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Dear Senator

Thank you for your letter dated 6 February 2020 inviting the Northern Territory to make a submission to the inquiry into temporary migration to regional Australia. The Territory is pleased to make the attached submission to the inquiry.

The Territory prides itself as a multicultural melting pot. Diversity for us is not an ambition, but a shared history and a way of life. Our population has been shaped by overseas and interstate migration. The Territory's ability to attract and retain migrants is of paramount importance when it comes to driving economic growth, increasing regional population and diversifying our skill base. Temporary migration programs play a crucial role in alleviating skill shortages and enabling business growth. This is particularly so when these programs provide a pathway for temporary migrants to attain permanent residence, conditional upon a period of residency and employment in regional areas such as the Northern Territory.

Population growth in the Territory has been below trend over the last five years, and is generally well below the national rate of 1.6% per annum. It is forecast to decline further by 0.7% in the coming year. The Territory is proactively taking measures to increase its population as outlined in the 2018-2028 NT Population Growth Strategy released in August 2018. My Government's priority is to return the population growth rate from 0.6% to its long term average of 1.4% which equates to an increase of 2600 people per year over the next ten years. In order for this to be effectively achieved, the Territory's efforts need to be supported by federal migration legislation and policy.

The Territory welcomes the Australian Government's focus on encouraging new migrants into regional areas, and acknowledges the positive steps that have been taken towards this end. The introduction of the new skilled regional visas in November 2019, and the implementation of the new Northern Territory Designated Area Migration Agreement (NT DAMA) are noteworthy measures that have been taken. However, the benefit that the Territory stands to gain from these measures has been severely curtailed by the expanded definition of Regional Australia, and the lack of incentives provided for migrants to move to areas classified under tier 3 of the definition as 'regional centres and other regional areas'. The submission makes a number of recommendations on policy measures to be built into temporary skilled and business migration programs to address this concern. The submission also discusses the adverse impact of unlawful conduct of sponsoring employers, and the need for additional protection for whistle-blowers.

These issues must be addressed in order to effectively implement the Australian Government's commitment to encourage migrants to settle in regional Australia.

We trust that the Committee will have due regard to these important issues of concern, and look forward to your findings and recommendations.

Yours sincerely

'MICHAEL GUNNER

- 6 MAR 2020



## NORTHERN TERRITORY SUBMISSION TO THE SENATE SELECT COMMITTEE ON TEMPORARY MIGRATION

### 1. INTRODUCTION

On 5 December 2019, the Australian Senate referred a range of matters to the Select Committee on Temporary Migration. Broadly its terms of reference permit it *“to inquire into and report on the impact temporary migration has on the Australian economy, wages and jobs, social cohesion and workplace rights and conditions”*.

The Northern Territory Department of Trade, Business and Innovation, through MigrationNT, has carriage of the State and Territory nominated business and skilled migration program in the Territory and welcomes the opportunity to provide this submission. The Territory supports the current priority focus of the Federal Government in encouraging new migrants to live and work in regional areas of Australia through the introduction of regional provisional visas and increased compliance measures.

It is the long established position of the Northern Territory Government that overseas business and skilled migrants make an invaluable contribution to our community. Of critical importance is a migration program that enables:

- access by local businesses to an overseas labour force to fill skill shortages
- population growth
- capital investment to facilitate economic development, and
- continuation to build on our region’s multicultural strengths.

As a jurisdiction that relies on net migration, any changes to Commonwealth migration settings will impact the Northern Territory’s economic and population growth.

### 2. THE NT CONTEXT

Population growth in the Northern Territory has been below trend over the past five years. The Northern Territory is proactively taking measures to increase its population as outlined in the 2018-2028 NT Population Growth Strategy released in August 2018. A sustainably growing

population that supports a healthy economy and thriving communities is essential to the future of the Territory.

The Northern Territory has a relatively small labour market compared to other Australian jurisdictions, with a total working age (15 years and over) population of 187,816 of which 74.2% are in the labour force compared to 66.1% nationally – the highest of all jurisdictions<sup>1</sup>. High participation rates and sustained skill shortages have been a feature of the Northern Territory labour market landscape for a considerable period of time. The Territory economy at present is also marked by housing affordability, with Darwin having the second lowest median house price and the lowest median unit price of capital cities<sup>2</sup>.

Despite the Northern Territory Government's significant investment in training, Aboriginal employment programs and interstate attraction campaigns, Territory businesses continue to experience skilled labour shortages. Temporary skilled overseas workers have played, and will continue to play, an important role in addressing workforce shortages in the Northern Territory.

The Northern Territory Government is working hard to double its average economic growth from 2.5% to 5%, to create jobs and grow private investment that will attract and sustain the population. The Territory's efforts have focused on facilitating a pipeline of diversified investments such as the \$19 billion Sun Cable solar project, a \$400 million Ship Lift, a \$200 million 6-star luxury waterfront hotel, a \$25 million Alice Springs Hospital Accommodation project, and a number of projects in the oil and gas sector totalling an estimated value of just over \$17 billion.

It is imperative for the Territory that national policy settings take into consideration the challenges of attracting and retaining migrants in Northern Australia. While the Territory welcomes the Australian Government's policy focus on provisional visas and Designated Area Migration Agreements (DAMAs) supporting regional Australia, we remain concerned with the lack of adequate incentives in the current framework to attract and retain migrants in the Northern Territory, particularly in light of the expanded definition of 'Regional Australia'. It is the Territory's view that greater incentives should be provided to attract migrants to areas classified under the third tier of the new definition as 'regional centres and other regional areas' (hereafter referred to as 'tier 3 regions').

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<sup>1</sup> NT labour market infographic data November 2019 accessed via <https://business.nt.gov.au/business-and-economic-data/business/labor-market-infographic-data>

<sup>2</sup> NT Economy; Department of Treasury and Finance; accessible via <https://nteconomy.nt.gov.au/housing>; September 2019



### 3. TERMS OF REFERENCE QUESTIONS

#### 3.1 GOVERNMENT POLICY SETTINGS, INCLUDING THEIR IMPACT ON THE EMPLOYMENT PROSPECTS AND SOCIAL COHESION OF AUSTRALIANS

Temporary skilled and employer sponsored visa programs are targeted at alleviating genuine skills shortages in regional areas. To this end, robust criteria requiring visa applicants to be positively assessed for skills in occupations that are in shortage and have adequate English language proficiency help alleviate any adverse impact on the employment prospects of Australians. The requirement on sponsoring employers to undertake labour market testing prior to nominating overseas workers for visa programs also serves this end. However, it must be noted that the labour market testing requirement is viewed by regional employers as too onerous in tier 3 regions where shortages in eligible occupations are well evidenced and documented.

The measure of success for temporary skilled migration programs is the extent to which visa holders effectively fill skill shortages and make a positive contribution to the community. In regional areas such as the Northern Territory, long-term commitment made by these visa holders to live and work in the region (with the inclusion of a pathway to permanent residence) is also highly beneficial. The more successful they are in securing gainful employment and integrating into the community, the more they contribute towards social cohesion. In this respect, the provision of settlement support for temporary skilled workers contributes towards the social cohesion of Australians.

The Northern Territory welcomes the recent change in legislation to provide holders of provisional regional visas with access to welfare support and Medicare. Access to these services would go a long way towards alleviating living costs, particularly in regional areas such as the Northern Territory, and lead to better settlement outcomes.

The Northern Territory Government has also supported initiatives to assist skilled migrants prepare for employment and settle into the community. This includes the establishment of the Skills Recognition Centre which provides assistance with career and training plans, recognition of overseas qualifications and making referrals to relevant contacts and support services, amongst others. The Territory Government has also funded employment programs to support migrants enter the workforce. These include the Inside Out in Diversity program and Skills for Work program, both of which are aimed at preparing migrants for employment and engaging with NT employers to enhance opportunities. This has been complemented by funding provided to not-for-profit organisations through the Australian Government's Fostering Integration grants, for programs that support recently arrived skilled migrants with on boarding and mentoring to prepare them for employment.



### **3.2 THE IMPACT OF TEMPORARY SKILLED AND UNSKILLED MIGRATION ON AUSTRALIA'S LABOUR MARKET**

The Northern Territory is heavily reliant on skilled and employer sponsored migration to fill key skill shortages and diversify its workforce. Visa programs that provide tailored migration solutions for tier 3 areas such as the Northern Territory are of utmost importance.

The Territory is proud to have been the first jurisdiction to implement a Designated Area Migration Agreement (DAMA), which provides NT employers with greater access to overseas skilled workers to fill skill shortages. Our experience with the program since it was implemented on a pilot basis in 2014 through to the current agreement signed on 13 December 2018 (DAMA II) has demonstrated that the program plays a crucial role in meeting the special workforce needs of regional areas such as the Northern Territory. This is reflected through the Federal Government's expansion of this program to other tier 3 regions of Australia and its promotion as a key regional migration solution. The pathway to permanent residence, which is a key feature of DAMA II, has seen a dramatic increase in the level of interest in the program. Feedback from NT employers, coupled with the increased uptake of the program indicates that the DAMA makes a significant contribution to alleviating skill shortages in the Territory labour market. However, employers have also commented that the requirement to undertake labour market testing and the costs of paying the Skilling Australians Fund levy severely affect the accessibility of the program for regional employers.

Skilled visa programs that incentivise overseas workers to live and work in regional areas by providing a pathway to permanent residence are beneficial for regional Australia. An example of this is the Skilled Work Regional (Provisional) Visa subclass 491, introduced in November 2019, which provides visa holders with a pathway to permanent residence, conditional upon a 3-year period of residence and employment in a regional area. However, the benefit that this program brings to the Northern Territory is severely curtailed by the broadened definition of regional Australia that was legislated in November 2019. The Northern Territory stands to lose its competitive advantage in attracting and retaining skilled migrants, given that metropolitan centres such as Perth and Gold Coast are now deemed 'regional'. Policy settings that incentivise skilled migrants to live and work in tier 3 regions such as the Northern Territory are essential, in order to fully realise the benefit of temporary migration to the Territory labour market.

### **3.3 POLICY RESPONSES TO CHALLENGES POSED BY TEMPORARY MIGRATION**

Temporary migration in itself, without a clear pathway to permanent residence, is only a Band-Aid solution to the workforce needs of regional areas such as the Northern Territory. To this end, as discussed above, the Territory supports the focus being given to provisional visas such as the Skilled Work Regional (Provisional) subclass 491 and the Skilled Employer Sponsored Regional (Provisional) subclass 494, both of which have pathways to permanent residence conditional upon a period of work and residence in a regional area. However we note that there has been little interest in the



subclass 494 from NT employers. This can be attributed primarily to onerous requirements around the level of work experience, English level and skills assessments.

As also discussed above, in order for these provisional visas to truly benefit the Northern Territory, greater incentives and measures are required to attract and retain skilled migrants in locations classified in tier 3 of the new definition. Incentives are also required to attract migrants under the Business Investment and Innovation Program. The Northern Territory submits that the following measures should be considered to attract and retain more skilled and business migrants in tier 3 regions through temporary visa programs:

### **3.3.1 Increased migration points for regional study**

A significant portion of skilled migrants are sourced from international student graduates. Encouraging the dispersal of international students to tier 3 areas would boost the number of locally qualified skilled migrants and help achieve economic growth. Currently, regional study is incentivised through 5 points being allocated under the General Skilled Migration points test for undertaking eligible studies in a regional institution. With the introduction of the broad definition of 'regional Australia', there is no competitive advantage for tier 3 locations such as the Northern Territory to attract international students.

To encourage more international students to study in tier 3 regions, we propose that an additional 10 points should be made available for undertaking eligible studies in these locations.

### **3.3.2 Increased post study work rights for VET graduates**

International students who complete an eligible course of study in Australia are eligible for temporary Graduate Visas, which allow them to work and live in Australia for a limited period and explore opportunities for further migration pathways. The Northern Territory welcomes the increased work rights for international higher education students who complete the relevant course in a regional area and remain in the regional area for two years on their first Graduate Visa. The second Temporary Graduate visa will be available from 2021. Although not designed to address skill shortages, this addition will provide graduates with more time to find relevant employment and qualify for migration pathways.

The Northern Territory submits that the increased period of post-study work should also be extended to vocational education graduates of institutions in tier 3 locations. These graduates will make a significant contribution to key industries in the Territory such as hospitality and the trades, where ongoing skill shortages exist. This will also help attract more international students to tier 3 regions, contributing to the regions' economy and adding to the workforce.

### **3.3.3 Increased work rights for dependants of Student Visa holders**

Under the current regulations, the dependents of student visa holders (secondary visa holders) have limited work rights (40 hours per fortnight), with the only exception being where the primary visa holder is enrolled in a masters or doctoral degree. The Northern Territory submits that dependents of student visa holders in tier 3 regional areas should be afforded full work rights. The ability of secondary visa holders to be employed full-time will significantly reduce the costs of living in a tier 3 area and would place these areas in a better position to attract international students.

### **3.3.4 Allocation of more points for skilled migration to tier 3 areas**

The Northern Territory welcomes the additional 5 points (total of 15 points) offered for State/Territory nomination for subclass 491 visas under the regulations introduced in November 2019.

To broaden the pool of eligible applicants to live and work in tier 3 locations, we submit that more points should be afforded for State/Territory nominations for subclass 491 visas made on the basis of the applicants' commitment to live and work in a tier 3 location. We recommend that an additional 10 points (taking the total points for nomination to 25) would be appropriate in this regard.

### **3.3.5 Increased number of eligible occupations for tier 3 areas**

The current regulations provide for a Regional Occupations List that is specific to the Skilled Work Regional (Provisional) subclass 491 visa. This list of occupations is generated from national data on skill shortages, and does not accurately reflect the skill shortages in the Northern Territory. This is even more pronounced with the broadening of the definition of Regional Australia. The occupations in demand in the Northern Territory significantly differ from those required in other 'regional' areas such as Perth and Gold Coast. For example, in the recent review of the skilled migration lists (December 2019 to February 2020), the Department of Education, Skills and Employment has proposed that key occupations such as Massage Therapist, Hairdresser, and Community Worker be removed. These occupations are in high demand in the NT. While we acknowledge that the DAMA goes some way towards achieving a tailored occupations list, we contend that broadening the list of eligible occupations under the General Skilled Migration program would place tier 3 regions in a better position to attract and retain skilled migrants.

The Northern Territory submits that consideration should be given to increasing the number of eligible occupations for skilled migration to tier 3 regions. The additional occupations must



be identified through robust consultation with appropriate authorities and industry bodies in tier 3 locations.

### **3.3.6 Lower income threshold for provisional visa holders in tier 3 areas to qualify for permanent residency**

The new skilled regional visas (Skilled Work Regional (Provisional) Visa subclass 491 and the Skilled Employer Sponsored Regional (Provisional) Visa subclass 494) provide a pathway to permanent residency for visa holders who meet certain criteria, including the attainment of an annual income threshold for three years. This threshold is currently set at the Temporary Skilled Migration Income Threshold (TSMIT) which stands at \$53,900. Attaining this threshold is difficult for many skilled migrants, particularly those who apply from offshore. It is also noted that a 10% concession to the TSMIT applies for certain occupations nominated under DAMAs in place in some tier 3 areas.

As an added incentive for skilled migrants to consider moving to and remaining in a tier 3 region, we submit that subclass 491 visa holders who have maintained ongoing residence in such a region for the duration of the qualifying 3-year period be provided with a lower income threshold to qualify for permanent residency through the subclass 191 visa. We submit that a lower threshold of \$45,000 would be appropriate.

### **3.3.7 Tighter compliance framework to retain skilled migrants in tier 3 regions**

Under the current regulatory framework, while visa conditions require a provisional visa holder to live, work and study only in regional Australia, there is no significant consequence for failing to fulfil their commitment to live and work in the nominating jurisdiction. This means that skilled migrants who are granted a Skilled Work Regional (Provisional) visa subclass 491 through NT nomination can move to another 'regional area' (such as Perth and the Gold Coast).

In order to maintain the integrity of the program and effectively achieve the policy objective of supporting regions in need, a more stringent compliance framework is required. This could take the form of a visa condition on subclass 491 visas precluding those nominated in tier 3 regions from living and working outside of such regions. Alternatively, this could be achieved by including into the eligibility criteria for subclass 191, three years of residency and work in a tier 3 area.

### **3.3.8 More workable criteria for regional employer sponsored visas**

Feedback obtained from Northern Territory businesses suggest that the accessibility of the regional employer sponsored programs such as the NT DAMA to regional businesses are

curtailed by the onerous labour market testing requirements and the Skilling Australians Fund levy.

Labour market testing requirements involves evidencing that the positions were advertised for a period of at least 28 days in at least two acceptable platforms. With respect to the NT DAMA, feedback from NT employers is that this requirement imposes additional and unnecessary delays and costs given the program uses an occupation list which is based on labour shortage data and industry information and is one that has been refined considerably to reduce risk. The requirement to advertise on formal platforms is also at odds with common practice particularly in small businesses in regional areas to advertise through word-of-mouth and other informal means.

The Territory submits that the labour market testing requirement not apply to the NT DAMA II program. It should be noted that occupations on the DAMA II list are identified through robust labour market analysis, are genuine in shortage occupations and that those occupations are negotiated with the Department of Home Affairs for approval annually.

Businesses are required to pay the Skilling Australians Fund Levy (the Levy) in respect of each overseas worker that they nominate. Feedback from businesses is that this cost is a financial impost severely limiting their ability to use the DAMA and other employer sponsored programs. While many businesses accept such a fund plays an important role in the long term solution for skills shortages, collection of the Levy at the time of application has impacted on the operational costs of some businesses where nominations have been unsuccessful.

The Northern Territory submits that the Levy should be applied only at time of a positive decision, such that only those businesses who successfully access workers, pay the Levy. Further, the Northern Territory seeks to have the Levy removed for employers accessing the NT DAMA II given a key objective of regional migration programs is to provide flexible and accessible mechanism to fill skill shortages within NT business.

### **3.3.9 Additional incentives for business and investor migration to tier 3 areas**

It must be recognised that like the skilled migration needs of regional Australia, the investment and development needs vary from those of large cities and between regional areas. Tier 3 regions are in particular need of investment and entrepreneurship. Policy settings need to recognise these different needs and provide flexibility to incentivise business migration to these areas.

Despite the regional focus of the migration program and reforms over the last 12-18 months, the Business Investment and Innovation Program (BIIP) still does not provide any incentives



to encourage business migrants and investors to invest, do business and settle in regional areas 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. The Northern Territory recommends consideration be given to:

- a. *Introducing additional points* for applicants who commit to undertaking business and investment in tier 3 regions (i.e. 10 additional points).
- b. *Prioritising applications for migration to tier 3 areas*. 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.
- c. *Broadening the types of eligible businesses and investments* that can be undertaken in tier 3 areas compared to metropolitan Australia. The development needs of tier 3 areas, vary markedly, from larger cities. For example a 'salad bar' café in Sydney is not an innovative business, but a similar business in remote communities in the Territory would not only be innovative but would also provide new goods and services to the local population.
- d. *Providing greater flexibility for state/territory jurisdictions to provide 'waivers'* for business persons and investors proposing activities of significance to tier 3 regions. These waivers would extend beyond the age/English waivers currently available, to include other BIIP nomination criteria such as business history and asset requirements. The Northern Territory suggests that waivers could be provided for those entrepreneurs and investors seeking to undertake investments in tier 3 regions for projects considered to be significant contributors to the economic development of a jurisdiction, including through the creation of jobs and business opportunities. In the Northern Territory, this would be applied to proponents of projects that have achieved NT Government Major Project Status.

### **3.4 WHETHER PERMANENT MIGRATION OFFERS BETTER LONG-TERM BENEFITS FOR AUSTRALIA'S ECONOMY, AUSTRALIAN WORKERS AND SOCIAL COHESION**

As discussed above, visas that lead to permanent residency better serve the needs of the Northern Territory. A period of required residency in a regional area prior to qualifying for permanent residence makes skilled migrants more likely to live and work in regional areas such as the Northern Territory, and alleviate issues of congestion in major cities. See above for further discussion on suitable incentives.

### **3.5 THE IMPACT OF WAGE THEFT, BREACHES OF WORKPLACE RIGHTS AND CONDITIONS, MODERN SLAVERY AND HUMAN TRAFFICKING ON TEMPORARY MIGRANTS**

Despite tightening of regulations and compliance measures, MigrationNT continues to receive feedback from the community on incidents of overseas workers being subjected to exploitation and having their workplace rights breached. Such breaches by sponsoring employers lead migrants and potential migrants to lose confidence in migration programs.

There also appears to be a lack of protection for whistle-blowers from adverse visa outcomes. For example, overseas workers sponsored on a Temporary Skill Shortage visa subclass 482 are often apprehensive about reporting any breach of workplace conditions as their visas are dependent on continued employment. This will also become an issue for holders of the new skilled regional provisional visas, who are required to maintain employment in a regional area for three years to qualify for permanent residency.

We submit that skilled and employer sponsored visa programs should provide for additional protection for overseas workers, such that their visa status and eligibility for permanent residence is not adversely impacted by actions of their employers.

## **4. SUMMARY**

The Northern Territory, more than any other Australian jurisdiction, relies upon domestic and international migration to fill skill shortages and achieve sustainable population growth. Overseas migration is essential to the Territory's prosperity and quality of life. Migrants will continue to play a pivotal role in the economic development of the Territory, establishing businesses and creating jobs.

A one-size-fits all approach to migration programs will not effectively provide for the unique needs of the Northern Territory. Initiatives such as the DAMA, and some of the changes to the skilled regional migration programs, provide some recognition of these needs. In order for these initiatives to effectively achieve population growth in the Northern Territory, changes are required to incentivise skilled and business migrants to consider living and working in tier 3 regions.