



Law Council
OF AUSTRALIA

Supporting Strong and Sustainable Regions

Review of Regional Migration Settings

Department of Home Affairs

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About the Law Council of Australia

The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its Constituent Bodies on federal, national, and international issues; promotes and defends the rule of law; and promotes the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world. The Law Council was established in 1933, and represents its Constituent Bodies: 16 Australian State and Territory law societies and bar associations, and Law Firms Australia. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Law Society of the Australian Capital Territory
- New South Wales Bar Association
- Law Society of New South Wales
- Northern Territory Bar Association
- Law Society Northern Territory
- Bar Association of Queensland
- Queensland Law Society
- South Australian Bar Association
- Law Society of South Australia
- Tasmanian Bar
- Law Society of Tasmania
- The Victorian Bar Incorporated
- Law Institute of Victoria
- Western Australian Bar Association
- Law Society of Western Australia
- Law Firms Australia

Through this representation, the Law Council acts on behalf of more than 104,000 Australian lawyers.

The Law Council is governed by a Board of 23 Directors: one from each of the Constituent Bodies, and six elected Executive members. The Directors meet quarterly to set objectives, policy, and priorities for the Law Council. Between Directors' meetings, responsibility for the policies and governance of the Law Council is exercised by the Executive members, led by the President who normally serves a one-year term. The Board of Directors elects the Executive members.

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The Chief Executive Officer of the Law Council is Dr James Popple. The Secretariat serves the Law Council nationally and is based in Canberra.

The Law Council's website is www.lawcouncil.au.

Acknowledgements

The Law Council of Australia is grateful to the Migration Law Committee of its Federal Litigation and Dispute Resolution Section, as well as the Law Society of New South Wales (**LSNSW**) for their input into this submission.

Executive summary

1. The Law Council thanks the Department of Home Affairs (**Department**) for the opportunity to comment on the June 2024 **Discussion Paper Supporting strong and sustainable regions**.

2. The Law Council agrees with the proposition in the Discussion Paper that:

Australia's regions are a crucial part of Australia's economy and our unique national identity. The regions have been shaped and invigorated by the profound history of our First Nations peoples and the millions of migrants that have called regional Australia home.¹

3. Legal practitioners have observed that processes for applying for many of the regional migration options provided by the Department, including Designated Area Migration Agreements (**DAMAs**), the Pacific Australia Labour Mobility (**PALM**) Scheme and the Working Holiday Maker (**WHM**) program, are overly complex. Simplifying them would go a long way to facilitating regional migration.

4. The Law Council's key points regarding regional migration settings and the Discussion Paper are:

- (a) The revision of occupation lists for the regions is **not supported**—we recommend that such lists be abandoned altogether.
- (b) The definition of 'regional' for the purposes of the *Migration Regulations 1994* (Cth) could be greatly simplified by adopting a model that lists excluded, rather than included, postcodes.
- (c) The WHM program does need to be reformed to prevent abuse, but care should be taken to make adjustments that do not make it so onerous as to become unworkable for employers.
- (d) There is a lack of clarity on the operation and future of the PALM scheme.
- (e) State and Territory authorities should be more involved in the planning processes for these visa schemes (with some caveats as set out below).

5. The Law Council encourages the Government to be bolder in its regional migration reform. The current system is overly complex and does not deliver the desired outcomes for regional employers,² so adding further complexity (for example by adopting regional occupation lists) is not desirable.

6. We acknowledge that most migrants wish to work in cities, and that concessions or other incentives are often necessary to encourage them to work in regional areas. We hope our answers to the Discussion Paper questions set out below assist the Government in providing such incentives.

¹ Discussion Paper, 1.

² See e.g. Discussion Paper, 3 and 6.

Background

Previous relevant recommendations and proposals

7. The Law Council made a substantial submission on skilled migration to the Joint Standing Committee on Migration in March 2023 (**2023 Submission**).³ That submission contained some proposals and recommendations relevant to the present consultation, as set out below. We continue to maintain these views in the current context.
8. The first relevant proposal concerned the employment experience required of temporary visa applicants, including for the Skilled Employer Sponsored Regional (Provisional) Visa (subclass 494). We noted that the objective of this visa in incentivising work in regional areas is undermined by the lengthy employment history requirements. A subclass 494 visa holder will still need to work another three years on that visa to qualify for the permanent subclass 191 visa. It may be more appropriate to set an employment history requirement for the subclass 494 visa that is less than one year, to provide an incentive for migrant workers to settle in regional areas.⁴
9. The second and third proposals concerned skilled occupation lists. The Law Council suggested that the Skilled Migration Program would be more flexible and better able to address labour market needs if skilled occupation lists were at least consolidated, as recommended by the Joint Standing Committee on Migration in 2021,⁵ or abolished. The LSNSW suggested that the abolition of an occupation list specific to regional visas may assist in addressing significant job shortages in these areas, and could even contribute to the revitalisation of regional Australia by incentivising more businesses to relocate to regional areas, as the policies in place would better meet the skill and labour needs of their businesses.⁶
10. In addition, the suspension of the skilled occupation list for the Temporary Graduate (subclass 485) visa was welcomed by employers and students as they had certainty in being able to continue with their current employment for the two years under the Graduate Work stream. Practitioners noted that the processing times also improved dramatically. The LSNSW reported that this change allowed several of its clients to enter the Australian workforce with greater ease and without the reliance on employer sponsorships, particularly in regional areas where small regional businesses may be hesitant to engage in the migration process due to perceived complexities and the high costs of sponsorship.⁷ Alternatively, it gave students time to gain work experience regionally, so that they could then be considered for sponsorship.
11. Commentary on the more recent transition to the Post-Vocational Education Work stream (with its associated Medium- and Long-Term Strategic Skills List) and Post-Higher Education Work Stream (with its reduced age limit of 35)⁸ is beyond the scope

³ Law Council, *Migration, Pathway to Nation Building* (March 2023): <https://lawcouncil.au/resources/submissions/migration-pathway-to-nation-building>.

⁴ *Ibid.*, [43].

⁵ Joint Standing Committee on Migration, 'Final Report of the Inquiry into Australia's Skilled Migration Program' (August 2021) Recommendation 4.

⁶ *Ibid.*, [61].

⁷ *Ibid.*, [143].

⁸ Department, *Changes to the Temporary Graduate visa program – from 1 July 2024*: <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-graduate-485/changes>

of this consultation. However, we did refer to the unwelcome nature of these changes in our recent submission on the Points Test.⁹

12. The fourth and fifth proposals in the 2023 Submission were about pathways for permanent residence. The Law Institute of Victoria (**LIV**) proposed a three- to four-year 'regional pass' visa, which would allow a person to work in unlimited roles in any regional area, with the ability to seek permanent residence once they have worked with an employer for a certain period.¹⁰
13. Finally, the LIV suggested that the skills assessment requirement be removed for the subclass 494 visa and other regional visas, and a pathway similar to the Regional Sponsored Migration Scheme visa subclass 187 (without the three years of experience) be reinstated, to allow an employee already working with a regional employer to apply for permanent residency without needing a skills assessment. Subclass 494 visa applicants often have a history of exploitation and thus struggle to receive a skills assessment evidencing their work skills. The Law Council supported this change.¹¹

Concurrent Submission—Inquiry into Sponsorship and Nomination Bill

14. The Law Council also recently made a submission to the Senate Legal and Constitutional Affairs Legislation Committee on the provisions of the Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024.¹² In that submission,¹³ we generally supported extended Labour Market Testing and the proposed adjustment of income thresholds proposed in the Bill. However, in the context of regional migration, the income thresholds might need to be different considering the wage and cost of living disparity between the regions and capital cities. Both salary levels and required duration of employment should be considered carefully in any reform of regional visa arrangements.
15. The public register of sponsors proposed in the Bill may also be problematic in the context of regional employment, since it is generally easier to re-identify personal information when there are limited numbers of employers/employees in a given area.

Responses to Questions Posed

Opportunities for Regional Migration

Q1. How can the various temporary and permanent visas available to the regions work together to better meet skills needs? For example, Designated Area Migration Agreements (DAMAs) and regional employer sponsored visas.

16. The main comment from the profession on these kinds of visas is that small- to medium-sized businesses often perceive regional employer sponsorship as too complex and expensive, particularly as regional sponsored visas require the fulfilment of criteria beyond that of standard employer sponsorship. In our view, it would be preferable to streamline regional employer sponsorship by aligning the criteria as closely as possible with the criteria for the Employer Nomination Scheme visa

⁹ Law Council, *Review of the points test (discussion paper)*, submission to Department of 24 May 2024: <<https://lawcouncil.au/resources/submissions/review-of-the-points-test-discussion-paper>>, [8]-[9] and [52].

¹⁰ *Ibid*, [151].

¹¹ *Ibid*, [155].

¹² Submission will be available on Law Council website and, when made available by the Committee, at: <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/StrengtheningSponsorship/Submissions>.

¹³ Publication pending at the time of writing.

(subclass 186) and temporary Skill Shortage visa (subclass 482). Furthermore, we recommend expanding the number of DAMAs from the 13 that currently exist, so that other regions can take advantage of their benefits, including the focus on the specific economic and labour market conditions of certain areas.

17. The Law Council also considers that the threshold for regional employer sponsored visas is too high. For example, for the Skilled Employer Sponsored Regional (subclass 494) visa, should be no more than the Employer Nomination Scheme (subclass 186) visa—i.e., two years.
18. The Department should also consider lowering the level of English required for employer sponsored visas, including regional ones. A more nuanced approach would align English language requirements with the level of English necessary for particular occupations or trades in the regions, rather than a blanket approach which may prevent the entry of qualified professionals to identified priority areas.
19. In addition, a shorter period in which one is able to transition to a Permanent Residence (Skilled Regional) visa (subclass 191) would be desirable. Practitioners remark that there has been a significant drop in subclass 494 applications compared with its predecessor (Direct Entry Stream, subclass 187). The subclass 187 visa had a lower threshold and was permanent, but had the potential for cancellation if the person left the relevant position within two years.¹⁴
20. Practitioners observe that the Skilled Work Regional (Provisional) visa (subclass 491) Family Sponsored Stream has very few places available, and may need to be reinvigorated as generally families already settled in a regional area provide good migration outcomes. We understand that a number of state and territory governments have also asked for more places within this stream each year. We recommend cooperating closely with state and territory governments and increasing the availability of this visa to encourage regional migration outcomes.
21. Our 2023 Submission sets out a number of ways in which pathways to permanence could be improved.¹⁵ However, we are mindful of the need to incentivise migrants to remain and work in regional areas by setting the timing of access to Permanent Residence appropriately.
22. The Department might also consider whether regional assessing bodies should have a role to play in either providing advice or applying criteria that are transparent and consistent across various regions (for example, English language requirements) in a similar manner to existing Labour Market Testing processes applied in the allocation of Temporary Skill Shortage (subclass 482) visas.
23. Finally, the Law Council supports further communications and outreach to regional employers to guide them through the process of sponsoring a skilled worker. This would be particularly useful for those employers who have not considered the migration program as a valid option for addressing skill shortages in their business.

¹⁴ Department, *Direct entry stream*: <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/regional-sponsor-migration-scheme-187/direct-entry-stream>>.

¹⁵ 2023 Submission, [23]-[52].

Q2. Should there be a regional occupation list? How should regional occupation lists work alongside the Core Skills Occupation List? What should be considered in compiling the regional occupation list?

24. The Law Council has consistently recommended that occupation lists be discontinued.¹⁶ Practitioners have also observed that current lists omit some of the highest-need occupations, and other issues with them were highlighted by the Migration Review.¹⁷ Accordingly, we do not support the creation of more regional occupation lists.
25. There can be a need for all types of positions regionally, which is why DAMAs were created. They often apply to occupations that are not included on any occupation list.
26. The Core Skills Occupation Lists are also inapt to cover the full needs of regional employers.¹⁸
27. A better option than a regional occupation list could be to base eligibility on the Australian and New Zealand Standard Classification of Occupations (**ANZSCO**) skill levels.¹⁹
28. We recommend close collaboration with state and territory governments in the adjustment of the regional migration settings, to ensure migration responds to regional development plans. However, it is important, particularly if the states and territories are given greater flexibility to allocate permanent visas in accordance with needs in their jurisdiction, that this does not lead to confusion and/or a lack of clarity for applicants. For example, we refer to the way in which specific incentives are sometimes introduced by states and territories to make the pathway to nomination more accessible, but it is unclear to applicants for how long these incentives will be available. While we appreciate that it may not always be possible to detail specific changes, it would be useful, in the interests of transparency, for applicants to know when certain pathways are set to be reviewed.

Q3. Could the definitions of regional be aligned across the various regional visas? How can definitions be structured to better account for the unique circumstances of regions?

29. At present, the Migration Regulations 1994 (Cth) provide that '[t]he Minister may, by legislative instrument, specify a part of Australia to be:
- a designated city or major regional centre; or
 - a regional centre or other regional area.²⁰

¹⁶ See e.g. 2023 Submission, [55]-[67].

¹⁷ See Department, *A Review of the Migration System*, Final Report, 21 March 2023, 75.

¹⁸ See further Law Council submission *Draft Core Skills Occupation List* (4 June 2024):

<<https://lawcouncil.au/resources/submissions/draft-core-skills-occupation-list-csol>>.

¹⁹ See Australian Bureau of Statistics, *ANZSCO, First Edition (Rev 1)*:

<<https://www.abs.gov.au/ausstats/abs@.nsf/0/598C2E23628BB8FDCA2575DF002DA6B8?opendocument>>.

²⁰ *Migration Regulations 1994* (Cth), Reg 1.15M.

30. The relevant Instrument provides a list of postcodes that are included.²¹ This establishes a three-tier system:
- (i) Capital cities;
 - (ii) Designated cities or major regional centres; and
 - (iii) Designated regional centres or other regional areas.
31. There is also a separate (and inconsistent) list of included postcodes to define 'regional' for the PALM scheme and for the Safe Haven Enterprise Visa scheme.²²
32. Some visa options (e.g., under DAMAs) are restricted to areas defined as remote, even though there are non-remote regional centres in need of workers (Geelong and Newcastle, for example).
33. A simple, universally applicable definition of 'regional' along the lines of 'anything other than the listed postcodes' would greatly simplify the legislation. There could then be a list of postcodes in a legislative instrument that covers only the capital cities of each state and territory.
34. If the current system, which effectively creates three tiers (capital cities and the two regional categories mentioned in the Regulations) is retained, then greater concessions could be allowed for tier 3 ('regional centre or other regional area'). Currently there is a regional occupation list for work-sponsored visas that is available for tiers two and three, but it is very limited and not particularly useful. If, despite the Law Council's recommendation, the Department decides to expand this list, we recommend adding all of the most common DAMA occupations and concessions for tier three, and expanding the regional list available to both tiers two and three in accordance with the needs of regional centres (after appropriate consultation).

Recommendations

- **Streamline regional employer sponsorship by aligning the criteria as closely as possible with the criteria for the Employer Nomination Scheme visa (subclass 186) and temporary Skill Shortage visa (subclass 482).**
- **Expand the number of DAMAs from the 13 that currently exist, so that other regions can take advantage of their benefits, including the focus on the specific economic and labour market conditions of certain areas.**
- **The work threshold for regional employer sponsored visas should be no more than two years.**
- **Lower the level of English required for employer-sponsored visas, including regional ones. English language requirements should be aligned with the level of English necessary for particular occupations or trades in the regions.**
- **Shorten the period in which one is able to transition to a Permanent Residence (Skilled Regional) visa (subclass 191).**

²¹ *Migration (Designated regional areas for certain skilled and temporary graduate visas) Instrument (LIN 22/022) 2022* (Cth).

²² See PALM Scheme, *Eligibility*: <<https://www.palmscheme.gov.au/eligibility>>. See also Department, *Designated regional areas*: <<https://immi.homeaffairs.gov.au/visas/working-in-australia/regional-migration/eligible-regional-areas>>. The justice or otherwise of compelling people to work in the regions under the SHEV scheme is also questionable, but perhaps beyond the scope of this consultation.

- **The Skilled Work Regional (Provisional) visa (subclass 491) has very few places available, and may need to be reformed. Close cooperation should occur with state and territory governments and increasing the availability of this visa to encourage regional migration outcomes.**
- **Consider having regional assessing bodies that could apply criteria which are transparent and consistent across various regions.**
- **Expand communications and outreach to regional employers to guide them through the process of sponsoring a skilled worker.**
- **Further Occupation Lists for skilled visas should not progress. For regional visas, a better alternative would be to base eligibility on the Australian and New Zealand Standard Classification of Occupations (ANZSCO) skill levels.**
- **Close collaboration with state and territory governments is needed in the adjustment of the regional migration settings, to ensure migration responds to regional development plans.**
- **A simple, universally applicable definition of ‘regional’ along the lines of ‘anything other than the listed postcodes’ would greatly simplify the legislation. A list of postcodes should be included in a legislative instrument that covers only the capital cities of each state and territory.**
- **If, despite the recommendations above, the Department decides to retain/expand regional occupation lists, the most common DAMA occupations should be added and concessions given for tier three. It should also expand the regional list available to both tiers two and three in accordance with the needs of regional centres (after appropriate consultation).**

Reforming Regional Visa Settings to Mitigate Risks

Q4. How can we reform Working Holiday Maker program visa settings to limit exploitation, while still ensuring regional Australia can access the workers it needs? For example, are there innovative strategies to incentivise Working Holiday Makers to choose regional Australia as their preferred destination, without tying the incentives to specified work visa requirements?

35. As set out in the Discussion Paper,²³ there are several factors that make WHM participants vulnerable to exploitation. One of the most effective ways to limit exploitation is through providing information to prospective participants under this scheme about their work rights and obligations. In this respect, we support the funding of information and education activities, as provided in the 2024–25 Budget, designed to communicate appropriate information around workplace safeguards, protections and compliance measures related to migration laws.²⁴

²³ Discussion Paper, 11.

²⁴ Ibid, 16.

36. There are divergent views amongst practitioners regarding the WHM visa program. Some general points made in the Law Council's consultations include:

- Exploitation under this scheme is facilitated by the fact that it can include unpaid work—the Department could consider making it paid only, or even taking an active role in the payment of salaries.
- Alternatively, there could be a system of registration whereby WHM participants register with the Department when they start and finish their designated work, to allow for better oversight of warning signs of irregularities or potential exploitation.
- Care should be taken when new countries are added to the scheme, lest they increase the potential for exploitation—particularly of vulnerable young people.
- Care should also be taken not to focus only on anti-exploitation measures in case the scheme becomes unworkable or insufficiently attractive to employers.
- Tweaks to specified work settings, for example broadening what qualifies as eligible work, could encourage more people to work in the regions.
- There should be requirements on employers to be transparent with potential workers about working conditions, for example, the availability of accommodation and medical facilities in regional areas, including during peak seasons. Practitioners report that workers in the Working Holiday Maker Program are sometimes misled, for example, as to the availability of single as opposed to dormitory accommodation. This can be particularly distressing for women workers, including those from culturally and linguistically diverse backgrounds.
- The introduction of a system of accreditation or endorsement of verified labour hire/recruitment companies, which help place WHM participants in farm work, could be of assistance, so that they can better avoid disingenuous (or even dangerous) providers.

37. With all this in mind, the Law Council acknowledges that the unskilled labour often provided by WHM visa holders—even in the mandatory maximum three-month stints²⁵—is valuable to regional businesses. An expansion of the range of occupations eligible for WHM scheme might accordingly be valuable.

38. It may be beneficial to allow WHM participants to extend their visas in Category 3 Regional Areas to other forms of non-specified work, for example in the hospitality industry, or as au-pair workers. In the experience of our members, many family-owned farming businesses may benefit from having Working Holiday Makers assist with childcare, enabling the parent with primary responsibility for raising the children to either perform more highly skilled farm work, or undertake off-farm work. This could be addressed by changing the definition of 'specified work' in tier 3 Regional Areas.

Q5. How can we ensure a more consistent approach to lower paid migration across various visa products, as well as reflect our commitment to maintain the primacy of our relationships with the Pacific?

39. Practitioners note that, in their experience, there have been issues with the PALM scheme, including the onerous application/compliance processes and difficulties for visa holders whose circumstances change (for example those who become pregnant or have additional dependants, or who wish to transfer from an unskilled to a skilled occupation while participating in the scheme, and require specific approvals).

²⁵ See Department, *WHM Program*: <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/work-holiday-417/specified-work>>.

40. The Law Council is also aware that PALM has been mostly used in Victoria and Queensland, with very limited use in other jurisdictions, though the reasons for this are unclear.
41. It is also unclear to practitioners whether the ballot for PALM visas (explained in the Department of Foreign Affairs and Trade's relevant Frequently Asked Questions document²⁶) is proceeding. There is some concern that it may not be the best way to allocate these visas, if 'maintain[ing] the primacy of our relationships with the Pacific' is a priority. However, the risk could be mitigated by ensuring that the overall number of visas on offer is sufficient to meet demand.

Recommendations

- **Funded information and education activities, as provided in the 2024–25 Budget, designed to communicate appropriate information around workplace safeguards, protections and compliance measures related to migration laws, are important and should be made ongoing.**
- **To reduce the potential for exploitation, consider making WHM work paid only, or even taking an active role in the payment of salaries (to ensure they are not inappropriately withheld).**
- **Alternatively, there could be a system of registration whereby WHM participants register with the Department when they start and finish their designated work, to allow for better oversight of warning signs of irregularities or potential exploitation.**
- **Specified work settings could be tweaked, for example by broadening what qualifies as eligible work, to encourage more people to work in the regions (particularly for Tier 3 regions).**
- **Introduce requirements on employers to be more transparent with potential workers about working conditions, for example, the availability of accommodation and medical facilities in regional areas, including during peak seasons.**
- **Introduce a system of accreditation or endorsement of verified labour hire/recruitment companies, which help place WHM participants in farm work, so that WHM participants could better avoid untrustworthy providers.**
- **As an overarching recommendation, care should also be taken not to focus only on anti-exploitation measures in case the scheme becomes unworkable or insufficiently attractive to employers.**
- **Clarify for applicants and their representatives what is supposed to happen when PALM scheme participants have material changes in their circumstances, and also clarify the status of the planned ballot amongst Pacific countries for PALM visas.**

²⁶ DFAT, *Pacific Engagement Visa FAQ*: <<https://www.dfat.gov.au/sites/default/files/pev-palm-faq.pdf>>.

Better Planning for Regional Migration

Q6. Noting the limitations of visa settings, what factors encourage more migrants to choose to settle in the regions and improve retention?

42. We note the findings of the Migration Review that it is unrealistic to expect that migration by itself will be a panacea for the issues affecting regional communities, including population diminutions, lower workplace participation rates, skills shortages, and environmental challenges.²⁷ We support the Migration Review's recommendation which suggests linking migration targets to regional economic and community development plans, including in relation to infrastructure, housing and services. Investment of this kind may help to stem the tide of migrants choosing to move away from regional locations in search of improved opportunities in urban areas.²⁸
43. Other relevant factors are generally well known and apply to Australians as well as migrants. For example, as acknowledged in the Discussion Paper,²⁹ there are those who find the generally quieter, slower-paced life outside major cities to be preferable and those who do specialised jobs (such as mining engineering) which are in demand in certain regions. Neither of these factors are within the Government's control, except perhaps as regards its efforts to communicate and promote the benefits of regional life and work.
44. We also suggest that the Government invest in communicating to prospective migrants the cultural make-up of different areas (e.g., areas with a high number of migrants from a certain background, the location of places of worship etc.) in order to emphasise cultural factors, particularly the availability of a pre-existing community, which may act as additional encouragement. Targeted government assistance to local community groups, councils and schools to enable them to assist migrant groups would be beneficial as well.

Q7. Do provisional visas successfully encourage large scale retention of migrants in the regions? Is the length of a provisional visa the right length? Should both the regional employer sponsored visa and the regional nominated visa have the same provisional visa arrangements?

45. Again, these issues have already been discussed above. Briefly stated, the provisional periods for both visas should be reduced to two years and the ability to bring in family members would greatly add to the attractiveness of these visas.
46. In addition, lifting the age restriction cap from 45 to 55 for regional employer sponsorship could encourage more migrants to come and stay in the regions, given this is an age group where employees often have families with older children. This, in turn, may lead to the entirety of that family group staying and working regionally.

²⁷ *A Review of the Migration System*, Final Report, 123.

²⁸ *Ibid.*

²⁹ Discussion Paper, 15.

Q8. How can we improve planning for regional migration, especially given the return of migrants to regional Australia post-pandemic? Should there be more flexibility provided to states and territories in planning for regional migration?

47. The first of these questions is very broad and the Law Council has no specific comment on it.

48. In relation to the second part, there should be more flexibility for state and territory governments in determining numbers for their planning and occupations they can nominate. They should also be more involved in the planning discussions.

Recommendations

- **Migration targets should be linked to regional economic and community development plans, including in relation to infrastructure, housing and services.**
- **The Government should invest in communicating to prospective migrants the cultural make-up of different areas in order to emphasise the availability of a pre-existing community, which may act as additional encouragement to regional migration.**
- **Targeted government assistance should be provided to local community groups, councils and schools to enable them to assist migrant groups would be beneficial.**
- **The age restriction cap should be increased from 45 to 55 for regional employer sponsorship.**
- **State and territory governments should have more flexibility to determine numbers they can nominate, and should be more involved in relevant planning decisions.**



Australian Government

Supporting strong and sustainable regions

Review of Regional Migration Settings
Discussion Paper – June 2024



Supporting strong and sustainable regions

Australia's regions are a crucial part of Australia's economy and our unique national identity. The regions have been shaped and invigorated by the profound history of our First Nations peoples and the millions of migrants that have called regional Australia home.

The migration system plays a key role in supporting regional Australia to prosper through the injection of culture, skills, innovation and economic benefits that migration brings. There are many examples where successful regional migration has reshaped the regions and the nation, for example, by providing much of the workforce to build the Snowy Mountain Hydro Electric scheme and revitalising regional communities such as Nhill in regional Victoria.

At the same time, regional Australia faces a number of challenges, including population decline in some areas, an ageing workforce, skills shortages and environmental pressures. Ensuring migration settings work for regional Australia will be critical in coming decades for regional Australia to overcome these challenges, while making the most of new opportunities. Getting migration settings right will complement the employment, skills and experiences of local workers, and support strong and sustainable regions and the broader Australian economy.

The Australian Government's Migration Strategy was released on 11 December 2023 and outlines a new vision for Australia's migration system, with a policy roadmap containing 8 key actions and over 25 new policy commitments and areas for future reform. The focus of the Migration Strategy was to bring migration back to sustainable levels, while ensuring we get workers with the skills we need into the right places.

A key area of further reform outlined in the Migration Strategy was to "evaluate regional migration settings and the Working Holiday Maker program to ensure migration supports development objectives in regional Australia and does not contribute to the exploitation of migrant workers."

This discussion paper builds on the existing work of Government to ensure that migration is delivering for regional Australia, including:

- Tripling the number of permanent places available for regional migration.
- Extending Designated Area Migration Agreements (DAMAs) to help meet regional workforce needs.
- Designating regional visa processing as the highest priority so that businesses are able to quickly meet their skills needs.
- Working with states and territories to plan migration over the longer term.
- Expanding and improving the Pacific Australia Labour Mobility (PALM) scheme.
- Facilitating Working Holiday Makers to support local economies and regional Australia's workforce needs.

This work also builds on the broader efforts of the Albanese Government to support strong regions across Australia. Guided by the Regional Investment Framework, the Government is making targeted, responsible investments to make things better for people in the regions, the places they live, the services they need, and the industries and local economies that provide jobs and underpin prosperity. This approach recognises that coordinated action across a range of areas is essential to meeting the needs and opportunities of Australia's diverse regions – including industry and innovation, health and aged care, education, digital connectivity, child care, infrastructure, as well as migration.¹

¹ Department of Infrastructure, Transport, Regional Development, Communications and the Arts, 2023 *Regional Investment Framework: The Australian Government's approach to supporting strong and sustainable regions*

The purpose of this discussion paper is to seek views from stakeholders – communities, businesses, unions, local governments, state and territory governments, education providers, and others – on how to improve regional migration settings to support strong and sustainable regions, while complementing existing government initiatives. It proposes objectives for regional migration, suggests opportunities where regional migration could work better and outlines questions on which the Government is seeking feedback from stakeholders.

This paper is primarily about how we can build a cohesive migration system that better delivers for the regions and its workers, with the scope of the paper focused specifically on the questions posed to stakeholders. Other areas, such as reforms to the PALM scheme or changes to international student visa settings for example, are not in scope.

Objectives of regional migration

The Migration Review found that Australia's migration system lacked clear objectives, noting that: "A lack of clarity on what Australia has been trying to achieve through migration is at the heart of the problems the system faces today".² It noted that the same was true for regional migration, with a lack of clear objectives resulting in an incremental and patchwork approach.

The Migration Strategy committed to 5 key objectives to shape Australia's migration system for the coming decades. Regional migration should also support these key objectives by providing flexibility in the migration system to cater to the unique needs and circumstances of regional Australia. Through this discussion paper, the Government is proposing five objectives for regional migration that support the five national objectives for migration. These are:

- Raising living standards through supporting the unique skills needs of the regions.
- Ensuring a fair go in the workplace by making sure that visa settings do not contribute to migrant worker exploitation and support the wages and conditions of regional workers.
- Building stronger communities by planning for regional migration and giving all communities the opportunity to benefit from migration.
- Strengthening Australia's international relationships by using regional migration settings to support stronger international relationships and connect Australia's regions with our international partners.
- Making the system work by providing tailored approaches to migration without being overly complex.

Regional migration should support the unique skills needs of the regions

Australia's regions play a crucial role in supporting Australia's national prosperity. Eight of Australia's top 10 exports are commodities or produce from our regions.³ Much of the fresh food we eat every day comes from the regions. Regional tourism helps share Australia's natural wonders with the rest of the world and adds significantly to regional economies, with contributions of visitors to Australia's regional communities exceeding \$79.9 billion in 2022-23⁴ and tourism accounting for at least 20 per cent of Gross Regional Product in some regions.⁵

The regions are also facing an unprecedented time of change arising from factors including an ageing population and workforce, a decline in skilled and essential workers, concerns about the sustainability of small regional towns and communities, the rise of remote work, the transition to a net zero economy, an increased risk of natural disasters and the impact of climate change. The regions are having to prepare for and adapt to change. However, change also presents opportunities for the regions. For example, most of the new jobs and critical infrastructure required to make the transition to a net zero economy will be in regional Australia.⁶

Regional Australia, however, will be unable to adapt to these changes if they cannot access the workers they need. Currently, many regions are finding it difficult to meet their local workforce needs, with job advertisements in regional Australia growing at three times the rate of metro Australia and doubling over the last five years.⁷

² Commonwealth of Australia, 2023, *Review of the Migration System*, p.21

³ Department of Foreign Affairs and Trade, 2022-23 *Australia's top 25 Exports, Goods and Services, Trade and Investments Economic Branch* p.1

⁴ Department of Infrastructure, Transport, Regional Development, Communications and the Arts, 2024, *State of Australia's Regions Report*, p.64

⁵ Australian Trade and Investment Commission, 2023, *THRIVE 2030 Implementation Reporting*, p.1

⁶ Commonwealth of Australia, 2023, *Migration Strategy 2023*, p.85

⁷ Regional Australia Institute, 2022, *Regional Jobs -The Big Skills Challenge*, p. 9

Flexible and fit-for-purpose migration settings will help regional areas seize new opportunities as they arise and get the workers they need when they need them. This will also support higher living standards in the regions. For example, Organisation for Economic Cooperation and Development (OECD) research has found that Australian regions with a higher share of migrants also have higher employment rates for Australians and higher levels of labour productivity.⁸

Regional migration settings should support a fair go in the workplace

Migrants, along with local workers, should be able to enjoy the full benefits of Australia's economic and social systems, including growing wages and secure jobs.

As noted in the Migration Strategy:

*"A well-functioning migration system, supported by strong institutions, worker protections and compliance, will complement fair wages, conditions and job security."*⁹

The same is true of regional migration settings. When designed and implemented well, regional migration can be a valuable complement to the skills of local workers.

While regional migration settings are intended to create flexibility in the migration system allowing for migration to cater to the needs of the local community, these settings should not undermine the protections in place to ensure the integrity of the migration system and the fair treatment of workers. Multiple reviews have consistently found that visa settings contribute to the vulnerability of migrant workers to exploitation, particularly those on temporary visas.¹⁰

Visa settings that contribute to worker exploitation should be reformed to design out these exploitation risks.

Case study: How blue-sky thinking became a reality in Kalgoorlie

From Egypt to Kalgoorlie-Boulder (WA)

Egyptian physiotherapist Fady and his wife Marina embarked on a life-altering journey from Giza's pyramids to Western Australia. Fady's adventure began with a surprise job offer from Addlife Health Kalgoorlie, taking him to the mining town of Kalgoorlie-Boulder, rather than his initial destination of Melbourne.

Fady stepped into Kalgoorlie, known for its red dust and remote location, with excitement and apprehension. His early days were challenging, but his perseverance paid off. He began to appreciate the quieter pace of life, and the small-town charm was a refreshing break from the hustle and bustle of larger cities. The locals were warm, welcoming, and curious. Fady was struck by the community spirit and the rich connections with clients. "I am providing a service that a lot of people need, and I love that the clients come in and have a chat."

Fady and his family show us that moving to regional Australia can yield rewarding outcomes. Trading urban familiarity for the charm of a small town, the couple discovered a vibrant community, professional growth, and an unexpected health benefit for their young son. As Fady concludes, "We definitely wouldn't be where we are without being in Kalgoorlie in the first place. I have learnt a lot from working here".

Fady and Marina |

Source: Big Movers 2023 (regionalaustralia.org.au)

⁸ OECD iLibrary, 2023, *Regional Development Papers No. 39 - Regional productivity, local labour markets, and migration in Australia*

⁹ *Migration Strategy*, p.26

¹⁰ Department of Home Affairs, 2023, *Rapid Review into the Exploitation of Australia's Visa System*, p. 37

Regional migration should be well-planned and support communities across Australia to experience the benefits of migration

From Port Kembla to Nhill, there are countless success stories across Australia of migrants moving to regions and enriching local communities. Recent evidence points to a shift in population dispersion in Australia towards the regions, driven by technology, affordability, and lifestyle, but migration will remain an important factor in promoting regional population growth and development. From 2018 to 2023, population growth in regional cities (7.24 per cent) outstripped growth in the capitals (7.09 per cent)¹¹ while remote and very remote regional areas struggled to attract and maintain a population. (Appendix A, Figure 17)

The Migration Review noted that “*regional migration settings have had little success to date*”, but this is not a fault of the migration system alone. As seen with Port Kembla and Nhill, the migration system can support the regions when seen as part of a holistic approach to addressing regional population and labour needs. As noted in the Migration Review, factors like

“...infrastructure, employment opportunities, housing and access to services are likely to be more important in attracting and retaining regional populations, whether they are new migrants or existing Australians.”¹²

Regional migration settings need to ensure that migration supports, rather than runs counter to, housing and infrastructure needs. While housing challenges are most acute in Australia’s major cities, many regions also face significant housing shortages and this needs to be considered when planning for migration.

Regional migration can also help bring the benefits of migration to all of Australia, building stronger, more vibrant communities. Migrants contribute to a strong, multicultural Australia while also bringing with them much needed skills and diverse experiences that support new ways of doing things. However, this needs to be well-planned to manage population pressures and maintain the social license for migration in local communities.

Regional migration can support stronger connections with international partners

Regional Australia plays a crucial role in enhancing the nation’s international relationships, particularly in the Indo-Pacific. The Indo-Pacific is the fastest-growing region globally, and is the region forecast to have the greatest impact on Australia’s future prosperity and security. We are also ideally placed to continue to benefit from the region’s economic dynamism. At the same time, the Indo-Pacific is undergoing a profound transition, both economic and strategic, and previously accepted global norms are under increasing pressure.

Case study: From international student to skilled migrant

Kimberly – Careers Advisor (Malaysia)

While friends chose to make the move to Sydney or Melbourne, student Kimberly says Adelaide was always at the top of her list when making the move from Malaysia. She was drawn to its laid back, convenient lifestyle and festival culture.

Originally moving to South Australia on a student visa to study marketing and communications at the University of South Australia, Kimberly found in Adelaide the ideal location to live, proving more affordable and accessible compared to the eastern states, both for university costs and the cost of living.

She now works in the city too and continues to enjoy the benefits of city living. “Adelaide is so much smaller and gives me the opportunity to work and live in the city. You don’t need a car to get around, everything is accessible, and people here are also much more friendly!”

Kimberly Goh |

Source: SA success stories (migration.sa.gov.au)

¹¹ Regional Australia Institute, 2023 *Big Movers – Regional Renaissance: A Rise in Migration to Regional Australia*

¹² *Review of the Migration System*, p.123

Regional migration plays an important part in deepening our ties with our international partners. For example, the PALM scheme helps fill lower paid labour gaps in regional and rural Australia, and agriculture nationally, while building closer ties between Australia and the Pacific region, Timor-Leste and Vietnam. This offers Australian employers access to a reliable workforce that contributes to the cultural and economic vibrancy of communities across Australia (Appendix A, Figure 7 and Figure 9).

Regional migration also showcases Australia's regions to the rest of the world. The Working Holiday Maker program supports people-to-people links and brings backpackers to communities they may not have considered travelling to. Australia's Working Holiday Maker program is one of the most diverse in the world – with over 40 partner jurisdictions – and the cultural exchange it enables is an important element of Australia's foreign relations.

The right regional migration settings are critical to meet this objective, ensuring that migration works to deepen our relationships and support better connections. This includes ensuring regional migration settings do not contribute to worker exploitation which can risk undermining our international reputation and connections with international partners.

Regional settings should help provide tailored approaches to migration without being overly complex

Creating a migration system that is fast, efficient, and fair is essential to meeting the objectives for regional migration. Businesses need to be able to source the workers they need. Migrants need to be certain that they are eligible for a visa and have a pathway to permanency, should they seek one.

While regional migration settings seek to provide tailored approaches to cater to the different needs of the regions, such as skills shortages or supporting a sustainable population, clear and simple criteria and processing will make regional migration more appealing for migrants, employers and communities.

There are no easy answers. Consistent and universal criteria are not always compatible with bespoke and tailored arrangements. Migration is often seen as the solution to many different problems, but ultimately a simple system cannot solve all problems and remain streamlined.

There are complex trade-offs to consider when reforming the system to decide what complexity is necessary and what can be simplified. When making decisions the Government will use the objectives outlined in this paper as a guide to help ensure that regional migration settings are delivering for the nation.

Case study: Skilled Worker in the health care system

Anu, Registered Nurse, Northwest Regional Hospital (India)

Anu and her husband Amal moved to Tasmania from India. As a Critical Care and Emergency Registered Nurse, she was attracted by the level of care provided through the Australian health care system and the government's support for the wellbeing of the community.

Anu's past qualifications and experience, coupled with her Australian Health Practitioner Regulation Authority (AHPRA) registration, ensured she meet the criteria for one of Tasmania's highest demand occupations. This enabled her to quickly become an essential part of the Tasmanian community. "The demand for nurses and midwives is extremely high. When I was granted my visa, I had my first job offer letter in a week. All my work environments, colleagues and my patients have been very friendly, supportive, and motivating with their positive attitudes towards new migrants."

Anu and Amal enjoy the benefits of a high-quality life, education and safe working environment. "If you are hardworking, need a peaceful calm life, want to be financially independent and are looking for a safe work environment and community...Tasmania is the right choice. Tasmania is one of the world's best places, as it is cherished with beauty of nature, community and opportunities. The Tasmanian community is very approachable, easy going and supportive for newly arrived migrants like us."

Anu and Amal |

Source: Personal stories (migration.tas.gov.au)

What regional migration settings are currently in place?

There are currently a variety of settings in the visa system aimed at supporting regional migration (Appendix A, Figure 1 and Figure 2). Regional visa settings generally fall within one of four groups:

- Visas specifically targeted to the regions – these include the permanent regional employer sponsored visa or the permanent regional points tested visa, which require migrants to live in the regions for at least three years before being eligible for a permanent visa.
- Visa requirements that are not the primary requirement of the visa, but ensure the visa is strongly tied to the regions – these include the Working Holiday Maker visa with its requirement for regional work or the PALM scheme where many visa holders work in regional Australia.
- Concessions and incentives through standard visas – these include incentives available to international students to study in the regions or concessions for the temporary skilled visa available through Designated Area Migration Agreements.
- Mainstream visas with no particular regional dimensions, but that still support the regions – these include standard employer sponsorship which is available for regional businesses or the state and territory nominated points tested visas.

Each of the visas and their regional settings have slightly different objectives, whether it is helping to meet regional skills needs, supporting regional education, helping address the challenges of an ageing workforce in the regions or encouraging migrants to settle outside of Sydney, Melbourne or Brisbane.

Regional settings and their objectives also often intersect with other visa settings. For example, international students in regional areas also support workforce needs in industries such as hospitality, tourism, the care sector and seasonal work. The Government is currently consulting on the Draft International Education and Skills Strategic Framework, which will take into account the needs of regional Australia and providers of international education in Australia's regions.

Definitions of regional

For most regional migration settings, the Government uses a two-tier definition:

- Category 2 - 'Cities and Major Regional Centres' of Perth, Adelaide, the Gold Coast, the Sunshine Coast, Canberra, Newcastle/Lake Macquarie, Wollongong/Illawarra, Geelong.
- Category 3 – 'Regional Centres and Other Regional Areas'.

Most visas or concessions, like regional-specific visas, expanded occupation lists, and study incentives are available to both Category 2 and 3 areas. These areas are broadly anywhere outside of Sydney, Melbourne and Brisbane.

The PALM scheme uses yet another definition of regional – PALM workers can be employed in postcodes defined as regional and rural. Australian businesses in select agriculture-related food manufacturing sectors can participate in the scheme, irrespective of location.

Opportunities for regional migration

Regional migration has the potential to bring big benefits to regional Australia, but the settings are currently not working as well as they could.

Regional migration settings could be simpler and better meet the skills needs of the regions

The regions have unique skills needs that mean a bespoke approach to migration may be needed. However, the current approach to regional migration is too complex. The Migration Review noted:

“The incremental, patchwork approach to migration policy the Panel has noted previously in the report is evident in the many different approaches now in place to support regions. These visas encompass inconsistent criteria, multiple occupation lists and bespoke arrangements, adding to the complexity of the migration system without serving a clearly articulated purpose.”¹³

There are several skilled visas and visa concessions that are aimed at meeting skills needs in the regions, however, it is not clear how these visas should all work together to make sure the skill needs of the regions are being met.

The complex patchwork of visa settings makes it difficult for employers and jurisdictions to know which visa is appropriate for their needs, let alone having to navigate the process attached to it. There are range of migration settings that could be reformed to be simpler and better meet their objectives.

While DAMAs are designed to be bespoke, they are too complex

Designated Area Migration Agreements (DAMAs) can help address the unique workforce challenges in regional Australia, where the standard sponsored visa arrangements do not meet their needs. DAMAs are intended to provide a solution where the needs of a region may not be captured in standard visa programs, for example, where an occupation may be in demand in a specific region but is not nationally.

However, there are several issues with DAMAs. The capacity and resourcing to effectively manage a DAMA differs between Designated Area Representatives (DARs). Given DAMAs may include concessions on English and income, which are associated with a higher risk of exploitation, DARs have additional responsibilities in managing exploitation risks.

The tailored nature of the agreements adds complexity to the DAMA/labour agreement framework. This may contribute to lower uptake in the initial years of a new DAMA while the DAR establishes their processes and promotes the use of a DAMA to employers in the region (Appendix A, Figure 5 and Figure 6).

In focus: DAMAs

DAMAs are negotiated between a designated area representative (DAR) and the Department of Home Affairs. Once a DAMA is established, employers apply to have a Labour Agreement under the DAMA after which they can then go on to apply to sponsor a migrant.

DARs can be a state or territory government or regional body, such as a chamber of commerce or regional development authority.

Under the terms of a DAMA, the designated area may be able to access a broader range of overseas workers than is available through the standard skilled visa programs by allowing variation to standard occupations and skills lists and/or negotiable concessions to visa requirements.

¹³ Review of the Migration System, p.128

Regional employer sponsored visas need reform in light of recent changes to employer sponsored visas

The Migration Strategy outlines three core streams for the new temporary skilled visa system – the Essential Skills Pathway, the Core Skills Pathway and the Specialist Skills Pathway. There is an opportunity to consider how regional employer sponsored visas can best co-exist alongside these streams and the permanent skilled program. For example, should an equivalent of the Specialist Skills pathway, which allows workers who earn more than \$135,000 to come to Australia without an occupation on an occupation list, exist in the regional sponsored visa?

There is also scope to simplify regional employer sponsorship, which has additional criteria to the requirements of standard employer sponsorship that do not serve a clear purpose. For example, the requirement for regional certifying bodies to approve a nomination in addition to the Department of Home Affairs.

The Government has also committed to a new approach to occupation lists. The Migration Review found that occupation lists were slow to change, overly prescriptive and multiple occupation lists added to the complexity of the system. The Government established a formal role for Jobs and Skills Australia to advise on Australia's skills needs, and they are currently compiling advice on which occupations should form the Core Skills Occupation List as part of the Core Skills Pathway.

The current rationale for a regional occupation list is to account for occupations that may not be in shortage nationally, but because of the unique needs of a community may be in shortage regionally. However, the current regional occupation list contains over 500 occupations. Some are specific to the regions, such as dairy cattle farmer, but others do not seem to have any particular focus on the regions, such as actor or business broker.

If a regional occupation list is significantly broader than the Core Skills Occupation List then there is a risk that it undermines the existence of the Core Skills Occupation List, especially if not restricted to a particular regional area. However, there are likely to be circumstances where it is appropriate for an occupation to be on the regional occupation list even if it does not meet the threshold for inclusion on the Core Skills Occupation List. For example, in the case of dairy cattle farmers, they are not in shortage nationally, but regional NSW and QLD are experiencing shortages.¹⁴

Any reforms to the regional occupation list will need to consider complexity and the ease of navigating the system for migrants and employers. For example, an occupation list for each region would add significant complexity, but there could be occupations that are strongly associated with the regions that are included on a single, national occupation list.

Regional definitions could also be simpler, and better account for the needs of regions

Having several competing definitions of regional Australia makes the migration system more complex. While these different definitions are aimed at providing a tailored approach to regional migration, there is likely scope to simplify them.

Furthermore, the current definition of regional includes everything outside of Sydney, Melbourne and Brisbane. Definitions of regional have generally been structured this way, with some exceptions. However, this definition does not necessarily provide sufficient granularity in regional visa settings to provide flexibility to cater to the unique circumstances of regions. This is not to say that cities outside of Sydney, Melbourne and Brisbane should be excluded from a regional definition, but rather that there are opportunities to further support other more regional areas in how definitions are drawn.

¹⁴ Jobs and Skills Australia, 2024, *Skills Priority List*, accessed 19 June 2024, www.jobsandskills.gov.au/data/skills-shortages-analysis/skills-priority-list

A “one-size-fits-all” approach to regional policy development cannot address the diversity of regional Australia. Different areas have different needs, from gold mines operating in the Goldfields region in Western Australia to tourism operators in Far North Queensland to fruit growers in Northern Victoria.

This broad definition can create challenges for some jurisdictions to attract migrants as they are essentially competing with most of Australia. As noted by the Tasmanian Government in a submission to the Migration Review:

“The definition of ‘regional’ introduced in 2019 rendering locations outside Melbourne, Sydney and Brisbane regional has been problematic. It is acknowledged that the broad definition serves a range of purposes, including to support international student enrolments outside of major cities through post study work rights. The definition, regulation and products have, however, inhibited the effectiveness of this system in supporting attraction and retention of migrants in many regional areas of Australia.”¹⁵

Questions

1. How can the various temporary and permanent visas available to the regions work together to better meet skills needs? For example, Designated Area Migration Agreements (DAMAs) and regional employer sponsored visas.
2. Should there be a regional occupation list? How should regional occupation lists work alongside the Core Skills Occupation List? What should be considered in compiling the regional occupation list?
3. Could the definitions of regional be aligned across the various regional visas? How can definitions be structured to better account for the unique circumstances of regions?

¹⁵ Review of the Migration System, p.127

Regional visa settings could be reformed to mitigate exploitation risks, while ensuring regional Australia still gets access to the workers it needs

Regional visas are an important source of labour for regions, playing a critical role in meeting skills shortages. However, some visa settings have been found to contribute to the vulnerability of workers to exploitation.

Work requirements in the Working Holiday Maker Program increase the risk of exploitation

Several reviews have found that Working Holiday Makers are more likely to be exploited than other temporary visa holders. Many of the Reviews pointed to the fact that dependence on an employer to meet specified work requirements to be eligible for a 2nd and 3rd year visa increased vulnerability of Working Holiday Makers to exploitation.^{16, 17, 18}

However, they also identified a range of other factors that made Working Holiday Makers vulnerable to exploitation. For example:

- The Fair Work Ombudsman, in its Harvest Trail Inquiry, found that other factors that increased the risk of exploitation included cultural and language barriers, suspicion of government, a lack of knowledge about Australian workplace rights and obligations, and a lack of knowledge about where to find assistance.¹⁹
- The Report of the Migrant Workers' Taskforce noted that the remoteness of Working Holiday Makers' work location added to their vulnerability, as well as that Working Holiday Makers were more likely to work in occupations and industries that have higher rates of exploitation.
- The Migration Review supported many of these findings and also made clear that lower English proficiency may make migrants more vulnerable to exploitation.²⁰

Worker exploitation hurts both Working Holiday Makers as well as Australians. It hurts businesses who do comply with their labour obligations, and it damages Australia's international reputation as a welcoming place. This undermines the core purpose of the Working Holiday Maker program, which is to facilitate a positive cultural experience. As noted by the Migrant Worker's Taskforce:

Wage exploitation of temporary migrants offends our national values of fairness. It harms not only the employees involved, but also the businesses which do the right thing. It has potential to undermine our national reputation as a place for international students to undertake their studies and may discourage working holiday makers from filling essential gaps in the agricultural workforce.

¹⁶ Fair Work Ombudsman (FWO), 2016, *Inquiry Reports: Inquiry into the wages and conditions of people working under the 417 Working Holiday Maker Program*

¹⁷ Department of Employment and Workplace Relations, 2019, *Report of the Migrant Workers' Taskforce*

¹⁸ *Migration Strategy*, p.87

¹⁹ FWO, 2016, *Inquiry Reports: Inquiry into the wages and conditions of people working under the 417 Working Holiday Maker Program*

²⁰ *Migration Strategy*, p.64

Reforms need to address worker exploitation in the Working Holiday Maker program

Various reviews and stakeholder submissions over a number of years have made suggestions to reduce worker exploitation in the Working Holiday Maker program. These include:

- Making it easier for migrants to come forward and advocate for their work rights. For example, by providing information on their work rights, requiring migrants to have a minimum standard of English, supporting migrants to bring forward claims and addressing visa concerns when migrants do come forward.
- Introducing obligations for employers if they wish to hire Working Holiday Makers. For example, a requirement for employers to register with the Department similar to the existing backpacker tax registration requirements, a verification process to ensure that employers do not have a history of non-compliance with relevant laws and a sanction register that reports employers who have been found to have been non-compliant.
- Increasing enforcement and sanctioning employers who take advantage of workers.
- Reforming visa requirements to reduce vulnerability. For example, changes to 88 day and 179 day specified work requirements, such as reforming which areas and industries are eligible for specified work.

These represent some of the positions put forward by stakeholders over a number of years but are by no means exhaustive.

Some of these are already being addressed, for example, the Government has already introduced measures to

address exploitation of migrant workers, including passing the *Migration Amendment (Strengthening Employer Compliance) Act 2024* and funding information and education activities in the 2024-25 Federal Budget to provide migrant workers with accurate and appropriate information about workplace safeguards, protections and compliance measures related to migration laws.

The Migration Review recommended that the Government

“...ensure the primary focus of the Working Holiday program is cultural exchange and does not operate to tie migration outcomes to the performance of work. Subject to Australia’s obligations under trade and other international agreements, consider limiting Working Holiday Maker program visas to one year.”

The Government is not considering limiting the Working Holiday Maker visa to one year as this would significantly damage local economies in regional Australia. However, it is clear that worker exploitation in the Working Holiday Maker program has existed unchecked for too long and the Government will consider a range of options to address this as part of this evaluation.

In focus: Working Holiday Maker program specified work requirements

The Working Holiday program enables cultural exchange and people to people links by allowing young people to have an extended holiday supplemented by short term employment, with special focus on regional Australia.

Since 2005, this focus on regional Australia has been encouraged through three months of Seasonal Work, referred to as ‘specified work’, on the first visa, which unlocks eligibility to apply for a second Working Holiday visa.

The expansion of the second Working Holiday visa initiative was in response to ongoing labour shortages that industries in regional Australia were experiencing. A third Working Holiday visa was introduced in 2019 requiring 6 months of specified work with the same eligibility requirements. Around 1 in 5 Working Holiday visa holders undertake specified work and remain for a subsequent Working Holiday visa.

Reforms will need to consider the impacts to Australia's regional workforce needs

In considering any changes, the Government will ensure regional Australia continues to get access to the workforce it needs.

Working Holiday Makers undertaking specified work provide an important source of labour to regional Australia and contribute to the economic prosperity of the regions. As the name suggests, Working Holiday Maker visas are intended to provide visa holders with a holiday opportunity (i.e. cultural exchange), alongside work rights.

Since Australia's border reopened post-pandemic, Working Holiday Maker numbers have strongly rebounded and are at historically high levels (Appendix A, Figure 11), particularly the number of Working Holiday Makers on their second visa. In 2022-23, Working Holiday Maker visa holders performed more than 4.1 million days of specified work, much of it in agriculture, equivalent to approximately 16,000 full-time workers.²¹ The two most popular employer industries for second Working Holiday visas are Agriculture, Fishery and Forestry (49 per cent), and Accommodation and Food Services (24 per cent).²²

Working Holiday Makers are also critical to the visitor economy, as both workers and consumers. Prior to the pandemic, they contributed \$3.2 billion annually to the visitor economy, representing 7 per cent of total visitor spend.²³ Working Holiday Makers often spend what they earn in Australia, contributing to the local communities they live in.

As workers, they also often help fill workforce needs that could not be fully met by the local community in regional areas. The Harvest Trail Inquiry noted the positive benefits of Working Holiday Maker program for horticulture businesses, with growers able to increase and decrease the size of their workforce throughout the season.

In the visitor economy, Working Holiday Makers provide a flexible workforce for tourism and hospitality businesses in regional and remote areas during peak seasons, and help increase diversity within businesses and communities (Appendix A, Figure 10 and Figure 13).

A historical reliance on Working Holiday Makers has not always supported positive workforce outcomes. For example, Working Holiday Makers can be less productive than other workers in the agriculture sector. Research has found that seasonal workers that came to Australia under a predecessor to the PALM scheme were 20 per cent more productive than Working Holiday Makers.²⁴ The transient nature of the Working Holiday Maker labour force means that agricultural businesses are not always incentivised to provide training to their workforce that would make them more productive. While being a source for more productive labour, the PALM scheme also has additional safeguards in place that minimise the risk of worker exploitation.

²¹ Department of Home Affairs, 2024

²² Department of Home Affairs, 2024

²³ Department of Home Affairs, 2022, Media Release, *Attracting more Working Holiday Makers*, The Hon Dan Tehan MP

²⁴ Zhao, S, Binks, B, Kruger H, Xia, C and Stenekes, N, 2018 *A comparison between seasonal workers and working holiday makers*, ABARES Research Report 18.1, p. 1

Jobs and Skills Australia is currently undertaking the Food Supply Chain Capacity Study, which will examine the workforce needs of Australia's food supply chain. The study will examine all aspects of the Food Supply Chain workforce, including the contributions of permanent and temporary migration. It will also examine how to address genuine shortages while preventing migrant exploitation. The Study will be completed in September 2024 and the findings will inform any potential reforms in this space.

Questions

4. How can we reform Working Holiday Maker program visa settings to limit exploitation, while still ensuring regional Australia can access the workers it needs? For example, are there innovative strategies to incentivise Working Holiday Makers to choose regional Australia as their preferred destination, without tying the incentives to specified work visa requirements?
5. How can we ensure a more consistent approach to lower paid migration across various visa products, as well as reflect our commitment to maintain the primacy of our relationships with the Pacific?

Better planning for regional migration will drive better outcomes for migrants and for the regions

Many migrants who move to the regions do not stay there. For provisional visa holders who are required to stay in the regions for three years before they can apply for a permanent visa, a quarter of them move away once they have obtained a permanent visa. Who remains in regional Australia varies. Permanent family migrants and temporary skilled migrants have the highest retention rate in inner regional Australia.²⁵ While lower retention is not necessarily a problem, with significant benefits stemming from migrant doctors, for example, moving to the regions only for a few years, challenges do emerge when this occurs at a larger scale.

The choice to move to or stay in the regions is multi-faceted and changes overtime. For example, research shows that many migrants move to a secondary location shortly after arriving in Australia, as people actively seek a location that best meets their individual circumstances. The longer people stay, the less likely they are to move.

Evidence shows that job opportunities and the diversity of jobs available in the local economy are important for skilled migrants, as is lifestyle, education opportunities and community safety. Ensuring that there is adequate housing, infrastructure and services is also important to improve retention. Secondary migration is common shortly after arriving in Australia, after migrants settle into their new communities. Although there are some step changes consistent with visa eligibility, most secondary migration is associated with socio-economic and demographic factors.²⁶

There are a variety of policy levers available at different levels of government to attract migrants into the regions. They range from marketing the unique value of regional areas, visa-linked incentives, placed-based investments (including better planning and facilities, improving services, and investing in job creation). While migration settings that provide incentives to migrants to move to the regions, such as by extending the length of the visa or making remaining in a regional area a condition of their visa, may have some effectiveness, outcomes can be improved when complemented with other actions.²⁷

One of the mechanisms currently in place to encourage migrants to stay in the regions is the provisional nature of the regional nominated points tested visa and the regional employer sponsored visas. Provisional visas differ from temporary visas as they allow migrants to access services such as Medicare that are available to permanent migrants.

Case study: From Filling Skilled Labour Shortages to Boosting Career Prospects – Tasmania

Juan – Carpenter (Colombia)

Juan and their wife Diana, originally from Colombia, moved to Tasmania to establish their new life and haven't looked back. Originally drawn to Tasmania because of the ease for Juan to secure a full-time carpenter position, the state has presented a range of career and lifestyle benefits. "Finding work wasn't hard. After sending my CV to some Tasmanian builders, I had a job offer to start ASAP so we packed up and moved to Tassie."

While working for BlueGum Builders – a local Tasmanian business based in Hobart – Juan has been able to complete additional studies. Building on his initial qualification of Certificate III in Carpentry. Juan has now completed a Certificate IV in Building and Construction through TasTafe while sustaining his employment, increasing his skills and boosting his career prospects.

Juan and Diana enjoy going out with friends and trying local food and wine. They find Tasmania an easy place to travel around and discover unique places. The combination of stable employment, safe cities and natural environment has encouraged Juan and Diana to consider Tasmania a great place to start a family. "If you want to live in a place with a quality education system and you love travelling, discovering new places and trying good food – Tasmania has it all."

Juan and Diana |

Source: Personal stories (migration.tas.gov.au)

²⁵ Aude, B et al, 2024, *Retaining permanent and temporary immigrants in rural Australia: Place-based and individual determinants*, Working Paper No 2024/02 Queensland Centre for Population Research

²⁶ Aude, B et al, 2024, Working Paper 2024/02

²⁷ Wasserman R and Gamlen, A, 2018, *Policy that encourages population to relocate to regional areas makers*

Both of these visas require that a migrant stay in the regions for at least three years before they are able to apply for a permanent visa. The intent of the visa is to encourage migrants to stay in the regions and lay down roots. It is not clear how successful these requirements have been at getting migrants to stay in the regions, particularly after migrants are no longer required to remain in the regions.

Further, some have noted that the provisional nature of visas can make them unattractive, because it can make it harder to get a job, it restricts a migrant's movement, and it can make it harder to get a home loan. Historically, regional employer sponsored visas have been a direct-to-permanent visa. In 2019, the old regional employer sponsored visa was replaced with an arrangement that required at least three years on a provisional visa. Before the provisional visa was introduced, there were approximately between 6000 to 12,000 visas granted for regional employer sponsored visas each year. In 2022-23, less than 4,000 visas were granted.

Better collaboration with the states and territories will support greater retention

States and territories also have an important role in supporting retention. They both select migrants for both the state and territory nominated points tested visas and the regional nominated visas. They also are the primary investors in the regions, and hold many important levers that facilitate successful migration, such as service delivery and infrastructure development. They are better placed to understand what migration settings will work best for their regions and align with their own regional development goals.

The Migration Review suggested that states and territories could be given greater flexibility to allocate permanent visas with respect to the needs of their jurisdiction. This would acknowledge, for some jurisdictions, the provisional visa might be needed to ensure that migrants settle in the regions (even if temporarily). For others, it may be the case that the untied state and territory visa is better placed to attract the migrants with the skills they need.

Better planning for migration will also support retention. As noted in the State of Australia's Regions 2024 report:

Factors such as liveable communities with sufficient infrastructure, employment opportunities, available and affordable housing, and access to services are likely to be more important in attracting and retaining migrants in regional areas in the long term. To maximise the benefit of migration to the regions, migration should also be considered within broader regional development plans that include attraction and retention strategies.²⁸

The Migration Strategy committed to plan migration over a longer-term horizon with greater state and territory collaboration. In the 2024-25 Budget, the Government announced the introduction of a new multi-year planning model for the permanent Migration Program, which will focus on getting the right people, with the right skills, into the right places, including in regional Australia.

Under the new model, the size and composition for the Migration Program will be set for each year at the start of a four-year planning cycle. These decisions will be informed by infrastructure, housing and services planning and skills priorities, across all levels of government.

²⁸ Department of Infrastructure, Transport, Regional Development, Communications and the Arts, 2024, *State of Australia's Regions*, p.20

To support the multi-year planning model, tailored State Migration Plans will be developed in collaboration with each State and Territory Government. These plans will shape how the visa system supports key economic priorities in each state or territory and will use data and evidence to outline skills needs. The plans will also consider any plans by State and Territory Governments to manage population growth, including plans to increase housing availability, infrastructure investments and regional development plans. Together, these plans will help inform the size and composition of the permanent program over four years. This will enable better planning for migration and ensure that migration is more closely tied to regional development plans.

These challenges and opportunities for effective regional migration are intended to stimulate further discussion and active engagement from the people and organisations that form the communities of regional Australia. They should inform the broader debate on regional development and help to locate international migration within this larger nation-building exercise.

Questions

6. Noting the limitations of visa settings, what factors encourage more migrants to choose to settle in the regions and improve retention?
7. Do provisional visas successfully encourage large scale retention of migrants in the regions? Is the length of a provisional visa the right length? Should both the regional employer sponsored visa and the regional nominated visa have the same provisional visa arrangements?
8. How can we improve planning for regional migration, especially given the return of migrants to regional Australia post-pandemic? Should there be more flexibility provided to states and territories in planning for regional migration?

How to make a submission

The Department of Home Affairs is inviting submissions to the review of regional migration settings until 5 pm Australian Eastern Standard Time on 26 July 2024. Submissions can be made via the Department's website homeaffairs.gov.au.

How will submissions be used?

Written submissions will be analysed by the Department of Home Affairs and will form a key contribution to the review of the regional migration settings and the Department's advice to Government. The Department may contact submission authors to invite additional information or views.

Appendix A

Regional Migration Settings

Figure 1 Permanent Skilled visas of special relevance to regional Australia including planning levels

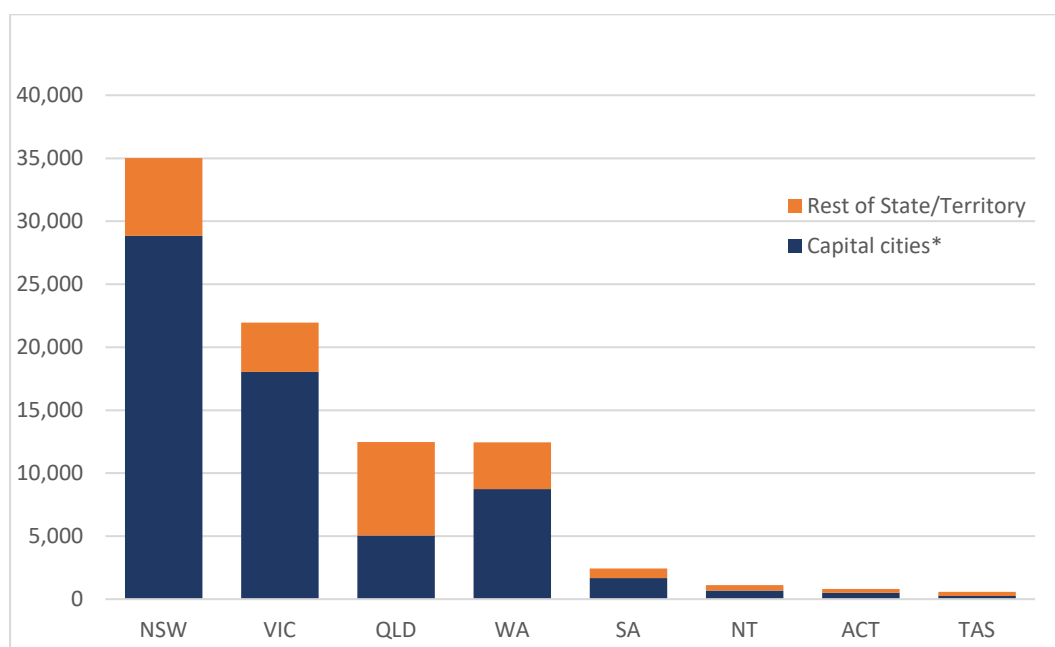
Visa Program	Objective	Regional dimensions	2024-25 Planning levels
Employer Sponsored	Meet immediate skills needs of employers and provide a pathway to permanency to temporary skilled migrants	Concessions on standard sponsorship requirements available through labour agreements and DAMAs Transition pathway available for Temporary Skill Shortage holders with regional occupations	44,000
Skilled Independent	Meet long term skill needs and boost working age population	Points awarded for study at regional university	16,900
State and Territory Nominated	Meet unique needs of jurisdictions	Jurisdictions can nominate migrants in regional areas, points awarded for regional study	33,000
Regional Employer Sponsored	Encourage migrants to settle in the regions by requiring them to stay in the regions for 3 years and supporting employers to get access to skills through a wider skills list	A dedicated employer sponsored visa regional visa with a pathway to permanency for migrants who spend at least 3 years in a regional area Expanded occupation list available.	33,000 (Regional Employer Sponsored and Regional Nominated contribute to the same planning level)
Regional Nominated	Encourage migrants to settle in the regions by requiring them to stay in the regions for 3 years	A dedicated regional points tested visa with a pathway to permanency for migrants who spend at least 3 years in a regional area. Migrants also get points for regional study.	
Talent and Innovation visas	Permanent visa for exceptionally talented migrants who will drive growth in sectors of national importance	N/A	1,000 BIIP 4,000 Global talent 300 Distinguished talent

Figure 2 Temporary visas of special relevance to regional Australia

Visa Program	Objective	Regional dimensions
Temporary skilled	Support employers to address immediate skill shortages not able to be filled locally	Concessions on standard sponsorship available through labour agreements and DAMAs Additional occupations available for regional employers
Students	Support a high-quality international education sector	Additional points for regional study in the points test
Temporary Graduate	Provide former international students with work experience opportunities in Australia	Additional one or two year visa stay provided for study at regional universities
Working Holiday	Facilitate cultural exchange and reciprocal travel	Second and third visa options for work in regional areas in certain industries
Pacific Australia Labour Mobility (PALM)	Supports Australian employers to hire workers in unskilled, low-skilled and semi-skilled positions not able to be filled locally	Majority of PALM workers are in regional locations

Temporary employer sponsored visa

Figure 3 Temporary Skill Shortage (TSS) visa holders in Australia by state or territory as at 30 April 2024

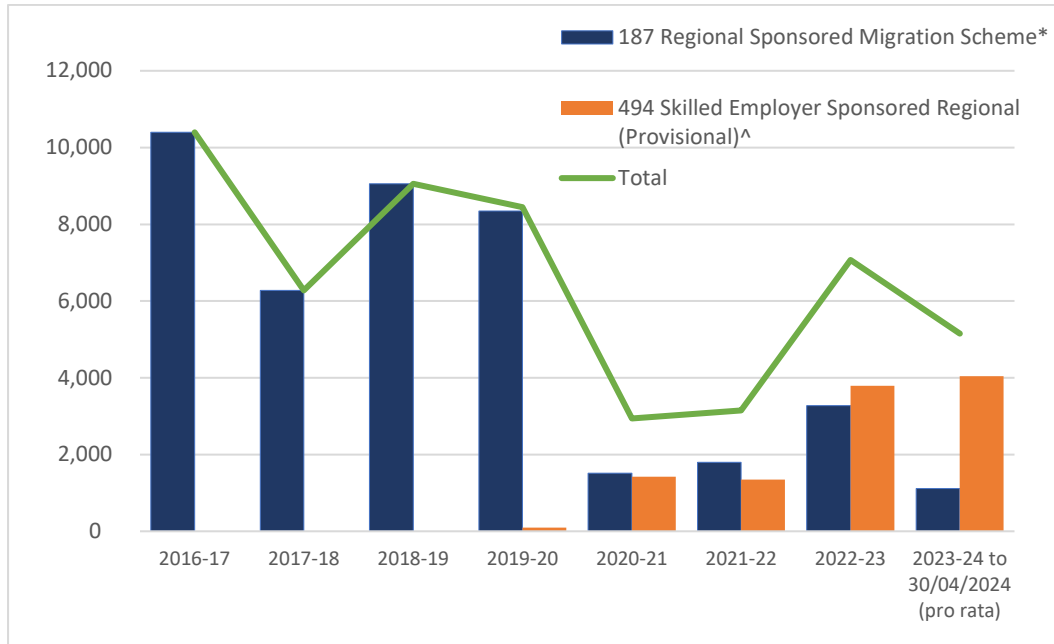


* Capital cities are major capital cities (and surrounds) of each state or territory

SOURCE: Department of Home Affairs

Regional Employer Sponsored visa grants

Figure 4 Employer Sponsored (Regional Skilled) visa grants from 2016-17 to 2023-24#



* Legacy visa, closed to new applications

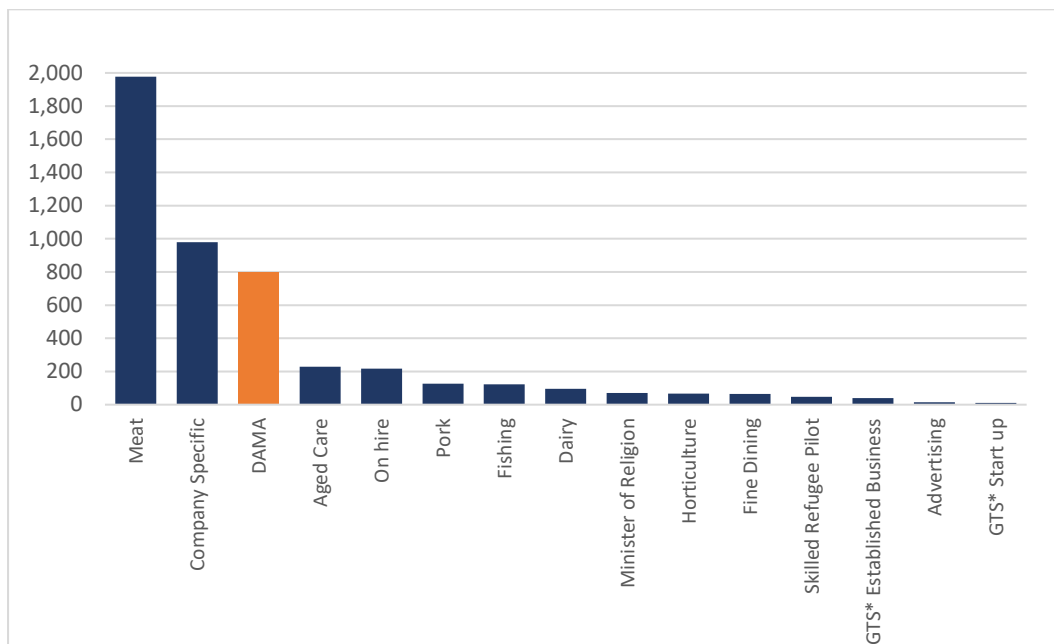
^ Visa commenced from 16 November 2019

2024 figures include data up to 30 April 2024, which is then used to proportionally calculate figures up to 30 June 2024 using pro-rata method

SOURCE: Department of Home Affairs

Comparison of DAMAs to other types of labour agreements

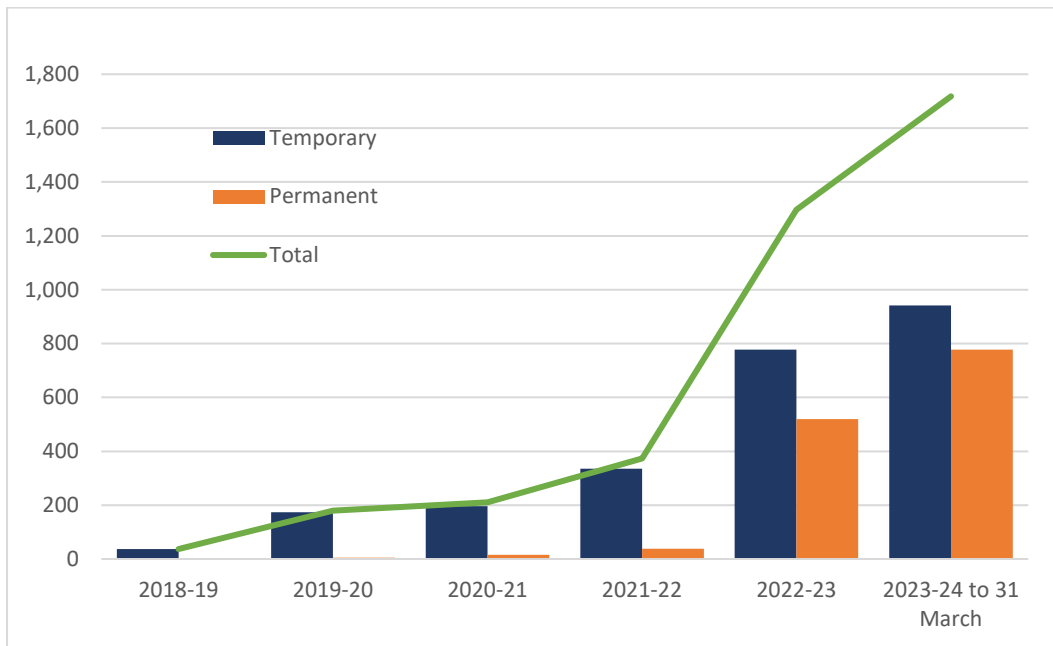
Figure 5 Visa grants by agreement type from 1 July 2023 to 31 March 2024



* GTS – Global Talent Scheme

SOURCE: Department of Home Affairs

Figure 6 Visa grants under DAMA Labour Agreements 2018-19 to 2023-24*

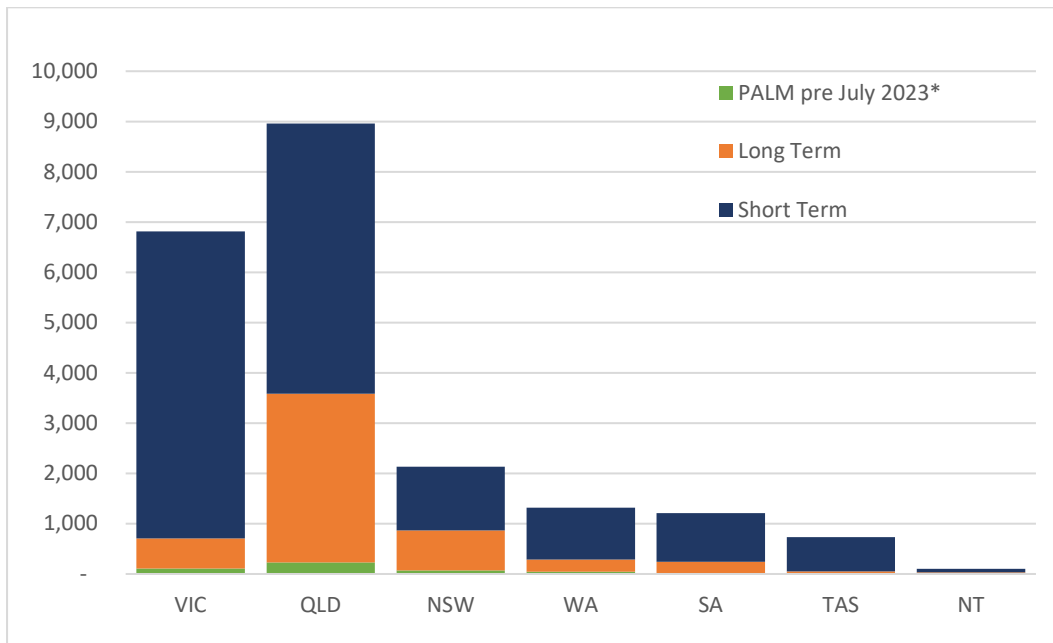


* 2023-24 includes data up to 31 March 2024

SOURCE: Department of Home Affairs

Pacific Australia Labour Mobility (PALM) visas

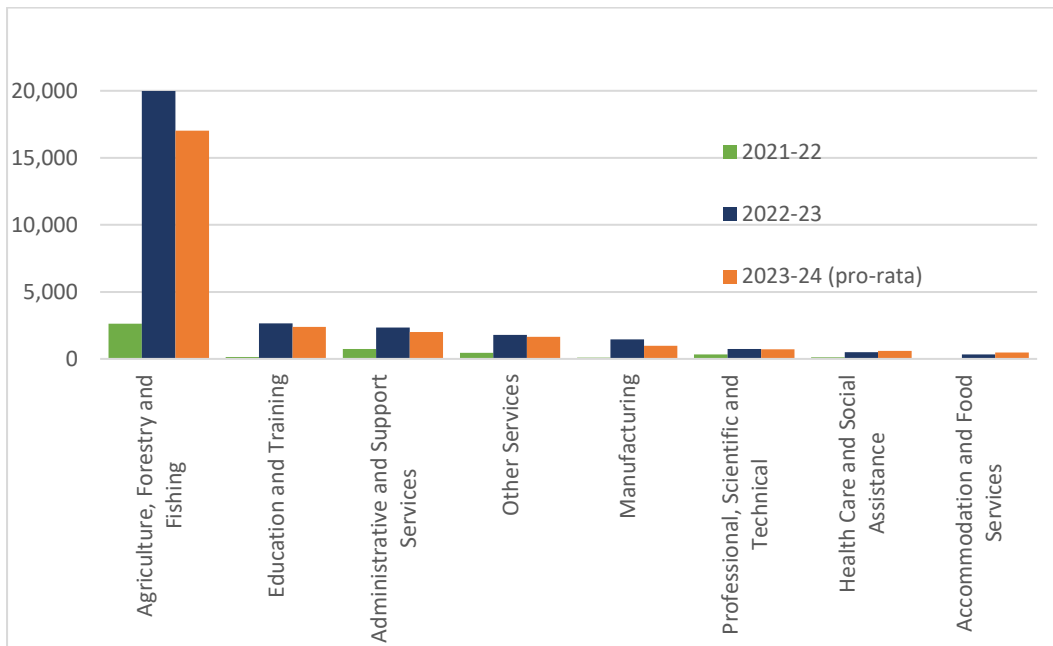
Figure 7 PALM visa grants by location of business sponsor from 1 July 2023 to 30 April 2024



* 'PALM pre July 2023' refers to residual Pacific Labour Scheme and Seasonal Worker Program visas

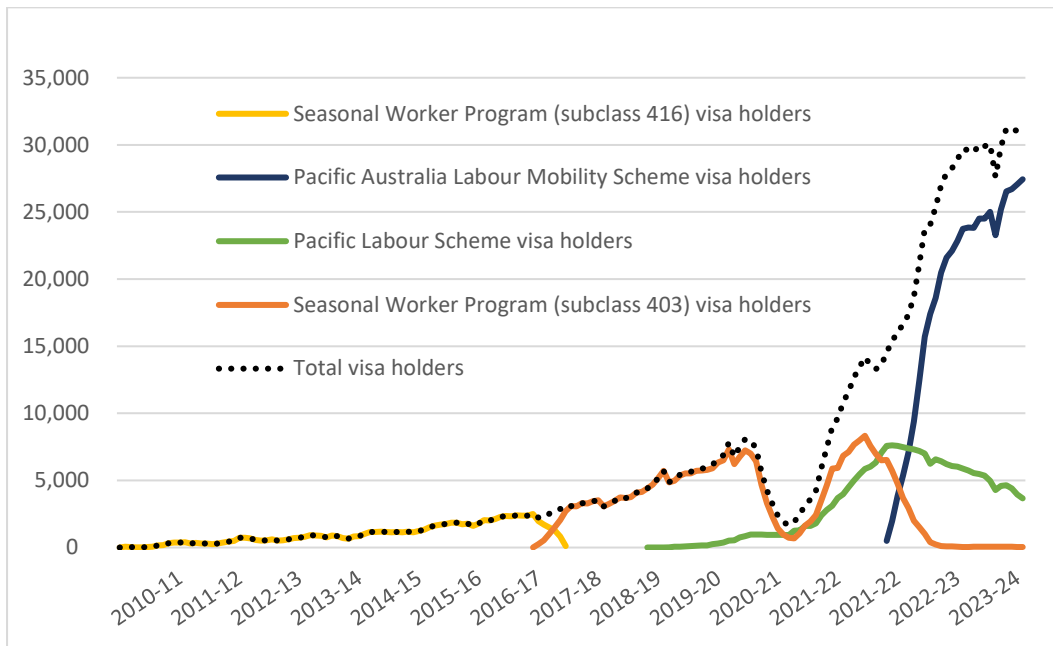
SOURCE: Department of Home Affairs

Figure 8 PALM visa top 8 industries by visa grant from 2021-22 to 2023-24*



* 2024 figures include data up to 31 May 2024, which is then used to proportionally calculate figures up to 30 June 2024 using pro-rata method
 SOURCE: Department of Home Affairs

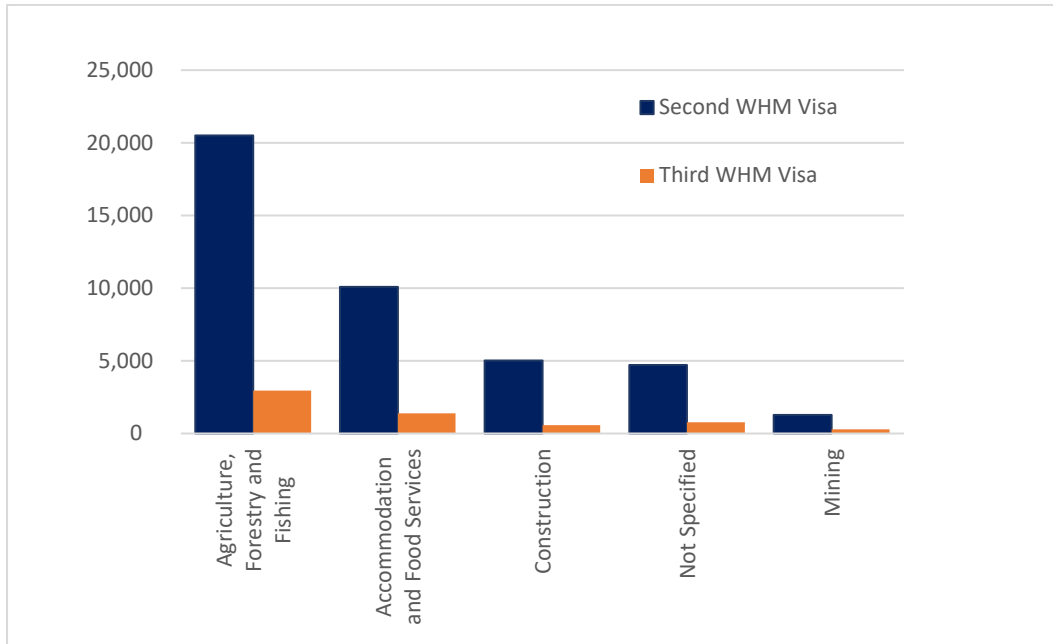
Figure 9 PALM scheme visa holders in Australia from July 2010 to May 2024*



* This data includes Pacific workers who held a relevant subclass 416 and subclass 403 visa only and does not include Pacific workers who moved to the subclass 408 Pandemic Event visa or bridging visas during the COVID-19 pandemic
 SOURCE: Department of Home Affairs

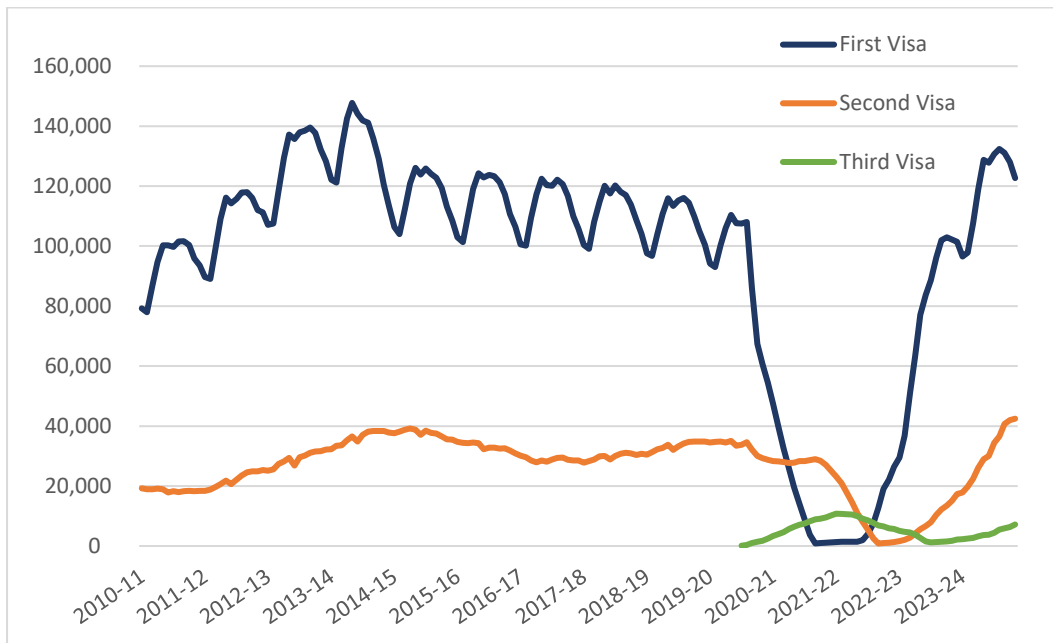
Working Holiday Maker (WHM) visas

Figure 10 Second and third WHM visa grants by industry of employment 1 July 2023 to 30 April 2024



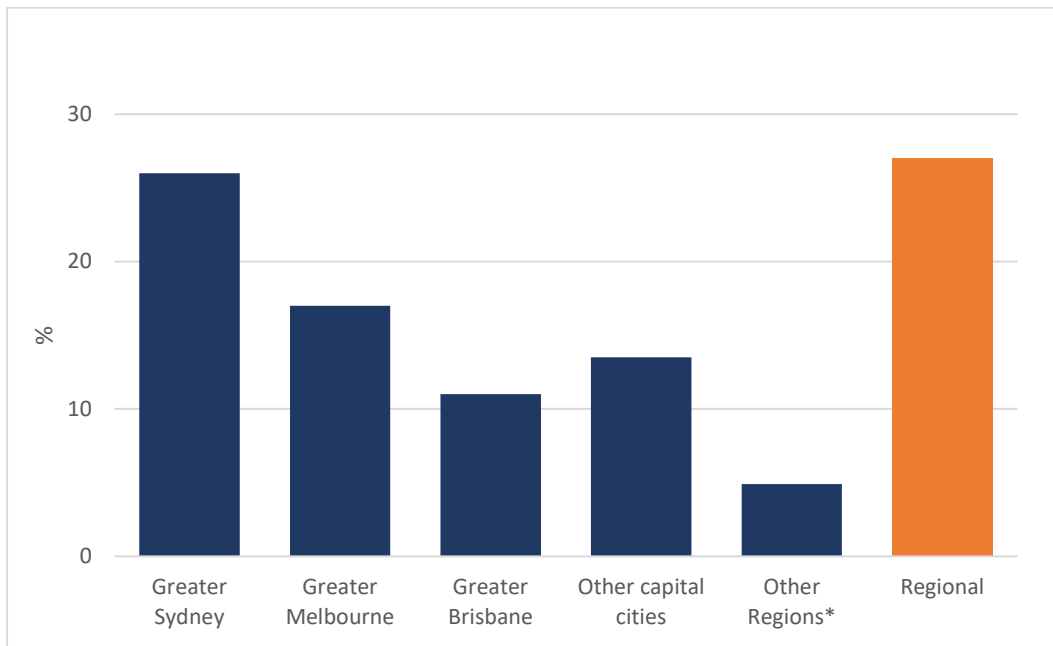
SOURCE: Department of Home Affairs

Figure 11 WHM visa holders in Australia by visa type from July 2010 to May 2024



SOURCE: Department of Home Affairs

Figure 12 Distribution of WHM visa holders between state and territories 2016[^]

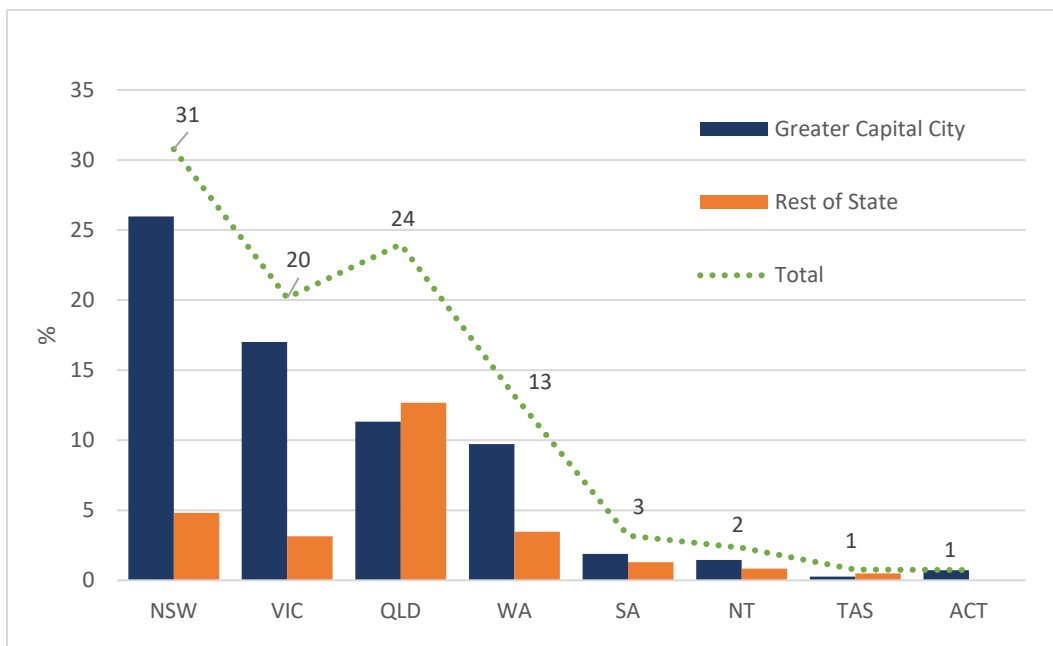


[^] Latest data available. Conditions during COVID-19 pandemic impacted data from the 2021 Census

* No usual address or Migratory/Offshore/Shipping locations

SOURCE: Census 2016 Australian Bureau of Statistics

Figure 13 Distribution of WHM visa holders by Capital City and Rest of State 2016[^]



* Totals do not equal 100% as data does not include those with no usual address or located in Migratory/Offshore/Shipping locations

[^] Latest data available. Conditions during COVID-19 pandemic impacted data from the 2021 Census

SOURCE: Census 2016 Australian Bureau of Statistics

Figure 14 Working Holiday Maker program specified work – eligible industries and regions as of 2 February 2024

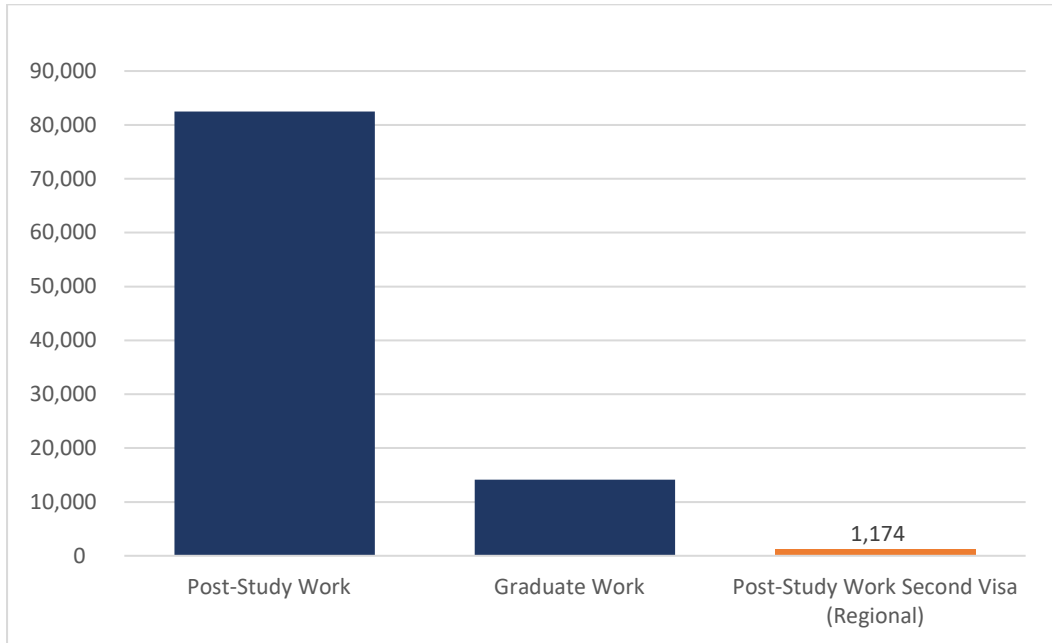
	Regional Australia*	Northern Australia*	Remote and Very Remote Australia*	Other
Plant and animal cultivation	Both subclasses	Subclass 462 only		
Fishing and pearling	Subclass 417 only	Subclass 462 only		
Tree farming and felling	Subclass 417 only	Subclass 462 only		
Construction	Both subclasses	Subclass 462 only		
Mining	Subclass 417 only			
Tourism and hospitality (carried out from 22/6/2021)		Both subclasses		Postcodes 4406, 4416, 4498, 7215
Bushfire recovery				Specified bushfire affected areas
Flood recovery				Specified flood affected areas
Critical COVID-19 work in the healthcare and medical sectors				All of Australia

* Regional definitions are not mutually exclusive, i.e. some postcodes are included in more than one 'region'.

Key
Subclass 417 only
Subclass 462 only
Both subclasses

Temporary Graduate Visas

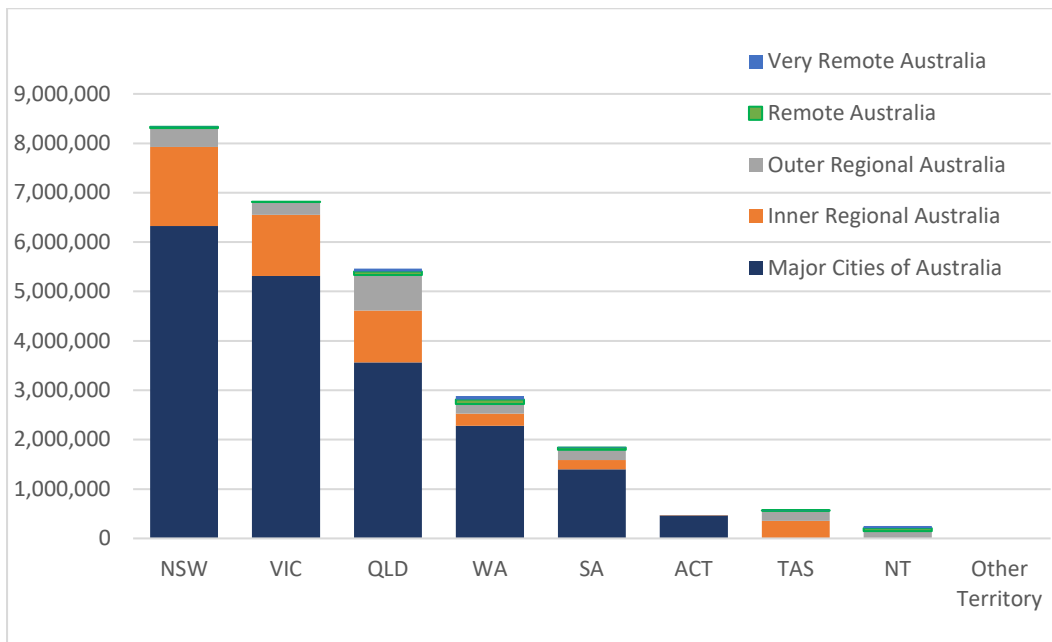
Figure 15 Temporary Graduate visa (TGV) grants by visa type from 1 July 2023 to 31 May 2024



SOURCE: Department of Home Affairs

Australian Population and Growth by Remoteness Area

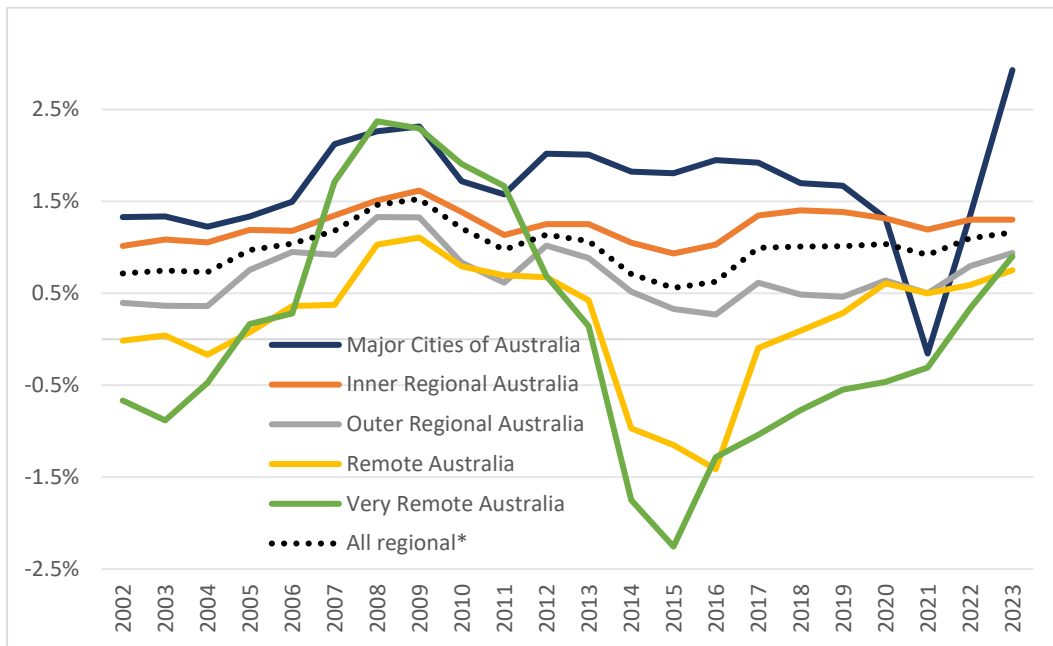
Figure 16 Population of state & territories by remoteness area* as at 30 June 2023



* Remoteness areas as defined by Australian Bureau of Statistics definition

SOURCE: Population estimates by LGA, Significant Urban Area, Remoteness Area, Commonwealth Electoral Division and State Electoral Division, 2001 to 2023 - Australian Bureau of Statistics

Figure 17 Population growth rate (%) of Australian remoteness areas from 2002 to 2023



* 'All regional' includes Inner Regional, Outer Regional, Remote and Very Remote Australia

SOURCE: Regional population, 2022-23 financial year - Australian Bureau of Statistics