

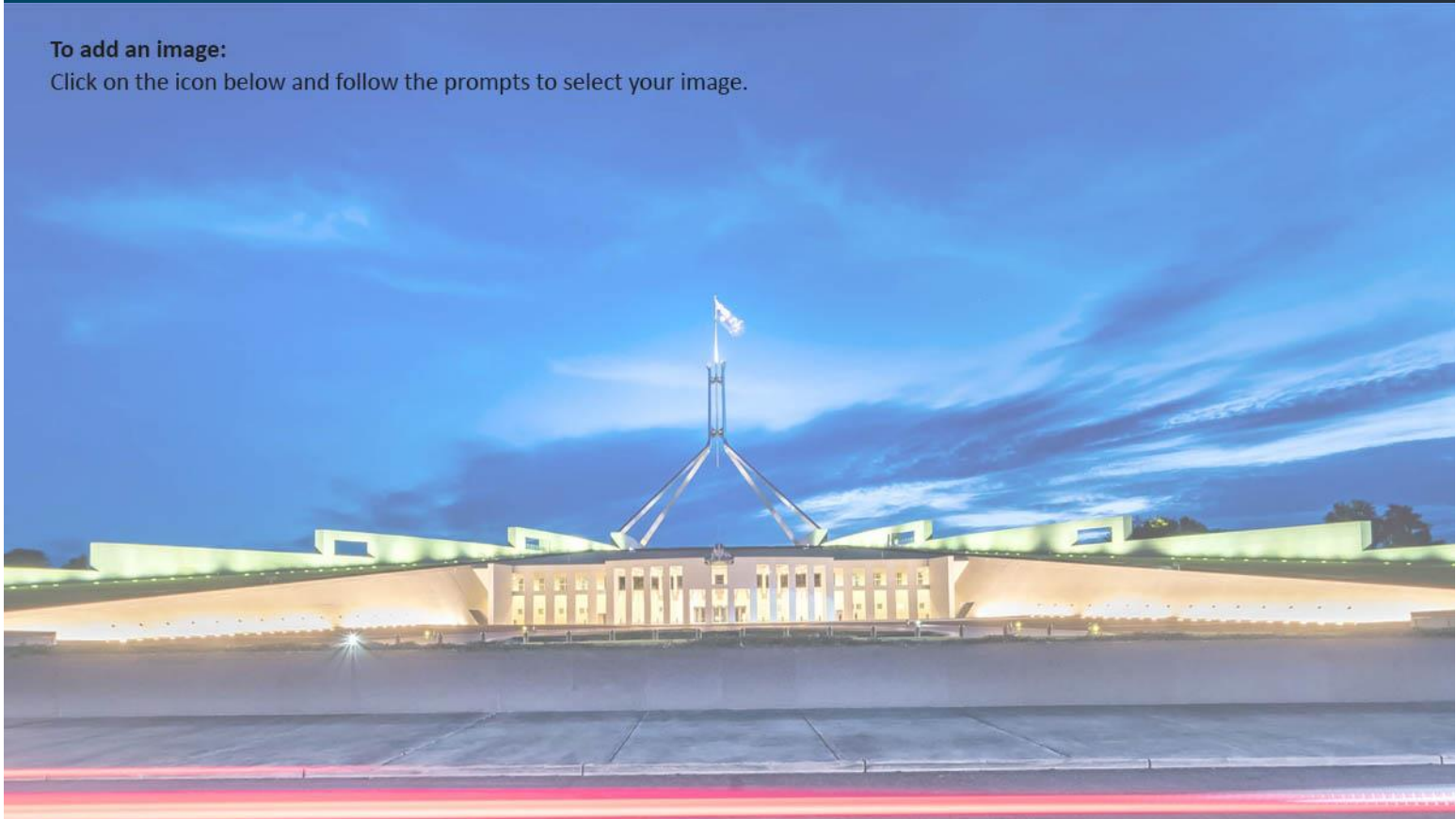
# Visa changes to support the reopening of Australia and our economic recovery

## Regulation Impact Statement

## Department of Home Affairs

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# Executive Summary

Large numbers of temporary visa holders working in Australia are returning home and not being replaced due to the closed international border. Together with strong labour demand, this is creating workforce pressures for businesses across Australia. Over the past 6 months, the number of temporary visa holders in Australia has fallen by up to 20,000 per month.

The reduction in temporary visa holders in Australia is against the backdrop of a consistent increase in this cohort over the last decade. Many temporary visa holders progress to skilled visas and permanent residence. While some have continued on this pathway during the pandemic, many have departed and the pipeline of new migrants usually coming as international students, working holiday makers and other temporary visa holders has almost completely stopped. This not only causes a short term issue of the labour and skills gaps, but has the potential to create a longer term supply issue further impacting our net overseas migration as we move into the recovery phase. Departures are expected to continue, with analysis of recent Home Affairs departure trends showing approximately 75,000 temporary visa holders who have work rights may depart over the next 12 months. Businesses are facing significant costs to replace departing temporary visa holders, made more difficult by the tightening labour market, with record high job vacancies.

Policy changes have already been made to encourage temporary migrants to remain in Australia, but have not been sufficient incentive to stem the outflow. Increased utilisation of the domestic workforce will play an important role in alleviating workforce pressures, but given the extent of workforce pressures being experienced across Australia, it is unlikely the domestic workforce will be able to fill all existing and forthcoming vacancies given both geographical and skills mismatches between available job seekers and available positions.

The proposal supports the Government's *National Plan to transition Australia's National COVID-19 Response* (the National Transition Plan) to support Australia's economic recovery by addressing skills and labour gaps. As borders reopen through this staged plan, it is critical these changes be implemented to maximise the contribution of migrant cohorts. The proposal welcomes back migrants who have been disadvantaged by border closures by removing legislative blockages and incentivising them to return.

This Regulatory Impact Statement (RIS) considers two options to address the problem of the continued departure of temporary visa holders. The policy problem and circumstances are such that fewer than three options are feasible for consideration. Option 2 includes measures for onshore visa holders as well as offshore visa applicants and holders, providing a holistic view as to how migration can address the problem. Relevant domestic measures to encourage Australians to address workforce pressures have been separated into work led by the Department of Education Skills and Employment. The two options are:

1. No change in policy;
2. Adjustments to visa conditions for temporary and provisional visa holders both onshore and offshore.

Option 1 is likely to impose costs on businesses, which will vary across firms. These include hiring and search costs, lost firm-specific skills, and reductions in output while they search for a replacement worker, or in the event they are unable to find a replacement.

Option 2 is likely to alleviate some of the immediate workforce pressures faced by business, to the extent the measures draw more people into the labour market with the necessary skills to fill job vacancies. This option is likely to be a net positive for businesses and individuals, as it is expected to enable more than 75,000 temporary migrants to remain in the country. This will defer and in many cases avoid the cost to business of advertising in the current labour market. For temporary visa holders, these changes are a clear positive, while for the domestic workforce the impact is likely neutral. The Productivity Commission has found that, at an aggregate level, recent migrants have a negligible impact on wages, employment and participation of the existing labour force. This is especially the case given the current tight labour market, which reduces the risk of displacement further. The Department's view is that the findings from the Productivity Commission remain relevant today.

Consultation on Option 2 was undertaken with industry leaders and the Ministerial Advisory Council on Skilled Migration (MACSM). The consultation process made clear that workforce pressures resulting from the closed international border are a key concern for businesses and threaten to constrain growth. Option 2 is the recommended to support businesses in accessing the labour they need. Option 2 maximises the contribution of onshore visa holders and ensures priority migrants return to Australia and contribute to economic recovery.

The measures in this proposal will be implemented through Ministerial announcements, policy and procedural changes, legislative instrument changes and regulation changes. All measures will be supported by public information updates through a range of material.

# 1. What is the problem you are trying to solve?

The problem is large numbers of temporary visa holders working in Australia are returning home and not being replaced, with Treasury forecasting net overseas migration will be at its lowest since 1946. Businesses would prefer if temporary visa holders (or any employee) remained in their current jobs, as vacancies are costly. There are costs in advertising and searching for new employees, which are higher in the current constrained labour market, as well as the lost skills of the departing employee. A survey of HR professionals in 2019 found the average cost of hiring one employee was \$19,000<sup>1</sup>. The number of temporary visa holders has fallen by over 500,000 since March 2020 (when the international border was closed), and it is estimated around 320,000 had work rights. The bulk of the departing temporary visa holders were international students and working holiday makers filling lower skilled jobs, and a smaller proportion of filling skilled jobs. Over the past 6 months, the number of temporary visa holders in Australia has fallen by up to 20,000 per month. It is estimated that 75,000 temporary visa holders with work rights are at risk of departure over the next 12 months.

This is a problem because temporary visa holders make an important contribution to many businesses across Australia. It is costly for a business when a temporary visa holder leaves the country and creates a vacancy. The strength of the economic recovery, low unemployment, and the associated rise in vacancies across Australia make it a particularly difficult time for businesses to fill vacant positions.

It is becoming increasingly difficult to find domestic workers to fill the gaps left by temporary visa holders, particularly in regional and remote Australia. Temporary migrants made up a similar share of the workforce in regional areas pre-pandemic as in the cities (approximately 4 per cent for regional areas and 5 per cent for cities). Regional and remote areas have seen more substantial increases in online job vacancies compared to pre-COVID levels, rising by 58.1 per cent vis a vis the capital cities, where job ads have grown by 28.4 per cent (as at June 2021). The unemployment rate in regional areas stands at 4.7 per cent in June 2021, which is also lower than in capital cities (4.9 per cent).

The Recruitment Experiences and Outlook Survey<sup>2</sup> conducted by the National Skills Commission found 50 per cent of recruiting employers reported difficulty recruiting workers in June — an increase by 10 percentage points since March 2021. Only 2 per cent of surveyed businesses intend to reduce staffing over the next 3 months, indicating that an employee departure is not part of the forward plans for most businesses.

Consistent with this, in May 2021, there were 362,500 vacancies — the highest recorded, and up 57.4 per cent compared to pre-COVID levels.<sup>3</sup> But while the demand for workers is strong, the availability of both skilled and unskilled labour available to fill vacancies has tightened significantly. In May 2021, there was 1.9 unemployed persons per job vacancy, down from the recent peak of 7.2 recorded in May 2020 (see Figure 1). This is the lowest the ratio has been in 40 years (see figure 1). Seek data suggests applications per job ad remains subdued — close to the lowest level since 2012, reflecting the tightness in labour supply.<sup>4</sup>

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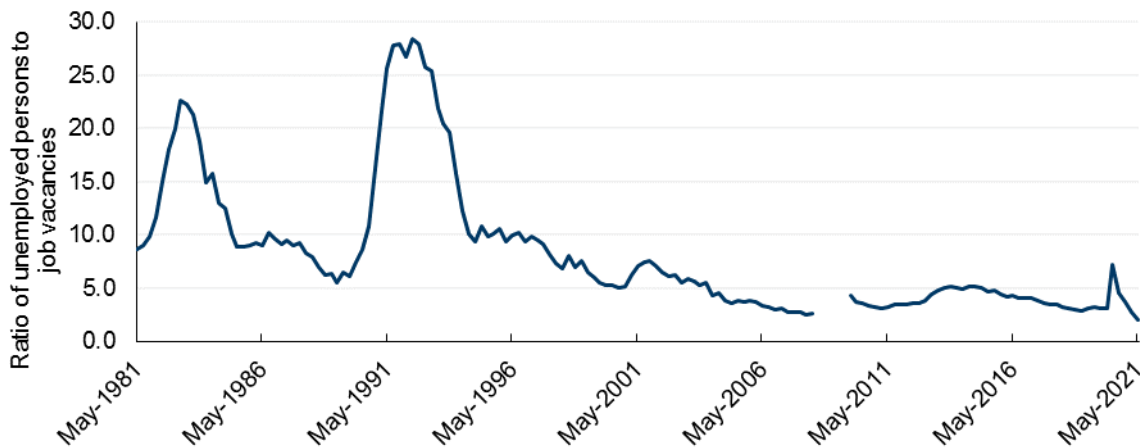
<sup>1</sup> <https://www.hcamag.com/au/specialisation/employee-engagement/this-is-how-much-it-costs-to-hire-one-employee/192036>

<sup>2</sup> <https://lmip.gov.au/default.aspx?LMIP/GainInsights/EmployersRecruitmentInsights>

<sup>3</sup> ABS, Job Vacancies, Australia, May 2021.

<sup>4</sup> Seek, Employment Report, June 2021

Figure 1.



Source: Australian Bureau of Statistics (ABS), *Job Vacancies, May 2021*; *Labour Force, Australia, June 2021*.

Recruitment difficulties and unfilled vacancies already threaten to constrain the pace of growth in some sectors. The continued departure from Australia of temporary visa holders currently in jobs would exacerbate the situation.

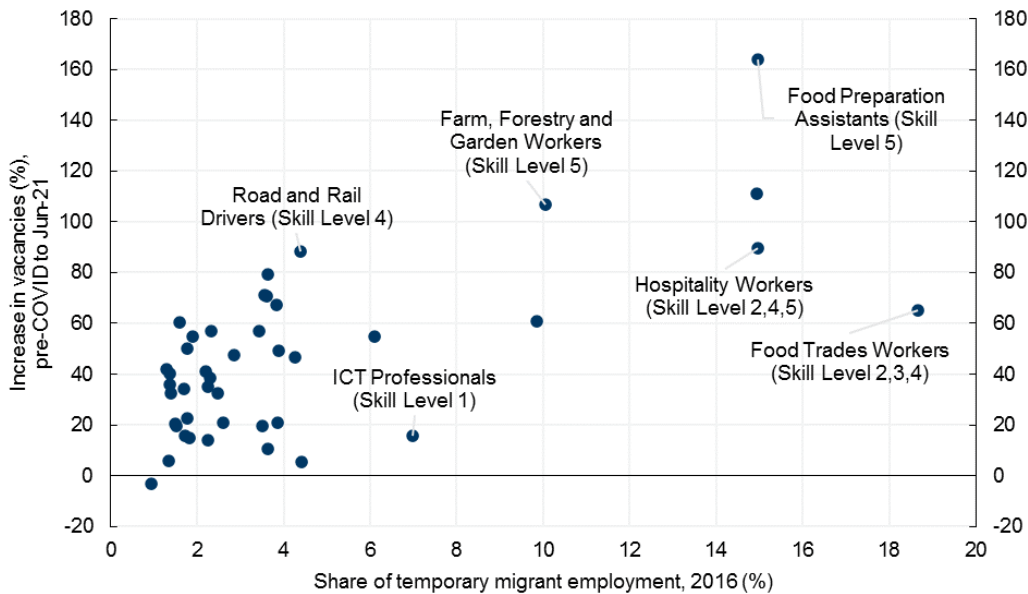
Those sectors most affected by workforce shortages to date (in terms of % increase in vacancies on pre-COVID levels) are those traditionally reliant on migrant labour, including accommodation and hospitality where around 15 per cent of the workforce pre-COVID were temporary migrants, agriculture where temporary migrants constituted around 12 per cent of the workforce pre-COVID, and the care sector (see Figure 2 for analysis of the temporary migrant share of employment and growth in online vacancies by occupation). But shortages in skilled and technical labour are also a concern. The National Skills Commission Priority List reports over 40 per cent of technical and trade occupations being in shortage, as well as nearly 20 per cent of professional occupations.

Notably, seasonal and casual work in regional areas – particularly in agriculture - is frequently undertaken by temporary visa holders, particularly Working Holiday Makers (WHMs). There are 100,000 fewer WHM visa holders since the international border closed in March 2020.

Recruitment difficulties and growing vacancies while the level of employment is below full employment (or alternately, when unemployment is above the non-accelerating rate of unemployment (NAIRU)) indicates mismatches exist between unemployed and the requirements of vacant positions across a number of dimensions, such as occupation, skill level or location. That is, those unemployed are not trained in the occupation in shortage, they do not have the required skills to fill the vacancy, or they live in a different locale to where the available jobs (eg. regional and remote Australia).

There are a range of reasons why it has been difficult for individuals to move to regional and remote Australia to fill job vacancies. Concerns about COVID-19 state border restrictions have limited mobility, leading to interstate migration falling 11 per cent in 2020. There have also been significant increases in rents and house prices in regional areas over the past 12 months. Other factors influencing an individual's willingness or not to relocate to remote and regional Australia might include career prospects, opportunities for schooling and costs of relocating.

Figure 2



Source: NSC, Vacancy Report, Jun-21; ABS, Insights from the Australian Census and Temporary Entrants Integrated Dataset, 2016; ABS, Census, 2016. Note: temporary migrant share excludes Special Category (New Zealand) visa holders. As the share of temporary migrant employment is calculated using 2016 Census data, analysis should be treated with caution due to the significant changes in visa criteria which have occurred since 2016.

The departure of a migrant worker is also costly for a business as employees possess valuable firm-specific knowledge and skills, and when these are lost it takes time for the business to recover. Skilled workers will possess more firm-specific skills than unskilled workers and will be harder to replace if the occupation is in skill shortage. However, all workers regardless of skill level hold firm-specific skills from their experience in the business, such as knowledge of business processes. It is costly to train any new worker in the specific operations of a business. The departure of an employee reduces the human capital of the firm, lowering productivity. Productivity growth has been the most significant driver of Australia’s improved living standards over the past 30 years. Over the longer term, labour market gaps, at least in lower skilled occupations (where skills mismatches are not a barrier) could be closed by wage increases, but without a commensurate increase in productivity this would be unaffordable for some businesses leading to job losses or business closures.

The Commonwealth Government has already introduced temporary policy changes to encourage temporary migrants to remain in Australia through the pandemic period, the most significant of which has been the introduction of the Pandemic Event visa. As at 30 June, there were 12,447 individuals in Australia on a Pandemic Event visa. This visa currently requires temporary migrants to work in critical sectors such as aged and disability care, health, agriculture and food processing. A similar change was made to work conditions for international students, allowing them to work more than their usually permitted 40 hours per fortnight if they work in critical sectors. But the introduction of this visa and relaxation of rules for international students has not been sufficient to incentivise many temporary migrants to stay in Australia, as shown by the steady stream of departures. For many temporary migrants working in non-critical sectors, they are faced with the choice of leaving their current employer or leaving Australia. Broader sectoral eligibility conditions for temporary visa holders would encourage many temporary visa holders to stay in Australia, reducing the burden on employers to fill vacant positions.

Well-managed migration is essential to Australia’s economic prosperity, supporting growth and labour market needs, yielding productivity benefits<sup>5</sup>, and offsetting population challenges including the ageing of Australia’s population. The 2021 Intergenerational Report shows a clear positive relationship between migration and economic growth. The report models a scenario where net overseas migration (NOM) per year remains at 0.82 per cent of the population, rather than being fixed at a constant level of 235,000 per year. This increase in NOM leads to an increase to the level of real GDP of 4.7 per cent by 2060-61. In addition to supporting growth, there is a growing need for individuals of working age to participate in the labour market, in order to offset the effects of the ageing population on economic growth and tax revenues. Data from the Continuous Survey of Australia’s Migrants demonstrates the contribution of migrants to labour force participation – six months after arrival, 95.6% of skilled migrants were in the labour force and 88.9% were employed, compared to 65.5% and 61.9% respectively for the Australian population. Eighteen months after arrival, employment had risen to 94.3%, with a participation rate of 96.7%.

The impact of migrants on the domestic workforce is an empirical issue, given there are potential positive and negative effects that may offset each other. Empirical studies (including those that have considered the broader and longer-term implications of migrants) generally do not support the claim that immigration has resulted in lower wages in Australia (including the temporary skilled migration program). Rather than having a negative impact on wages and employment, there are studies which suggest that migrants have had a positive impact. This is likely due to Australia’s migration program being geared towards skilled migrants. An increase in skilled workers boosts productivity, which in turn leads to higher real wages. In fact, the Productivity Commission, in their 2016 *Migrant Intake into Australia*<sup>6</sup> report, found at an aggregate level, recent migrants have a negligible impact on wages, employment and participation of the existing labour force. Similarly, 2017 analysis undertaken by Australian National University found there is almost no evidence the outcomes of those born in Australia have been harmed by immigration. They concluded that, if anything there is some evidence immigration has a positive association with outcomes for Australian born.<sup>7</sup> The Committee for Economic Development for Australia in its 2019 report, *Effects of temporary Migration: Shaping Australia’s society and economy*<sup>8</sup>, also used ABS data to show recently arrived temporary migrants have not had a negative impact on wages or participation rates of Australian-born workers. Most international studies<sup>9</sup> agree with this conclusion, finding small (either positive or negative) aggregate impacts on the wages and employment of local workers. While the COVID-19 pandemic may have impacted this association between migrants and wages, there is no recent empirical evidence to suggest this is the case. Thus, an assumption can be made that the numerous data sources stating there is no negative association remain relevant.

While there are cases where migrants could potentially displace local workers with the requisite skills from employment, the current state of labour market — with strong demand for workers and tight labour supply resulting in labour shortages — means this is unlikely. Migrants also have positive economic effects, adding to aggregate demand for goods and services, which creates jobs. Migrants can also be complementary to domestic

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<sup>5</sup> Productivity Commission, “Migrant Intake into Australia”, 2016 <https://www.pc.gov.au/inquiries/completed/migrant-intake#report, pp210-211 with reference to productivity spill-over effects of migration and>

<sup>6</sup> Productivity Commission, “Migrant Intake into Australia”, 2016 <https://www.pc.gov.au/inquiries/completed/migrant-intake#report>.

<sup>7</sup> Breunig, R, Deutscher N, Hang T, “The relationship between immigration to Australia and the labour market outcomes of Australian Born Workers”, *Economic Record*, Vol. 93, No 301, pp 255-276, June 2017.

<sup>8</sup> Report available at <https://www.ceda.com.au/ResearchAndPolicies/Research/Population/Effects-of-temporary-migration>.

<sup>9</sup> Brell, C Dustmann C, “Immigration and Wage Growth: The Case of Australia”, Centre for Research and Analysis of Migration and Department of Economics, University College London, pp1-41 2019.



workers rather than substitutes, filling areas of skill shortage and/or bringing in knowledge that does not exist in Australia, allowing for businesses to grow and employ more people.<sup>10</sup> As such, migration should not be solely viewed through the prism of potential displacement of the local. There are many instances in which a skilled migrant offers something not available in Australia.

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<sup>10</sup> Relevant literature outlining the positive spill-overs of migrants to domestic workers include Crown et al (2020), *High skilled immigration and the occupational choices of native workers: the case of Australia* and Hunt and Gauthier-Loiselle (2010), *How Much Does Immigration Boost Innovation?*

## 2. Why is Government action needed?

The Commonwealth is responsible for operating and setting the parameters of Australia’s migration program. Changes to program parameters have a direct impact on migration outcomes. It is necessary for the Government to continually assess these parameters to ensure they remain appropriate for the nation’s economic, security and social needs, taking account of broader global circumstances. The circumstances under which Australia’s permanent and temporary migration program operates has clearly changed over the last 18 months, with a significant fall in the number of migrants and temporary visa holders arriving in Australia due to the closed international border. In the 2021-22 Budget, Treasury forecast that net overseas migration would be at its lowest level since 1946.

The alternative to Government action in this policy space would be to instead leave all migration program parameters unchanged. Temporary visa holders have traditionally supported the supply of essential services in critical sectors including health, agriculture and care sectors during the pandemic — sectors identified as already facing workforce shortages. Similarly, temporary skill shortage visa holders are filling positions where the employer was unable to find an appropriately skilled Australian worker<sup>11</sup>. In the current environment, without additional changes to visa settings, further outflow of temporary visa holders will occur, particularly as visas expire and the trajectory of COVID-19 remains uncertain. Businesses and government services would need to adapt by attempting to hire other workers to replace departing temporary visa holders. This would impose costs on these businesses, in terms of hiring and search costs, as well as lost firm-specific skills with no guarantee they could actually find a suitable replacement – particularly in the near term – given the tight labour supply shortages and skills and geographical mismatches that exist. Depending on the length of time taken to fill the vacancy and the business structure, firms may need to reduce output while they search for another worker.

If businesses cannot fill vacancies there may be a permanent contraction in their output with flow on economic effects. Notably the National Australia Bank survey in July 2021 found the availability of labour to be the greatest constraint on the output of small and medium size enterprises, with around 70 per cent of surveyed businesses reporting this.<sup>12</sup> This is well above the level recorded pre-COVID. Similarly, the ABS noted that 27 per cent of employing businesses surveyed reported difficulty in finding suitable staff. Of these, 73 per cent cited a lack of job applicants as impacting their ability to find suitable staff, and 66 per cent noted that applicants don’t have the required skill or qualifications<sup>13</sup>.

The goal of this policy proposal is to slow or stop the rate of decrease of temporary visa holders from the current 20,000 per month, and to improve Australia’s attractiveness for highly skilled migrants to remain in Australia. A stabilisation of the number of temporary visa holders in Australia and reduction in departures would represent

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<sup>11</sup> For an employer to sponsor a Temporary Skill Shortage (subclass 482) visa holder they must be able to demonstrate they have tested the Australian labour market and are unable to find a suitable Australian worker. This generally involves advertising the position in Australian national media at least twice for a period of at least 4 weeks.

<sup>12</sup> National Australia Bank Quarterly SME Survey, 2021, Q2, July 2021.

<sup>13</sup> Australian Bureau of Statistics — Business Conditions and Sentiments, June 2021.

success. The proposal supports the National Transition Plan and ensures Australia maximises the benefits of migration as COVID-19 travel restrictions ease.

There are a number of potential barriers to achieving successful outcomes from these policy proposals. The most significant of these would be the further imposition of business and community restrictions to control the spread of COVID-19 (particularly if these are over the longer term). Temporary migrants who are unable to work or are subject to movement restrictions may see less value in staying in Australia, regardless of any changes to visa conditions that allow them to remain, particularly as other countries are removing restrictions.

Effective communication will be another important determinant to achieving success for these programs. The changes to the visa terms for temporary migrants represent tweaks to conditions for many individuals. Communicating their value to migrants so they can change their decisions will be crucial.

# 3. What policy options are you considering?

This policy problem and circumstances are such that there are fewer than three options feasible for consideration. Option 2 includes proposals for adjustments to visa settings for both onshore and offshore migrants that complement each other to provide a complete package maximising flexibility within migration settings.

Domestic measures for Australian workers to address workforce shortages in the absence of working temporary migrants are being developed separately by the Department of Education, Skills and Employment. The significant number of vacancies mean there is more opportunity for unemployed or underutilised Australians to enter employment. And this is occurring, as demonstrated by the number of underutilised people falling below its pre-COVID level, with 44,400 fewer unemployed and 111,400 fewer underemployed people in June 2021 compared to March 2020.

But barriers exist that work against people getting jobs. It can take time and cost money for a job seeker to find an employer with a vacancy suiting their skill set and vice versa. Often job vacancies are located in a different locale, and would require the job seeker to move – this is particularly an issue for regional Australia. And there is often a skills mismatch between the vacancies being offered and the available domestic workforce.

In addition, there are people not in the labour market or who belong to a cohort with historically poorer employment outcomes, but who may have valuable skills which are not being utilised or would be able to work in lower skilled jobs. This includes older Australians who have recently retired, but have valuable skills they could contribute, people with a disability, and younger Australians.

Noting the barriers against Australian workers mobilising to fill these workforce shortages, the visa measures in Option 2 seek to compliment the Australian workforce by filling critical labour and skills gaps, with migrant workers acting as job multipliers and supporting Australian businesses to grow.

## 3.1 Option 1 – Status Quo

The first option is to make no policy change. Under the status quo, we would expect temporary migrants will continue to leave Australia and create vacancies.

On the current labour market trajectory it is expected it will become increasingly hard to fill job vacancies. The number of underutilised people has fallen to below its pre-COVID level, with 44,400 fewer unemployed and 111,400 fewer underemployed people in June 2021 compared with March 2020. The jobactive caseload has also come down fast in response to the strong jobs market — from 1.5 million at its peak to less than one million now. And over 29 per cent of the jobactive caseload are earning income (though not sufficient to move off income support).

It will become increasingly difficult to place jobactive participants into jobs. While “job-ready” (stream A) job seekers have doubled (from 243,000 in February 2020 to 482,100 in June 2021), those job seekers with barriers to employment (stream B and C) have also grown to 477,800. As the labour market strengthens and the number of job ready jobseekers falls further as they find employment, remaining vacancies would need to be filled by the more disadvantaged with intervention to support disadvantaged job seekers into jobs. Some job seekers require additional training to ensure they are job ready. Others may need to consider changing occupations or moving to find work.

Notably, while the impact of COVID, and the subsequent recovery has been relatively even as a proportion of the workforce, the structural disadvantage existing in some regions pre-COVID remains. History has shown the difficulty of getting unemployed Australians to relocate to regional Australia notwithstanding job availability, with past relocation incentives having only modest outcomes. Regions face additional challenges in attracting workers, including availability of affordable housing, infrastructure and social amenity.

Offshore migrants must also be supported to return to Australia and contribute to economic recovery. Failing to extend concessions or adjust visa settings risks disincentivising visa holders from returning, especially those that have been impacted by COVID-19 related travel restrictions.

## 3.2 Option 2 – Maximising the Contribution of Priority Economic Migrants

The proposal will prioritise entry of economic migrants including skilled and temporary migrants and international students in increasing volumes. This prioritisation will encourage migrants that contribute the most to Australia’s economy to return in larger volumes first, kick-starting recovery from the pandemic. These efforts will be critical to filling workforce gaps, but volumes will not return to pre-COVID-19 levels until beyond Phase D of the National Transition Plan. To bridge these lead times, the proposal also seeks to introduce changes to visa settings to attract and retain priority temporary and provisional visa holders and increase their workforce participation.

Structural changes will ensure offshore priority migrants return to Australia and contribute to economic recovery. Measures provide targeted assistance for critical sectors currently experiencing worker shortages such as the Agriculture industry, but also provide greater flexibility for measures affecting all sectors experiencing skills shortages, support those on a pathway to permanent residence, encourage visitors to return when border restrictions allow to support the tourism and hospitality industry, and the international education sector. For offshore cohorts, specific measures are:

- Implementation of the Australian Agricultural Worker visa (AAWV).
- Doubling the scale of the Pacific Worker Programs.
- Reviewing the sectoral limitation to the Working Holiday Maker specified work requirement in the context of the year two review of the operations for the AAWV.
- Authority for the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs to provide concessions to a range of cohorts to support economic recovery.

- Concessions for priority skilled provisional visa holders impacted by COVID-19 travel restrictions.
- Enabling Temporary Graduate visa holders who have lost time in Australia due to travel restrictions to apply for a replacement visa.
- Extend Visa Application Charge (VAC) waivers for Visitor visa holders who have been impacted by COVID-19 travel restrictions.
- Extend visa validity periods and provide VAC refunds for Prospective Marriage visa holders impacted by COVID-19 travel restrictions.
- Extend the existing measure for students and temporary graduates to recognise time spent offshore studying online to count towards qualifying for a Temporary Graduate visa application.

Adjustments for temporary visa holders in Australia are designed to encourage them to remain in the country if they want to stay and work. Loosening work restrictions on existing visa holders, increasing stay periods for certain visas and streamlining procedures to make it easier and more appealing for temporary visa holders to remain in the country and continue contributing to the economy. Urgent adjustments to visa arrangements for temporary visa holders increases workforce participation, providing targeted support for Australia's international education industry and provided greater flexibility for all sectors. Specific measures for onshore cohorts are:

- Expanding eligibility for the Pandemic Event (subclass 408) visa from critical to all sectors<sup>14</sup>. Visas would be granted for a period of up to 12 months depending on labour market conditions which would enable employers to address immediate, short-term skills needs, and ongoing arrangements for this visa will be reviewed prior to 30 June 2022. The pandemic event visa, introduced in April 2020, addresses critical workforce shortages and currently allows temporary visa holders in Australia working in critical sectors to extend their stay by 12 months.
- Further relaxing work restrictions for international students and their dependents across all sectors. These concessions have been relaxed for students who work in health, aged and disability care, agriculture and tourism and hospitality sectors, allowing students to work more than the usual 40 hours per fortnight permitted while their course is in session.
- Relaxing work restrictions for other temporary visa holders where conditions limit work hours, for example, dependent Training (subclass 407) visa holders who are limited to 40 hours work per fortnight.
- Streamlining policy for subclass 482 visa holders to transition to permanent residence by expanding the list of eligible occupations.
- Increasing the stay period for Temporary Graduate (subclass 485) visa from two to three years for Masters by coursework graduates.
- Increasing the stay period for new and existing Temporary Graduate (subclass 485) visa applications from vocational education and training sector graduates onshore from 18 to 24 months and removing the requirement for a qualification assessment and occupation nomination from the skilled occupation lists.

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<sup>14</sup> Critical sectors include agriculture, health care, age care, disability care, child care and food processing.

# 4. What is the likely net benefit of each option?

## 4.1 Option 1 – Status Quo

### Impact on business:

As discussed above, no changes in policy settings will result in significant costs being borne by businesses. Temporary migrants will continue to depart the country and create more vacancies in addition to the record level of vacancies already being experienced across the nation. As noted, in May 2021 the ABS estimated there were 362,500 job vacancies — which is the highest ever recorded, and up 57.4 per cent compared to pre-COVID levels.<sup>15</sup> Businesses would need to adapt by attempting to hire workers to replace departing temporary migrants. This would impose costs, in terms of hiring and search costs, as well as lost firm-specific skills.

Given the tightness of the labour market, and the reported difficulty businesses already face in recruiting staff, it is likely replacing lost workers will take time. In some cases, businesses may employ currently unemployed people or increase the hours of underemployed. But in other cases, particularly where a job requires a particular skill set or there is a shortage of labour in the region where a business is located, the business may need to increase wages to attract workers from other Australian firms to replace lost workers, increasing their costs (although benefiting the worker), with no/negligible increase in the businesses production, and a loss in production to the firm losing its employee. In other cases, businesses may be unable to find a suitable employee – at least in the short term. Depending on the length of time taken to fill the vacancy and the business structure, businesses may need to reduce output while they search for another worker.

### Impact on individuals:

The impact of having temporary migrants continuing to depart the country for domestic workers is likely to be net neutral. As discussed, demand for labour in Australia is currently extremely strong, with the unemployment rate falling to 4.9 per cent in June – the lowest rate since December 2010 – and job vacancies at record highs. In some ‘hot’ sectors where certain skills are required and a worker shortage exists, workers may benefit from the tight supply/demand balance through higher wages. But there are other factors which limit the impact the tight supply demand balance may have on wage growth,<sup>16</sup> including increased participation by those currently out of the workforce, wage ‘stickiness’ due to bargaining arrangements, and businesses choosing to limit wage increases to attract staff, instead attempting to use non-wage alternatives to attract staff or not expanding due to the need to maintain international competitiveness or other factors. To the extent the lack of available staff stymies economic growth more broadly and prevents businesses expanding, it is likely to slow the growth at which Australians are employed. Offshore economic migrants may also not be enticed back to Australia if they are not prioritised to return as outlined in the National Transition Plan.

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<sup>15</sup> Ibid 3

<sup>16</sup> [www.rba.gov.au/speeches/2021/sp-gov-2021-07-08](http://www.rba.gov.au/speeches/2021/sp-gov-2021-07-08)

As discussed above, the Productivity Commission, in their 2016 *Migrant Intake into Australia* report, has found that, at an aggregate level, recent migrants have a negligible impact on wages, employment and participation of the existing labour force. Similarly, the Committee for Economic Development for Australia in its 2019 report, *Effects of temporary Migration: Shaping Australia's society and economy*, affirms that recently arrived temporary migrants have not had a negative impact on wages or participation rates of Australian-born workers. As this result is a net impact at the aggregate level, this means there are likely to be some workers who see worse employment outcomes and some who see better outcomes with the continued departure of migrants. For temporary migrants who depart because of visa conditions but would have preferred to stay, the status quo represents a negative. The RBA has noted that, while the current lockdowns can be expected to result in employment to decline in the September quarter and the unemployment rate to increase, the economy is expected to bounce back, barring further outbreaks, with unemployment resuming its downward path and approaching 4 per cent by the end of 2023.<sup>17</sup> Also, in 2019, Brell & Dustmann (from the Centre for Research and Analysis of Migration, University College London) reviewed the empirical evidence analysing the link between migration and wages in Australia.<sup>18</sup> Their analysis found that, while 'sparse', the evidence did not generally support adverse impact on average wages or wages of low-skilled Australians arising from migration. While the pandemic may have impacted the relationship between migration and wages, there is no empirical research undertaken during this period showing any negative effect. The Department's view is that these previous findings remain the best indicators that migration does not have a negative effect on wages and growth.

### Impact on Government, community and the environment:

The status quo is likely to have a relatively small overall impact on Government, with the most notable effect being on taxation revenue. A continued departure of migrant workers risks lowering business output and tax intake, as well as personal income tax revenues. The status quo is likely to have a negligible impact on the community and the environment.

The cost to business is the estimated additional hiring cost of replacement labour. It does not take account of those unable to replace temporary migrants, nor the loss in value of firm-specific knowledge and so the figure of \$1.7 billion (75,000 x \$19,000) avoided cost should be considered a low estimate. Note the proposal is for 12 months and subject to the trajectory of COVID-19 and the international border, it is expected Government would need to make new decisions regarding this cohort of temporary visa holders. Maintaining current temporary visa settings imposes no new regulatory burden on individuals, business or the community. Reviewing the ongoing suitability of these measures in 12 months, combined with the increased options available to migrants as a result of staying in Australia longer, will not mean all these costs of recruiting will simply be delayed 12 months as more migrants will be incentivized to build on their foundations in Australia and pursue further options to stay, often continuing with their employers.

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<sup>17</sup> RBA, Statement on monetary policy, August 2021.

<sup>18</sup> Brell & Dustmann, *Immigration and Wage Growth: The Case of Australia*,



## 4.2 Option 2 – Maximising the Contribution of Priority Economic Migrants

Temporary migrants are leaving Australia and are not being replaced due to the international border closure. At the same time, the demand for workers by Australian businesses is exceptionally strong. Together this coincidence of events has resulted in workforce shortages across a range of sectors and locales. Maximising the capacity of the existing migrant workforce in Australia and incentivising migrants offshore to return will support Australia's economic recovery. The trigger for Phase D and the transition away from the travel exemptions framework is unknown, with these measures helping to boost economic recovery through this transition period and beyond.

### Impact on business:

The proposed domestic measures would be expected to have a positive impact for businesses overall. Increasing the speed at which employers can find suitable employees will reduce their search costs and the impact a long-term vacancy would have on their output.

The most significant costs avoided by allowing temporary migrants to remain with their current employers are the costs of filling a vacant position and the loss of firm-specific skills (as discussed above). Importantly, this option should be viewed as taking action to avoid exacerbating the current workforce shortages, rather than an improvement on their current position. The number of vacant jobs in the economy is currently 57.4 per cent higher than pre-COVID levels<sup>19</sup>, which is the highest level in the history of the series. The unemployment rate is now 4.9 per cent, which is the lowest level in a decade. These data indicate that it is becoming increasingly difficult to find workers to fill jobs. In this environment, it is even more costly than normal to fill vacancies – if they can be filled at all.

The precise size of the benefit is relatively uncertain. But it is possible to estimate a lower bound of the costs avoided using the parameters already provided. The survey data referenced above indicated that the average cost of hiring a new employee was \$19,000 in 2019.<sup>20</sup> The level of vacancies was far lower in 2019 than they are now and the unemployment rate slightly higher suggesting the difficulty and cost of hiring is likely higher now. This is consistent with anecdotal reports from business about their recent experiences. So it is reasonable to assume this is a lower bound estimate. Given this option is estimated to encourage up to 75,000 temporary migrants to remain in the country for a year, the estimated total avoided cost to business is around \$1.4 billion (75,000 x \$19,000). This estimate does not include the cost of lost firm-specific skills, which are also extremely difficult to estimate. Businesses may incur this cost in a further 12 months should these visa holders depart following these proposals. However, the extra time in Australia for migrants will result in them establishing better foundations in Australia and be more likely to pursue further options to stay, including continuing with their employers.

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<sup>19</sup> Ibid 13

<sup>20</sup> Ibid 1

It is important to note this option could impose a cost for a smaller sub-set of businesses currently employing a visa holder subject to a sectoral restriction, such as the Pandemic Event visa, where the restriction is lifted under this proposal. With the removal of restrictions some temporary migrants are likely to leave their employer and move to another industry. While this represents a cost to the original employer, it is a positive outcome for the migrant and their new employer and thus can be considered neutral overall. While it can be considered that both the giving and receiving employer would have to advertise to fill their position respectively, the removal of the restrictions would represent a policy compromise, accepting some costs to certain employers but helping avoid the migrant departing Australia entirely, which represents a larger aggregate cost, noting sectoral restrictions make many temporary migrants less likely to remain in Australia, particularly for those without the skills or capacity to contribute effectively to a critical sector. Providing more time in Australia opens up other options and may encourage temporary migrants to seek a pathway to permanent residence, increasing their economic contribution and improving net overseas migration

### Impact on individuals:

For temporary migrants in Australia, this proposal presents a positive change, as it provides them with more choices. Temporary migrants will have the option to remain in Australia with their current employer under the temporary visa extension, or to move to a role that suits them better as sectoral restrictions are lifted. More choice without any new restrictions is a net positive. For some migrants, this change will not affect their circumstances, but for others who have a strong desire to remain in Australia, these changes are of significant advantage.

For some unemployed Australians, this policy change could present a short-term missed opportunity. In some cases, the additional job vacancy created by the departure of the temporary migrant could have been filled by a domestic jobseeker. However, as discussed above, Australians receive broader benefits from migration, such as more demand for goods and services and so increased job creation, and knowledge spillovers. However, this risk needs to be viewed in the context of the current Australian jobs market. As outlined above, the demand for labour, together with fall in labour supply resulting from those temporary migrants already departed not being replaced, has resulted in historically high level of job vacancies — 57.4 per cent above pre-COVID levels, and the ratio of unemployed persons per job vacancy has fallen to 1.9, down from the recent peak of 7.2 recorded in May 2020. This is without the additional vacancies that would be created through departing temporary migrants, suggesting the risk of displacement is small, given the temporary, short-term nature of the proposed option, and taking into account mobility restrictions and skills mismatches.

### Case Study

James is a 28 year old UK national who has accounting experience and has been working in a junior support role for a medium sized business in Wollongong. The firm is looking to expand and has advertised for similar roles, however they have not been able to attract suitable candidates. James is coming to the end of his second working holiday maker (WHM) visa and has not carried out the required specified work to qualify for a third WHM visa. He would ordinarily need to return to the UK as there are limited visa options for him to stay, however he can now apply for pandemic event visa and extend his stay for another 12 months and help the business grow.

Concessions to a range of cohorts disadvantaged by COVID-19 travel restrictions will further ensure timely support for Australia's economic recovery. Concessions ensure visa applicants and holders are not unfairly disadvantaged due to border closures and have incentives to return. This helps to rebuild Net Overseas Migration and support economic development, including in regional Australia where there are a large number of visa holders on a pathway to permanent residence who may not meet requirements without this concession. By extending or restoring visa status for affected individuals, it removes legislative blockages to their return to Australia, when travel restrictions allow, to maximise the contribution of priority economic cohorts.

### Impact on Government, community and the environment:

These proposals are expected to have a small positive impact for Government. Where this proposal can ensure businesses have access to the labour needed to continue operations, it will ensure corporate tax revenues do not decline.

This option would have a relatively small overall impact on Government, with the most notable effect being on taxation revenue. To the extent the option avoids disruptions to business output and avoids costs businesses would otherwise incur as a result of departing employees, it will ensure corporate tax revenues do not decline. Similarly on an individual basis, to the extent the proposals can keep as many individuals in employment as possible, it will ensure personal income tax revenues do not decline. Given the measures under this option are temporary and will be reviewed regularly, the risk of unintended consequences for the economy and labour market are minimised.

### Regulatory burden estimate (RBE) table

This option will impose no additional regulatory burden on businesses, which will not be required to take any action to benefit from the measures, and do not affect community organisations. To the extent the option is successful in retaining temporary migrants, it would avoid costs to business which would be incurred under the status quo (option 1).

The impact on Australian individuals is expected to be negligible given the low unemployment rate, the historically low unemployed to vacancy ratio, and skills and geographical mismatches. Some individuals will choose to apply for the affected visas because of these changes. But as all non-citizens are required to hold a visa to remain lawfully in Australia, there is no additional regulatory burden associated with changes allowing non-citizens to apply for more attractive and flexible visa options. Measures to streamline policy of skill visas will reduce the regulatory burden for individuals and businesses by approximately \$14.9m over the next 12 months as a result of the following initiatives:

- Removing the requirement for a qualification assessment to be provided in order to be granted a Temporary graduate (subclass 485) visa will reduce regulatory burden on individuals by an estimated \$9.9m;
  - This will apply to approximately 20,000 applications currently on hand and provide an incentive for an estimated additional 3,500 applications.
  - These applicants will no longer need to undertake a skills assessment, estimated at an individual cost of \$415.

Estimated number of student visa holders impacted	Skills assessment market fee	Total Offset
24,000	\$415	\$9.9m

- Streamlining policy and procedures for Temporary Skilled Work (subclass 482) visas and those transitioning from this visa to a permanent skilled visa, will reduce regulatory burden on businesses by an estimated \$14.9m
  - This pathway to permanent residence for TSS holders in the short term stream will be implemented by enabling occupations on the Short-term Skills Occupation List to be eligible for a permanent Employer Nomination Scheme (ENS) visa
  - There are approximately 21,000 Temporary Skills Shortage (subclass 482) primary and secondary visa holders in the short-term stream in Australia. 2,000 applicants is a conservative estimate of those that will meet the three year work experience requirement and other eligibility requirements for an ENS visa.
  - The \$2500 Labour Market Testing (LMT) services fee is an estimate of the cost of advertising the position to meet LMT requirements for the permanent visa as the Department will concurrently streamline the genuine need assessment that requires employers to advertise the position.

Estimated number of temporary skilled visa holders impacted	Labour Market Testing services fee	Total Offset
2,000	\$2500	\$5.0m

Average annual regulatory costs				
Change in costs (\$ million)	Individuals	Business	Community organisations	Total change in cost
Total, by sector	-\$9.9	-\$5.0	\$0	-\$14.9

# 5. Who did you consult and how did you incorporate their feedback?

The Department of Home Affairs, in conjunction with the Department of Education, Skills and Employment through the Cabinet Office Policy Committee process, undertook targeted consultation with industry leaders to source views on the workforce issues they have been observing. Input and concerns from these meetings informed the development of options.

Furthermore, on 17 June 2021, the Department of Home Affairs consulted the Ministerial Advisory Council on Skilled Migration (MACSM) about skill shortages in Australia's labour market and the challenges of re-opening the international border given the uncertain trajectory of COVID-19. MACSM is a tripartite body, comprising industry, unions, State and Territory government representatives and any other members nominated by the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs. Currently, there are 21 members of MACSM with a full list available at [www.homeaffairs.gov.au](http://www.homeaffairs.gov.au)

MACSM discussed and debated the following issues which informed the development of this proposal noting that further advice would be provided to Government:

- What are the possible changes to temporary migration settings given that it provides a key pipeline for permanent skilled migration?
- How can labour migration, including low skilled, best benefit Australia economically and socially over the short-term and longer term and what measures can be used to mitigate adverse impacts on jobs for Australians, social cohesion, worker exploitation, or other issues?
- Factors the Government should consider in reopening the international border to temporary migrants
- Mechanisms Government could use to support the return of temporary migrants
- The prioritisation of cohorts for the reopening of Australia's international border
- Relaxing work restrictions for international student visa holders in Australia to enable them to work more and contribute to the labour market noting their primary purpose is to study and obtain an Australian qualification.
- Providing clearer options and pathways for temporary visa holders to apply for permanent residence.
- Temporary visa holders working in Australia are entitled to the same basic rights and protections under applicable workplace laws as Australian citizens and permanent residents. Members were informed the Government has no tolerance for visa fraud, illegal work, worker exploitation and worker underpayment of any kind.
  - The Government is seeking to ensure arrangements are in place to protect migrant workers from exploitation by employers. MACSM members were invited to comment on the exposure draft of The Migration Amendment (Protecting Migrant Workers) Bill 2021 announced on 26 July 2021 with public comments due by 16 August 2021 (see: [www.homeaffairs.gov.au](http://www.homeaffairs.gov.au))

MACSM's role includes advising the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs on opportunities to reduce regulatory burdens and costs on Australian businesses seeking to access visa programs to fill genuine skilled vacancies. Consultation with MACSM on workforce pressures has informed the final proposal by helping to better address the needs of business and workers and refined key policy elements to maximise the economic contribution of priority cohorts.

## 6. What is the best option from those you have considered?

Option 2 is the best option.

It offers significant net benefits to businesses, as discussed above. Businesses are facing looming costs from the continued departure of temporary visa holders, at a time when the domestic labour market is tight and filling vacancies is extremely challenging, expensive and time-consuming.

This option will help slow the outflow and alleviate some of the immediate and significant workforce pressures already being felt by businesses and avoid them incurring the substantial costs, or the decline in output that are likely to accrue under the status quo (option 1). The costs of this proposal are small in comparison to the benefits. While some businesses may suffer costs due to losing temporary migrant workers to another business as a result of restrictions being eased, the net cost on the business sector will be neutral in such cases.

Similarly, the impact of option 2 on Australian workers or unemployed is expected to be negligible. International and Australian studies all point that, at an aggregate level, recent migrants have a negligible impact on wages, employment and participation of the existing labour force and has net positive effects overall. While this option could feasibly impose an opportunity cost on some individuals (that is, a job vacancy they could fill is not created by the departure of a temporary migrant), the risk of displacement is low due to the significant vacancies already available in the current labour market.

Option 2 also offers significant net benefits to businesses and individuals, at a relatively low cost to Government. Businesses would benefit from an increased pool of potential workers with the right skills, and the potential to find those workers more quickly, helping them meet their workforce needs and reducing search costs. And unemployed and underutilised individuals would benefit from increased services designed to help them participate in the labour market and find employment quickly.

Importantly both Options 2 tackles workforce shortages currently being felt across the nation with strategies for migrants both offshore and onshore. As noted, because many temporary migrants are already in the workforce, option 2 operates as a retention strategy to incentivise those temporary migrants already in Australia to stay for an extended period and continue to work. This will help prevent making the current workforce shortages getting worse, with the offshore measures helping address the workforce shortages that have already emerged and

which threaten to constrain Australia's economic recovery. The offshore measures make clear that Australia supports visa holders affected by border closures and will welcome back priority cohorts. Concessions in response to the changing trajectory of the pandemic and Australia's economic recovery provides flexibility to respond to changing labour market conditions.

The consultation process made clear that workforce pressures resulting from the closed international border are a key concern for businesses and threaten to constrain growth. The economic value of migration to Australia was central to the discussion, while at the same time acknowledging the challenges of ensuring the overall migration program is well-managed and continues to contribute to community well-being. This submission is one part of a broader discussion about how to best manage migration in the short and long term. Participants agreed that the solution to workforce pressures would be a combination of enabling the domestic workforce and continuing to manage migrant flows.

These proposals come with the important caveat that they form only one part of the solution to the ongoing workforce demands of business. The business community always has an important role to play in attracting and developing workers, which should be seen as complementary to efforts by Government. Workforce outcomes in the short-term are also likely to be dependent on the course of the pandemic over 2021.

Finally, a decision to unlock skills and labour was informed by a draft RIS at each major decision point that had not been assessed and finalised by the Office of Best Practice Regulation. This 2<sup>nd</sup> pass RIS includes targeted measures to address the issue that have been developed through extensive consultation.

# 7. How will you implement and evaluate your chosen option?

The measures in this proposal will be implemented through Ministerial announcements, policy and procedural changes, legislative instrument changes and regulation changes. The transitional arrangements will be generally managed by making the new arrangements apply to new applications and applications lodged but not finally determined from the implementation date to ensure maximum benefit to the individual visa applicants. Changes to student visa holder work restrictions will apply to all visa holders from the date of the announcement.

All measures will be supported by public information updates on the Department of Home Affairs website, online and paper form changes, revised scripts for the Department's contact centres for client enquiries and other communications material as required. When decisions are made in the future to cease these measures, effective communications to all affected stakeholders will be critical to ensure a smooth transition to normal arrangements.

Expanding eligibility for the pandemic event visa may be viewed as creating a low skilled work visa. This measure is temporary and the design ensures that to meet the eligibility criteria there are no other viable visa options for applicants to remain and contribute to the workforce and applicants can only apply with less than 90 days remaining on their existing visa. The arrangements will be reviewed prior to 30 June 2022 to ensure the settings remain appropriate based on labour market conditions and travel restrictions.

Effective communication and management of the application processing of this and other cohorts will encourage maximum migrant participation in the workforce and limit non-genuine applicants that may seek to misuse the program and undermine its effectiveness. Efficient and timely visa application processing will also be important to provide temporary visa holders with certainty of their lawful status and work rights in Australia.

The approach taken to implement concessions to existing student and other temporary visa work conditions involves some risk. The Migration Regulations 1994 prescribes certain conditions are applicable to student and other temporary visa holders. Specifically condition 8105 is applied to a student visa holder and prescribes that the visa holder must not engage in work in Australia for more than 40 hours a fortnight when the visa holder's course of study or training is in session.

This relaxation is being implemented as a matter of policy, as it is a temporary measure, wherein discretion will be exercised not to cancel visas, and not to refer students or employers for investigation of possible breaches of the Migration Act. The Department of Home Affairs and the Australian Border Force will provide information for students and employers on its website.

There may be flow-on effects for education providers if international students fail to make satisfactory course progress if their increased work hours interferes with their study. Public communications and other communications with the sector will emphasise that this is not intended as a long-term measure, and students are still expected to meet all other conditions of their visa, including maintaining their course enrolment, ensuring



satisfactory course attendance, and satisfactory course progress. Effective communication of the cease date of these measures and that students will be expected to comply with visa conditions after this date will be critical.

The effectiveness of the policy will be measured through the number of visa applications from the target cohorts and the number of temporary visa holders in Australia. The Department of Home Affairs will also monitor application fraud, complaints about employers, visa holder compliance and complaints to the Fair Work Ombudsman to assess the effectiveness of the program. Successful course progress of student visa holders will also be a key measure to ensure students are balancing their study with the opportunity to increase their work hours.