



MIGRANT INTAKE INTO AUSTRALIA

RESPONSE TO PRODUCTIVITY COMMISSION ISSUES PAPER

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About us

Consult Australia is the industry association that represents the business interests of consulting firms operating in the built and natural environment.

Our member firms' services include design, architecture, technology, engineering, surveying, legal and management solutions.

We represent an industry comprising some 48,000 firms across Australia, ranging from sole practitioners through to some of Australia's top 500 firms. Collectively, our industry is estimated to employ over 240,000 people, and generate combined revenue exceeding \$40 billion a year.

Consult Australia is a proud member of the Australian Chamber of Commerce and Industry (ACCI), Australian National Engineering Taskforce (ANET), the Australian Sustainable Built Environment Council (ASBEC), the Australian Construction Industry Forum (ACIF), and is a host organisation for the annual Built Environment Meets Parliament summit (BEMP).

Our member firms include:



Contact

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Context – The demand for engineering skills

Of large consulting companies in the built and natural environment, 75 per cent describe themselves as providing mainly engineering design and consulting services.¹ Workforce development for the engineering profession is therefore of great concern to Consult Australia members.

Skills shortages are often cyclical, and that has been the case for engineering. However, they are now exacerbated by systemic issues. Privatisation of public services since the 1990s has led to a loss of public sector engineering expertise, which has had a negative impact on the efficiency of public sector procurement. Importantly, the transfer of training responsibility from the public sector engineering-related agencies to private sector engineering providers has not been fully acknowledged by government, nor allowed for in procurement practices. This has led to an under-development of skills over the past two decades.

In light of the recent easing in demand for engineers and related professionals, it is important to note that the skills in question take a long time to develop. An engineer, for example, must study for four years at university and undergo well-structured development programs for several years in the workforce before reaching competence as independently operating professionals. Engineering drafters must go through a minimum two-year vocational education course and on-the-job training. A long-term view of workforce development is therefore essential. Periods of relatively good skills supply should not lead to a halt in action to boost skills supply.

The number of qualified engineers graduating from Australian universities was static for many years and is now increasing only gradually, despite fast-growing demand for their skills in the past decade. Fewer school students study maths and science, arguably because those subjects and the careers that rely on them have lost prestige in Australia. The skilled workforce could also be more efficiently used, with greater use of engineering technologists and associates and efforts made to retain qualified engineers in the engineering workforce. Workforce diversity, most notably with regard to gender, must also be addressed.

Skilled migration will continue to be important to the supply of engineers and its efficient use will ensure that it continues to meet much of the demand, particularly in those project-critical disciplines where shortages continue in spite of changes in the broader engineering market. Filling these areas of shortage at the design stage of projects is essential to the delivery of major projects, and the subsequent employment of professionals throughout the design and construction supply chain.

The use of workers on temporary skilled migration visas like the subclass 457 visa close the gap between skill supply and demand, but do not otherwise help to reduce wages. This is because the visa system requires employers to pay such workers at least the same as an equivalent Australian worker, and employers must also in effect pay a premium for their employment in terms of incentives to bring them to Australia, relocation costs, and visa administration costs. Other than through increasing skills supply, any suggestion that subclass 457 visa workers are being used to reduce wages in the professional services sector that supports public infrastructure is entirely false.

Employers, unions, professional associations, industry associations, educators and governments are all working together to address these issues. Consult Australia has several solutions, and these were provided in a submission to the 2012 Senate Education, Employment and Workplace Relations Committee inquiry into the nexus between the demand for infrastructure delivery and the shortage of appropriate engineering and related employment skills in Australia.²

Robust skilled migration programs are essential to the health of engineering-based companies and the Australian economy as a whole.

The industry's utilisation of skilled migration

Skilled migration is necessary to bolster the engineering workforce in times of general shortage, and also provide specialists in times of specific need.

Through the mining boom the need for skilled migration was significant. For example, the number of engineers of all levels of qualification (technologists, technicians and professionals) arriving on temporary visas increased threefold from 2,260 in 2003-04 to 6,940 in 2010-11.³ Some Consult Australia member firms reported during this period that about 15 per cent of their workforces had been recruited from overseas under various visa subclasses in the 12 months to September 2011.⁴ One large member firm with over 4,000 employees reported that over eight per cent of its workforce, for example, was employed with a Temporary Work (Skilled) visa (subclass 457) at that time.

However, this period of growth in skilled migration for engineering cannot be taken in isolation because closer examination more recently shows that the use of migrants is responsive to changes in local demand and supply of skills. In contrast to the results described above and in response to a downturn in the market, Consult Australia's 2013 and 2014 Skills Survey reports show that in 2012 and 2013 employers dramatically reduced the recruitment of migrants. For the first time, almost a fifth of respondents reported no use of migrants in the previous twelve months. The largest group of respondents, 59 per cent, used migrants for just one to four per cent of vacancies.⁵

Data from Engineers Australia supports the survey of Consult Australia members. The numbers of engineers of all levels arriving on temporary visas rose from 2,260 in 2003-04 to 7,490 in 2007-08, before dropping to 6,900 in 2008-09 and further to 4,460 in 2009-10, and then rising again to 6,940 in 2010-11.⁶ This is a clear reflection of how employers' use of the temporary migration program is in response to local skills needs and availability.

The useful mix of visas used by employers and their workers is worth noting—the subclass 457 visa being perhaps the most critical. However there is also the subclass 400 visa for very short-term specialised work for example, and the Employer Nominated Scheme for securing talented people for the long term.

The overarching and positive messages from Consult Australia and its members are that the temporary skilled migration program has to date been:

- an effective and essential tool for meeting skills needs,
- used on an 'as needs' basis, and
- successful when employers can rely on a well funded system to facilitate swift assessment of visa applications.

The effectiveness of the Labour Market Testing provisions

The recent introduction of Labour Market Testing (LMT) has compromised the benefits of the temporary skilled migration program outlined above, and does not reflect an evidence-based approach to policy development. A key concern for Consult Australia is that LMT requirements that specifically target employers of engineers add administrative burdens to an industry that is already struggling, partly due to the high cost of doing business.

The key to an effective temporary skilled worker visa is a regulatory framework that is simple to use and supported by a well-funded visa processing team to ensure that applications are dealt with quickly.

Consult Australia was pleased that the Independent Review into the Integrity of the Subclass 457 Programme noted in its report that that LMT does not assist in determining that suitable Australian workers are not available and add unnecessary regulatory cost for little or no benefit:

On the evidence presented to us we have concluded that the labour market testing provisions introduced in 2013 are easily circumvented and do not prevent employers from engaging overseas workers in place of Australians. In addition, recruitment practices are highly diverse across occupations and industries: to design a system that encompasses this diversity is impractical. While the provisions are symbolic of what is trying to be achieved, in practice they do not assist in achieving the objective of providing evidence that suitable Australian workers are not available. Therefore the requirement adds unnecessary regulatory cost for little or no actual benefit. In its current form the labour market testing requirement is costly for sponsors who have done the right thing and subject to manipulation by those that have not made a serious effort to find a local worker.

The findings of the Independent Review must be incorporated into the skilled migration program. Labour Market Testing (LMT) compromises the purpose and efficiency of the 457 programme because it ties employers to an unnecessary regulatory process. Section 140GBC of *the Migration Act 1958* (the Act) provides for exemptions to LMT requirements if, in general terms, the position requires the visa holder to have a bachelors degree (or at least five years relevant experience), or an associate degree (or at least three years relevant experience).

An exception to this exemption is for those with experience as, or qualifications in, engineering (or nursing), however described in the regulations. Consult Australia is very concerned by the reference to engineering and the impact that this has on the speed and efficiency of public and private infrastructure development.

The subclass 457 visa is intended as a means for filling positions that are in high demand and hard to fill. Consult Australia outlined earlier in this submission how the engineering workforce suffers from chronic workforce supply issues and is susceptible to fluctuations in demand. A flexible temporary skilled migration visa that is responsive to market requirements is therefore essential for engineering-related businesses. Consulting services in particular often require specialist staff to join teams at short notice to address challenges that invariably arise in complex projects.

The requirement for LMT for any engineering-related position has other unintended consequences: bringing existing employees based in other countries to Australia for a combination of work and training will be hindered and intra-company transfers will be slower.

The singling out of employers of engineers is also nonsensical. In each round of industry consultation that occurred prior to the 2013 amendments to the Act, Consult Australia demonstrated time-and-again that employers of professional engineers are not the cause of concerns for abuse of the 457 visa programme. The association is at a loss to understand or explain why employers of engineers are treated differently to all other professional services providers. It provides no practical benefit and only acts to tie a compliant industry in red tape.

In addition, Consult Australia is astounded that the Australian government would make it comparatively more difficult to attract a profession that is not only critical for the effective delivery of Australia's unprecedented infrastructure program, but are also instrumental in providing input in a broad range of industries in order to give Australia a competitive advantage through innovation.

Consult Australia's primary recommendation is to remove references to "protected experience" or a "protected qualification" from the *Migration Act 1958* (Cth).

If this is done, employers of engineers will be put on a 'level playing field' with other companies that provide professional services.

Facilitating the movements of a global workforce

As noted above, the ability for Consult Australia's member firms to leverage what is often a global workforce is a competitive advantage both in Australia and for firms as Australian exporters of advanced professional services. Critically this requires the ability for our firms to quickly and easily bring in resources to support project requirements, knowledge transfer, training and teamwork across global structures. Skilled migration is essential to deliver this movement.

Often, the timeframes and process required to gain temporary visas are incompatible with project and tender requirements. Obtaining a 457 visa—particularly given the onerous nature of new requirements for Labour Market Testing—is inefficient when the skills are already available within the company, albeit in a different location. A 400 visa also makes this difficult as it is primarily a single entry visa, is more specialised, and does not allow for more 'junior' positions. For example, sometimes firms may wish to use specialists for a period of one to two weeks every few months for a six to twelve month period. This type of work makes the employee ineligible for a 400 visa as there is no clear guideline as to how often an employee can hold that visa (even if the reason is non ongoing and they returned later for an unrelated project). Moving such an employee onto a 457 visa would also be a large inconvenience and not practicable as the employee would spend the vast majority of their time in the home country.

It is critical the skilled migration program keep pace with new firm structures and the global marketplace for talent and services. Proposals to facilitate this through increased visa simplification and flexibility will be welcomed by industry.

The role of monitoring and enforcement

There have been several changes to the visa programme in recent years, especially in 2013, which aimed to reduce the potential for inappropriate use of the programme and illegal employment of workers.

Consult Australia has had a long-standing view that the regulatory framework is robust, and the most effective way to improve compliance and treatment of workers is to conduct more risk-based and targeted enforcement checks, and to use the sanctions available to the government when dealing with employers that break the law.

We do not believe there is any need to create new regulatory processes or other checks and balances. Rather, if the government is concerned about misuse of the visa programme, it should instead ensure that the department is able to properly assess each application while meeting suitable application turn-around times, ensure that rules adhered to, and punish transgressors.

The role and effect of English language requirements

The effective application of current standards for English language proficiency depend on the role and skills required. Firms typically apply their own standards as an essential requirement of the roles for which they are recruiting. There is general support for a link between English language proficiency and work safety requirements, though any additional regulatory burden associated with this link must be carefully managed.

The impact of Australia's work visa programs on training and skills development in Australia

Skills Assessments and Industry Standards

Consult Australia supports greater input from industry on what constitutes a positive skills assessment based on their requirements. In a dynamic industry with high standards this is an essential component to make sure the skilled migration program reflects industry needs.

Occupation Lists

Current use of occupation lists (the Skilled Occupation List (SOL) and the Consolidated Sponsor Occupation List (CSOL)) have proven generally effective for our industry, but ongoing consultation with industry is critical to ensure ongoing effectiveness and that demand is met for roles outside these lists.

The 457 visa programme is employer-driven with a regulatory framework that, if properly enforced, prevents its inappropriate use. To ensure that the programme is truly employer-driven and responsive to their needs, the CSOL should include as large a range of occupations as possible.

If occupations are proposed for removal from the CSOL, the department should consult with the relevant industries before a decision on whether to take action is made. Any occupations that are excluded from the CSOL should be periodically reviewed.

Impact of Skilled Migration on Infrastructure Delivery

Recruitment difficulties for areas of shortage affect more than just private sector employers. More broadly, this means that projects cost more and take longer to deliver. This is a poor outcome for Governments at all levels; for asset owners; is a disincentive for private investors; and results in delayed benefits for the public consumer.

Local and state governments that need engineers to deliver community infrastructure maintenance and repair work are one victim where the right skills cannot be found at the right time. The damage caused by floods and cyclones in 2011 and the large amount of public infrastructure repair works required was an example of this. In early 2011 the Association of Professional Engineers, Scientists and Managers, Australia (APESMA) warned that the shortfall of engineers could lead to a 20 per cent blowout in the flood repair bill because of a lack of project scoping expertise. APESMA chief executive, Chris Walton, warned that the shortage could threaten funding from the Commonwealth under the National Disaster Relief and Recovery Arrangement because there were not enough engineers to do the necessary work.⁷

Complex infrastructure demands a range of different disciplines and skills throughout its lifecycle that are not always readily available in the domestic market. The ability for the private sector to quickly recruit for these positions is critical to delivering value for money for the tax-payer on these projects, and ensuring the wider economic benefits of both infrastructure construction and delivery are realised.

Next Steps

Working across the built and natural environment Consult Australia's member firms hold substantial expertise in shaping and developing not just Australia's cities, but urban environments internationally. The environmental, social and economic challenges to which our firms develop innovative, tailored and efficient solutions are the very same challenges currently dominating the headlines and exercising the minds of policy makers and elected representatives across the country. These challenges, borne from economic, environmental and social change are multiplied in our cities through congestion and increasing demand for new infrastructure.

Targeted migration is no doubt part of the solution to these challenges, as observed through successive intergenerational reports and noted in this submission, but population growth and accompanying demographic change, alongside climate change, are also major challenges for our cities that demand a comprehensive policy response.

Consult Australia looks forward to participating further as the impact of migration is considered further by this inquiry in this context, and would be pleased to elaborate further on these issues and draw on our members' experience as that would be useful. The issues canvassed thus far are complex, and any recommendations for change must be carefully considered and accompanied by broad consultation to ensure the identification of any unintended or undesirable consequences.

References

¹ Bills, G, *2011 Outlook: An economic forecast for consulting firms in the built and natural environment*, Consult Australia (2011), p 1.

² See the Parliament of Australia website for the Senate Standing Committees on Education, Employment and Workplace Relations at

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_Employment_and_Workplace_Relations/Completed_inquiries/2010-13/engineering/index.

³ Kaspura, A, *The Engineering Profession: A Statistical Overview*, Ninth Edition, Engineers Australia, (2012), p 65.

⁴ Consult Australia, *The Consult Australia 2011 Skills Survey: An analysis of skills in the consulting industry for the built and natural environment*, (2011) p 11. Available at:

<http://www.consultaustralia.com.au/Home/Advocacy/Skills/SkillsSurveys.aspx>.

⁵ Consult Australia, *2013 Skills Survey Results*, (2013) p 12; and *Consult Australia 2014 Skills Survey Results*, (2014) p 12, Available at: <http://www.consultaustralia.com.au/Home/Advocacy/Skills/SkillsSurveys.aspx>

⁶ Kaspura, A, *The Engineering Profession: A Statistical Overview*, Ninth Edition, Engineers Australia, (2012), p 65.

⁷ Independent Review into the Integrity of the Subclass 457 Programme. [*Robust New Foundations - A Streamlined, Transparent and Responsive System for the 457 Programme*](#), (September 2014), p45-46

⁷ Caldwell, A, *Engineer shortage in Queensland hampers flood recovery*, The Courier Mail, 28 March 2011.

Available at: <http://www.news.com.au/national/engineer-shortage-in-queensland-hampers-flood-recovery/story-e6frfkvr-1226029102657>.