMA member company went to the trouble of flying into Australia 30 or 40 linespeople to undergo the appropriate practical skills assessments, then flew them back to their home countries of Malaysia and the Philippines.
241. This obviously adds to the time and expense of the assessment process for employers and AMMA would welcome simplification from a logistical perspective. This might involve practical skills assessments being more readily available online or remotely, for example.

## 15. LABOUR AGREEMENTS

242. Labour agreements are a product that in theory enables businesses to employ specialised overseas workers when no other visa program can meet their needs.
243. Labour agreements are most commonly used by companies seeking semi-skilled labour and are a form of negotiated contract to employ overseas workers when locals cannot be found to do the work.
244. In theory, labour agreements can help businesses meet their unique needs while imposing a more onerous integrity framework than exists under the 457 visa scheme.
245. Employers seeking to use labour agreements currently need to demonstrate they have made extensive, genuine attempts to fill their vacant positions with local labour. Local unemployment rates, nearby competing industries and the remoteness of location are all assessed as part of the approvals process.
246. There are also significant requirements under labour agreements to negotiate them with trade union bodies which often have an ideological aversion to bringing in skilled labour from overseas.
247. While labour agreements are said to take four to six months to negotiate, the reality is the negotiating process is extremely difficult and time-consuming for resource industry employers and this is reflected in the very low take-up rate in the industry.
248. In the latest Department of Immigration & Citizenship quarterly report on 457 visa usage<sup>11</sup>, there were just 10 visa applications under labour agreement in the 12 months to 31 March 2014. This represents a 99.1% decrease on 12 months earlier when 1,000 visa applications under labour agreements were approved.
249. A primary focus of this current review should be to ensure that programs such as the labour agreement framework meet the government's commitment to reducing bureaucratic red tape for employers and expediting access to skilled labour from overseas.
250. While the resource industry's use of 457 visas has tapered off in response to the move from the construction to the production phase of resources demand, the policy parameters of the labour agreements system need to be made right for when future skills needs expand and for those employers who are currently experiencing a shortage of skilled labour available locally. For that reason, AMMA welcomes the government's separate review of new draft guidelines for enterprise migration agreements and labour agreements.
251. The current panel is also invited to evaluate why the LMT requirements associated with labour agreements are more onerous than those associated with 457 visas and what this gains.

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<sup>11</sup> *Subclass 457 quarterly report, quarter ending at 31 December 2013*, Department of Immigration and Border Protection

252. At present, AMMA members are reluctant to even attempt to negotiate a labour agreement.
253. In 2010, NRSET noted the low take-up by resource employers of the labour agreement option, noting there were at that time fewer than 10 active labour agreements in place, only one of which related to a significant resource project.
254. One of the reasons NRSET noted for the low take-up was that employers perceived they took too long to negotiate and process. This has indeed been the experience of AMMA members, with things not having improved in the ensuing four years.
255. Before agreements even get to the lodgement stage, after which they can take many months to be approved, negotiations leading up to lodgement can continue for a protracted period of time, often several years. Even if the approval time was reduced to three months as a matter of course, the up-front negotiation requirements would have to be made less onerous and less reliant on the agendas of third parties that have the potential to delay negotiations.
256. One major resource project waited more than four years for a labour agreement to be finalised before it was even able to be submitted to the Department for approval. This extraordinary length of time does not make labour agreements an attractive or accessible option for resource industry employers.

## 16. ENTERPRISE MIGRATION AGREEMENTS

257. Enterprise migration agreements (EMAs) are project-wide, temporary overseas migration arrangements for mega resource projects that were originally intended to address the skilled labour needs of the resource industry.
258. They are on the face of it able to be applied for in relation to resource projects that have a capital expenditure of more than \$2 billion and a peak workforce requirement of more than 1,500 people.
259. Notwithstanding that demand for skilled and semi-skilled labour in the resource industry may have tapered off in recent times, it is important to get the policy levers right for the future.
260. The implementation of EMAs was announced in the 2011-12 Budget in response to recommendations from the NRSET final report released in 2010. The NRSET report recommended the introduction of EMAs as a new temporary migration initiative to help address the skills needs of the resource industry.
261. Years after their introduction, there has never been an operational EMA in place, although there was in-principle agreement for one EMA on an iron ore project and three other applications were on foot at one stage.
262. It may be the case that the immediate need for EMAs has tapered off. However, this does not remove the need to better ensure their workability.
263. Key concerns for resource industry employers, who originally welcomed the EMA scheme with suggested modifications and improvements, is the impossibility of successfully negotiating an EMA under the former government's framework.
264. The absence of suitable guidelines for making an EMA was part of that, and AMMA welcomes the government's release of draft guidelines on which it is currently seeking feedback.
265. EMAs were not allowed to work effectively under the former government despite a heavy demand for skilled and semi-skilled labour during that period and an identified critical skills shortage in some occupations.

### An important initiative for the resource industry

266. EMAs represent an important migration initiative and workforce planning strategy for resource industry employers.
267. AMMA was and still is a vocal supporter of EMAs but maintains they will be of little use without a timely approval process that minimises red tape on employers and which rules out political interference in the scheme at the behest of third parties. Unless made usable EMAs, will remain pointless.



268. The imposition of punitive regulatory measures in this area is unnecessary and misses the *raison d'être* of the EMA program, which was to facilitate and streamline access to labour from overseas for major resource projects.
269. AMMA believes if the legislation and regulations support the making of an EMA, the approval process should not be politicised. Under the former government, while EMAs were available on paper, in practice they were not.
270. Workforce planning and employment decisions are best left to individual employers and the industry, especially when the legislative and regulatory architecture is in place to support those arrangements.
271. AMMA would like to see the capital expenditure and peak workforce thresholds made more reasonable for EMAs to give more major resource projects access to this system in future.
272. AMMA believes that a capital expenditure threshold of \$1 billion rather than \$2 billion and a peak workforce requirement of 500 instead of 1,500 people would still ensure EMAs are only used by national interest projects but would give more businesses access to this important source of labour supply, particularly in the labour-intensive construction phase.
273. Useable EMAs would, as necessary, create long-term sustainable employment opportunities for Australians despite an initial use of skilled migrants from overseas.
274. It is, however, imperative that under any reinvigorated EMAs scheme commercially sensitive information be protected and not made publicly available for use by third parties to demonise potential users of the system.

## 17. INDUSTRY JOBS PROGRAMS

275. In some quarters, there is still the perception that resource industry employers are getting a “free ride” by bringing in skilled workers from overseas without training the necessary skills in Australia.
276. That is far from true. Not only is the industry funding training initiatives to circumvent skills shortages, it is at the forefront of initiatives to not only create skills but match skilled jobseekers with jobs.
277. AMMA initiatives such as those outlined below are important in this context given that the training component is one side of the skills argument, while matching the right skills with the right jobs is the other. In short, AMMA on behalf of the industry is doing both.
278. The following are initiatives that AMMA has put in place to respond to the labour market needs of the industry, maximising the extent to which Australian workers are offered opportunities where they desire them.
279. All these initiatives will in the long term improve the ability of Australian workers to come together with Australian employers. These are industry-driven initiatives to improve the jobs marketplace for the benefit of both employers and Australian workers.

### Nationally recognised training programs

280. AMMA provides training and consultancy services to the resource industry in areas such as leadership development, employee relations and nationally recognised training certificates such as Certificate IVs in a range of practical disciplines. Having Registered Training Organisation (RTO) status, AMMA also assists members in sourcing funding for numerous training projects and initiatives.
281. AMMA works with strategic partners including the Federal Government, universities, member companies and non-government organisations to deliver innovative skills initiatives for the industry.

### AMMA’s [miningoilandgasjobs.com](http://www.miningoilandgasjobs.com)

282. AMMA’s [www.miningoilandgasjobs.com](http://www.miningoilandgasjobs.com) is an electronic platform matching individuals’ skill sets with resource industry employers’ requirements. It brings together job seekers and recruiters through a user-friendly online portal. It is a key path for Australian workers seeking to enter the resource industry.
283. Candidates are able to upload their profiles so that employers and headhunters can reach out to them. Vacancies listed on the portal include diverse occupations such as planners / schedulers, site supervisors, engineers, procurement officers, maintenance and trades workers.
284. To further assist Australian jobseekers in assessing their suitability for work in the resource industry, [miningoilandgasjobs.com](http://www.miningoilandgasjobs.com) contains comprehensive information

about employment, training and development. It works not only as a jobs board but a career and industry guide. Information is provided publicly on career paths, training resources, Australian universities, apprenticeships and traineeships, upskilling, mining schools, job requirements, skills assessments and assistance compiling CVs.

285. Breaking into the resource industry is made easier by providing Australian jobseekers with a good understanding of how industry works and the best way to acquire the credentials and experience they need.
286. More than 10,000 Australian jobseekers attended the inaugural AMMA miningoilandgasjobs.com Expo in Perth in May 2012 where jobseekers connected directly with hundreds of major resource employers, top-tier construction contractors and training institutes.

### AMMA SkillsConnect

287. AMMA [SkillsConnect](#) brings together Australia's peak industry bodies and pre-eminent organisations in workforce-related fields to provide member organisations with a single point of service delivery.
288. It facilitates a range of activities from domestic and international labour sourcing, function-specific training and development, apprenticeship and cadetship programs, verification of competency and international skills assessments.

### Australian Women in Resources Alliance (AWRA)

289. The Australian Women in Resources Alliance (AWRA) is a jointly-funded initiative led and managed by AMMA to increase women's participation in the resource industry. The AWRA leadership committee is comprised of representatives from various industry bodies and employers across Australia.
290. Using funding provided by the Department of Employment and its predecessors, AWRA is implementing world leading strategies to support increasing women's participation in the resource industry from the current 15%<sup>12</sup> to 25% by 2020.
291. Users report that bringing more women into an environment increases workplace productivity through diversity as well as boosts workforce supply, both of which are essential for labour mobility.
292. The leadership the resource industry is taking in these areas in its commitment to workplace training, skills development and matching qualified candidates with resource industry employers is relevant to the panel's consideration of industry efforts to develop skills as a corollary to the use of 457 visas when required.

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<sup>12</sup> 6291.0.55.003, *Labour Force, Australia, Detailed Quarterly, February 2014*, published by the ABS on 20 March 2014

## 18. INDUSTRY TRAINING INITIATIVES

293. The training being undertaken in the resource industry for specialist skills is driven by market forces and economic necessity, not the imposed training benchmarks under the 457 visa system that require employers to devote either 1% or 2% of their payroll into direct training or a training fund.
294. Industry-funded training initiatives are extremely important to developing in-demand skills such as for marine welders, engineers and drillers, the cost of training being entirely borne by business, which the wider skills architecture should be doing more to acknowledge and support.
295. An administrative scheme such as the 457 visa program set up to address immediate demand for skills that do not exist in Australia cannot also be the vehicle for training Australians to any significant extent. Such a small, demand-driven scheme cannot carry the weight of that burden. It is the wrong mechanism.
296. The imposition of arbitrary training benchmarks also fails to take into account the importance of on the job training and skills transfer from 457 visa holders to Australian workers.
297. Instead of seeking to penalise employers who use the 457 visa system, policy makers should better recognise those who go above and beyond in training by removing some of the other punitive measures that characterise the current system.
298. Prior to Labor's changes on 1 July 2013, businesses wishing to become standard business sponsors had to meet the 457 program training benchmark by giving evidence of:
- a. Recent payments to an industry training fund of at least 2% of payroll; or
  - b. Recent spending equivalent to 1% of payroll in providing training to Australian and permanent resident employees in the business.
299. The benchmarks required the business to commit to maintaining that level of expenditure in each fiscal year for the term of approval as a sponsor.
300. Meeting the 457 training benchmarks is, as of 1 July 2013, an ongoing and enforceable requirement rather than a commitment. Increased record-keeping requirements in this regard also took effect on 1 July 2013 (a substantial red tape impost for employers).
301. Previous sponsors also have to show they continue to meet the benchmarks during their sponsorship terms when applying for a new sponsorship or varying the terms of their current sponsorship.
302. AMMA questions the value of the current training benchmarks for addressing the skills challenges facing Australia. Fundamental VET reform is required, not attempted reverse engineering using such a niche part of the overall skills system.

303. As a general “spend” on training, the current 457 training benchmarks are not overly burdensome, albeit that the money may be better used elsewhere or in a more targeted way.

### Examples of resource industry training

304. Resource industry employers are doing some remarkable things in the training space, but these training initiatives are market-driven rather than being pushed by training benchmarks imposed through the 457 visa system.
305. Under the National Apprenticeship Program (NAP), which offers advanced entry adult apprenticeships, Anglo American Metallurgical Coal had the very first graduate of the NAP, a 35-year-old diesel-fitting apprentice who became trade-qualified in 10 months and six days.
306. Anglo American was the NAP’s first host employer with an intake of 21 diesel fitters and electrical fitters / mechanics. Its program comprised two stages including a formal recognition of prior learning assessment to demonstrate existing skills and gap training to complete the trade qualification and harness transferable skills.
307. In 2011, Bechtel announced a commitment to support 400 apprentices utilising the NAP to meet the demands for construction of three LNG plants in Gladstone in Qld.
308. In 2006, Leighton Mining (Leighton Contractors) launched its Darra Apprenticeship Program which was deemed best practice in its field.
309. Features of that program were that induction and the first year were completed in a workshop environment. There was a rotational program to give exposure to diverse shifts, tasks and environments. There was a dedicated facility for theoretical classes. The TAFE program was integrated with practical CAT equipment training, while holistic training included OHS requirements.
310. Participants in the Leighton program were reviewed against company values and benchmarks and given regular feedback. There was also an apprentice of the year program as part of the scheme. The assignment of formal apprenticeship mentors and managers ensured an easy point of access and there was a commitment to ongoing organisational learning and development, housing assistance, transport to and from the site and classes to teach general life skills.
311. The program’s success was evidenced by its ongoing attraction and retention rates, with 95% of apprentices staying with the company.
312. Coal and Allied recently took on its largest apprentice intake to date, employing 16 new workers in the Upper Hunter Valley in NSW. Between 2002 and 2012, Coal and Allied employed 142 apprentices, with training providing practical work skills as well as education in financial management and other life skills.
313. Since the late 1990s, Barmenco has run a highly-recognised and accredited apprenticeship program, providing training at its fully-equipped workshop in WA and support through onsite development programs. Barmenco provides

apprenticeships for plant mechanics (heavy), auto electricians, boilermakers and fabricators (welders) and light vehicle mechanics.

314. Barminco's apprenticeship programs recognise natural ability as well as prior experience and knowledge. The company also encourages mature-age applicants with prior mining industry experience and knowledge and offers competitive remuneration along with a high standard of on the job coaching. For two years running, Barminco's commitment to training apprentices was recognised at the national Minister's Awards for Excellence.

### **Field engineer trainee development program – onshore and offshore drill rigs**

315. As a powerful example of the training being undertaken by resource industry employers, one AMMA member company who is a user of the 457 visa system has implemented a field engineer training development program that provides recently graduated engineers with an understanding of the business of drilling contractors and basic skills required for engineers in the field.
316. The program was designed so the engineers not only learned the practical skills required to run a rig but also to experience them first-hand by performing them. They actually share the rig people lifestyle while on the rig to earn people's trust and learn to trust them in return.
317. The program has two main aims:
- a. To give recently graduated engineers a solid understanding of the workings of a rig, onshore or offshore; and
  - b. To enable them to understand the "human side" of the rig, sharpening their communication skills through exposure to rig personnel, their life and work habits, their strengths and weaknesses.
318. The program has three phases:
- a. Phase one and two are intensive, rig-based learning periods lasting around two years;
  - b. Followed by a more independent and flexible third phase.
319. The total duration of the program is usually not less than 30 months and is typically around three years.
320. The program aims to provide graduate engineers with the widest possible exposure to people, equipment, operations and clients, combining hands-on work on the rig with formal classroom training, independent self-study, report writing and presentations to management.
321. Engineers work 12-hour shifts and in their off time study modular training packages, rig-specific policies and procedures and prepare reports. Normal "swings" are four weeks' long but engineers may spend up to six weeks at a time on a rig.

322. On the job training is the most important aspect of the program, with a primary requirement that the engineer takes as much responsibility for the successful utilisation of the period of training as possible.
323. In all steps of the program, the engineer's performance is gauged by analysing their personal contribution to the health and safety environment results of the rig. Not only is it important that they not endanger themselves, they also need to actively participate in all campaigns that can result in lowering the frequency rate of any incidents on the rig.