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# TRANSFORMING AUSTRALIA'S VISA SYSTEM

Response to the policy consultation paper

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## Executive Summary

Engineers Australia is the peak body for the engineering profession in Australia. With the largest membership of any engineering organisation across Australia, we represent all disciplines and branches of engineering. Engineers Australia is constituted by Royal Charter to advance the science and practice of engineering for the benefit of the community. We accredit Australian university engineering courses in line with audited international standards and we set standards for the practice of engineering in Australia.

Engineers Australia supports simplification of Australia's visa system and believes that this should be addressed simultaneously with clarifying the objectives for different visas and the visa system as a whole. In particular, the term "skilled shortage" should be applied to the immediate future no longer than six months and avoided when dealing with Australia's medium to longer term skills requirements.

Our comments relate to three skilled visas that we believe should be retained. They are the employer sponsored and independent skilled visas for prospective permanent migrants and a temporary visa to cover genuine short term skill shortages.

Engineers Australia has serious concerns for the lack of labour market testing and skills assessment for temporary visas granted to engineers. Skills assessment for all migrant engineers are essential and assessments by employers for temporary visa holders, while favouring their own requirements, don't reflect the requirements of a national profession.

Engineers Australia can understand why employers might favour a period of residency in Australia on a temporary visa before a permanent visa is granted. However, if this approach were to be applied generally it would undermine the objective for temporary visas which is to meet immediate short term skill shortages. Australian employers experience difficulties in recruiting engineers with particular skills and experience in particular geographic locations, and the extent of this fluctuates depending on the market for engineering-related services at any given point in time; temporary work visas are designed to meet this need. It is a very different tool to permanent migration visas, which are used to manage the long-term workforce planning needs of the nation. Accordingly, the notion of requiring engineers to always transition to permanent visa status through a period of employment on a temporary visa is fundamentally flawed.

General reliance on transition from temporary to permanent visas would undermine the overall standard of engineering in Australia because there is no skills assessment for temporary migrants. In the past there has been a suggestion that a period of continuous employment in Australia on a temporary visa is an alternative to formal skills assessment. Engineers Australia regards this course as totally unacceptable.

The framework for the skilled migration program is the Australian and New Zealand Standard Classification of Occupations (ANZSCO). However, often ANZSCO occupations reflect the past much better than the future. This is especially so in highly specialised areas of engineering and emerging areas of engineering that will become increasingly important over time. A way to introduce flexibility to skills assessments to address this limitation is proposed.

These views have been framed into recommendations which are summarised on pages 12-13.

## Simplifying visa arrangements

Australia's visa system has developed incrementally over some decades and Engineers Australia agrees that it has become complex and unwieldy. We agree that there are too many visas and the boundaries between many of them are unclear. The consultation paper proposes a system of ten visas. Although we agree with this size order, we have no strong views about a final number.

From a structural perspective we believe four categories of visas are necessary; permanent skilled visas to cover migrants seeking to become part of Australia's permanent population, temporary stay visas to cover people studying or working in Australia for defined short periods, humanitarian visas to cover family reunions and refugees and tourist visas to cover visitors to Australia up to a defined maximum period each year. As a professional organisation we believe that three skilled visa categories should be retained. These are:

- Permanent sponsored skilled visa; to cover employer sponsorship and State or Territory sponsorship providing this entails the same assurance of employment as employer sponsorship.
- Permanent independent skilled visa; to cover prospective skilled migrants on the MLTSSL who do not have employer sponsorship.
- Temporary skilled employment visas; to cover temporary skilled migrants in circumstances of demonstrated skill shortage.

One of the weaknesses of the current large number of visas is that the objectives of the visa system are lost and few prospective migrants and, for that matter, the community at large, know what the objectives are and how the visa system is intended to function. We believe that each of the four visa categories should have a clear statement of objective relevant to the visa within the category. We comment further on this matter as it relates to skilled visas below.

**Recommendation:** Engineers Australia recommends that within a reduced number of visas the three skilled visas listed above should be included. Each visa, including others that the Government may decide on, should have a clear, well defined objective free from ambiguity.

## Temporary and permanent residence

### Distinction between permanent and temporary visas

In present migration policy, permanent skilled visas are intended to supplement the capacity of Australian educational institutions to produce the skills and capabilities required by the Australian community and economy in the medium to long term. Temporary skilled visas are intended to relieve immediate short term skill shortages in particular occupations and/or geographic locations. We believe this distinction has merit and should continue as the basis for skilled visas, but confusion concerning how the term "skill shortage" is used must be addressed.

The clear intention of policy is that temporary visas should relate to employers' inability to fill positions in the immediate future, that is, the coming four to six months. This characteristic means that numbers granted these visas should reflect demonstrated demand circumstances. On the other hand, medium to long term as it is associated with permanent visas relates to the next decade or decades, most definitely a period longer than the time required to complete the qualifications expected of skilled migrants; in engineering four years for entry level qualifications and seven years including three years of professional formation. However, the term "skill shortage" is commonly used in both situations, including in supporting research material. Engineers Australia believes that this confusion should be resolved and terminology changed to ensure that all stake-holders fully understand visa objectives.

**Recommendation:** Engineers Australia believes that the distinction between temporary and permanent visas should be reinforced by avoiding ambiguous use of the term "skill shortage" to describe labour market circumstances pertaining to permanent visas.

## Permanent visas

Engineers Australia believes that in a simplified visa structure of about ten visas both employer sponsored and independent permanent visas should be retained. Employer sponsored visas ensure that new migrant engineers are employed in an engineering occupation in the employer's location from the outset. We note that policy makers have been encouraging greater take up of these visas for some time, but employer sponsored visas still remain only about half of permanent visas granted to engineers. Despite this outcome we support the continuation of efforts to increase the number of permanent visas.

We distinguish between employer sponsored visas from State or Territory sponsored visas. The latter do not result in employment in all cases. In this sense there is little to distinguish State or Territory sponsorship from independent permanent visas. Should States and Territories be willing to offer prospective migrants employment on the same basis as employer sponsorship, one permanent sponsored visa could cover both cases.

In part independent permanent migration visas are required to offset the shortfall in employer sponsorship. Another argument for the retention of these visas is that often prospective migrants qualified in new and emerging fields of engineering are not on the radar of existing employers. Courses in such areas of engineering are embryonic in Australia and it is important to leave open the opportunity to attract migrants in these fields, especially those that have practical experience. The main disadvantage of independent migration visas has been a high tendency for new migrants to locate in State capital cities with the result that unemployment rates have been higher even during periods of Australia wide excess demand and the proportion who remain in engineering occupations is much lower than for Australian born engineers.

The selection process for independent skilled migrants broadly involves two stages; the assessment of formal qualifications and work experience in Australia and overseas, followed by a ranking arrangement based on a points test. Engineers Australia notes that in recent years the points test for this purpose has been developed to better align with professional

qualifications expected of fully competent, practicing engineers. We believe that this evolution should continue and that the points test should be extended to employer sponsored visas. Australia's future engineering capability should comprise a blend of engineers with a range of engineering experience from comparatively new graduates to engineers highly experienced in their field as well as specialists in established and emerging areas of engineering. We believe that further adjustment of the points test will help to achieve such a balance.

By extending the points test to employer sponsored migrant engineers, employers will make selection decisions in the context of points test criteria, a process independent of their own selection arrangements. With better and more complete information employers are in a position to make better recruitment decisions because candidates they are examining are ranked alongside all prospective migrant engineers.

A critical aspect of the points test is the evaluation of work experience and the points allocated to this criterion. Engineers Australia notes that more points are awarded to Australian than overseas work experience and, in the light of information limitations concerning overseas experience, we believe this should continue. However, we believe that that points awarded to the most experienced engineers have not been increased sufficiently and are offset by reduced points for age. The result is that overall ranking of engineers still favours the less experienced engineers. A more balanced outcome could be achieved by increasing points allocated to prospective migrant engineers with 5-7 years of experience (from 10 to 15 for overseas experience and 15 to 20 for Australian experience) and with 8-10 years' experience (from 15 to 20 for overseas experience and 20 to 25 for Australian experience).

**Recommendation:** Engineers Australia recommends:

- Retention of both employer sponsored and independent permanent skilled visas. When States or Territories sponsorship entails the offer of employment on the same basis as employer sponsorship, one sponsored visa could cover both situations. When State or Territory sponsorship does not offer employment on the same basis as employer sponsorship, this situation should be covered by independent permanent skilled visas.
- Greater recognition of work experience to ensure maximum alignment between the assessment of prospective migrants and professional engineering standards. This can be achieved by increasing points allocated to prospective migrant engineers with 5-7 years of experience (from 10 to 15 for overseas experience and 15 to 20 for Australian experience) and with 8-10 years' experience (from 15 to 20 for overseas experience and 20 to 25 for Australian experience).
- That the points test be applied to both prospective independent permanent migrants and to prospective employer sponsored migrants to provide employers with an independent assessment of the rank order of their candidates to assist them to make better choices.

## Temporary visas

In line with the remarks in the previous section, Engineers Australia is firmly of the view that skills assessments are essential for engineers in **all** permanent and temporary visa categories. Engineers Australia is aware that skills assessments do not apply to most temporary visas at present and regards this as a major weakness in Australia's skilled migration system. Some employers, notably large engineering enterprises may be in positions to assess many of the competencies of temporary visa engineers, but this is not universally the case and does not cover all competencies. Employers will also assess an individual's engineering competences from a narrower perspective rather than from the perspective of a national engineering profession. The issue at stake here is ensuring that temporary skilled migration visas contribute to the development of Australia's engineering capability. This becomes a critical issue when temporary visas are seen as a transition path towards permanent visa status.

In making the above remarks Engineers Australia is alert to the need for quick assessment when the purpose of temporary visas is to respond to short term needs. The skills assessments undertaken by Engineers Australia on behalf of the Government begin by examining whether education qualifications were completed in Australia or are accredited in one of the Washington, Sydney or Dublin Accord signatory countries. Engineers Australia accredits Australian university degree courses in engineering and recognises the equivalence of these arrangements in the three Accords. Over time, Accord membership has grown resulting in a large pool of countries for which qualification assessment arrangements can be straightforward and quickly undertaken.

Engineers Australia also notes that until recently there was no labour market testing for temporary visas granted to engineers. We believe this resulted in an unjustifiably large number of engineers employed on temporary visas, even taking into account the transition following the end of the resources boom. Australian universities have succeeded in gradually increasing the numbers of engineers completing engineering courses and new graduate engineers have found it increasingly difficult to find employment in recent years. This situation is in direct conflict with the objective for temporary visas and the policy of not testing the labour market has contributed to the situation.

**Recommendation:** Engineers Australia recommends that:

- All temporary visa applications be subject to labour market testing to determine that demonstrated skill shortages exist.
- All temporary visa applications be subject to skills assessment on the same basis as permanent visa applicants to test that professed skills meet Australian standards.

## Residency in Australia

We agree with the consultation paper that employers may find it attractive to engage a migrant engineer on a short term visa as a means of assessing the suitability of that person for on-going employment before sponsoring them for a permanent visa. We have several concerns, however.

First, if such a transition were to become the normal method for migrant engineers to obtain a permanent visa it would undermine the current objective for temporary visas which is to respond to immediate short term skill shortages. Australian employers experience difficulties in recruiting engineers with particular skills and experience in particular geographic locations, and the extent of this fluctuates depending on the market for engineering-related services at any given point in time; temporary work visas are designed to meet this need. It is a very different tool to permanent migration visas, which are used to manage the long-term workforce planning needs of the nation. Accordingly, the notion of requiring engineers to always transition to permanent visa status through a period of employment on a temporary visa is fundamentally flawed.

Even in individual cases Engineers Australia would expect to be assured that engaging a migrant engineer on a temporary visa is a genuine response to a short term “skill shortage” and not at the expense of graduates from Australian universities. New graduates fall into two groups—those who are Australian citizens and permanent residents and those who studied in Australia on temporary student visas. New graduate engineers from the first group have found it increasingly difficult to find employment in recent years underscoring the importance of labour market testing. The transition option discussed in the consultation paper exacerbates this situation by favouring the second group. The engineering profession is already majority overseas born in contrast to other professions and segments of the Australian labour force. We believe this excessive reliance on migrant engineers carries serious risks and greater balance is essential.

Our final concern relates to the absence of skills assessment for temporary visas. In the past there has been a suggestion that a period of continuous employment in Australia on a temporary visa is an alternative to formal skills assessment. Engineers Australia regards this course as totally unacceptable. Engineering standards in Australia, both at entry level and in professional practice, are determined in line with international standards and we totally reject the notion the transition path from temporary to permanent visa in any way is an alternative to formal skills assessment of entry level qualifications and work experience.

**Recommendation:** Engineers Australia recommends that:

- Residency and employment in Australia on a temporary visa should not become a requirement for transition to permanent visa status. Temporary visas are intended to meet short term demonstrated shortages and should not be used for other purposes. Employers should retain the current option to transition someone they employed on a temporary visa to fill a demonstrated short term need to a permanent visa.

- Residency and employment in Australia on a temporary visa should never be considered as a substitute for comprehensive assessment of skills and work experience.

## Modernising visa arrangements

Engineers Australia agrees that ensuring Australia has an effective and efficient visa system is in our national interest. This includes moving to superior means of identification of relevant occupations. However, so far as engineers are concerned, we should not be compromising the fundamental objective to build the medium to longer term engineering capability of Australia. History has shown that Australia is unlikely to be self-sufficient in engineers and dependence on skilled migration will continue to be important. We believe that part and parcel of an effective and efficient visa system is fine tuning the assessment process as described in this submission.

### Some flexibility is essential

The framework of Australia's skilled visa system is the ANZSCO occupational system. Our experience as an assessment organisation shows that strict reliance on the ANZSCO classification system can cause problems in assessing the qualifications of individuals who do not neatly fit ANZSCO criteria. This is because ANZSCO essentially reflects established occupations and although only a decade old, was developed over yet another decade. In other words, often ANZSCO occupations reflect the past much better than the future. This is especially the case in highly specialised areas of engineering and in new emerging areas of engineering that will become increasingly important over time.

In time, ANZSCO will be revised and many of these situations will be resolved. But the essential backward looking nature of ANZSCO will continue to be an issue. Rather than simply wait for revision, Engineers Australia would prefer to see some negotiated flexibility introduced into the application of the present classification, especially in respect to "ANZSCO 233999 professional engineers not elsewhere classified". At present this occupation code, whilst on the MLTSSL, is available for sponsored migration but not for independent migration. Thus an employer seeking a specialist railway engineer from overseas must search using ANZSCO 233215 transport engineer because railway engineer does not have its own ANZSCO occupation. Similarly, emerging areas of engineering, for example, nanotechnology does not have its own ANZSCO occupations. In contrast, another emerging area, mechatronics is explicitly listed under ANZSCO 233999.

For the majority of cases the ANZSCO system continues to be effective. Clearly good public policy should avoid unfettered flexibility in how ANZSCO is applied. Our suggestion is that The Department of Immigration and Border Protection (DIBP) discuss the range of situations where Engineers Australia has encountered assessment problems with a view to establishing an agreement on how ANZSCO 233999 could be applied to cover highly specialised and emerging areas of engineering not well covered by ANZSCO. Such an arrangement would maintain the integrity of the ANZSCO framework while ensuring that migration of highly specialised engineers and engineers in new and emerging areas of engineering is not impeded.

**Recommendation:** Engineers Australia recommends that the Department of Immigration and Border Protection discuss and agree with Engineers Australia circumstances in which ANZSCO 233999 can be applied in skills assessments to ensure that the limitations of the ANZSCO system do not impede migration to Australia of emerging engineering specialists and highly experienced engineers in specialist traditional occupations not covered by ANZSCO.

## Frequency of review for the MLTSSL

Independent permanent migration is framed around the former Skilled Occupation List (SOL) now the Medium Long Term Strategic Skills List (MLTSSL). This list defines the occupations available for prospective independent migrants to be granted permanent visas. Since 2010 the list has been updated annually, now by the Department of Education and Training. Annual reviews typically focus on changed circumstances over the year and have a distinctly short term flavour including discussions of “skill shortages”. At the same time, the size of the annual migration intake, including the skilled component, has remained unchanged for the past four years.

Arguably unchanged annual permanent skilled migration should be accompanied by less frequent review of the MLTSSL. The case for annual reviews reflects the rapidly changing circumstances of the construction phase of the last resources boom. Permanent migration is now more clearly augmentation of the medium to long term output of Australia’s educational institutions and how that output relates to the medium to long term development of the Australian economy. This relationship is unconstrained by the short term pressures that emanated from the rapid and large scale increased demand for skilled labour unleashed by the resources boom and more accurately reflects Australia’s long term skill requirements. While the immigration target remains unchanged our view is that the occupational composition of the MLTSSL should also remain unchanged. Future reviews should be tied to decisions to reduce or increase the annual immigration target.

**Recommendation:** Engineers Australia recommends that reviews of the occupational composition of the MLTSSL be tied to changes in the annual immigration target.

## Recommendations

In this submission Engineers Australia makes the following recommendations.

1. Within a reduced number of visas, the three skilled visas below should be included.
  - Permanent sponsored skilled visa; to cover employer sponsorship and State or Territory sponsorship providing this entails the same assurance of employment as employer sponsorship.
  - Permanent independent skilled visa; to cover prospective skilled migrants on the MLTSSL who do not have employer sponsorship.
  - Temporary skilled employment visas; to cover temporary skilled migrants in circumstances of demonstrated skill shortage.

Each visa, including others that the Government may decide on, should have a clear, well defined objective free from ambiguity.

2. The distinction between temporary and permanent visas should be reinforced by avoiding ambiguous use of the term “skill shortage” to describe labour market circumstances pertaining to permanent visas.
3. Retention of both employer sponsored and independent permanent skilled visas. When States or Territories sponsorship entails the offer of employment on the same basis as employer sponsorship, one sponsored visa could cover both situations. When State or Territory sponsorship does not offer employment on the same basis as employer sponsorship, this situation should be covered by independent permanent skilled visas.
4. Greater recognition of work experience in the points test to ensure maximum alignment between assessment of prospective migrants and professional engineering standards. This can be achieved by increasing points allocated to prospective migrant engineers with 5-7 years of experience (from 10 to 15 for overseas experience and 15 to 20 for Australian experience) and with 8-10 years' experience (from 15 to 20 for overseas experience and 20 to 25 for Australian experience).
5. That the points test be applied to both prospective independent permanent migrants and to prospective employer sponsored migrants to provide employers with an independent assessment of the rank order of their candidates to assist them to make better choices.
6. All temporary visa applications be subject to labour market testing to determine that demonstrated skill shortages exist.
7. All temporary visa applications be subject to skills assessment on the same basis as permanent visa applicants to test that professed skills meet Australian standards.
8. Residency and employment in Australia on a temporary visa should not become a requirement for transition to permanent visa status. Temporary visas are intended to meet short term demonstrated shortages and should not be used for other purposes. Employers should retain the current option to transition someone they employed on a temporary visa to fill a demonstrated short term need to a permanent visa.

9. Residency and employment in Australia on a temporary visa should never be considered as a substitute for comprehensive assessment of skills and work experience.
10. That the Department of Immigration and Border Protection discuss and agree with Engineers Australia circumstances in which ANZSCO 233999 can be applied in skills assessments to ensure that the limitations of the ANZSCO system do not impede migration to Australia of emerging engineering specialists and highly experienced engineers in specialist traditional occupations not covered by ANZSCO.
11. That reviews of the occupational composition of the MLTSSL be tied to changes in the annual immigration target.

## Contact details

To discuss the issues raised in this paper in more detail please contact Jonathan Russell, the Engineers Australia National Manager for Public Affairs, on (02) 6270 6565 or at [jrussell@engineersaustralia.org.au](mailto:jrussell@engineersaustralia.org.au).



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