

Eligibility criteria

- 5.1 As noted in chapter 2, there are a number of eligibility requirements for individuals wishing to apply for a visa under the Business Innovation and Investment Programme (BIIP). Some of the key eligibility requirements include:
- lodging an Expression of Interest, being nominated by a State or Territory government, having the required amount of assets and owned a business or made an investment
 - for some visa subclass streams: meeting the Innovation Points Test (IPT), having obtained funding from an Australian venture capital firm, and be less than 55 years old.¹
- 5.2 Of the key eligibility requirements, submitters focussed on the IPT and the financial requirements of the BIIP. The concerns about these criteria are considered below.

Innovation Points Test

- 5.3 In his submission, Mr Christopher Levingston submitted that the current IPT enables applicants with a low level of skill or expertise to qualify. Mr Levingston commented that the perfect candidate would be 'a person with no less than 4 years continuous experience in business, a business with a turnover of no less than \$1 million, \$1.3 million in assets and between 35-39 years of age.'²

1 Department of Immigration and Border Protection, *Submission 14*, pp. 8-10.

2 Mr Levingston, *Submission 1*, p. 2.

- 5.4 He added however that the perfect candidate would prefer to remain in the People's Republic of China (PRC) because of Australia's compliance regime as compared to the relatively light taxation and government regulations in the PRC.³
- 5.5 At a public hearing, Mr Findley commented that a formula designed to assess 'the characteristics of potentially successful entrepreneurs is just a step too far.'⁴
- 5.6 Mr Dolf Van Zyl called for the points test to be abolished and to place emphasis on the business history and business acumen of suitable migrants.⁵
- 5.7 The Western Australian Business Migration Centre (BMC) commented that while the points test was a suitable way of assessing an applicant's age, English language ability and qualifications from the core factors for qualification, it did not believe that this was an appropriate way to assess an individual's business expertise, stating:
- ...it is not an appropriate method of determining a business skills qualification where the core factors are in non personal areas such as business turnover and assets. A points test becomes too prescribed for assessing business skills and tends to favour personal attributes rather than business achievements.⁶
- 5.8 The BMC commented that assessing BIIP applicants' age, English language ability and qualifications benefited 'potential employers and addresses the nation's skilled labour needs', adding that:
- ...in the context of assessing the potential contribution of a migrant in terms of business growth, investment and job creation there is little value in this approach as it cannot offer any assessment of business skill or success of business owners and investors; and should be removed from the BIIP.⁷

3 Mr Levingston, *Submission 1*, p. 2.

4 Mr Findley, Shanghai Resources Pty Ltd, *Transcript*, 12 June 2014, p. 26.

5 Mr Van Zyl, *Submission 2*, p. 2.

6 Western Australian Business Migration Centre, *Submission 3*, p. 5.

7 Western Australian Business Migration Centre, *Submission 3*, p. 5.

- 5.9 The Australian Capital Territory (ACT) Economic Development Directorate (EDD) supported the BMC's view that the points test was not an appropriate way to assess an individual's business expertise and suggested that it be removed from the BIIP.⁸ The EDD added:
- In addition, the points test does not recognise the benefits of a provisional visa pathway that allows the visa holder four years to prove their business/investment expertise in Australia before being eligible to apply for permanent residence.⁹
- 5.10 Trade and Investment Queensland also agreed with the view that the points test was a suitable way to assess skills and abilities but not business expertise:
- In the context of assessing the potential contribution of a migrant in terms of business growth, investment and job creation there is little value in a points test approach as it cannot offer any assessment of business skill or success of business owners and investors.¹⁰
- 5.11 Trade and Investment Queensland also recommended removing the points test.¹¹
- 5.12 The Northern Territory Department of Business (DoB) commented that the points test was not a suitable way of choosing entrepreneurs adding:
- ...we think that if the program was tweaked to take away that sort of qualitative focus to better look at the attributes that make a successful business person then that too would assist.¹²
- 5.13 When asked about what attributes would be suitable to measure business acumen, the DoB suggested looking at the success the business person has had overseas as well as analysing the success of the businesses they operate.¹³
- 5.14 Immigration Solutions Lawyers (ISL) called the points test ineffective, commenting that:
- It does not make it very difficult for applicants with low skill and expertise levels to pass
 - The language requirement may deter many applicants.¹⁴

8 Australian Capital Territory Economic Development Directorate, *Submission 7*, p. 3.

9 Australian Capital Territory Economic Development Directorate, *Submission 7*, p. 3.

10 Trade and Investment Queensland, *Submission 12*, p. 3.

11 Trade and Investment Queensland, *Submission 12*, p. 3.

12 Ms Martin, Northern Territory Department of Business, *Transcript*, 16 July 2014, p. 2.

13 Ms Martin, Northern Territory Department of Business, *Transcript*, 16 July 2014, p. 2.

14 Immigration Solutions Lawyers, *Submission 13*, p. 4.

- 5.15 ISL highlighted that the States and Territories can award special endorsement points to a unique business which it considered:
... a positive attribute of the current points test. It allows these skilled migrants to meet any skill shortages that are present in local labour markets.¹⁵
- 5.16 The Migration Institute of Australia (MIA) stated that the eligibility criteria was subjective, providing the following example:
Examining the business history of someone from China, for example, where the commercial environment is vastly different from Australia's, can be a much more subjective and complex task than checking that taxation requirements have been met.¹⁶
- 5.17 On the points test, the MIA said it provided 'a suitably wide range of opportunities for applicants to achieve points.'¹⁷
- 5.18 The Government of South Australia was of the opinion that the introduction of the points test led to a drop in demand for the BIIP:
The effectiveness of the points test since its introduction seems on the surface to have coincided with a drop in demand for the BIIP. Whether this is a coincidence or not is arguable. However, given that the points test for 188 visas contains an English language component and that the main source market is China where the proportion of English language speakers is low, this indicates some correlation.¹⁸
- 5.19 While they supported the criteria used in the points test (age, business experience, English levels, etc.), the Government of South Australia suggested removing the points test from the BIIP.¹⁹
- 5.20 The DoB also called for the removal of the points test advising that the current settings:
...do not favour high calibre applicants without formal qualifications who have successful business backgrounds in the more 'traditional' areas of business. A points test cannot accurately assess applicants' business skills and attributes which are better gauged through an examination of the applicants' businesses.²⁰

15 Immigration Solutions Lawyers, *Submission 13*, p. 13.

16 Migration Institute of Australia, *Submission 15*, p. 10.

17 Migration Institute of Australia, *Submission 15*, p. 12.

18 Government of South Australia, *Submission 16*, p. 6.

19 Government of South Australia, *Submission 16*, p. 6.

20 Northern Territory Department of Business, *Submission 18*, p. 7.

- 5.21 The DoB stated that the points test could assess attributes of skilled migrants, and that it should focus on 'job creation and increasing business activity.'²¹ The DoB added that 'diversity and investment such assessments tend to skew the results away from true business outcomes.'²²
- 5.22 New South Wales (NSW) Trade and Investment suggested replacing the points test with an alternative assessment of a business' success, stating:
- ... consideration could be given to alternative methods of assessing an applicant's likelihood of business success, such as a smaller set of criteria targeted to the BIIP visa stream concerned. The turnover and assets of the original home country business (or businesses) and personal assets appear to be key predictive indicators. Consideration should be given to expanding the innovation demonstration requirements to include less-formal evidence.²³
- 5.23 The Victorian Department of State Development, Business and Innovation (DSDBI) thought that it was more appropriate to create incentives to diversify investments and business choices rather than use the points tests and selection criteria to select skilled migrants:
- Creating incentives to diversify investment and business choices and reward migrants who make substantial or high value investments may be a better approach than attempting to set selection criteria (such as the points test) to screen business migrants in an attempt to predict success²⁴
- 5.24 As noted in chapter 2, the points test was adopted as a mechanism to potentially increase the quality of the business applicants entering the BIIP.²⁵

21 Northern Territory Department of Business, *Submission 18*, p. 7.

22 Northern Territory Department of Business, *Submission 18*, p. 7.

23 NSW Trade and Investment, *Submission 22*, p. 6.

24 Victorian Department of State Development, Business and Innovation, *Submission 23*, pp. 5-6.

25 Department of Immigration and Border Protection, *Submission 14*, p. 11.

5.25 The DIBP submitted:

Previous evaluation of the labour market outcomes of points tested migrants observed that in each case, those migrants with more favourable attributes as determined by the general skilled migration points test had greater early success in finding jobs, were employed in skilled occupations and had a high incidence of using their qualifications in their employment. It is reasonable to assume that a points test geared towards innovation would be just as successful, particularly if it recognises innovation attributes unacknowledged in the Business Skills programme.²⁶

5.26 In its submission, the DIBP advised that 'it had undertaken some analysis of the make-up of points claimed by successful applicants to date', but that it was difficult to draw conclusions due to possible incomplete data and variations by visa processing officers.²⁷

5.27 As part of that analysis, the DIBP observed that:

- around 60% of applicants claimed the maximum points - 35 points - for annual business turnover over AUD2 million. This would suggest that the programme is catering more for established businesses
- approximately only 10% of applicants claimed the points available for English language skills, suggesting that business migrants continue to have lower capacity in this area than most other skilled stream migrants
- nearly a quarter of successful applicants claimed points in one of the innovation categories, suggesting that this approach is attracting migrants who will make a contribution to innovation in the Australian economy.²⁸

5.28 The DIBP also pointed out that while they look at a potential applicant's net assets, turnover and the requirements of the points test, the states and territories, and in particular their commerce and industry departments, would undertake an assessment of the business's commercial viability and likelihood of success.²⁹

26 Department of Immigration and Border Protection, *Submission 14*, p. 12.

27 Department of Immigration and Border Protection, *Submission 14*, p. 14.

28 Department of Immigration and Border Protection, *Submission 14*, p. 14.

29 Mr Fleming, Department of Immigration and Border Protection, *Transcript*, 14 May 2014, p. 6.

Committee comment

- 5.29 The Committee acknowledges the views of submitters that the points test should be removed from the BIIP because it is not a good measure of business acumen.
- 5.30 The Committee has found that there have been some difficulties in assessing the effectiveness of the points test because:
- the BIIP and the points test has only been operating in its current form for a short period of time
 - a lack of evidence on its ability to effectively select suitable migrants.
- 5.31 Additionally, entrepreneurship and business acumen are very broad concepts that are particularly challenging to define. There is no one mechanism that has been identified as being able to consistently and effectively measure an individual's business acumen or entrepreneurship.
- 5.32 DIBP staff who process business visa applications may not necessarily have the capacity to effectively make an assessment of an applicant's business acumen.
- 5.33 Therefore, the Committee is of the view that the points test should continue to be used as one mechanism, in a suite of mechanisms, to assess the suitability of prospective visa applicants.

Financial criteria

- 5.34 DEDTA were of the opinion that the financial requirements of the BIIP had reduced the scope of the targeted audience, noting that as part of the 2010-2011 review³⁰ described in chapter 2, DEDTA suggested:
- ...greater flexibility for the first stage and tightening up the second stage requirements. In this way, the program would be more accessible to a wider audience who have a genuine entrepreneurial intention (i.e. give them a chance to try), but only those who achieved the 888 requirements would be granted permanent residency.³¹

30 See Chapter 2.

31 Tasmanian Department of Economic Development, Tourism and the Arts, *Submission 9*, p. 2.

- 5.35 Mr Dolf Van Zyl submitted that the current asset requirements were too high and adjustments needed to be made:
- ...to the business innovation stream by lowering the total asset requirement from \$800,000 to \$500,000. By lowering the annual turnover from \$500,000 to \$350,000 and by lowering the 51% shareholding requirement of a business with turnover from \$400,000 per year to \$250,000.³²
- 5.36 The Government of South Australia proposed that the increase in 'the permanent visa financial requirements or assets threshold would have impacted on the verification of the financial requirements' which may have contributed to a decline in visa applications.³³
- 5.37 Trade and Investment Queensland agreed:
- Although BSMQ [Business and Skilled Migration Queensland] agree that a higher level of investment and assets was required to encourage applicants who have greater wealth and or entrepreneurial talent, higher thresholds may have contributed to a decline in interest in the programme.³⁴
- 5.38 Nearly 90 per cent of MIA members, in response to a survey, reported that the number of business skills visa application lodgements fell since the BIIP visas were introduced. Nearly 80 percent of MIA members advised that the increase in monetary thresholds was the cause for the drop in applications. The MIA stated:
- The increase in monetary thresholds was the most strongly reported reason for the drop in applications, with 79.37% of MIA Members reporting this as a factor in the decline. The increase in the applicants' current business qualifying thresholds were cited as the next highest category at 66.67% and more difficult financial assessment requirements as the third highest by 55.56% of MIA Members.³⁵
- 5.39 The MIA recommended that 'consideration be given to the monetary thresholds for some streams of the BIIP visas being reduced to allow greater access to the programme.'³⁶

32 Mr Van Zyl, *Submission 2*, p. 1.

33 Government of South Australia, *Submission 16*, p. 6.

34 Trade and Investment Queensland, *Submission 12*, p. 2.

35 Migration Institute of Australia, *Supplementary Submission 15.1*, p. 12.

36 Migration Institute of Australia, *Supplementary Submission 15.1*, p. 13.

- 5.40 NSW Trade and Investment also suggested the option of reducing ‘financial thresholds to encourage greater participation’, particularly from incoming venture capital entrepreneurs.³⁷ NSW Trade and Investment also suggested providing lower thresholds to ‘attract greater numbers of business and investor migrants to regional Australia.’³⁸
- 5.41 The MIA also pointed out that the migration programme offers other:
...regional versions of visas, sometimes with lower threshold requirements, to try to attract people. So I think one of the ways the current program is not meeting Australia’s needs is that it is not meeting our regional needs.³⁹
- 5.42 Rockwell Olivier, a law firm that operates across the Pacific and into emerging markets, noted that emerging markets, like Papua New Guinea, felt ‘that the investment threshold requirement is a bit high for them.’⁴⁰
- 5.43 The Australia British Chamber of Commerce (ABCC) highlighted that other countries appear to have a lower threshold for investors and entrepreneurs, stating:
We are looking for entrepreneurs and investors, but it is interesting that, in those countries which are trying to be restrictive, you seem to have a much lower threshold for your investors and entrepreneurs. The entrepreneur visa in the UK is £200,000 and, in some cases, if certain government programs are sponsoring the project you are on, it is as little as £50,000.⁴¹
- 5.44 The ABCC added that the financial thresholds requirements of the BIIP could be less attractive compared with other countries, stating:
...if you are putting \$5 million into the Australian dollar when you have it in other currencies at a time when the currencies are high and we have a much smaller market here – if I am going to set up a new business, I have 65 million-plus people in the UK to market to versus 22 million here. If you are going to make it more difficult for me, it just becomes less and less attractive. I think it is really on the entrepreneurs and significant investors that Australia could sharpen up in comparison.⁴²

37 NSW Trade and Investment, *Submission 22*, p. 7.

38 NSW Trade and Investment, *Submission 22*, p. 7.

39 Mr Lane, Migration Institute of Australia, *Transcript*, 13 June 2014, p. 4.

40 Mr Pal, Rockwell Olivier, *Transcript*, 12 June 2014, p. 41.

41 Mr Amoils, Australia British Chamber of Commerce, *Transcript*, 12 June 2014, p. 2.

42 Mr Amoils, Australia British Chamber of Commerce, *Transcript*, 12 June 2014, p. 4.

- 5.45 More specifically, Australian Private Equity and Venture Capital Association (AVCAL) held the view that the threshold applied to the venture Capital Entrepreneur stream of the BIIP was limiting the number of applicants, stating:
- ...very few foreign entrepreneurs would qualify given the size and scale of the Australian VC industry (unless there is a significant influx of new capital into Australian VC funds). Such low visa take-up levels are unlikely to significantly help achieve the BIIP's objectives of increasing entrepreneurial talent and diversifying business expertise in Australia.⁴³
- 5.46 AVCAL recommended 'lowering the \$1 million investment requirement to \$100,000 for consistency with comparable regional markets such as New Zealand and Singapore.'⁴⁴
- 5.47 The German-Australian Chamber of Industry and Commerce (GACIC) also provided information on the entrepreneurial or investor visa in Germany, noting that:
- there were no specific investment thresholds
 - Germany allows individuals interested in investing in a specific area, in a specific business, to enter the country temporarily if they do not hold a European Union visa or passport
 - individuals can pitch their idea to the local authorities and a group that is made up of the local chamber of commerce
 - it is then vetted by local institutions
 - the local immigration office, Ausländeramt, is able to approve a three-year temporary immigration visa that then, after three years, gets reviewed and can be converted into a permanent resident visa.⁴⁵
- 5.48 ISL agreed that the thresholds that Australia has at the moment is putting the country at a competitive disadvantage and, as a result, capital and entrepreneurial skills are being lost to other countries.⁴⁶
- 5.49 ISL also suggested lowering the investment threshold as well as diversifying funding options.⁴⁷

43 Australian Private Equity & Venture Capital Association Limited, *Submission 10*, p. 3.

44 Australian Private Equity & Venture Capital Association Limited, *Submission 10*, p. 3.

45 Mr Wolf, German-Australian Chamber of Industry and Commerce, *Transcript*, 12 June 2014, pp. 2-3.

46 Mrs O'Donoghue, Immigration Solutions Lawyers, *Transcript*, 13 June 2014, p. 28.

47 Immigration Solutions Lawyers, *Submission 13*, p. 15.

- 5.50 The LCA submitted that lowering the threshold for start-ups and for early venture capital businesses and having a tiered approach to the Venture Capital stream of subclass 132 and the business talent migration visa would be helpful.⁴⁸
- 5.51 The LCA proposed two options to develop the visa subclasses:
- Have a temporary version, a four year visa, for start-ups with a lower threshold. At the end of a certain period, if the applicant could demonstrate they had made effort to run a business, they could obtain a permanent visa.
 - Have different streams within the business talent visa: a start-up stream, a venture capital stream, a private equity stream to reflect the different stages of a business.⁴⁹
- 5.52 Z5 Venture Capital held a slightly different view, stating that the million dollar threshold was not that high for a single fund player compared with the broader fund managers.⁵⁰
- 5.53 Z5 Venture Capital added:
- Certainly, it is good enough to keep as a barrier on the selection of the talent that we need to attract. If we were to lower our standard to a lower level, then we may not necessarily attract the right number of people into the country. In our business dealings, we think a million dollars of funding for a certain project is not that challenging if there is the right project for it.⁵¹
- 5.54 The DSDBI submitted that the total asset requirements of the Business Innovation stream were not too high:
- The BIIP targets entrepreneurs with a proven business history. As such, applicants should be able to demonstrate access to sufficient assets to invest in substantial business activity of benefit to Australia, and sufficient funds to support their families to settle. Australia is a premium destination and can ensure appropriate thresholds for business and investor migration are in place.⁵²

48 Ms Chowdhury, Law Council of Australia, *Transcript*, 25 June 2014, p. 1.

49 Ms Chowdhury, Law Council of Australia, *Transcript*, 25 June 2014, pp. 3-4.

50 Mr Shi, Z5 Venture Capital, *Transcript*, 13 June 2014, p. 20.

51 Mr Shi, Z5 Venture Capital, *Transcript*, 13 June 2014, pp. 20-21.

52 Victorian Department of State Development, Business and Innovation, *Submission 23*, p. 12.

- 5.55 The DIBP indicated that the provisional visa thresholds were:
... consistent with the Australian Bureau of Statistics' records of the average net worth of Australian business owners in 2006, so these thresholds are a suitable minimum for potential entry into Australia.⁵³
- 5.56 The DIBP added that while 'lowering threshold requirements would ensure a higher level of visa lodgements, it is also likely to lower the quality of visa applicants.'⁵⁴
- 5.57 As noted above, the DIBP did however suggest the option of 'reducing the financial thresholds in order to allow a wider range of applicants' and increase demand.⁵⁵

Committee comment

- 5.58 As the DIBP noted in their submission, 'making major changes to visa programmes will normally give rise to a sharp increase in applications prior to the date of effect and a subdued lodgement rate for an extended period after changes take effect.'⁵⁶
- 5.59 If this is correct, then the proposed changes announced by the Government on 14 October 2014 to the Significant Investor visa will affect the application rates for the BIIP both prior to and after they have been implemented.
- 5.60 Given the recent announcement, and the review of the skilled migration and temporary activity visa programmes, the Committee concludes that it would be premature to make any recommendations on the BIIP's financial requirements or assets threshold requirements prescribed for each visa until the changes have been implemented and operating for some time.
- 5.61 However, the Committee urges the DIBP to consider these issues as part of its review of the skilled migration and temporary activity visa programmes.

53 Department of Immigration and Border Protection, *Submission 14*, p. 10.

54 Department of Immigration and Border Protection, *Supplementary Submission 14.1*, p. 16.

55 Department of Immigration and Border Protection, *Submission 14*, p. 20.

56 Department of Immigration and Border Protection, *Submission 14*, p. 18.

Other eligibility requirements

- 5.62 A few submitters highlighted some additional areas for consideration such, as the English language requirements of the BIIP, attracting early-stage entrepreneurs and graduates, attracting investment in regional Australia and assisting businesses in distress. These additional areas are discussed in this section.

English language requirements

- 5.63 It was the DoB's experience that genuine business migrants who are not fluent in the English language were still able to produce business outcomes:
- Experience in the Northern Territory suggests that genuine business people who don't have good English language skills engage professional advisers and interpreters to assist them with their investment decisions and business developments. It also suggests that those who are fluent in languages other than English, particularly the languages of our key trading partners such as Mandarin and Chinese dialects, Indonesian and Japanese, are able to produce quality business outcomes in the highly desirable areas of export and overseas market development.
- 5.64 Based on this experience, the DoB called for the English language requirement of the BIIP to be removed.⁵⁷
- 5.65 As noted earlier in this chapter, the Government of South Australia was of the view that the English language component of the points test may have led to a drop in demand.⁵⁸
- 5.66 The Migration Alliance Inc. suggested that the strict English language test made it difficult for applicants to obtain a visa.⁵⁹ They agreed with the DoB that a business person could engage an interpreter to assist them with the management of the business.⁶⁰
- 5.67 Mr Findley also agreed that a high level of proficiency in English was not 'necessary to meet the objectives of migration programs.'⁶¹

57 Northern Territory Department of Business, *Submission 18*, p. 7.

58 Government of South Australia, *Submission 16*, p. 6.

59 Mrs Allan, Migration Alliance Inc., *Transcript*, 12 June 2014, p. 19.

60 Mrs Allan, Migration Alliance Inc., *Transcript*, 12 June 2014, p. 19.

61 Mr Findley, Shanghai Resources Pty Ltd, *Transcript*, 12 June 2014, p. 25.

- 5.68 The DIBP, in its submission, pointed out that 'there is no English requirement for State/Territory sponsored applicants but those having less than functional English must pay an additional visa application charge.⁶²
- 5.69 ISL also noted that there were no mandatory English requirements but that the applicant does not score anything on the points test if they do not have a certain level of English proficiency.⁶³ ISL added that this may deter many applicants.⁶⁴

Early-stage entrepreneurs

- 5.70 AVCAL posited the notion that it would be beneficial for Australia to attract more early-stage entrepreneurs.⁶⁵
- 5.71 AVCAL recommended the BIIP be broadened to include an additional eligibility requirement designed to attract early-stage entrepreneurs:
Broaden the programme to include start-up founders and allow acceptance into a qualifying incubator programme as an alternative eligibility requirement.⁶⁶
- 5.72 AVCAL added that attracting and retaining early-stage entrepreneurs was extremely important:
Australia can reap significant early adopter benefits by attracting founders of high potential businesses that are still in the incubation or the start-up phase. We believe it would also be in Australia's interest to attract more early stage entrepreneurs to live here and to remain invested in growing Australian jobs and operations, such as through investing in research and development, and manufacturing and export market development. Even after their start-ups mature and expand beyond our borders, retaining such talent here in Australia is hugely important.⁶⁷
- 5.73 NSW Trade and Investment⁶⁸ and Trade and Investment Queensland also held the view that it was important to encourage investment by venture capitalists:

62 Department of Immigration and Border Protection, *Submission 14*, p. 6.

63 Miss Shin, Immigration Solutions Lawyers, *Transcript*, 13 June 2014, p. 30.

64 Immigration Solutions Lawyers, *Submission 13*, p. 4.

65 Australian Private Equity and Venture Capital Association, *Submission 10*, p. 3.

66 Australian Private Equity and Venture Capital Association, *Submission 10*, p. 2.

67 Mr El-Ansary, Australian Private Equity & Venture Capital Association Limited, *Transcript*, 13 June 2014, p. 18.

68 NSW Trade and Investment, *Submission 22*, p. 7.

Queensland supports initiatives that encourage investment by venture capitalists into Australia's small to medium enterprises and believes its economy would benefit from this investment.⁶⁹

- 5.74 The MIA suggested creating a start-up business stream in the BIIP as a way of attracting additional suitable migrants.⁷⁰ The MIA outlined that the proposed start-up business stream would include three stages. Stage 1 would be provisional for twelve months, allowing the applicant to start the business. Stage 2 would provide provisional renewal to run the business for up to 3 years. After that time, if the business could prove that it had met all requirements, the applicant could apply for a permanent visa.⁷¹
- 5.75 Mills Oakley Lawyers were a little more specific, calling for greater flexibility for investment visas:
- [T]here does need to be some flexibility on the investment classes, on the basis that, with things like venture capital and early start-ups, there could be tax concessions afforded for investors in that space. If we can get a balance between ensuring that we have the capital retained in the country and giving them the incentive to keep it here by way of those tax concessions.⁷²
- 5.76 The Venture Capital Entrepreneur stream of the Business Talent (Permanent) (subclass 132) visa is part of the BIIP. As noted in chapter 2, the stream allows entrepreneurs 'to fund the start-up phase, product commercialisation, business development or expansion of a high value business idea in Australia.'⁷³

Attracting graduates

- 5.77 The MIA also suggested creating a self-employment stream for graduates of Australian universities in the BIIP:

The nexus between study in Australia and permanent residence through independent skilled migration has been to a large extent broken, but there is a place for it, especially since reforms to improve the integrity of the Student Visa programme, because there can be value in having migrants with the experience, knowledge and skills that study in Australia can bring. That place

69 Trade and Investment Queensland, *Submission 12*, p. 3.

70 Migration Institute of Australia, *Submission 15*, pp. 10-12.

71 Migration Institute of Australia, *Submission 15*, p. 11.

72 Ms Yeo, Mills Oakley Lawyers, *Transcript*, 12 June 2014, p. 48.

73 Department of Immigration and Border Protection, *Submission 14*, p. 11.

is not only in the independent skilled migration streams, but also for young business entrepreneurs who have studied in Australia.⁷⁴

- 5.78 The DSDBI asked the Committee to consider broadening the sources of entrepreneurial talent, noting in particular the UK Government's Graduate Entrepreneur visa which 'recognises innovative young business people amongst its international students.'⁷⁵
- 5.79 The DSDBI added that the 'BIIP program tends to attract applicants with an older age profile because it targets only business migrants with a proven business history.'⁷⁶
- 5.80 The ABCC commented that Australia had an advantage in retaining graduates compared with other countries like the US, and also suggested establishing entrepreneur streams for new graduates.⁷⁷

Attraction of investment in regional Australia

- 5.81 Several submitters proposed that the BIIP should be attracting more investment in regional and rural areas.
- 5.82 The DoB submitted that more regional incentives were needed, adding:
If Australia is to realise the greatest benefit from the BIIP program then the geographic dispersal of those investments and business activities across Australia is essential. It is unlikely that regional or priority areas of Australia will achieve an appropriate proportion of the entrepreneurial skills and investment unless there are incentives to encourage this dispersal.⁷⁸
- 5.83 The DoB added that concessions to the BIIP such as either increasing thresholds or business activity in metropolitan areas or relaxing requirements for regional areas could be beneficial:
The concept of concessions based on regional areas already exists within current migration policy. An example of this is the state/territory nominated visas under the General Skilled Migration program. Concessions are recognised ways of encouraging migrants to settle in areas that are perceived as less attractive.⁷⁹

74 Migration Institute of Australia, *Submission 15*, p. 12.

75 Victorian Department of State Development, Business and Innovation, *Submission 23*, p. 6.

76 Victorian Department of State Development, Business and Innovation, *Submission 23*, p. 6.

77 Mr Amoils, Australia British Chamber of Commerce, *Transcript*, 12 June 2014, p. 15.

78 Northern Territory Department of Business, *Submission 18*, p. 4.

79 Northern Territory Department of Business, *Submission 18*, p. 4.

- 5.84 In its submission, the DoB suggested that the appeal of regional areas could be increased by developing regionally-based migration incentives, and noted that it was in discussions with the Federal Government on ‘developing Special Economic Zones (SEZs), which would create financial incentives for migrants to invest and move to regional areas.’⁸⁰
- 5.85 At a public hearing, the DoB expanded on an incentive for businesses who would like to come to regional Australia:
- We consider that rewards should be given to investors or business people from overseas who are looking at establishing new businesses rather than buying into existing ones or, if they are buying into existing ones, then looking to how they add value, as opposed to just business as usual. We also believe that the state governments for remote or regional businesses – or regional business per se – should be able to have a certain number that we could use to attract the people whom we need or we want.⁸¹
- 5.86 NSW Trade and Investment called for reconsideration of the regional attraction thresholds for the BIIP, suggesting that they should be ‘lowered to attract greater numbers of business and investor migrants to regional Australia.’⁸²
- 5.87 Mr Findley argued that the migration programme would only be able to encourage the dispersion of entrepreneurs and business people to regional and low growth areas through the regulatory framework.⁸³
- 5.88 ISL noted one objective of the BIIP to increase the dispersal of business migrants across Australia, commenting that the DIBP ‘should more actively encourage business migrants to establish businesses in rural, regional or low growth areas of Australia.’⁸⁴

80 Northern Territory Department of Business, *Submission 18*, p. 8.

81 Ms Martin, Northern Territory Department of Business, *Transcript*, 16 July 2014, p. 2.

82 NSW Trade and Investment, *Submission 22*, p. 7.

83 Mr Findley, *Supplementary Submission 6.1*, p. 8.

84 Immigration Solutions Lawyers, *Submission 13*, p. 9.

5.89 They suggested that Australia consider adopting a similar visa to the US EB-5 immigration visa which has a lower threshold for individuals willing to set up a business in rural or areas with higher unemployment:

One possibility might be to introduce a model that has more relaxed requirements for areas of low population and growth that is similar to the US model. This might help to encourage a more even distribution of investment funds. For example, the US EB-5 immigration visa does have a minimum qualifying investment of US \$1 million but this is reduced to \$500,000 in rural areas that are in need of employment creation and in areas that have unemployment that is 150 percent above that of the national average.⁸⁵

5.90 Mr Van Zyl, Ord Minnett Ltd, ISL and the ABCC all highlighted the EB-5 immigration visa and suggested it was a good idea to consider a similar visa for Australia.⁸⁶

5.91 The Government of South Australia advised that the BIIP should play a role in 'building Australia's economy, including the economies of regional Australia.'⁸⁷

5.92 They suggested that the 132 venture capital visa be removed from the BIIP and 'introduce a 132 regional business visa with lower threshold criteria than the other visa streams in the program.'⁸⁸

5.93 When they appeared before a public hearing, the MIA commented that the business migration programme was ineffective for states and territories other than Victoria and NSW, and in particular Melbourne and Sydney.⁸⁹ The MIA submitted that the current programme was not meeting Australia's regional needs, pointing out that:

In all sorts of areas of the migration program, there have been regional versions of visas, sometimes with lower threshold requirements, to try to attract people.⁹⁰

5.94 Statistics provided by the DSDBI showed that only a very small percentage of BIIP nominees intended to locate their business in a regional area of Victoria.⁹¹

85 Immigration Solutions Lawyers, *Submission 13*, p. 9.

86 Mr Van Zyl, Van Zyl Lawyers, *Transcript*, 18 June 2014, p. 3; Mr Headland, Ord Minnett Ltd, *Transcript*, 12 June 2014, p. 42; Mr Amoils, Australia British Chamber of Commerce, *Transcript*, 12 June 2014, pp. 5-6; Miss Shin, Immigration Solutions Lawyers, *Transcript*, 13 June 2014, p. 30.

87 Government of South Australia, *Submission 16*, p. 5.

88 Government of South Australia, *Submission 16*, p. 5.

89 Mr Lane, Migration Institute of Australia, *Transcript*, 13 June 2014, p. 4.

90 Mr Lane, Migration Institute of Australia, *Transcript*, 13 June 2014, p. 4.

- 5.95 The United Dairy farmers of Victoria (UDV) pointed out that there were many definitions of 'regional' within the immigration regulations which could pose as a potential hurdle to establishing regional zones or lowering thresholds for regional or rural areas.⁹²
- 5.96 As noted in chapter 2, the previous Business Skills Programme contained a Regional Established Business (subclass 846) visa which was removed. At that time, the threshold for the Regional Established Business visa was \$200,000.⁹³
- 5.97 The DIBP, in its submission, highlighted that the visa was removed due to the low uptake (four cases granted 2008-09 and six cases in 2009-10) and the cost of administering the programme.⁹⁴
- 5.98 When asked for the number of business migrants located in rural and regional areas compared to metropolitan areas, the DIBP advised that it had no data available for the BIIP.⁹⁵

Committee comment

- 5.99 The Committee appreciates the many proposals designed to increase the attractiveness of the BIIP that were provided by those who submitted to this inquiry.
- 5.100 Attracting greater investment, particularly in regional and rural areas as well as areas of underemployment, and retaining the best and brightest graduates are key components that will create economic benefit for Australia.
- 5.101 However, as stated previously, it would be premature to make any recommendations on these eligibility criteria given the recent announcement.
- 5.102 The Committee urges the DIBP to consider these issues as part of its review of the skilled migration and temporary activity visa programmes.

91 Victorian Department of State Development, Business and Innovation, *Submission 23*, p. 7.

92 United Dairy farmers of Victoria, *Submission 20*, p. 4.

93 Department of Immigration and Border Protection, *Submission 14*, Attachment B, p. 8.

94 Department of Immigration and Border Protection, *Submission 14*, p. 7.

95 Department of Immigration and Border Protection, *Supplementary Submission 14.1*, p. 6.

Recommendation 1

The Committee recommends that the Department of Immigration and Border Protection examine the Business Innovation and Investment Programme (BIIP) as part of the 2015-16 migration programme survey and in its reviews of the skilled migration and temporary activity visa programmes. The reviews should focus on the:

- suitability and attainability of the objectives set for the BIIP;
- role that States and Territories have in administering the BIIP and, specifically, the accountability of these jurisdictions and whether the programme should instead be solely administered by the Commonwealth;
- means of collecting data at the State and Territory level, its dissemination to the Department and evaluation;
- promotion and marketing of the programme;
- application processing and service standards;
- removal of the ability for the secondary applicant to become the primary applicant;
- English language requirements;
- innovation points test; and
- attracting investment in regional Australia, graduates, early-stage entrepreneurs, and venture capitalists.

Mrs Louise Markus MP
Chair