



South Australian Centre for Economic Studies

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

Report 3: Policy Solutions

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Glossary

ABS	Australian Bureau of Statistics
ANZSCO	Australia and New Zealand Standard Classification of Occupations
AQF	Australian Qualifications Framework
BIIP	Business Innovation and Investment Program
CBD	Central Business District
CSOL	Consolidated Skilled Occupations List
DAMA	Designated Area Migration Agreement
DIBP	Australian Government Department of Immigration and Border Protection
DoE	Australian Government Department of Employment
GAE	Guaranteed Annual Earnings
GDP	Gross Domestic Product
GSP	Gross State Product
GTE	Genuine Temporary Entrant
IELTS	International English Language Testing System
ISA	Immigration South Australia
LGA	Local Government Association
LMA	Labour Market Agreement
MLTSSL	Medium- and Long-Term Skilled Shortages List
MSL	Minimum Salary Level
NOM	Net Overseas Migration
PSW	Post-Study Work
PSWR	Post-Study Work Rights
RDA	Regional Development Agency
RSMS	Regional Sponsored Migrant Scheme
RSMSOL	Regional Sponsored Migrant Scheme Occupation List
RTO	Regional Training Organisation
SA	South Australia
SACES	South Australian Centre for Economic Studies, University of Adelaide
SIV	Significant Investor Visa
SkillSelect	Skilled Migrant Selection Register
SOL	Skilled Occupations List
SSVP	Simplified Streamlined Visa Processing
STSOL	Short-Term Skilled Occupation List
SVP	Streamlined Visa Processing
TAFE	Technical and Further Education (institutions)
TaSC	Training and Skills Commission
TSMIT	Temporary Skilled Migration Income Threshold
TSS	Temporary Skill Shortage visa, replacing the 457 visa from March 2018
VET	Vocational Education and Training

Executive Overview

Background

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

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

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

This report (Report 3) concludes the research exploring a range of policy options that could lead to the Australian international migrant visa system being more responsive to changing economic environments and, specifically, make a better contribution to supporting the South Australian economy and South Australian employers.

Chapter 2 summarises some of the key challenges with the migration system as it currently operates.

Chapter 3 identifies potential policy changes that are consistent with the broad overall approach to managing Australia's international migration, but which would address some of the challenges caused by the existing visa rules and Departmental practices.

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

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

South Australia's economic challenges

The current economic and demographic challenges faced by South Australia are important background to the issues raised by those we consulted with, although these challenges are not the focus of the report.

South Australia lags the rest of the country in economic output and employment growth whether measured in absolute terms or per capita. The South Australian population is amongst the oldest in Australia and is getting older over time, as well as decreasing as a proportion of the country's total population due to lower population growth rates. Over the last three decades, the state's annual population growth rate of 0.74 per cent was roughly half that of Australia as a whole (1.37 per cent) (SACES 2016b).

There seem to be three main causes for South Australia's economic underperformance:

- weaker initial economic conditions stemming from the adjustment (or lack thereof) to the first set of trade liberalisation in the early 70s;
- persistently lower population growth; and
- an older population.

The two latter factors have both been exacerbated by the relatively high level of net interstate migration loss, which is disproportionately concentrated amongst South Australians of prime working age.

South Australia's business community is also older than average, creating issues in terms of succession planning and maintenance of businesses.

Current migration policy settings

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

The Commonwealth Government recently made a number of changes to the skilled migration programs, and some specific aspects of the operation of visas noted by employers have changed (or will change shortly). These changes are summarised in Section 2.2. It is important to note that these changes are designed to address perceived over use/inappropriate use of skilled visas and so the changes do not address any of the concerns raised by employers in our research. Indeed in many cases the announced changes exacerbate the existing situation of South Australian employers (particularly in regional areas) not always being able to access employees with the skills they require. Of particular concern are the changes to the RSMS visa which is much more widely used by South Australian employers than the 457 visa, and which faces a significant reduction of eligible occupations (672 to 231) and the introduction of the TSMIT.

Access to most of the skilled visa categories is governed by occupation lists, which detail which occupations are eligible for applications under which visa category.

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

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

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

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

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

- the use of a single level for the TSMIT makes visas which are required to meet it much less useful in lower wage regions, which is most of South Australia;
- the use of ANZSCO definitions to classify jobs to occupations and skill levels can disadvantage employers in sectors where ANZSCO no longer reflects contemporary usage;
- the skills gaps identified by many regional South Australian employers are often for occupations that require Certificate III or equivalent, but such occupations are not typically eligible for skilled worker visas;

- the lack of regional flexibility on the occupations listed, and the fact that such lists do not take into account that in rural areas an employee will often be required to cover aspects of several jobs, means that the occupation lists do not do a good job of reflecting the needs of regional South Australia (or indeed regional employers elsewhere);
- South Australian owner/managers of small businesses have a high average age, making identifying potential purchases for their businesses important. In theory, the BIIP visa could allow South Australia to draw on the savings and business experience of potential migrants to meet some of this need. However, the turnover required for the Business Innovation stream of the BIIP visa is high relative to the typical value of South Australian small and medium enterprises;
- South Australia's educational institutions currently recruit a large share of their students (and a larger share than other jurisdictions) from countries which are treated by the Department of Immigration and Border Protection as higher risk under the new Simplified Student Visa Framework. Visa applicants from these countries must meet particularly stringent evidentiary requirements to demonstrate that they are a genuine temporary entrant. If this discourages such students from applying, and/or results in student visa refusals, then South Australia's share of international VET students (already disproportionately low) may fall further; and
- it was felt that BIIP visas generally do a poor job of increasing the number of entrepreneurs in Australia, or in assisting retiring business owners find potential purchasers, and that the local business environment, and the national investment levels set for key streams of this visa made it even less suitable for South Australia's needs.

Recommended changes to ensure that the migration system is able to meet South Australia's needs

This study reviewed some of the economic contexts in which the current system of regulation of labour migration operates in and how they affect SA. This identified potential adverse effects and risks that may disadvantage the regional South Australian economy. It has also highlighted a range of potential changes that would mean the migration system better met the needs of the South Australian economy and its businesses. These are set out in Chapter 3, but are summarised below.

Recommendation 1: Create a new regionally focussed visa based on the 457/TSS visa. For the purposes of this discussion we will use the nomenclature 'Temporary Regional Visa'

In essence what is required is a program which is broadly similar to the former "regional" 457 visa, with some adjustments to reflect changes to the broader migration system since then and to reduce the potential for abuse of the visa conditions.

The key elements that we believe should be included in a temporary regional visa are:

- **a TSMIT that reflects local labour market conditions;**
- **allow access to a greater range of occupations (and to lower skill levels);**
- **allow greater pathways to permanent residence;**
- **verification of compliance with visa conditions; and**
- **exempt regional employers from paying the new training levy if they meet a training benchmark based on good practice for their industry sector.**

Recommendation 2: Restore the Regional Flexibility of the RSMS Visa

As a minimum, we recommend that all those elements of regional flexibility recommended for the proposed new Temporary Regional Visa (see above) should also be extended to the RSMS visa, to ensure it remains a valuable tool for regional employers who cannot fill skilled and semi-skilled job vacancies. The 3 year minimum relevant work experience requirement should also be removed in qualifying regional areas.

Recommendation 3: Improve post-study work rights for VET graduates working in regional areas whose occupation faces unmet demand in their region

Since 2013, post-study work rights have been more strictly controlled, with access to the Post-Study Work stream restricted to those completing a qualification at Bachelors' degree level or higher. Industry representatives were concerned that these changes were already adversely affecting international student enrolments in VET in South Australia and that, in turn, this would further reduce an already insufficient pool of sufficiently trained and qualified workers in the state.

- grant full post-study work rights to VET graduates filling positions in a regional area if the position being filled is in an occupation facing skills shortages in that region;
- allow VET graduates working in a regional area in an occupation facing unmet demand to apply for other skilled visas in regional areas such as the proposed Temporary Regional Visa; and
- abolish or amend the genuine temporary entrant (GTE) test for potential international VET students planning to study in a regional area and undertake a course linked to an occupation in unmet demand in regional areas

Recommendation 4: Update definitions used for occupations in demand, and draw on a wider range of information

Many of these issues could be addressed if the Department were to draw on a wider range of information in identifying occupations experiencing skills shortages and in defining occupations.

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

The Department should also establish structures to draw in information from state and territory agencies responsible for skills planning and regional development, into its lists of occupations experiencing skills shortages, and in defining occupations at all skill levels.

Recommendation 5: Remove caveats from skill lists for employers in regional areas

The recent set of visa changes have also introduced a number of caveats for occupations which are eligible for a 457/TSS visa. In a number of cases these restrict applications for certain occupations to employers above a minimum turnover size.

Whilst there may be a rationale for these caveats in large metropolitan areas, they do not reflect the reality of many regions, where no (or few) employers seeking individuals to work in those occupations would be large enough to meet the caveat.

As such these caveats should not be applied to employers in regional areas (or should be applied at a lower level that reflects the actual distribution of firm sizes in regional Australia).

Recommendation 6: Increase regional flexibility in migration policy settings

Set upper limits to migration regionally rather than nationally, based on consultations with state/territory governments

There is no reason why regional migration targets cannot exist alongside the existing broad national "soft" targets, with those jurisdictions that were facing pressures on their infrastructure able to request limits on the number of visa grants under relevant programs, and those which would benefit from greater population growth able to request an increase in the number of visas available to those who meet the relevant program criteria.

Target regional flexibility at regions identified by state/territory governments

Alternatively, regional flexibility could be introduced by only applying the regional concessions (including those recommended in this report) to areas identified in consultation with states/territories as experiencing difficulties in securing skilled and semi-skilled labour and as having the capacity to absorb additional population.

The potential for data linkage with ATO tax return data provides a low cost option for verification of compliance.

Recommendation 7: Include region specific occupations in the skill lists

The Department should also establish structures to draw in information from state and territory agencies responsible for skills planning and regional development into its lists of occupations experiencing skills shortages, and in defining occupations.

These could then be used to create region or state/territory additions to the skill lists, with this implemented through the use of caveats.

Recommendation 8: Review impact of GTE and country risk ratings on South Australian based VET providers, and assess the extent to which it is addressing a genuine risk to management of the migration system

We recommend that the Department commission an independent review of the impacts and implementation of the recent changes to student visas. Important focuses of the review should be to assess:

- whether the risk rating of country of origin reflects actual risk of students overstaying their visa, and whether the new requirements are a proportionate response to any threat to the management of the migration system;
- whether the potentially subjective GTE test is being applied in a consistent fashion and whether its application is consistent with evidence of risk of visa overstay or other breach of visa conditions; and
- monitoring financial impacts on South Australian VET providers as prior to the recent changes they sourced a disproportionate share of students from countries now classified as higher risk.

Recommendation 9: Create an independent appeal process for determinations of student *visa* applications

As the application of the GTE test is inherently subjective an appeal process should be created so that decisions are not solely subject to the assessment made by one individual. And this degree of potential subjectivity extends to other elements of the determination process, however there are currently no avenues for appeal for determinations of non-sponsored offshore visa applications. As with immigration matters more generally, the Administrative Appeals Tribunal would appear to be the appropriate body to consider any appeals.

Consideration should also be given to ways to reduce the impact of an adverse determination on the individual in the future. For example by excluding previous adverse determinations under the GTE test from future visa assessment processes.

Recommendation 10: Re-target BIIP visas at those planning to establish or take over businesses in Australia

Increase visa grants for 'business innovation' and 'entrepreneur' streams

The Department should increase the proportion of visas granted within the BIIP visa to those applying under the 'Business Innovation' and 'Entrepreneur' streams as these are the two streams of the visa with a direct link to establishing or operating a business in Australia.

Visa grants for other streams in the program can be reduced if the Department wishes to keep overall visa grants for the BIIP to a certain level.

Allow applicants 'entrepreneur' streams to access funds from a wider range of sources

The current requirement that applicants for the 'entrepreneur' stream be funded through an investment of at least \$200,000 from a small number of approved sources is unduly restrictive and does not reflect the funding sources generally accessed by Australian entrepreneurs. We recommend removing the requirement that the funds be sourced from the approved sources allowing the \$200,000 to come from any investor, and instead focus any assessment of entrepreneurship on the business plan of the applicant.

It would also be worthwhile to offer some level of concession to the required funding for those establishing a business in a regional area.

Recommendation 11: Create a 'start-up' visa for those in the country temporarily on other grounds

Individuals resident in Australia under temporary visas such as student visas, 457 visas, or working holiday visas, are a potential source of entrepreneurial ideas. However, at present, they are not permitted to apply for a visa to allow them to continue to develop the business when their current visa comes to an end.

We recommend that those legally allowed to work in Australia under their temporary visa class be eligible to apply for a 'start-up' visa whilst still resident in Australia. Similar criteria for assessing applicants as for the entrepreneur stream of the BIIP (including regional concessions for funding requirements if adopted), but any business they have already established should be taken into consideration as evidence of their capabilities.

Recommendation 12: Allow the minimum requirements for the 'Business Innovation' stream to vary by region

The minimum prior business size, and the minimum personal and business assets threshold for the Business Innovation stream of the BIIP visa (and for subsequent applications for the Business Innovation and Investment (Permanent) visa) should vary between states/territories or between regions to reflect the local economic conditions and to encourage BIIP visa holders to settle (and invest) in regional areas. The degree of variation allowed would need to be determined by further research, but variations of 10 to 20 per cent would seem reasonable given the variations in typical business incomes.

Recommendation 13: Ensure priorities are reflected in visas available

We recommend that the Department reviews its internal allocation of visa grants between visa categories to ensure that "demand driven" visas such as the 457 and the RSMS can be genuinely demand driven, rather than subject to extreme delays. If necessary this could be achieved by shifting places into the demand driven visa classes from other visa categories such as the GSM visa categories.

Recommendation 14: Consider implementing the recommendations of this report initially in only one jurisdiction

We recommend that the Department considers testing the recommendations of this report by initially introducing them in only one jurisdiction, such as South Australia, and monitoring their impact to test their interaction with other elements of the migration system and identify any unintended consequences that might arise.

1. Introduction

1.1 Background

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

Concerns are sometimes expressed that employment focussed migration has negative impacts on the existing population of a recipient country, with fears about impacts on the employment prospects of existing lower skilled employees being particularly widespread. If these concerns were borne out by the evidence then it would be prudent to tightly restrict migration and only allow in a very limited range of high skilled occupations where there are broader benefits to the community (such as doctors, researchers and entrepreneurs). **However, the evidence of the impact of migration does not confirm these concerns. Instead the available evidence suggests that migration has a neutral or slightly positive affect on per capita GDP, no impact on the employment rates of the non-migrant population (even at lower skill levels), a very small but positive impact on average wages, and a very small but ambiguous impact on the wages of lower skilled occupations.**

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

The Commonwealth Government recently made a number of changes to the skilled migration programs, and some specific aspects of the operation of visas noted by employers have changed (or will change shortly). These changes are summarised in Section 2.2. It is important to note that these changes are designed to address perceived over use/inappropriate use of skilled visas and so the changes do not address any of the concerns raised by employers in our research. Indeed in many cases the announced changes exacerbate the existing situation of South Australian employers (particularly in regional areas) not always being able to access employees with the skills they require.

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

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

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

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

In addition to raising the bar for immigration by limiting eligibility to specific occupations and minimum qualifications, Australian immigration policy also enforces requirements that market rates be paid to those on temporary skilled worker visa, as well as requiring that the existing wage for the position being filled meets a set threshold⁴ (the Temporary Skilled Migration Income Threshold (TSMIT), set at \$53,900 per annum at the time this report was being prepared). This minimum salary level is currently only applied to 457 visas, but from March 2018 will also be required for RSMS and ENS visas.

¹ Relevant for applicants for points-based skilled migration (nominated by a state or territory government agency); a Family Sponsored Points Tested visa; and Temporary Graduate visa (subclass 485) - Graduate Work stream.

² Relevant for applicants for points-based skilled migration (nominated by a state or territory government agency); the Employer Nomination Scheme (ENS), Temporary Work (Skilled) visa (subclass 457); and Training and Research visa (subclass 407).

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

⁴ A limited exception to this exists for employers in the meat industry through the meat industry labour agreement, which, whilst they still have to pay at least the TSMIT to workers brought in under a 457 visa subclass can fill positions where the existing market wage does not meet the TSMIT.

The three objectives of setting a minimum salary level are to ensure that migrants are paid a wage that secures a decent standard of living, protecting existing local labour wages from undercutting by migrant labour, and acting as a check that the position is genuinely high skilled through requiring its normal wage to be equal to the TSMIT. Such wage thresholds, however, mean that many job vacancies (particularly in regional areas) cannot be filled using temporary skilled migration as their market wage is below the TSMIT, a factor acknowledged in the review of the 457 visa program (Azarias et al. 2014, p. 57). And there is no reason to believe that a single national rate can identify the skill level of a position given the substantial variations in salary levels between regions, nor is a salary level that is the minimum reasonable wage for a migrant in a high cost region necessarily the minimum reasonable wage in a lower cost region. These issues are discussed in Chapter 3.

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

At present the TSMIT is only required for 457 visas, however one element of the recently announced set of changes is to extend the TSMIT to RSMS and ENS visas. This is potentially a substantial issue for South Australian employers as the RSMS visa has been an important tool for addressing regional skills shortages allowing firms to operate at capacity, or maximise their productivity and if South Australia's RSMS visa outcomes fall back in line with 457 outcomes then there will be many businesses facing renewed skill shortages. Access to the RSMS program is being further restricted by the introduction of a requirement for a minimum of 3 years relevant work experience.

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

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

International students are reasonably well represented at South Australia's universities, but are much less likely to choose South Australian VET programs when compared with enrolment statistics for Australia as a whole. In particular, animal care and management; food product manufacturing; and agriculture training packages have relatively few international student enrolments. These are also sectors that businesses consulted in the course of the study identified as experiencing particular labour shortages. High drop-out rates adversely affect all VET programs. At the same time, VET providers are concerned that new immigration risk ratings introduced with the Simplified Student Visa Framework (SSVF) may disadvantage providers in South Australia because of their greater focus on attracting international students from 'high risk' countries, and because of the additional administrative burden imposed by the genuine temporary entry test.⁵

1.2 Migration to South Australia

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

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

⁵ The Department categorises countries as "high risk" for reasons such as higher past rates of visa condition violation, or higher rates of visa refusals than for students from other countries.

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

Outcomes for the Regional Sponsored Migration Scheme and for General Skilled Migration are much more positive (indeed above our population share), although it is unlikely that this can continue once the recently announced changes to the RSMS program are introduced.

1.3 This research

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

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

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

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

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

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

This report (Report 3) concludes the research exploring a range of policy options that could lead to the Australian international migrant visa system being more responsive to changing economic environments and, specifically, make a better contribution to supporting the South Australian economy and South Australian employers.

Chapter 2 summarises some of the key challenges with the migration system as it currently operates.

Chapter 3 identifies potential policy changes that are consistent with the broad overall approach to managing Australia's international migration, but which would address some of the challenges caused by the existing visa rules and Departmental practices.

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

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

2. Summary and Conclusions from Research

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

2.1 South Australia's economic challenges

The current economic and demographic challenges faced by South Australia are important background to the issues raised by those we consulted with, although these challenges are not the focus of the report.

South Australia lags the rest of the country in economic output and employment growth whether measured in absolute terms or per capita. The South Australian population is amongst the oldest in Australia and is getting older over time, as well as decreasing as a proportion of the country's total population due to lower population growth rates. Over the last three decades, the state's annual population growth rate of 0.74 per cent was roughly half that of Australia as a whole (1.37 per cent) (SACES 2016b).

There seem to be three main causes for South Australia's economic underperformance:

- weaker initial economic conditions stemming from the adjustment (or lack thereof) to the first set of trade liberalisation in the early 70s;
- persistently lower population growth; and
- an older population.

The two latter factors have both been exacerbated by the relatively high level of net interstate migration loss, which is disproportionately concentrated amongst South Australians of prime working age.

South Australia's business community is also older than average, creating issues in terms of succession planning and maintenance of businesses.

2.2 Recent changes to skilled migration programs

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

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

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

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

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

- require the position to meet the TSMIT for its normal earnings (currently \$53,900), bringing it into line with the 457 Visa;
- reduced the number of eligible occupations for the ENS in April 2017 (removing 216 occupation from eligibility, with applications for the ENS program restricted to occupations listed on the new STSOL (minus 16 occupations that cannot be used for ENS applications). There are also a further 24 occupations which can only be used for ENS applications where the position will be located in regional Australia);

- reduced the number of eligible occupations for the RSMS from March 2018 when the current occupation list specifically for the RSMS will be abolished, with eligible occupations for these visa classes to be restricted to the occupations on the new Medium and Long-Term Strategic Skills List (MLTSSL), of which there are currently 184, with some additional (regionally focussed) occupations eligible for the RSMS (no details have been provided on what these additional RSMS specific occupations may be);
- increase the minimum English language proficiency requirement;
- require at least 3 years relevant work experience (which effectively removes the current pathway whereby international VET students could previously apply for a RSMS visa at the end of their studies if they could find a sponsoring employer);
- reduce the age limit from 50 to 45 for the direct entry stream of the RSMS in June 2017, with the minimum age for all streams of these visas reducing to 45 in March 2018; and
- inflows to the RSMS visa are also likely to be reduced due to the new two tier structure for the 457 visa, with a number of occupations now being precluded from transitioning from a 457 visa to an RSMS visa.

Important changes to 457 visas

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

- has a 'two-tiered' structure of 2 year and 4 year visas.
 - the 2 year visa can be used for (almost) all occupations on the STSOL, although 59 occupations have a caveat restricting the circumstances in which a 457 visa can be used to fill a vacancy, but it can no longer lead to permanent residency, reducing its attractiveness to potential migrants (and to employers who will need to fill the vacancy again after 2 years).
 - the 4 year visa can only be applied for if the migrants occupation is one of 168 occupations included on the new MLTSSL, however this visa can lead to permanent residency.
- requires 2 year's relevant work experience from applicants prior to lodgement of the application;
- increases the minimum English language proficiency requirement;
- strengthens the mandatory labour market testing requirement;
- reduces the number of occupations eligible for the visa from 651 to 435 (with access to 59 of the remaining occupations restricted for 457 applicants in some way); and
- introduces a (subjective) 'genuine temporary entrant' test where an officer of the Department will make an assessment as to whether the applicant is only seeking to move to Australia temporarily.

Changes to training requirements

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

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

Under the recent changes, for visa grants after March 2018 the training benchmarks will be dropped and instead sponsoring employers will be required to pay an annual training levy of \$1,200 per year or part year for small businesses (those with annual turnover of less than \$10 million) and \$1,800 per year or part year for other businesses. The training benchmarks will be retained but only for visas sponsored prior to the introduction of the new training levy. The policy settings for training benchmark requirements have also been clarified and tightened in the interim, by setting out the types of training funds and training expenditures that are acceptable for meeting the benchmark.

It would not be surprising if employers funded the training levy by reducing their internal spending on training. As there is currently no commitment that funds collected from the training levy will be spent in the region from which they derive, it is possible that this change could actually **reduce** the availability of training in regional SA.

It is also likely to increase the costs of accessing the skilled migration system for responsible businesses which train their existing staff, whilst reducing costs for those firms that do not invest in training.

Changes to the occupation lists

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

As part of this change the total number of occupations eligible for skilled migration programs has fallen from 672 occupations to 435 occupations. The reduction for the RSMS visa will be even more significant, falling from 672 occupations to 231 occupations with the abolition of the RSMS occupation list in March 2018. This is a particular concern for South Australia as the RSMS visa is particularly important for South Australian employers.

The STSOL which includes 435 occupations will be used for applications for the following programs:

- Employer Nominated Scheme (subclass 186) – Direct Entry Stream, up to March 2018;
- Skilled Nominated visa (subclass 190);
- Skilled Regional (Provisional) visa (subclass 489) - State or Territory nominated;
- Temporary Work (Skilled) visa (subclass 457); any occupations which are listed on the STSOL but not the MLTSSL will only be eligible for the 2 year stream of this visa); and
- Training visa (subclass 407) - Nomination eligibility type 2 – Occupational training to enhance skills in an eligible occupation.

A number of occupations also have caveats if they are being used to apply for a 457 or TSS visa, imposing additional requirements on the position such as a minimum turnover for the firm, a minimum salary for the occupation, or a requirement that the position to be filled is in a regional area.

The following visa types can only be applied for if they relate to an occupation on the MLTSSL (which only includes 207 occupations, with an additional 24 occupations available for positions located in regional areas):

- Skilled Independent visa (subclass 189);
- Skilled Regional (Provisional) visa (subclass 489) - Family nominated;
- Temporary Graduate visa (subclass 485) – Graduate Work Stream;
- (from March 2018) the Regional Sponsored Migration Scheme visa (subclass 187); and
- (from March 2018) the Employer Nominated Scheme (subclass 186).

2.3 Business perspectives on skills shortages and the visa system

Prevalence of skills shortages and recruitment difficulties

Despite South Australia's unemployment rate reports of skills shortages and recruitment difficulties were widespread amongst the firms and peak bodies with which we consulted. This is interesting as it is at odd with findings of the Commonwealth Department of Employment skills in demand research which identified relatively few skills relevant to organisations we consulted with as being in demand.

There was significant dissatisfaction with the way in which all the mechanisms for meeting labour demand were functioning at the present time:

- employers expressed the view that a significant proportion of jobseekers they are seeing have significant barriers to their work readiness that makes them unsuitable for employment. It was felt that the existing programs such as the Commonwealth Government's network of jobactive providers were not sufficiently addressing these barriers. Substance use (particularly methamphetamines) was mentioned by several consultees and was particularly of concern for employers in the food product manufacturing sector;
- it was felt that VET education, particularly since the end of 'Skills for All' was too expensive, too inflexible, and not targeted at regional skill needs; and
- the process of securing a 457 visa was too time consuming, bureaucratic and costly, and that for many of the employers covered by our consultation either the TSMIT and or the relevant skill lists meant that in many cases they could not use, or could only partly use, the migration system to address their unmet demand for skilled/semi-skilled labour.

For some businesses the difficulty in recruiting labour was severe enough that they had resorted to filling permanent positions with travellers on working holiday visas – requiring them to recruit, induct and train new employees every 6 months.

Identifying and naming occupations with unmet demand

There was a widespread view that the occupation lists used by the Department of Immigration and Border Protection did not accurately reflect industry's skill needs. Skills most frequently sought were at a lower level of qualification than included in the relevant occupation lists used to determine work visa eligibility.

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

Training packages published by training.gov.au were thought to often provide a more up-to-date industry relevant descriptions of occupational skill and capability requirements than the ANZSCO.

Minimum salary level

TSMIT was also felt to make hiring of migrant labour on temporary visas uneconomical, and does not allow hiring of workers for positions whose guaranteed earnings are below the TSMIT even if the employer were willing to meet the TSMIT threshold (with the exception of food processing where the Meat Industry Labour Agreement does allow this, at the potential cost of creating earnings inequity between domestic and migrant workers).

Current policy settings have greater impact on regional employers

The current limitations in the migration system were generally felt to impact regional and remote areas more significantly than metropolitan areas due to a greater potential reliance on migrant labour arising from Australian resident's general unwillingness to move to regional and remote areas, and the generally lower wage levels which made 457 visas less suitable due to both employers not being able to afford to pay a wage equal to the TSMIT, and to a greater proportion of occupations having a market wage which is lower than the TSMIT (which precludes the use of a 457 visa except where exceptions are granted through LMAs).

There was a commonly expressed view that the restoration of the 'Regional' 457 visa, or some similar set of regional concessions were needed to allow migration to support regional economies.

2.4 The extent to which the current migration system meets the South Australian economy's needs

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

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

- the use of a single level for the TSMIT makes visas which are required to meet it much less useful in lower wage regions, which is most of South Australia;
- the use of ANZSCO definitions to classify jobs to occupations and skill levels can disadvantage employers in sectors where ANZSCO no longer reflects cotemporary usage;
- the skills gaps identified by many regional South Australian employers are often for occupations that require Certificate III or equivalent, but such occupations are not typically eligible for skilled worker visas;
- the lack of regional flexibility on the occupations listed, and the fact that such lists do not take into account that in rural areas an employee will often be required to cover aspects of several jobs, means that the occupation lists do not do a good job of reflecting the needs of regional South Australia (or indeed regional employers elsewhere);
- South Australian owner/managers of small businesses have a high average age, making identifying potential purchases for their businesses important. In theory, the BIIP visa could allow South Australia to draw on the savings and business experience of potential migrants to meet some of this need.

However, the eligibility criteria of the Business Innovation stream of the BIIP visa is high relative to the typical value of South Australian small and medium enterprises;

- South Australia's educational institutions currently recruit a large share of their students (and a larger share than other jurisdictions) from countries which are treated by the Department of Immigration and Border Protection as higher risk under the new Simplified Student Visa Framework. Visa applicants from these countries must meet particularly stringent evidentiary requirements to demonstrate that they are a genuine temporary entrant. If this discourages such students from applying, and/or results in student visa refusals, then South Australia's share of international VET students (already disproportionately low) may fall further; and
- it was felt that BIIP visas generally do a poor job of increasing the number of entrepreneurs in Australia, or in assisting retiring business owners find potential purchasers, and that the local business environment, and the national investment levels set for key streams of this visa made it even less suitable for South Australia's needs.

More details of each of these issues is provided below.

2.5 International education

International students are reasonably well represented at SA's universities (with 6.1 per cent of national higher education enrolments), but are much less likely to choose South Australian VET programs when compared with enrolment statistics for Australia as a whole (2.8 per cent of national enrolments and only 2.4 per cent of commencements in 2015).

These statistics suggest that there should be scope for increasing South Australia's share of international VET students, but the view expressed by the local industry is that recent changes in policy settings mean that the share might **decline** further.

In addition, this study encountered concern about the effect of the Simplified Student Visa Framework (SSVF) introduced in July 2016, affecting training and education providers across Australia. The new process shifts greater responsibility for ensuring that students comply with learning and financial capacity requirements onto to providers, many of whom in South Australia recruit a disproportionate share of students from what are considered by the Department to be 'high risk' countries. Potential students having their visa refused as a result of an adverse result from the genuine temporary entry test may result in a downgrading of institutions' own risk rating and Departmental ranking, which could deter future course applicants.

Recently introduced changes to student visa processing are anticipated to have a more direct and immediate effect on VET *providers* who are now expected to screen students in order to ensure they are "genuine temporary entrants" to Australia solely for the purpose of completing their studies, with providers given an immigration risk rating by the Department of Immigration and Border Protection (DIBP) twice yearly on the basis of the proportion of their students who might subsequently have their visa applications refused, visas cancelled or who become "unlawful non-citizens". The risk rating will determine the financial and English evidentiary requirements for student visa applicants, as well as making it more difficult to get visa applications approved.

It was feared that the risk rating might disadvantage providers who have traditionally drawn on international students from countries known to attract more student visa applicants perceived as 'high risk'. Prospective students might subsequently choose to study at education institutions with lower risk rating as this would reduce the burden of evidence⁶ the student must provide in support of his or her visa application to the DIBP.

There was also concern amongst some VET providers that the implementation of the Genuine Temporary Entrant (GTE) test, introduced in 2011, was leading to an increase in the number of student visa applications being rejected. Some in the sector felt that the rationale for GTE decisions was unclear and judgement possibly applied subjectively rather than based on clearly defined criteria. This was adding uncertainty to the sector and to student visa applicants, with some VET provider reported to be experiencing a drop in international student enrolments.

⁶ Student visa applicants must either declare or factually demonstrate financial independence and English language capability.

2.6 Business formation and entrepreneurship

Innovation is an important determinant of productivity growth within an economy, which in turn is the most sustainable cause of long-term economic growth. Innovation can also lead to less tangible benefits such as improved quality of life.

At the heart of the innovation systems approach to understanding innovation are individual entrepreneurs or innovation active enterprises. However, these driving forces of innovation do not exist in a vacuum, and many of the factors which influence the nature of, and outcomes from, innovation are driven by elements of the innovation system outside of the innovative firm.

It is difficult to readily identify the scale of entrepreneurship between different states directly from national data, as that simply records business registrations. Whilst some business registrations will reflect the establishment of a business to put a business idea into practice, businesses are also established to manage investment funds or by individuals who are being contracted to a project as a sole trader rather than as an employee.

Notwithstanding these limitations in the data, new business registrations should provide a reasonable first measure of innovation through the establishment of new firms. This data shows that South Australia is recording a lower rate of business formation (at 5.4 per cent of the national total) than either its share of the population (7.1 per cent) or its share of employment (6.9 per cent).

This would suggest that South Australia is experiencing less innovation and productivity increase through new firm formation than the Australian average further exacerbating our relative economic underperformance.

It may be that South Australia's demographics are playing a role in the lower rate of firm formation, with entrepreneurs (whilst they are demographically very diverse) being on average somewhat younger and better educated than the broader labour force (Department of Industry, Innovation, Science, Research and Tertiary Education, 2012, p. 9).

In theory skilled migration programs could be an important way to increase South Australia's entrepreneurialism, but there are several potential barriers. South Australian only receives 4.2 per cent of the visa outcomes for the Business Innovation and Investment Program. And even within that program, most of the strands are not targeted so much at those planning to operate businesses within Australia, but rather at high net worth individuals willing to invest in Australia (with many of the complying investment categories being in categories such as shares and government bonds, which do not help the individual business person to build a business in Australia, see Appendix 1.3 for details).

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

The most promising stream of the BII Program is the Entrepreneur stream, but even that has elements which make it difficult for potential entrepreneurs to access, most notably the requirement that the applicant has an enforceable funding agreement for an investment of at least \$200,000 from one of the following:

- Commonwealth Government agency;
- State or Territory Government;
- Publicly Funded Research Organisation;
- Investor registered as an Australian Venture Capital Limited Partnership or Early State Venture Capital Limited Partnership; or
- Specified Higher Education Provider.

Research in South Australia suggests that immigrant entrepreneurs experience more difficulty in accessing elements of the innovation support system such as government grants and venture capital funding (O'Connor and Reed, 2015).

The restrictions on the form of funding also does not reflect the way in which entrepreneurs typically receive their funding, with 72 per cent of 'nascent firms' and 51 per cent of 'young firms' using personal savings as a major source of funding⁷, with personal credit cards and personally secured bank loans the next most common sources of funding. Only 2 per cent of new firms reported that government grants were a major source of their funding and only 1 per cent reported private investors (such as business angels). Almost no firms (only 2 in total in the survey sample) reported venture capital as a major source of funding. (Department of Industry, Innovation, Science, Research and Tertiary Education, 2012, p. 14).

This suggests that many typical entrepreneurs would not be able to access the Entrepreneur stream of the BIIP, meaning that it too, in its current form, may not allow migration to fulfil its potential in increasing the rate of entrepreneurship in South Australia.

2.7 Temporary Skilled Migration Income Threshold (TSMIT)

Australia's Temporary Work (Skilled) visa (subclass 457) and Temporary Graduate visa (subclass 485) are focussed on facilitating skilled and highly skilled migration, with little scope provided for attracting the supply of labour at other occupational and skill levels often in demand in regional SA. Only the RSMS (subclass 187) currently provides an entry point for Direct Entry applicants (nominated by an employer) with qualifications at ANZSCO levels I (degree), II (diploma, associate degree) and III (AQF Certificate levels III and IV). It also grants permanent residency. South Australia currently attracts a greater than proportionate share of RSMS visa in Australia, but a lower than proportionate share of subclass 457 visas. However this flexibility in the RSMS visa is being removed from March 2018.

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

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

⁷ 'Major source of funding' was defined as more than 20 per cent of required funding for the purposes of the research.

3. Issues that Need to be Addressed if the Migration System is Going to be Able to Meet South Australia's Needs

This study reviewed some of the economic contexts in which the current system of regulation of labour migration operates in and how they affect South Australia. This identified potential adverse effects and risks that may disadvantage the regional South Australian economy.

The complexity of the immigration system, and the way in which it is embedded in a broader set of labour market, training system, and regional development policies means that it is not possible for a report of this nature to provide a definitive set of policy recommendations, as identification of the optimal policy settings depends on the relative priorities given to the various policy objectives, and on a detailed cost benefit analysis of the potential options. Nonetheless a set of broad approaches to addressing the limitations of the existing migration system to the needs of South Australian employers has emerged from our consultations. This discussion is structured around first describing the limitation of the current system as experienced by South Australian employers or visa applicants, and then identifying potential modifications that could address (at least in part) these challenges.

3.1 The current visa system no longer offers regional employers the flexibility necessary to meet their skill needs

In the past, the Australian visa system has often had a degree of regional flexibility. This recognises that the substantially smaller labour market of regional areas, together with the difficulties often experience in attracting Australians from major urban centres to move to regional areas, means that jobs which may be able to be filled from the local workforce in Sydney and Melbourne, cannot necessarily be filled in a regional area without recourse to the migration system. Equally, the cost of living (which is one of the drivers of setting a wage floor for temporary skilled migration, currently though the use of the TSMIT) varies significantly across the country and is often lower in regional areas.

For example, up to 2007 there was a "regional" 457 visa which offered a number of elements of additional flexibility for regional employers, including access to a greater range of occupations, and a lower minimum salary level than for the broader 457 visa.

Since the abolition of the 'regional' 457 visa, much of that regional flexibility has been lost from the Australian migration system, with RSMS visa representing the greatest remaining regional concession. But the recently announced changes, particular the extension of the TSMIT to RSMS and ENS visas will further reduce what little flexibility still exists in the migration system for regional areas.

The recently announced changes to the skilled migration system (see Appendix A) are removing much of this flexibility, requiring positions filled through the RSMS visa to pay a wage that at least meets the TSMIT, and significantly reducing the number of occupations available for the visa (although the final impact will not be clear until the final list of occupations is released by the Department).

Recommendation 1: Create a new regionally focussed visa based on the 457/TSS visa. For the purposes of this discussion we will use the nomenclature 'Temporary Regional Visa'

In essence what is required is a program which is broadly similar to the former "regional" 457 visa, with some adjustments to reflect changes to the broader migration system since then and to reduce the potential for abuse of the visa conditions.

The key elements that we believe should be included in a temporary regional visa are:

A TSMIT that reflects local labour market conditions

As detailed in Sections 3.1 and 3.2 of Report 2, a single national level for the TSMIT meets neither of the objectives of the TSMIT (acting as a proxy the skill level of the job; and ensuring that the migrant can enjoy a reasonable standard of living) due to differences in regional labour markets and differences in local cost of living.

A solution to this would be to allow the TSMIT to vary downwards in those regions where both the cost of living, and prevailing wages were below the national average. There should be a limit of the degree of variation, no more than perhaps 10 to 15 per cent below the national TSMIT. But importantly this process needs to be much less bureaucratic than the existing DAMA process (which only the NT has attempted), and be driven by local stakeholders, either the local Regional Development Australia office or the State Government.

Allow access to a greater range of occupations (and to lower skill levels).

Regional labour markets typically do not have the depth of labour markets of major metropolitan centres. This means that the typical split in migration systems between 'skilled' jobs requiring several years of training and several more of on-the-job experience, and un-skilled jobs, which can be rapidly supplied by the training system (and thus are not suitable for skilled migration) does not necessarily apply. As such hard to fill vacancies in regional areas can occur at lower skill levels than would be the case in a large city. This means that the Temporary Regional Visa should have a wider range of occupations available to it than is the case for national visas such as the 457/TSS. Additional occupations permitted under the Temporary Regional Visa should be based on labour market conditions in that particular region, rather than restricted to only those occupations which are in shortage nationally.

Any increase in the range of occupations available through this regional visa need a process of scrutiny to establish that they genuinely cannot be filled in the local labour market. This should be subject to the more robust labour market testing process flagged in the recent changes to the migration system (ideally with third party validation).

A somewhat broader approach would be to abandon the idea of a pre-established occupation list entirely. If the process for undertaking, and verifying, 'market testing' is sufficiently robust then that process, in itself, should be sufficient evidence that there is a regional skill need that cannot be readily addressed.

Allow greater pathways to permanent residence

Many regional areas of Australia are experiencing either absolute population loss or population growth rates that are well below the Australian average. It is also not unusual for them to have greater proportions of older residents, and relatively fewer of prime working age. This means that migrant settlement is more beneficial to the demographic structure of regional centres than to the major cities.

An obvious mechanism for this would be to allow any individual with a Temporary Regional Visa resident in a qualifying regional area to apply for either an RSMS or a 489 visa (as appropriate) after two years of residence in a qualifying regional area, providing that the residence in the qualifying regional area will be maintained for the life of the RSMS or 489 visa. The pathway to permanent residence would then follow the standard procedure for those visa classes.

Verification of compliance with visa conditions

Previous regional visas (and the 457 program more generally) have from time to time experienced issues with compliance with visa requirements, particularly those around residence in regional areas and payment of the required wage.

Data matching with the ATO should make it easier to undertake compliance checks to ensure that the visa holder is still resident in, and working in, a qualifying regional area and that their employer is paying them the wage stipulated in the visa application.

Some form of whistle blower protection should be introduced for visa holders who alert the Department to irregularities on the part of their employer such as under payment of wages or demands for ex-gratia payments from the employee.

Exempt regional employers from paying the new training levy if they meet a training benchmark based on good practice for their industry sector

Employers willing to fund training in regional areas are a valuable resource, particularly as the lack of economies of scale typically means that TAFE offers a narrower range of courses in regional areas. However one aspect of the recently announced changes is to apply a training level to all employers applying for a TSS visa to fill a skilled vacancy regardless of whether they fund training or not.

This is likely to lead those employers currently doing the right thing to reduce spending on offering their own training to fund the additional cost of the visa. We recommend that, as was previously the case with the 457 visa, employers (or at least employers in regional areas where there is less access to training) be exempted from the training levy if they meet some industry appropriate training benchmark.

Recommendation 2: Restore the Regional Flexibility of the RSMS Visa

The recently announced changes – which would apply the TSMIT to the RSMS, potentially significantly reduce the number of occupations eligible for this visa class, and introduce a 3 year minimum relevant work experience requirement for applicants – has the potential to remove most of the additional flexibility this visa class gave regional employers to address their workforce needs.

As a minimum, we recommend that all those elements of regional flexibility recommended for the proposed new Temporary Regional Visa should also be extended to the RSMS visa, to ensure it remains a valuable tool for regional employers who cannot fill skilled and semi-skilled job vacancies. The 3 year minimum relevant work experience requirement should also be removed in qualifying regional areas.

Recommendation 3: Improve post-study work rights for VET graduates working in regional areas whose occupation faces unmet demand in their region

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

Grant full post-study work rights to VET graduates filling positions in a regional area if the position being filled is in an occupation facing skills shortages in that region

International students completing VET courses are a significant potential pool of skilled labour. If these VET graduates were allowed to access full post-study work rights in those cases where the position they are filling is located in a regional area, and the position is in an occupation which is experiencing skill shortages in that region, then this could significantly reduce skill shortages in regional areas.

Such visa grants should be subject to verification that the position is genuinely in the regional area, and that the role being undertaken is in the nominated occupation.

Allow VET graduates working in a regional area in an occupation facing skills shortages to apply for other skilled visas in regional areas

Where a VET graduate is working in a qualifying regional area under the 'Graduate Work' stream of the Temporary Graduate visa they should be able to apply for a Temporary Regional Skilled visa or an RSMS visa if the occupation they are working in faces unmet demand in their region, and should their application be successful they would be entitled to the full rights and responsibilities of those visa classes, including ability to renew visas and to apply for permanent residency (or a visa class that creates a pathway to permanent residency) if they meet the relevant criteria.

Abolish or amend the genuine temporary entrant (GTE) test for potential international VET students planning to study in a regional area and undertake a course linked to an occupation in unmet demand in regional areas

Where an international student graduate is applying to study at a VET provider located in a qualifying regional area, and where the course they will be studying is linked to an occupation with unmet demand in regional Australia, then the GTE test should either not be applied, or applied in a less rigorous way (e.g. to not preclude entry on the basis that they might seek to take up post-study work rights in a regional area), as it would be beneficial for that regional area for them to subsequently apply for post-study work rights in the occupation facing unmet demand.

3.2 The way in which skills are defined in the current skilled migration system does not appear to reflect current industry practice

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

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

A good example of this problem is **Production Horticulture**. This occupation involves the management of production in horticultural establishments spanning the range of crops from orchards to vegetables to mushroom cultivation. Individuals filling this role manage a range of production activities including preparing soil, managing the harvest, controlling pests, and managing teams of horticultural labourers on site. For horticulture businesses (particularly the larger ones) having appropriately skilled individuals to undertake this role is critical, however a number of employers indicated that they found it difficult to fill these positions. Despite the skill shortage in this area, and despite it being a well-defined occupation linked to a specific training courses in the VET system as part of the Agriculture, Horticulture and Conservation and Land Management Training Package⁸, employers cannot fill these positions using the current skilled migration system as the occupation is not included in ANZSCO. This problem could be avoided if the Department were willing to include other forms of evidence for the nature and skill level of an occupation, such as the training packages approved for the VET sector.

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

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

Employers also reported that a number of the occupations they experienced difficulty in filling were coded in ANZSCO under generic 'not elsewhere classified' categories, grouped with a number of other only loosely related occupations. These more generic categories are typically not eligible for inclusion in the occupation lists as they contain a range of occupations not all of which will be facing unmet demand.

Recommendation 4: Update definitions used for occupations in demand, and draw on a wider range of information

Many of these issues could be addressed if the Department were to draw on a wider range of information in identifying occupations experiencing skills shortages and in defining occupations.

For occupations which normally require some level of VET qualification (or equivalent experience) training packages provide up to date descriptions of the skills, competencies and capabilities required for occupations, including details of the nature of activities that might be undertaken by those working in the occupation. And this information is well sourced and verified and has been accepted by the Commonwealth Government as the appropriate way to design the content of VET courses. However this rich, industry led, data source only appears to feed into the migration system when they influence periodic revisions to ANZSCO (if at all). A number of individuals consulted in this research suggested that training packages could be used as an alternative way to demonstrate the skill level of a position or to map a job opening at an employer to an occupation on the relevant skills list.

The Department should also establish structures to draw in information from state and territory agencies responsible for skills planning and regional development, such as the Training and Skills Commission in South Australia, into its lists of occupations experiencing skills shortages, and in defining occupations at all skill levels.

Recommendation 5: Remove caveats from skill lists for employers in regional areas

The recent set of visa changes have also introduced a number of caveats for occupations which are eligible for a 457/TSS visa. In a number of cases these restrict applications for certain occupations to employers above a minimum turnover size.

Whilst there may be a rational for these caveats in large metropolitan areas, they do not reflect the reality of many regions, where no (or few) employers seeking individuals to work in those occupations would be large enough to meet the caveat.

As such these caveats should not be applied to employers in regional areas (or should be applied at a lower level that reflects the actual distribution of firm sizes in regional Australia).

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

3.3 South Australia would benefit from faster population growth, and in particular growth in the working age population

The current economic and demographic challenges faced by South Australia are an important background to the issues raised by those we consulted with, although these challenges are not the focus of the report.

South Australia lags the rest of the country in economic output and employment growth whether measured in absolute terms or per capita. The South Australian population is amongst the oldest in Australia and is getting older over time, as well as decreasing as a proportion of the country's total population due to lower population growth rates. Over the last three decades, the state's annual population growth rate of 0.74 per cent was roughly half that of Australia as a whole (1.37 per cent) (SACES 2016c).

There seem to be three main causes for South Australia's economic underperformance:

- weaker initial economic conditions stemming from the adjustment (or lack thereof) to the first set of trade liberalisation in the early 70s;
- persistently lower population growth; and
- an older population.

The two latter factors have both been exacerbated by the relatively high level of net interstate migration loss, which is disproportionately concentrated amongst South Australians of prime working age.

A reduction in the share of the population who are of prime working age is likely (all other factors being equal) to reduce economic output, through a smaller labour force, through a less skilled labour force, and through lower consumption spending (prime working age households typically consume a higher proportion of their incomes). In South Australia's case the age structure of the population represents a "demographic deficit" reducing the potential output of our state. And net overseas migration represents an important potential solution to demographic issues facing the state. For example recent Productivity Commission Inquiry into skilled migration concluded that:

"By increasing the proportion of people in the workforce, immigration can provide a demographic dividend to the Australian economy and reduce the impacts of population ageing." (2016, p.14)

A significant driver of current Australian migration policy appears to be the fact that the populations of Sydney and Melbourne have been increasing at a faster rate than supporting infrastructure, both private (housing) and public (transport infrastructure, schools, hospitals etc.). This is a legitimate concern for these jurisdictions, and a policy response in the migration system may well be warranted, but there is no reason to expect that changes to national migration settings are likely to be the optimal response. Indeed, it is possible that the recent set of changes may not make any meaningful reduction in the number of migrants settling in Sydney and Melbourne, but instead reduce migration outcomes for those jurisdictions where greater population growth would be potentially beneficial.

Recommendation 6: Increase regional flexibility in migration policy settings

Set upper limits to migration regionally rather than nationally, based on consultations with state/territory governments

There is no reason why regional migration targets cannot exist alongside the existing broad national "soft" targets, with those jurisdictions that were facing pressures on their infrastructure able to request limits on the number of visa grants under relevant programs, and those which would benefit from greater population growth able to request an increase in the number of visas available to those who meet the relevant program criteria. Implementing such a 'regionalisation' would potentially require an additional condition in the visa for any visa with a regional element that the individual continued to live in, and work for an employer located in, an area eligible for that visa category and, where appropriate, in one of the regions eligible for additional visa grants.

Target regional flexibility at regions identified by state/territory governments

Alternatively, regional flexibility could be introduced by only applying the regional concessions (including those recommended in this report) to areas identified in consultation with states/territories as experiencing difficulties in securing skilled and semi-skilled labour and as having the capacity to absorb additional population. As with the previous point, implementing such a 'regionalisation' would require an additional condition in the visa that the individual continued to live in, and work for an employer located in, an area eligible for that visa category and, where appropriate, in one of the regions eligible for additional visa grants.

As noted in section 3.1, the potential for data linkage with ATO data provides a low cost option for such verification.

3.4 National 'occupational lists' used to identify job vacancies eligible for skilled migration programs do not necessarily reflect local skill needs

Occupation lists; formally the SOL, CSOL and RSMS Occupation List, now the STSOL and MLTSSL respectively (with the RSMS program having some additional yet to be announced occupations), are an important component of the skill migration system. These occupation lists define occupations eligible for most of the skilled visa classes such as subclass 457 and the RSMS. In the course of this study, South Australian business owners and industry representatives expressed concern about the identification and naming of occupations that qualified for inclusion in the CSOL/SOL/RSMS Occupation List and the occupations included in ANZSCO levels 1-3.

Criticism of the occupation lists was primarily directed at what was perceived to be the exclusion of certain sectors, occupations and levels of qualification from the list, in particular the exclusion of skill levels below Certificate IV. The purpose of the occupation lists is to record medium to long-term⁹ skills needs; with migration activity traditionally focussed at higher skill levels than the shortages identified by many South Australian businesses. The reason for this focus is that addressing a shortage for a higher skill level through the training system takes, at a minimum, several years due to the time required to complete the qualification. In theory at least, shortages for lower skill levels should be able to be addressed by offering short courses to existing lower skill level employees or to individuals who are currently unemployed. And in larger metropolitan areas this largely works, however in the smaller labour markets such as Adelaide, and even more so in regional SA, there are not necessarily suitable individuals able to be upskilled in this way, and so even occupations at a lower skill level can experience medium- to long-term skill shortages of the type that are typically addressed at least in part through the skilled migration system.

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

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

Recommendation 7: Include region specific occupations in the skill lists

The Department should also establish structures to draw in information from state and territory agencies responsible for skills planning and regional development, such as the Training and Skills Commission in South Australia, and Regional Development Australia offices into its lists of occupations experiencing skills shortages, and in defining occupations.

These could then be used to create region or state/territory additions to the skill lists (or if the feedback is that there is an excess supply of a particular occupation in a region, to exclude certain occupations from visa classes for the region in question) with this implemented through the use of caveats in the skills lists.

3.5 The recent changes to student visas for VET students may have different effects across regions

A more immediate challenge to international VET and university student registration may result from the new Streamlined Visa Processing (SVP) and Simplified Student Visa Framework (SSVF) for student visas, including the introduction of the genuine temporary entrant (GTE) test and the associated immigration risk rating of countries. South Australia's educational institutions currently recruit a large share of their students from what were until recently known as Assessment Level (AL) 3 countries. Over half (57 per cent) of South Australia's international students originate from AL3 countries, mainly from India, China, Vietnam and the Philippines. Across Australia, 38 per cent of VET students originate from AL3 countries.

Course and student visa applicants from these countries must meet particularly stringent evidentiary requirements that verify their ability to support themselves financially, their English language and academic competencies, and to satisfy the GTE test. Under the SSVF, student country risk ratings (similar to AL) and provider risk ratings will be combined to determine the level of evidentiary proof required from student visa applicants.

⁹ Defined as a period of around two to ten years.

This greater reliance on AL3 country students is likely to pose an additional administrative burden on South Australian education providers relative to their competitors interstate for two reasons. First, under the new SSVF, education providers are required to determine that a prospective student meets the Genuine Temporary Entrant (see Appendix A) conditions at the point of course application. Secondly the GTE provision potentially penalises providers targeting students from those countries the Department has identified as 'high risk'.

Finally, providers expressed concern that the application of the GTE test appeared to be arbitrary, with no evidence that consistent guidelines or protocols were being used in applying it. The absence of an appeal channel for offshore applicants was also regarded as problematic, particularly given that the refusal could have an on-going impact on the applicant as it would have to be disclosed in any further visa applications and, in and of itself, creates grounds for the Department to reject future visa applications.

Recommendation 8: Review impact of GTE and country risk ratings on South Australian based VET providers, and assess the extent to which it is addressing a genuine risk to management of the migration system

We recommend that the Department commission an independent review of the impacts and implementation of the recent changes to student visas. Important focuses of the review should be to assess:

- whether the risk rating of country of origin reflects actual risk of students overstaying their visa, and whether the new requirements are a proportionate response to any threat to the management of the migration system;
- whether the potentially subjective GTE test is being applied in a consistent fashion and whether its application is consistent with evidence of risk of visa overstay or other breach of visa conditions; and
- monitoring financial impacts on South Australian VET providers as prior to the recent changes they sourced a disproportionate share of students from countries now classified as higher risk.

Recommendation 9: Create an independent appeal process for determinations of student visa applications.

As the application of the GTE test is inherently subjective an appeal process should be created so that decisions are not solely subject to the assessment made by one individual. And this degree of potential subjectivity extends to other elements of the determination process, however there are currently no avenues for appeal for determinations of non-sponsored offshore visa applications. As with immigration matters more generally, the Administrative Appeals Tribunal would appear to be the appropriate body to consider any appeals.

Consideration should also be given to ways to reduce the impact of an adverse determination on the individual in the future. For example by excluding previous adverse determinations under the GTE test from future visa assessment processes.

3.6 BIIP visas appear overly focussed on individuals with high net worth rather than on those who could run successful businesses in Australia

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

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

The most promising stream of the BIIP Program is the entrepreneur stream, but even that has elements which make it difficult for potential entrepreneurs to access, most notably the requirement that the applicant has an enforceable funding agreement for an investment of at least \$200,000 from one of the following:

- Commonwealth Government agency;
- State or Territory Government;
- Publicly Funded Research Organisation;
- Investor registered as an Australian Venture Capital Limited Partnership or Early State Venture Capital Limited Partnership; or
- Specified Higher Education Provider.

Research in South Australia suggests that immigrant entrepreneurs experience more difficulty in accessing elements of the innovation support system such as government grants and venture capital funding (O'Connor and Reed, 2015).

The restrictions on the form of funding also does not reflect the way in which entrepreneurs typically receive their funding, with 72 per cent of 'nascent firms' and 51 per cent of 'young firms' using personal savings as a major source of funding (more than 20 per cent of required funding), with personal credit cards and personally secured bank loans as the next most common major sources of funding. Only 2 per cent of new firms reported that government grants were a major source of their funding and only 1 per cent reported private investors (such as business angels). Almost no firms (only 2 in total in the survey sample) reported venture capital as a major source of funding. (Department of Industry, Innovation, Science, Research and Tertiary Education, 2012, p. 14).

This suggests that many typical entrepreneurs would not be able to access the Entrepreneur stream of the BIIP, meaning that it too, in its current form, may not allow migration to fulfil its potential in increasing the rate of entrepreneurship in South Australia.

Recommendation 10: Re-target BIIP visas at those planning to establish or take over businesses in Australia

Increase visa grants for 'business innovation' and 'entrepreneur' streams

The Department should increase the proportion of visas granted within the BIIP visa to those applying under the 'Business Innovation' and 'Entrepreneur' streams as these are the two streams of the visa with a direct link to establishing or operating a business in Australia.

Visa grants for other streams in the program can be reduced if the Department wishes to keep overall visa grants for the BIIP to a certain level.

Allow applicants 'entrepreneur' streams to access funds from a wider range of sources

The current requirement that applicants for the 'entrepreneur' stream be funded through an investment of at least \$200,000 from a small number of approved sources is unduly restrictive and does not reflect the funding sources generally accessed by Australian entrepreneurs. We recommend removing the requirement that the funds be sourced from the approved sources allowing the \$200,000 to come from any investor, and instead focus any assessment of entrepreneurship on the business plan of the applicant.

It would also be worthwhile to offer some level of concession to the required funding for those establishing a business in a regional area (or at least a regional area with lower wage levels and lower cost of living) reflecting the lower expected scale of such businesses, the lower cost of operating a business in such a region, and the lower cost of living facing the entrepreneur themselves.

Recommendation 11: Create a 'start-up' visa for those in the country temporarily on other grounds.

Individuals resident in Australia under temporary visas such as student visas, 457 visas, or working holiday visas, are a potential source of entrepreneurial ideas, and indeed in some cases persons under these visa categories will already be establishing businesses. However, at present, they are not permitted to apply for a visa to allow them to continue to develop the business when their current visa comes to an end.

We recommend that those legally resident in Australia under a temporary visa class be eligible to apply for a 'start-up' visa whilst still resident in Australia. Similar criteria for assessing applicants as for the entrepreneur stream of the BIIP (including regional concessions for funding requirements), but any business they have already established should be taken into consideration as evidence of their capabilities.

3.7 Thresholds for minimum investments, and minimum size of businesses operated, under the BIIP visa appear high relative to the South Australian small business sector

As with most other aspects of the skilled migration system, a national approach is used to the size of the business investment that qualifies under the business innovation stream of the BIIP visa. Specifically, applicants need to have had an ownership interest in two of the past four years in a business with a turnover of more than \$500,000, and have personal and business assets of at least \$800,000 which are available to be transferred into Australia. And in order to move to a permanent business visa (the 888 visa subclass) through the business innovation stream, applicants need to be running a business which had an annual turnover of at least AUD300 000 from the main business (or businesses) in the 12 months before an application for permanent residence can be made.

Whilst these thresholds may be reasonable based on national averages, the distribution of business incomes (and therefore values) varies significantly between states and territories. For example, based on data from the 2011 Census, businesses earning \$104,000 per annum for their owner/operator are roughly half as common in South Australia or Tasmania as they are in the ACT and Western Australia.

This reduces the potential number of applicants for this visa subclass who would be interested in settling in South Australia. It also reduces the potential of this visa to assist business owners with their succession planning – an issue that will become increasingly important for the South Australian economy given the high average age of business owners in the state.

Recommendation: 12 Allow the minimum requirements for the ‘Business Innovation’ stream to vary by region

The minimum prior business size, and the minimum personal and business assets threshold for the Business Innovation stream of the BIIP visa (and for subsequent applications for the Business Innovation and Investment (Permanent) visa) should vary between states/territories or between regions to reflect the local economic conditions and to encourage BIIP visa holders to settle (and invest) in regional areas. The degree of variation allowed would need to be determined by further research, but variations of 10 to 20 per cent would seem reasonable given the variations in typical business incomes.

3.8 Excess processing times reduce the effectiveness of migration in meeting skill needs

The effectiveness of any migration system ultimately relies on efficient administration. The extent to which it can support the efficient operation of businesses by addressing areas of skill shortage will be heavily influenced by the time required to secure a migration outcome.

The DIBP has issued directives¹⁰ on processing priorities that assigns highest priority to RSMS. This study's consultations with South Australian businesses nonetheless suggest continued delays in the procession of applications, and that the actual processing priorities of the DIBP do not necessarily appear to be reflecting the relevant Ministerial direction. This uncertainty is detrimental to the economy and efficiency of commercial operations as well as the visa applicant, and should be addressed.

DIBP information indicates that the average ‘Direct Stream’ RSMS application processing time is 14 months (as at September 2017), in which it seeks to process 75 per cent of applications. The actual time between lodging an application and receiving a decision, however, may well be considerably longer with 10 per cent of applications currently taking more than 15 months.

Recommendation 13: Ensure priorities are reflected in visas available

We recommend that the Department reviews its internal allocation of visa grants between visa categories to ensure that “demand driven” visas such as the 457 and the RSMS can be genuinely demand driven, rather than subject to extreme delays. If necessary this could be achieved by shifting places into the demand driven visa classes from other visa categories such as the GSM visa categories.

3.9 Testing the recommendations contained in this report

The recommendations outlined in this report suggest making a number of significant changes to the operation of those aspects of the migration system related to addressing skill shortages. As with any change to a complex system it is possible that some of the suggested amendments could have unforeseen consequences. It may be prudent to test this by initially implementing them as a trial in one jurisdiction.

Recommendation 14: Consider implementing the recommendations of this report initially in only one jurisdiction

We recommend that the Department considers testing the recommendations of this report by initially introducing them in only one jurisdiction, such as South Australia, and monitoring their impact to test their interaction with other elements of the migration system and identify any unintended consequences that might arise.

3.10 Other policy changes suggested by stakeholders

The consultations produced a number of additional suggestions from participants. It was however beyond the scope of the current study to examine these suggestions for their capacity to resolve current labour supply and labour migration challenges. These included:

- re-introducing the waiver provisions for the RSMS program that existed prior to July 2012 (allowing requirements such as the maximum age or the English language provision to be waived where it could be demonstrated that this would be of benefit to the employer);
- introducing a 3 year semi-skilled visa that required visa holders to work 15 months with the same employer before they would be allowed to change;
- providing a 2 year sponsored temporary visa not tied to specific skill levels, followed by 2 year training and a further 2 years with the original employer, after which permanent residency could be obtained;
- replacing sponsored visas with (time limited) generic entry permit system that allowed some entrants to work, leaving the matching and meeting of skills supplied and sought to the employer and the employee;
- legislating for income tax concessions to migrants and others willing to settle in regional areas; and
- allowing those on temporary entrant visas (particularly those on the new 'two year' TSS visa who will not be able to apply for permanent residency) to receive superannuation guarantee payments as current income rather than have it paid into superannuation funds to be claimed back when they leave the country, with these additional payments included in the income that is counted towards the TSMIT.

Concessionary and customised visa schemes, such as Canada's industry-specific criteria for semi-skilled workers in the food and beverage processing, and hotel and lodging sectors, as well as Canada's start-up business program, were suggested as warranting examination as to their lessons for and suitability for (regional) businesses in (South) Australia.

An extended review may wish to consider and assess the feasibility and economic and social implications these additional suggestions.

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Appendix A

A1. Current Migration Policy Settings

Australia operates a complex system of national and regional temporary and permanent migrant visas, for both employees and employers, which is separate from provisions for refugee and humanitarian migration. Immigration is centrally administered by the Australian Government Department of Immigration and Border Protection (DIBP). Important elements of the visa regulatory system are the occupation lists that determine eligibility for the skilled migrant visas. At the time of our research these were the Skilled Occupation List¹¹ (SOL), the Consolidated Sponsored Occupation List¹² (CSOL) and the RSMS Occupation List¹³, with the changes announced in April 2017 replacing them with the Short-term Skilled Occupation List (STSOL) and the Medium and Long-Term Strategic Skills List (MLTSSL), although the RSMS occupation list will not be replaced until March 2018. The occupation lists identify skilled occupations considered to be in short supply in the Australian economy. Visa applicants seeking a temporary and/or permanent work visa or general skilled migration visa must demonstrate that they have skills, qualifications and/or work experience in those occupations. Besides the principal work and general skilled migration visas, visas are also available for business and investment interests and international students, plus those who have graduated with appropriate qualifications from an Australian university or VET college. Concessionary rules apply to permanent employer sponsored work visas for regional parts of Australia. This Appendix describes features of these visas, which are the main actual and potential sources for hiring skilled migrant labour medium to long term to work in Australia.

A1.1 Temporary worker visas

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

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

Employers' sponsorship of 457 visas was subjected to greater scrutiny following the 2008 Visa Subclass 457 Integrity Review (the Deegan Review). It had concluded that, at the time, overseas workers were frequently being paid less than Australians doing the same job, while at the same time facing higher costs of living (notably as a result of compulsory private health insurance). In order to curtail this practice, a new **market salary requirement** for positions paying up to \$180,000 per annum was legislated in 2008/09.¹⁴ In 2013, the threshold was raised to \$250,000 per annum. The market salary may be demonstrated with reference to an equivalent position in the same location or, where this is not possible, with reference to relevant industry awards, recent jobs ads, ABS earnings data or union or employer association estimates.

In addition, in order to meet the eligibility criteria for the 457 temporary visa, the market salary rate for a nominated occupation has to match or be above the so-called **temporary skilled migration income threshold** (TSMIT), which is currently set at \$53,900. If *guaranteed* annual earnings are above the market base rate, these may be considered instead when determining whether a position may be eligible for the subclass 457 program. Earnings calculations may then include *guaranteed* non-salary related earnings, such as allowances or fringe benefits.¹⁵

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

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

¹¹ Relevant for applicants for points-based skilled migration (nominated by a state or territory government agency); a Family Sponsored Points Tested visa; and Temporary Graduate visa (subclass 485) - Graduate Work stream.

¹² Relevant for applicants for points-based skilled migration (nominated by a state or territory government agency); the Employer Nomination Scheme (ENS), Temporary Work (Skilled) visa (subclass 457); and Training and Research visa (subclass 402).

¹³ Relevant for applicants for the Regional Sponsored Migration Scheme (subclass 187).

¹⁴ <https://www.border.gov.au/ReportsandPublications/Documents/discussion-papers/discussion-paper-tsmit.pdf>

¹⁵ See <https://www.border.gov.au/ReportsandPublications/Documents/discussion-papers/discussion-paper-tsmit.pdf>

Recent changes to skilled migration

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

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

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

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

- require the position to meet the TSMIT for its normal earnings (currently \$53,900), bringing it into line with the 457 Visa;
- reduced the number of eligible occupations for the ENS in April 2017 (removing 216 occupation from eligibility, with applications for the ENS program restricted to the occupations listed on the 'combined occupation list' which brings together occupations on the new STSOL and selected occupations on the MLTSSL. There are also a further 24 occupations which can only be used for ENS applications where the position will be located in regional Australia).
- reduced the number of eligible occupations for the RSMS from March 2018 when the current occupation list specifically for the RSMS will be abolished, with eligible occupations for these visa classes to be restricted to the occupations on the new Medium and Long-Term Strategic Skills List (MLTSSL), with some additional (regionally focussed) occupations eligible for the RSMS reducing eligible occupations from 672 to 231);
- increase the minimum English language proficiency requirement;
- require at least 3 years relevant work experience (which effectively removes the current pathway whereby international VET students could previously apply for a RSMS visa at the end of their studies if they could find a sponsoring employer);
- reduce the age limit from 50 to 45 for the direct entry stream of the ENS and RSMS in June 2017, with the minimum age for all streams of these visas reducing to 45 in March 2018; and
- inflows to the RSMS visa are also likely to be reduced due to the new two tier structure for the 457 visa, with a number of occupations now being precluded from transitioning from a 457 visa to an RSMS visa.

Important changes to 457 visas

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

- has a 'two-tiered' structure of 2 year and 4 year visas (applying to the 457 Visa and the TSS visa);
the 2 year visa can be used for (almost) all occupations on the STSOL, although 59 occupations have a caveat restricting the circumstances in which a 457 visa can be used to fill a vacancy, but it can no longer lead to permanent residency, reducing its attractiveness to potential migrants (and to employers who will need to fill the vacancy again after 2 years).
the 4 year visa can only be applied for if the migrant's occupation is one of the 168 occupations included on the new MLTSSL and eligible for the 457 visa, however this visa can lead to permanent residency.
- requires 2 year's relevant post-qualification work experience from applicants prior to applying for the visa;
- increases the minimum English language proficiency requirement (and removes the existing limited English language exemptions);
- strengthens the mandatory labour market testing requirement;
- reduces the number of occupations eligible for the two year visa from 651 to 435 (with access to 59 of the remaining occupations restricted for 457 applicants in some way); and
- introduces a (subjective) 'genuine temporary entrant' test where an officer of the Department will make an assessment as to whether the applicant is only seeking to move to Australia temporarily.

Changes to training requirements

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

Under the old arrangements for the 457 visa, a sponsoring employer was required to demonstrate that they were spending an amount equal to at least 1 per cent of their payroll on training (or pay a training levy equal to 2 per cent of payroll). This requirement will be retained for visas sponsored prior to March 2018. The Department has also clarified and tightened the policy settings for training benchmark requirements, by setting out the types of training funds and training expenditures that are acceptable for meeting the benchmark.

After March 2018, sponsoring employers will be required to pay an annual training levy of \$1,200 per year or part year for small businesses (those with annual turnover of less than \$10 million) and \$1,800 per year or part year for other businesses.

It would not be surprising if employers funded the training levy by reducing their internal spending on training. As there is currently no commitment that funds collected from the training levy will be spent in the region from which they derive, it is possible that this change could actually **reduce** the availability of training in regional SA.

Changes to the occupation lists

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

As part of this change the total number of occupations eligible for skilled migration programs has fallen from 672 occupations to 435 occupations and from 672 to 231 occupations for the RSMS visa after March 2018.

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

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

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

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

A1.2 Post-study work rights

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

The introduction of the PSW stream is one of a range of measures introduced following a review of the student visa system in 2011 (the Knight Review), which included the Genuine Temporary Entrant (GTE) requirement and Streamlined Visa Processing (SVP). The GTE is a subjective assessment of whether a student visa applicant's entry request is genuinely intended only for a temporary stay in Australia; this assessment is based on information gained about the applicant's personal circumstances and his or her immigration history. While

the GTE is part of the check undertaken by the DIBP, when assessing student visa applications, education providers are encouraged¹⁶ to implement their own GTE check as part of their due diligence when considering applications for admission by international students.

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

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

A1.3 Business Innovation and Investment, and Talent Programmes

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

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

- own and manage a business in Australia (the Business Innovation stream);
- conduct business and investment activity in Australia (the Investor stream, the Significant Investor stream and the Premium Investor stream); and
- undertake an entrepreneurial activity in Australia (Entrepreneur stream).¹⁷

More specifically, the five streams' are:

- Business Innovation stream: people with business skills who want to establish, develop and manage a new or existing business in Australia; applicants must be able to transfer a minimum of \$800,000 in business or personal assets to Australia within two years of visa approval;
- Investor stream: people who want to invest at least \$1.5 million immediately and maintain business and investment activity in Australia; applicants must invest in government securities for at least four years and must be able to transfer at least \$2.25 million in assets to Australia within two years of visa approval;
- Significant Investor stream: people who are willing to invest at least \$5 million and want to maintain the complying significant investment in Australia; investments must be kept for at least four years and be spread across the designated categories in the required proportions;
- Premium Investor stream: people wanting to invest at least \$15 million and to maintain the complying investment in Australia; investments must be in one or more of the approved categories which include government or corporate bonds, deferred annuities, philanthropic contributions and commercial or industrial property. Premium investors must be nominated by the Australian Trade Commission (Austrade); and
- Entrepreneur stream: people with third party funding agreements from an approved funding body¹⁸ of at least \$200,000 with a view to commercialise a product or service or develop "complying entrepreneur business" in Australia.

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

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

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

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

¹⁶ DIBP (not dated) Managing Immigration Risk. Strategies for education providers. Accessed from <http://www.mia.org.au/documents/item/891>, 4 August 2016.

¹⁷ See <https://www.border.gov.au/Trav/Visa-1/188-#>.

¹⁸ The funding must come from one of: a Commonwealth Government agency; a State or Territory Government; a Publicly Funded Research Organisation; an Investor registered as an Australian Venture Capital Limited Partnership or Early Stage Venture Capital Limited Partnership; or a Specified Higher Education Provider

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

The Business Talent (Permanent) visa (subclass 132) is designed for “high calibre”¹⁹ business owners or part-owners, and those with access to venture capital. The visa allows successful applicants to establish a new or develop an existing business in Australia. Expressions of Interest must be submitted via SkillSelect (see A1.5) and followed by a nomination application. If the state or territory chooses to nominate the applicant they are then invited by the Department of Immigration and Border Protection to lodge an application for the visa.

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

A1.4 The regional migration policy settings

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

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

The Skilled Regional (Provisional) visa is intended for skilled workers who have been nominated by an Australian state or territory government agency or sponsored by an eligible relative living in a *designated area*, which in the case of South Australia is again the entire state (“Invited pathway”). The invited applicant's occupation must be included in the relevant occupation list (STSOL for state/territory sponsored, MLTSSL for family sponsored). A skills assessment is also required. In addition, holders of now closed regional and designated area visa subclasses (475, 487, 495, 496) may apply for this visa subclass under its “Extended pathway”. In both instances, this visa offers temporary residency for up to four years. The skilled (regional) provisional visa, together with the 475, 487, 495, and 496 visas offers a potential pathway to permanent residency through the subclass 886 visa (eligibility requires having lived in a regional area for two years and having worked at least 35 hours per week for at least 52 weeks in one or more jobs).

In contrast, the RSMS is a permanent residency visa for skilled workers in regional Australia, and operates under three streams. The Direct Entry stream is for employer nominated applicants who have never, or only for a short time, worked in Australia. The Temporary Residence Transition stream is for those who do not qualify for the direct entry scheme. Applicants must have held a Temporary Work (Skilled) Visa subclass 457 for at least two years and have been nominated by their employer for a permanent position. Finally, the Agreement stream covers subclass 457 visa holders who are nominated by their employers under a company-specific or industry labour agreement, a project agreement or a designated area migration labour agreement. Direct Entry stream applicants must demonstrate that their nominated occupation is listed on the relevant legislative instrument²⁰ and that they have relevant qualifications and/or work experience. Failing that applicants must “demonstrate that [they] have the qualifications listed in ANZSCO as necessary to perform the tasks of [their] occupation”²¹. Employers, on the other hand, must obtain formal advice from their regional certifying body in support of their nomination. In the case of SA, the certifying body is Immigration SA.

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

19 see <https://www.border.gov.au/Trav/Visa-1/132-#>

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

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

A1.5 Skilled Migrant Selection Register (SkillSelect)

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