

Our ref: D20/211

**SMALL BUSINESS DEVELOPMENT CORPORATION (SBDC) BUSINESS  
MIGRATION CENTRE**

**SUBMISSION TO THE DEPARTMENT OF HOME AFFAIRS  
CONSULTATION ON THE BUSINESS INNOVATION AND INVESTMENT  
PROGRAM (BIIP)**

**DATED: 4 February 2020**

As the Western Australian (WA) Government's authorised business migration nominator, the Business Migration Centre (BMC) at the Small Business Development Corporation (SBDC) values the opportunity to provide this submission on the Business Innovation and Investment Program (BIIP) consultation process. Recommendations aimed at improving outcomes for Australia have been suggested in response to the consultation questions.

**GENERAL INTRODUCTORY COMMENTS ON THE BIIP PERFORMANCE IN  
WESTERN AUSTRALIA**

The SBDC maintains that business migrants should contribute to the productive diversity of Australia through business and investment activities that expand Australia's capacity for innovation, employment generation and economic prosperity. The migration program must also be successful in opening valuable cultural and business opportunities with the rest of the world.

In line with the objectives of the BIIP, the WA Business Migration Program aims to attract suitably qualified business migrants to the State as a source of capital for business and investment activities that deliver new employment and economic diversification.

Ideally, targeted migrants should contribute to the creation or expansion of businesses, the supply of products, the provision of new and different skills, and other entrepreneurial activities including:

- Creating new jobs and retaining existing employees;
- Providing an ongoing stream of buyers for exiting local business operators, including the purchase of distressed assets;
- Generating income across the economy through expenditure on settlement costs;
- Facilitating the sale of WA goods and services into international markets;
- Stimulating competition and providing more choice for consumers in Australian markets; and
- Bringing new expertise, systems and technology to the State.

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The BIIP has enabled the WA program to make a significant contribution to the State's economy and has been particularly successful in attracting new capital into the small business sector, as demonstrated by the confirmed economic benefit from business migrants who had finalised their investment in the past four financial years from 1 July 2015 to 30 June 2019.

<b>Economic Benefit to WA</b>	<b>1/7/15 to 30/6/19</b>
Total Net Assets (566 business migrants)	<b>\$1.75 Billion</b>
Distribution of Total Net Assets	
- Business Assets	<b>\$964 Million</b>
- WA Treasury Bonds and Investments	<b>\$159 Million</b>
- Settlement and Domestic Assets	<b>\$632 Million</b>
New Export Businesses	<b>50</b>
New Jobs Created	<b>1,594</b>

## AREAS OF CONCERN

It is essential that the integrity of the BIIP is upheld to ensure Australia can target and attract the type of business migrant that will strive to meet the objectives of the program, rather than facilitate those seeking permanent residency with a minimum economic contribution.

The SBDC is of the view that among the range of visas offered through the BIIP, the entrepreneur visa subclass streams are not effective in achieving benefits for Australia and this observation is demonstrated by the poor volume of applicants and the low level of approvals. Further, the SBDC has identified and reported a number of integrity risks associated with these visas.

Flaws or weakness in the policy settings or underlying regulations are at risk of being exploited by agents and applicants, resulting in the program not achieving the best outcomes for Australia. Within this submission, the SBDC has sought to suggest possible amendments to existing policy settings that would assist to strengthen the capacity of the BIIP to deliver the desired benefits for Australia.

The SBDC is of the view that the changes recommended in this submission urgently need to be implemented by the Department of Home Affairs (DHA) to ensure the BIIP can target and attract the right type of applicants who will contribute most to the Australian economy.

## FUNDING INNOVATIVE BUSINESSES AND ENTREPRENEURS (Consultation questions 1 and 2 refer)

As part of its National Innovation and Science Agenda, the Australian Government implemented the subclass 188 entrepreneur visa (in September 2016). This was aimed at applicants with innovative ideas seeking to relocate to Australia who had secured financial backing (of at least \$200,000) from third parties to commercialise their ideas.



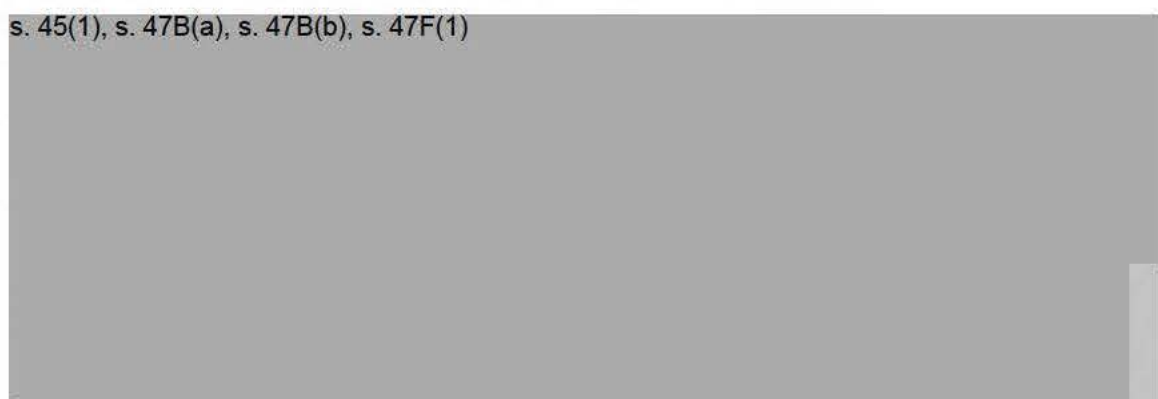
The SBDC is aware that there has been very little interest in this visa, partly due to the restrictive avenues for funding, and it is unlikely that this visa will achieve the desired outcome of increasing innovation in Australia.

Further, the subclass 132 venture capital visa was designed for a small number of highly talented individuals with high potential, high value business ideas who have secured Australian venture capital funding of at least \$1 million. Again there have been limited applications for this visa. Nominating jurisdictions have also expressed integrity concerns at the tactics of some venture capital funds and migration agents in generating non-genuine applicants for this visa.

The lack of response to both of these visa subclasses indicates they are not attracting the desired applicants or achieving their policy objectives. If the objective is to innovate Australia it is incongruent that these visas are aimed at attracting cashed-up overseas entrepreneurs when many Australian entrepreneurs and innovators are unable to access domestic funding to commercialise their ideas.

A better outcome for Australia could be achieved by amending the criteria of both visas to attract business migrants prepared to fund Australian businesses to develop and commercialise their innovative products and/or services. This in turn would achieve the desired outcomes of increasing innovation in Australia and protecting the integrity of the visas.

s. 45(1), s. 47B(a), s. 47B(b), s. 47F(1)



This highlights the funding gap in Australia for entrepreneurs and businesses wanting to commercialise innovate, expand, and grow for amounts of up to \$1.5 million. This funding gap could be overcome by targeting business migrants prepared to fund and participate in the establishment and development of Australian entrepreneurial and innovative businesses under these two subclass visas.

### **Recommendation 1:**

*The criteria requirements for these visas be amended as follows:*

- *Visa subclass 188 (entrepreneur stream retain same name)*  
Meet the visa subclass 188 business innovation or investor stream requirements.
- *Visa Subclass 888 (entrepreneur stream retain same name)*

Applicant to provide funding to an Australian start up business of at least AUD \$300,000 to assist with its commercialisation process or development and generate the equivalent of at least one new full time job.

- *Visa subclass 132 (venture Capital Stream change name to Innovation Stream)*  
Meet the visa subclass 132 business talent requirements and provide funding to an Australian business of at least \$1 million to assist with its commercialisation process or development; and generate the equivalent of at least two new full time jobs prior to visa grant.

### **INCREASING OUTDATED ECONOMIC THRESHOLDS (Consultation question 3 refers)**

Current BIIP economic thresholds for the visa subclass 132 (significant business history stream) and visa subclass 188 and 888 (business innovation stream) have remained unchanged since their introduction and are now outdated. The visa subclass 132 was introduced prior to the visa subclass 188 and 888 which were both introduced in 2012.

Economic requirements by DHA to apply for the visa subclass 188 (Business Innovation Stream) include ownership in a business that has an annual turnover of at least \$500,000 in two of the last four years; and total net assets of at least \$800,000 that can be applied to the establishment or conduct of a business in Australia.

However, once an applicant has been granted a visa subclass 188 to enter Australia and establish their business the DHA requirements for the visa subclass 888 for the business in Australia specify that the applicant will meet two of the following three conditions in Australia:

- (1) Net business assets of at least \$200,000;
- (2) Employment equivalent of at least two full time employees (retained or new); and
- (3) Total net assets of at least \$600,000

Although the applicant is required to have net assets of at least \$800,000 to establish or conduct their business in Australia at the first stage (visa subclass 188), they need only have a total of \$600,000 in net assets in Australia of which at least \$200,000 are net assets in business at the second stage (visa subclass 888). These requirements are in contradiction with each other as the funds that are required to be available for establishing a business in Australia in the first stage are significantly reduced for the second stage when the meaningful economic contribution to Australia is expected to be made.

Further, applicants require nomination by a state or territory government to apply for these visa subclasses and jurisdictions can impose their own economic thresholds which typically are substantially higher than the DHA requirements. This is done to both ensure maximum economic benefit is returned to the jurisdiction for nominating the applicant, and to assist jurisdictions to manage their BIIP places throughout the year by preferencing



applicants who can meet at least the minimum requirements desired by the State.

As an example WA requires applicants to meet all three of the following requirements in the business for State nomination:

- (1) Net business assets of at least \$300,000;
- (2) Ability to generate the equivalent of one new full time job; and
- (3) Total net assets of at least \$900,000.

The three main issues that impact on visa subclass 888 are:

- (1) Confusion in the migration market place regarding the economic requirements for this visa as the state and territory government requirements in most cases differ from the DHA requirements;

s. 45(1), s. 47B(a), s. 47B(b)

- (3) The insufficient capacity of a business investment of \$200,000 in the current market to establish or purchase a qualifying sustainable business that will generate enough income for the migrant family to live in Australia and be of economic benefit to the country.

Economic requirements by DHA for the visa subclass 132 (significant business history stream) include ownership in a business that has an annual turnover of at least \$3 million and net assets in business of at least \$400,000 in two of the last four years; and total net assets of at least \$1.5 million available to transfer to Australia within two years after the grant of the visa.

The economic requirements by DHA to retain the visa subclass 132 at the 24 month survey stage (form 1010) are vague and refer to the holder being in Australia to operate a new or existing business with a significant ownership interest and a key management role. Although the applicant requires net assets of at least \$1.5 million available to transfer to Australia within two years of the visa grant to be approved for this visa, there is no amount specified to be invested in business nor is there any requirement to create employment in Australia.

s. 45(1), s. 47B(a), s. 47B(b)

s. 45(1), s. 47B(a), s. 47B(b)



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s. 45(1), s. 47B(a), s. 47B(b)

### **Recommendation 2:**

*Migrants have been granted these visas on the basis that they will establish and develop businesses in Australia that generate economic benefits and employment. The economic thresholds need to be specified and increased as follows:*

- *Visa Subclass 188 (Business Innovation Stream)*  
Total net assets that can applied to the establishment or conduct of a business in Australia be increased from at least \$800,000 to at least \$1 million.
- *Visa Subclass 888 (Business Innovation Stream)*  
Total net assets in Australia be increased from at least \$600,000 to at least \$1 million of which net assets in business are increased from at least \$200,000 to at least \$400,000; and add the requirement to generate the equivalent of one new full time job.
- *Visa Subclass 132 (Business Talent Stream)*  
Make the endorsement and support of the nominating jurisdiction mandatory on the form 1010 at the 24 month review; and add the requirements for total net business assets in business of at least \$1 million, the creation of the equivalent of at least one new job and the purchase of a residence in the nominating jurisdiction.

### **INCREASING ACCESS TO SMALL BUSINESS FINANCE (Consultation question 2 refers)**

Originally the framework for the Significant Investor Visa (SIV) allowed business migrants to invest in a range of investment classes to meet the criteria, including government bonds and businesses.

In 2015, the SIV investment framework was changed and the criteria was limited to managed funds and venture capital financial products while the visa subclass 188 (Investor Stream) continues to limit investment to government bonds only.

Meanwhile the Reserve Bank of Australia's research indicates that many Australian small businesses with plans to grow are still experiencing difficulty in accessing finance. It is the view of the SBDC that the visa subclass 188 should



be expanded to cover investment in business, as was previously available under the SIV. This visa could then become an avenue for applicants to also invest in Australian businesses without imposing ownership or management requirements.

**Recommendation 3:**

- *Visa subclass 188 (Investor Stream)*  
Requirements be expanded to also allow a four year term investment of \$1.5 million in an Australian business without any requirements for an ownership interest or management role in the business prior to the grant of the visa.
- *Visa subclass 888 (Investor Stream)*  
Provisions to be added for an applicant investing \$1.5 million in an Australian business for a four year term and residing in Australia for two of the four years to apply for the visa subclass 888.

**STREAMLINING BIIP POLICY SETTINGS**  
**(Consultation questions 4 and 5 refer)**

**BIIP Points Test:**

The points test for business migrants was introduced in 2012 and is geared towards assessment of the individual's personal attributes rather than their business achievements and wealth creation capability. It is the view of the SBDC that the points test was originally designed for skilled migration and it is not an effective measure for assessing the suitability of business migration applicants.

While the points test is a suitable tool for assessing skilled migrants where age, English language ability and qualifications form the core factors for qualifying for a skilled migration visa and future employment, it is not an appropriate method for assessing business migrants or encouraging investment where the core success factors are not personal measures but the achievement of increases in the turnover and the net assets of the business.

The points score for age also penalises business migrants at their peak by awarding 15 points for experienced applicants aged between 45 and 55 years compared to the 30 points awarded to inexperienced business applicants aged between 25 and 32.

There are many instances where business migration applicants can meet the points test but not the business criteria. The SBDC is of the view that the points allocated in the age, English language ability and qualification factors are disproportionately valued when compared with the points allocated for business turnover and net assets given they are not core factors for business success.

**Recommendation 4:**

- *Abolish the BIIP points test.*



## **ATTRACTING BUSINESS MIGRANTS INTO REGIONAL AREAS: (Consultation question 5 refers)**

The 2019 - 20 migration program has a focus on regional migration and 25,000 places of the total 160,000 places have been allocated for regional areas in Australia.

The 25,000 places are allocated exclusively for skilled migrants and no places have been allocated under the BIIP. Considering the BIIP applicants are business and investor migrants, it is likely they would contribute significantly towards the development of the regional economy including the creation of new jobs for local residents and skilled migrants.

### **Recommendation 5:**

- *Allocate 1,500 of the regional allocated places to BIIP.*  
BIIP places (6,862) represent approximately 6% of the total skilled places (108,682) in the 2019-20 program and therefore 6% (1,500 places) of the 25,000 regional places should be allocated to BIIP. The BIIP regional allocation should continue in future program years calculated on the basis of the percentage of total BIIP places to total skilled places.

## **SHARING INFORMATION ON BUSINESS MIGRANTS: (General concluding comment)**

State and territory governments allocate significant budgets and staff to market BIIP internationally, implement strategies to target business migrants in prime markets and operate a nomination process.

All jurisdictions and DHA should be able to share information on mutual clients that have been nominated and then approved or rejected for a visa.

### **Recommendation 6:**

- All BIIP applicant information is to be shared between DHA and the nominating jurisdiction. A clause that the applicant agrees to the sharing of information between the nominating jurisdiction and DHA should be included on the application for State nomination and for the visa.

If more information is required on any of the issues raised in this submission, please contact:

s. 47F(1) [redacted] of the Business Migration Centre  
Small Business Development Corporation  
Telephone (08)s. 47F(1) [redacted]  
Email s. 47F(1) [redacted] [@smallbusiness.wa.gov.au](mailto:[redacted]@smallbusiness.wa.gov.au).

## **Australian Government review of the Business Innovation and Investment Program**

To: Director, Skills and Innovation Policy Section  
Migration Planning and Visa Policy Branch  
Department of Home Affairs

Submission from the Department for Innovation and Skills,  
Government of South Australia

13 February 2020

Released by Department of Home Affairs  
under the *Freedom of Information Act 1982*



## Department for Innovation and Skills Submission to the Department of Home Affairs review of the Business Innovation and Investment Program

### Introduction

The Department for Innovation and Skills (DIS) welcomes the opportunity to provide input into this review. DIS is the business migration nominating authority within the Government of South Australia.

Globally, business migrants capable of investing their capital or business acumen are in high demand, with most developed countries and many developing countries having targeted programs in place to attract overseas business people. Operating within Australian Government requirements, South Australia has developed a suite of state nomination policies that have seen the state's national market share grow considerably in recent years from 37 state nominations in 2012-13, rising to 700 state nominations in 2018-19.

A strong focus of the South Australian program, particularly under the subclass 132 Significant Business History visa, is encouraging and facilitating exports of South Australian produced goods or services. Exporting South Australian goods and services has proven to be a very attractive pathway for business migrants seeking to both meet their visa obligations and also for potentially developing a viable and ongoing business (although data is limited in assessing the extent to which business migrants continue with business activity in the state once their visa obligations are met as there is no requirement for them to comply with data requests).

A successful example of business migrant investment in regional South Australia has been connecting business migrant investors with South Australia's wine producers. One regional South Australian winemaker has advised that they are expecting to receive over \$2 million in sales as a direct result of business migrant investment. Other areas of export across the state that have benefitted include agricultural products such as honey, meat and olive oil.

Overseas investment activities in South Australia are generally in property, wine assets such as vineyards, wineries and wine bottling plants and agricultural assets such as cattle breeding farms.

s. 45(1), s. 47B(a), s. 47B(b)

The DIS submission focuses on the six consultation questions and is based on the following principles:

- Retaining the core BIIP streams of most benefit to South Australia
- Maintaining the greatest level of flexibility for applicants
- Supporting BIIP initiatives that encourage investment in regional Australia.

DIS requests that this submission is not published, but it may be shared with other jurisdictions.

## **1. How can the investment thresholds be increased to provide the best outcome for Australia?**

- The integrity and overall economic objectives of the Business Innovation and Investment Program (BIIP) should always remain the priority, noting that Australia also needs to maintain international competitiveness.
- Several nations across the European Union have very attractive business investment visa programs, often with lower thresholds than Australia with the guarantee of permanent residency and a simpler pathway to citizenship.
- DIS supports jurisdictions continuing to set their own minimum investment thresholds and composition for the visa subclass 132 Significant Business History stream. The Department for Innovation and Skills (DIS) regularly reviews its minimum investment thresholds to ensure economic benefits to the state are maximised.
- In terms of the subclass 132 Venture Capital stream, and all subclass 188 visa streams, the minimum investment threshold could utilise the recently introduced 'designated regional areas' definition which apply to other skilled visas. Such a framework would factor in the varying levels of economic activity across Australia and incentivise investment into regions. The Department of Home Affairs (DHA) would need to ensure that the investment activity complies at the subclass 132 review or permanent subclass 888 visa application stage:
  - Category 3 locations (Sydney, Melbourne and Brisbane): increase investment thresholds in-line with average annual inflation rate since 2012 (approximately 10% to 15%).
  - Category 2 locations (Other cities and major regional areas including Adelaide): retain current investment thresholds.
  - Category 1 locations (Regional areas): reduce investment thresholds to incentivise investment into regional areas.
- By introducing a regional dimension to BIIP, it would consider the differing scale of economic activity that can be achieved through investment in regional Australia.
- DIS supports retaining the current threshold of \$200,000 for the subclass 188 Entrepreneur visa. Although application demand is comparatively low, there has been a recent increase in interest in this visa in South Australia, indicating that it is fulfilling a purpose at that investment threshold.

## **2. How could we achieve better outcomes for the Australian economy through the composition of designated investments for the Investor and Significant Investment visas?**

DIS is supportive of the views expressed in 2017 by Innovation and Science Australia regarding the composition of designated investments for Significant Investment Visa (SIV) recipients. The key recommendation is to consider



extending the SIV minimum timeframe requirements from 4 years to better align with venture capital timeframes:

[https://www.industry.gov.au/sites/default/files/isa\\_submission\\_to\\_review-of-australia\\_business\\_investment-and-talent-visas.pdf](https://www.industry.gov.au/sites/default/files/isa_submission_to_review-of-australia_business_investment-and-talent-visas.pdf)

- Consideration should be given to applying the SIV Complying Investment Framework to applicants of the subclass 188 Investor Stream given that investment into state/territory government bonds, which is a nomination requirement for this stream, arguably has an indirect impact on economic benefits to the Australian economy.

### **3. How could a simplified BIIP framework make the program more efficient and effective in maximising benefit to Australia?**

- DIS supports the continuation of the current BIIP visa streams to enable the greatest level of flexibility for applicants wishing to invest in Australia.
- Of most importance to South Australia, in terms of application numbers and investment contribution, are the subclass 132 Significant Business History stream and the subclass 188 Business Innovation stream.
- DIS also supports the continuation of lesser utilised streams, such as the subclass 188 Entrepreneur stream because it supports the state government's innovation and entrepreneurialism agenda and interest in the pathway is increasing.
- DIS does not have access to data on the subclass 188 Premium Investor stream nominated through Austrade, but it is understood that applications have been very low. This may present an opportunity to simplify the program by removing one stream.
- A simplified BIIP framework should also take into consideration visa processing times. South Australia's strong nomination levels in recent years have not yet translated into a similar numbers of visa grants, as the Australian Government has not focused its processing on these applications.
- Approximately 1,050 South Australian business visa applications are waiting to be processed by the Department of Home Affairs (as at December 2019). Visa delays cause delays to investment and flow on benefits for the state economy. Addressing this backlog would bring significant benefits to South Australia.

### **4. How can the points test be adapted to encourage investments above the minimum threshold?**

- The points test is currently only utilised for the subclass 188 Business Innovation and Investor streams. Due to it only being applicable to these two visa streams, the points test is not an effective method for encouraging investment above the minimum thresholds across the BIIP.

- Applicants generally meet the points test pass mark by default due to meeting the baseline visa requirements. Therefore, one option would be to abolish the points test altogether.

**5. How can incentives be provided to encourage prospective migrants to operate a business in regional Australia?**

- DIS would welcome greater utilisation of the BIIP to support investment in regional Australia. This includes increased allocations and faster processing arrangements for business migrants willing to invest in regional Australia.
- As suggested in section 1, the new 'designated regional areas' definition could be utilised to establish minimum investment thresholds that encourage investment in regional Australia.
- A further incentive to invest in regional Australia is to provide priority processing for Category 1 locations (Regional areas). It is understood that DHA apply a standard criterion for what constitutes a significant investment and can prioritise applications on that basis. The criterion for what constitutes a significant investment should have a regional dimension. This would recognise that a set dollar amount injected into a smaller regional area is more likely to have a greater impact on the rate of economic growth for that region when compared to a larger metropolitan area.

**6. What factors should be considered in introducing any changes, including phasing in changes over time?**

- The business migration market can be very sensitive to change, with the application planning process beginning several years in advance.
- Any change that has the potential to disadvantage applicants should have a long lead time, of at least 12 months. Any change that will benefit an applicant can be introduced sooner.
- Nominating authorities should be notified of any changes to the BIIP at least six months in advance so that any system modifications and policy and communication strategies can be implemented.



# BUSINESS INNOVATION AND INVESTMENT PROGRAM REVIEW

18 February 2020



## DEPARTMENT OF TRADE BUSINESS & INNOVATION SUBMISSION TO THE DEPARTMENT OF HOME AFFAIRS' CONSULTATION PAPER ON "BUSINESS INNOVATION AND INVESTMENT PROGRAM: GETTING A BETTER DEAL FOR AUSTRALIA".

### Introduction

The Department of Trade Business & Innovation (DTBI) welcomes the opportunity to work in partnership with the Australian Government to improve the Business Innovation and Investment Program (BIIP) and its outcomes. DTBI through its business unit MigrationNT has carriage of the business and investor migration program and is the authorised nominator under BIIP.

The Northern Territory has a growing economy which needs extra resources, primarily in investment and skilled labour, to reach its potential. This need is recognised in the Northern Territory Economic Development Framework 2017, Population Growth Strategy 2018-2028, International Engagement, Trade and Investment Strategic Plan 2018-2021 and the Northern Territory Business Innovation Strategy, all of which recognise the important role played by overseas migrants and investors to stimulate the economy through industry growth, private investment, industry diversification, creating jobs and delivery of quality services. This helps ensure the Territory remains a modern and vibrant environment in which to live, work, set up business and invest. The NT's Business Migration Program, of which the BIIP is the corner stone, plays an important role in supporting the implementation of these strategic plans.

Changes to the program which encourage migrants to invest in the Northern Territory and directs these migrants to investments in line with the Territory's unique economic development needs are essential for realising the potential of this regional area of Australia.

In order to better understand the Territory's comments and recommendations an understanding of both its key principles and its program over the last few years is useful and set out below.

**Key Principles:**

The Northern Territory participates in the BIIP in order to support NT business and residents achieve economic prosperity through growth of private investment, diversification of industries and business activities and encourage entrepreneurial talent. Some of the key principles driving the policy position of the Northern Territory and its BIIP operations include:

- Maintenance of program integrity
- Attraction and retention of genuine investors and business persons with a strong commitment to the NT
- Supporting genuine investments which demonstrate positive outcomes for the NT such as:
  - Creation of employment opportunities for locals
  - Increasing and diversifying economic activity
  - Creating and growing export markets
  - Providing new goods and services for locals
  - Bringing new expertise, systems, skills and technology
- Operate a flexible, responsive and administratively simple program that reflects the economic needs of the Territory
- Stimulating competition whilst acknowledging that the NT has a small economy and in some cases insufficient critical mass to support multiple competitors
- Support strong migrant settlement outcomes
- Growing the Territory population

s. 45(1), s. 47B(a), s. 47B(b)

s. 45(1), s. 47B(a), s. 47B(b)

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under the Freedom of Information Act 1982



s. 45(1), s. 47B(a), s. 47B(b)



### **Recommendations:**

DTBI is of the view that the following changes to the BIIP program will create an improved framework to better allow migration to contribute to the Territory's economic development objectives. It is imperative that due consideration is given to these recommendations if maximum benefit is to be gained from the program.

*1. How can the investment thresholds be increased to provide the best outcome for Australia?*

*2. How could we achieve better outcomes for the Australian economy through the composition of designated investments for the Investor and Significant Investor visas?*

The NT does not have a history of nominating applicants under the **Significant Investor Visa (SIV)** Program. Since its inception and despite steady interest from migration agents in NT nomination, no applicants have applied for or been nominated under the SIV program. This has been largely due to a lack of SIV compliant funds that are able to demonstrate a direct economic benefit to the Northern Territory.



DTBI does not believe that increasing the quantum of investments will lead to better outcomes for the Northern Territory or Australia. Instead, such a move would cause the SIV program to become less competitive in the international environment, the pool of eligible investors decrease and the issue of funds being able to demonstrate a direct economic benefit to the Northern Territory remain unresolved. Overall, this would result in the net value of investments contributed by the SIV program to Australia to fall.

DTBI believes that the composition of the SIV designated investment and hence where the SIV funds are being funnelled to have a much greater bearing on achieving better outcomes. s. 45(1), s. 47B(a), s. 47B(b)

s. 45(1), s. 47B(a), s. 47B(b)

s. 45(1), s. 47B(a), s. 47B(b)

For this reason DTBI supports the

maintenance of a provisional Investor option that allows the investment of funds into a low risk visa option, but also allows the visa holders to explore additional investment options.

To increase the benefit to the Northern Territory, DTBI recommends the following changes to the program:

- Allow investors in Tier 3 regions to directly invest into start-up and small private companies, emerging companies and eligible assets, including Australian listed securities, eligible corporate bonds or notes, annuities and real property (subject to a 10 per cent limit on residential real estate), instead of state/treasury bonds alone. Whilst the majority of SIV investors appear to prefer lower risk investments, opening the types of eligible investments available to investors provides them with the ability to make their own decisions regarding the level of risk they are comfortable with, the level of return they seek and the investment asset classes they are experienced with.
- Allow investors in Tier 3 regions to change investments during the 4 year provisional visa period. This allows investors to move their investments from 'low benefit' treasury bonds to other investments they identify, without risking their migration outcome.
- Retain the minimum investment threshold at AUD\$1.5m for Tier 3 regions.

### *3. How could a simplified BIIP framework make the program more efficient and effective in maximising benefit to Australia?*

Ensuring that the BIIP framework is flexible and responsive whilst being administratively simple to negotiate for prospective business and investor migrants is important if the BIIP program is to contribute to the NT achieving its economic development goals.

DTBI believes the current BIIP has a number of unused visa streams that provide little or no value in terms of outcomes. Both Premium Investor Visa (PIV) and the Entrepreneur visa subclass 188 if removed will not affect outcomes of BIIP in the Northern Territory.

The Entrepreneur visa subclass 188 threshold criteria are problematic. Venture Capital fund managers the Northern Territory has dealt with have indicated that the minimum size of investment does not reflect a quantum that is financially viable ie the costs associated with entering into an agreement for VC funding are such that a \$200,000 investment is not worthwhile.

### *4. How can the points test be adapted to encourage investments above the minimum threshold?*

DTBI does not believe adapting the points test will necessarily encourage investments above the minimum threshold. Feedback from successful NT applicants has been that their investment decisions are driven by two factors: primarily the need to meet migration criteria to either transition to permanent residency or maintain their permanent residence, only then followed by maximising

return. An analysis of successful applicants over the last 12 months indicates there has not been a correlation between the investment dollar value of their proposed business and their level of net assets and business history.

Although the simplest way to encourage investment beyond the minimum threshold would be to increase thresholds, DTBI does not believe that an increased investment above the current minimum threshold will benefit the Northern Territory. Instead increased thresholds will decrease the pool of applicants seeking NT nomination and willing to invest in the region and potentially exclude investments that are low dollar value but of importance to the Northern Territory. In order to maximise the benefit for Australia and the Northern Territory, DTBI suggests increasing thresholds by 20% for those applicants investing in **non Tier 3** regions of Australia.

Whilst adapting the points test may not increase investments above the thresholds, it may assist in selecting those applicants willing to direct investments into the investment classes that jurisdictions are seeking. The NT suggests that:

- An additional 10 points be provided to applicants willing to commit to doing business or investing in Tier 3 regions.
- An additional 10 points be provided those applicants with a history or investing or doing business in Tier 3 regions.

### *5. How can incentives be provided to encourage prospective migrants to operate a business in regional Australia?*

DTBI believes that incentives that encourage prospective migrants to invest in regional Australia and direct their investments into activities that are of benefit to those regional areas are essential for the program to contribute to Australia in the long term. Despite the regional focus of the migration program and reforms over the last 12-18 months to the skilled migration program the BIIP still does not incorporate clear settings that encourage business migrants and investors to invest, do business and settle in parts of the regional Australia such as the NT. Regional areas continue to be required to compete on equal footing with major metropolitan centres such as Sydney, Melbourne, Brisbane, Perth etc.

It also needs to be recognised that the economic development needs of remote areas of Australia (Tier 3 regions) vary markedly from large cities on Australia's eastern seaboard. For example a 'salad bar' café in Sydney is not an innovative business, but a similar business in a remote community in the Territory would not only be innovative but also provide new goods and services to the local population.



*DTBI encourages:*

- The introduction of a regional component to the Business Innovation and investment program. Through forums such as SMOG, TIMM and SOTIG, the NT has suggested that this could be done through:
  - a. Introducing an additional 10 points for applicants who commit to undertaking business and investing in a Tier 3 region.
  - b. Prioritising regional applications: long visa processing times create investment uncertainty and risk, making the Territory and Australia a less attractive investment destination than competitor countries. The processing times for business visas targeted at investors/ business owners/ entrepreneurs are currently excessively long at 18-24 months, and most business migrants do not undertake and business or investment activity until they obtain their business visa. Decreasing processing times will reduce risk, increase attractiveness and importantly improve the business and investment outcomes.
  - c. Broadening the types of eligible businesses and investments that can be undertaken in regional Australia compared to metropolitan Australia. Such broadening has been highlighted in the response to SIV/Investor visa thresholds and compositions.

s. 45(1), s. 47B(a), s. 47B(b)

Released by Department of Home Affairs  
under the Freedom of Information Act 1982

s. 45(1), s. 47B(a), s. 47B(b)



- Provide Age and English waivers only for Tier 3 regions. The larger jurisdictions that carry the majority of the nomination allocations of the BIIP component of the migration program have sufficient access to suitable applicants to fill their quotas. This is reflected in those jurisdictions achieving their quotas early in the program year. s. 45(1), s. 47B(a), s. 47B(b) The Territory as a Tier 3 region has the smallest quota, but continues to face challenges in filling it.
- An increase in the number of visa grants for those applicants seeking to undertake business or invest in Tier 3 regions. Overall quotas under BIIP have remained either static or reduced over the last 3 program years, contributing to long processing times and backlog of BIIP applications. A number of NT applicants have commented that business and investments opportunities they had identified had were no longer available by the time their visas were granted. These delays make Australia less competitive for the limited migrant capital and entrepreneurial talent pool available globally.

Strengthen the regulatory environment to improve compliance with commitments made to regional Australia.

**Summary:**

A one size fits all approach to migration programs will not effectively provide for the unique needs of the Northern Territory. Concessions and incentives for business migrants intending to reside in locations classified as Regional Centres and Other Regional Areas (Tier 3) must also be considered to provide for the economic growth and prosperity of these regions.



Director  
Skills and Innovation Policy Section  
Migration Planning and Visa Policy Branch  
Department of Home Affairs  
6 Chan Street  
Belconnen ACT 2617

Dear sir / madam

**Business Innovation and Investment Program; Getting a better deal for Australia  
Submission from the Innovation Investment Committee**

I am writing on behalf of Innovation and Science Australia's (ISA) Innovation Investment Committee (the Committee). My Committee welcomes the opportunity to provide a submission to the Department of Home Affairs' 2020 Review of the Business Innovation and Investment Program (BIIP).

We provide this submission on a confidential basis and on the expectation it will not be made publically available.

*Background of ISA and Committee*

As you may be aware, the ISA and my Committee are established under the *Industry Research and Development Act 1986*. The ISA advises the Australian Government about innovation, research and science matters. It aims to support and enhance Australia's innovation, science and research system by:

- monitoring and overseeing a number of innovation programs under several sub-committees;
- coordinating the government's investment in innovation, science and research;
- reviewing Australia's innovation and science system performance; and
- stimulating public discussion and debate about innovation and science.

My Committee's remit is to assist ISA administer the suite of venture capital programs delivered by the Department of Industry, Science, Energy and Resources (DISER), and provide guidance throughout the program lifecycle. Both ISA and my Committee are independent and the views expressed below are separate from those of the Australian Government.

My Committee has delegated authority for the *Pooled Development Funds Act 1992* and the *Venture Capital Act 2002*. These acts regulate registered venture capital partnerships and funds in Australia. As you would be aware some of the visas within the BIIP have linkages to the *Venture Capital Act 2002*, for example the Significant Investor Visa (SIVs) eligibility condition to commit \$500,000 for Australian venture capital and private equity. These linkages and the oversight the Committee has on Australia's venture capital market provides us with a unique perspective on structural issues and current market practices.



### Committee comments on the BIIP

I would like to draw to your attention to the previous submission ISA and the Committee jointly made on the BIIP in 2017. Some of the views of the Committee have evolved since 2017 as the Committee has watched the BIIP and the SIV complying investment framework interact with the registered partnerships under the *Venture Capital Act 2002*.

For ease, I have addressed the questions you outlined in your consultation paper that are relevant to ISA and my Committee below. I note our views are predominately focussed on the SIV and registered venture capital partnerships under the *Venture Capital Act 2002* (referred to below as registered partnerships).

### Question five: How can incentives be provided to encourage prospective migrants to operate a business in regional Australia?

This question relates to the broader BIIP. As it concerns the SIV, we see there are a number of options which we would be happy to discuss in more detail. However, we consider this to be a problem for the venture capital industry generally.

We have collected data on the location of registered partnerships in Australia. This shows partnerships registered by the Committee are domiciled in Sydney, Melbourne and Brisbane. The collective total indicates registered partnerships are in Australia's three largest cities. Our data also shows the number of investments are made into businesses located in major cities of Australia, while made in regional and rural areas of Australia (located by postcode and is based on the registered headquarters of a business). The total of these investments equates to approximately million (representing the total invested capital by registered partnerships). Therefore, we consider it is reasonable to conclude registered partnerships are most active in major cities and make investments into their local start-ups.

Of the billion invested in committed capital by active registered partnerships, million is from SIV funds (approximately million).

### Question six: What factors should be considered in introducing any changes, including phasing in changes over time?

We have observed an increase in the number of applications for partnership registration in the last four years, suggesting increased interest in Australia's venture capital market. This interest may be driven in some part by the BIIP program. There are approximately registered partnerships that have a likelihood of including SIV limited partners; this is out partnerships (approximately million).

Although registered partnerships that are likely to have a majority of SIV limited partners constitutes a small percentage of registered partnerships, we consider the cumulative committed capital of partnerships that have SIV limited partners has increased percent from the inception of the SIV initiative. It can be inferred that certain registered partnerships and their respective fund managers



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have successfully carved out a niche presence in the Australian venture capital ecosystem in no small part as a result of SIV investment requirements. Such an approach encourages diversity in capital raising approaches and the type of investors it attracts.

#### \$1 million commitment into registered partnerships

Our view on increasing the amount of capital required to be committed by SIVs to \$1 million is that it may not have a material impact on venture capital in Australia. Nonetheless, we consider it a worthy increase and in our experience will not prevent Australian venture capital fund managers from raising capital from either SIV applicants/limited partners or other potential investors.

#### Term of investment

Under the *Venture Capital Act 2002*, registered partnerships are required to have a minimum term of five years and a maximum term of fifteen years. It is common amongst partnerships to have an investment period of between five to seven years and to focus on realisation after this. This may show a technical difference between the SIV investment timeframes and the timeframes of the *Venture Capital Act 2002*.

If registration under the programs is taken as evidence of a genuine venture capital partnership, noting my Committee monitors for active investing measured by draw-downs from the fund, then the alignment of programs may reduce risk and simplify the complexity faced by limited partners genuinely seeking to invest in and potentially migrate to Australia through the BIIP program. We suggest the alignment of incentives in the broader system may encourage greater compliance for the Department of Home Affairs. However, we have not seen any evidence suggesting this is a trend and we raise this as a technical point for the review.

#### Wider industry practice in servicing investors

We have seen terms in partnership deeds involving SIV applicants / limited partners allowing limited partners to withdraw funds under certain circumstances. Other clauses allow committed capital to be moved to different legal entities with netting adjustments. We would like to suggest you consider the industry practice of using investment/tax wrappers for non-economic benefits and whether this has implications for compliance by the Department of Home Affairs.

#### Data availability limitations

The BIIP program was introduced in 2017. While my Committee monitors for compliance, it is noted the relationship between the BIIP and registered partnerships under the *Venture Capital Act 2002* is within the first five years of their establishment and more time is necessary before the impact of the BIIP program can be measured for its impact on venture capital investment. At the moment, we are cautiously optimistic the linkages increase exposure of investors into Australia and helps build Australia's innovation ecosystem with high-quality growth companies.





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Requirement to deposit capital in a venture capital fund

Typically venture capital funds seek commitments from investors during formation. However, those funds are drawn down on an as needs basis over the life of the venture capital fund (usually in the first five to seven years). Performance is usually measured from date of draw-down to date any profits are distributed.

We note this affects the industry statistics used by institutional fund managers to evaluate the performance of general partners. Fund managers are evaluated against their competitors in other countries and non-SIV funds who may not impose such restrictions. This may distort market performance and lead to the use of trusts to separate the funds from the venture capital fund, until it is required either as an initial investment in the first five years, or as a follow-on investment.

We thank you for the opportunity to provide a submission and trust the comments provided will assist the Department of Home Affairs.

Yours sincerely  
s. 47F(1)



Chair  
Innovation and Investment Committee

18 February 2020





Our ref: CMTEDD2020/491

Your ref: Business Innovation and Investment Program: Getting a better deal for Australia  
Consultation process

The Director, Skills and Innovation Policy Section  
Migration Planning and Visa Policy Branch  
Department of Home Affairs  
EMAIL: ICAP@homeaffairs.gov.au

Dear Director, Skills and Innovation Policy Section

## **ACT Government Response to Consultation - Business Innovation and Investment Program: Getting a better deal for Australia**

It is my pleasure to provide the following responses to the consultation questions.

1. How can the investment thresholds be increased to provide the best outcome for Australia?

Given that minimum investment thresholds for Australia's Investor Visa and Significant Investor Visa (SIV) have not changed since the visas were introduced, the ACT Government agrees that there is a case for review. Were the thresholds increased it would have the effect of encouraging more significant applications and directing scarce government resources towards their assessment.

2. How could we achieve better outcomes for the Australian economy through the composition of designated investments for the Investor and Significant Investor visas?

The ACT Government supports direction of part of the SIV investments to investments that support emerging enterprises, commercialisation of Australian ideas, and research and development.

In the absence of data on how effectively the existing Complying Investment Framework has worked in this respect, it is difficult for the ACT Government to comment. We are not aware of any SIV investments in the ACT that support emerging enterprises commercialisation of Australian ideas or research and development.

The ACT Government considers that the publication of better data about the Business Innovation and Investment Program would help State and Territory Governments realise better outcomes for the Australian economy from the program.

3. How could a simplified BIIP framework make the program more efficient and effective in maximising benefit to Australia?

The ACT Government agrees that it would be worthwhile considering ways to simplify the existing framework. At present the program includes three visas and nine visa streams for investors, business owners and entrepreneurs. This includes two direct to permanent residence streams, five provisional to permanent residence streams and two extension streams. Streamlining the framework would make it easier for potential applicants and State and Territories in marketing the program to high value applicants.

4. How can the points test be adapted to encourage investments above the minimum threshold?

Consideration might be given to finding an administratively simple way that would prioritise approvals based on points scored, thereby abolishing the existing minimum threshold approach.

5. How can incentives be provided to encourage prospective migrants to operate a business in regional Australia?

The ACT Government understands that the investment that has flowed from the program predominantly has occurred in Sydney and Melbourne and would welcome the opportunity to discuss with the Department ways in which the needs of regional Australia might be better addressed, for example by awarding points for regional investment.

6. What factors should be considered in introducing any changes, including phasing in changes over time?

The ACT would welcome continued engagement and consultation between the Department and states and territories throughout the decision-making process.

Thank you for the opportunity to provide this response to the consultation paper.

Yours sincerely

s. 47F(1)



24 February 2020

BIIP 2020 consultation	
Submissions and Correspondence Register	
Sender	Organisation
s. 47F(1) s. 47F(1), s. 45(1)	ACT, Treasury & Economic Development Directorate
s. 47F(1)	Department of Innovation and Skills, South Australia
s. 47F(1) s. 47F(1), s. 45(1)	Migration NT
s. 47F(1) s. 47F(1), s. 45(1) s. 47F(1), s. 45(1)	Small Business Development Corporation WA
s. 47F(1)	AusIndustry
s. 47F(1)	AUSA Migration
s. 47F(1)	IMC Migration
s. 47F(1) s. 47F(1), s. 45(1)	Henley & Partners Australia
s. 47F(1)	Suffolk-Law
s. 47F(1) s. 47F(1), s. 45(1) s. 47F(1), s. 45(1)	Australian Migration Specialists
s. 47F(1) s. 47F(1), s. 45(1)	Golden Circle
Vincent So s. 47F(1), s. 45(1)	Financial Services Council
s. 47F(1) s. 47F(1), s. 45(1)	Migration Institute of Australia
s. 47F(1)	Fragomen
s. 47F(1) s. 47F(1), s. 45(1) s. 47F(1), s. 45(1)	Atlas Advisors
s. 47F(1)	Guosen Securities (HK) Asset Management Co
s. 47F(1) s. 47F(1), s. 45(1)	Southmore
s. 47F(1) s. 47F(1), s. 45(1) s. 47F(1), s. 45(1) s. 47F(1), s. 45(1) s. 47F(1), s. 45(1)	Morgan Stanley Wealth Management
s. 47F(1) s. 47F(1), s. 45(1)	Australia China Business Council
Timo Michalik	
s. 47F(1)	
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