Level 42
120 Collins Street
Melbourne 3000

GPO Box 1472
Melbourne 3001

Telephone +613 8664 2664
Facsimile +613 8664 2666
www.bca.com.au

21 September 2012

Business Council of Australia

Committee Secretary
Senate Standing Committee on Education, Employment and Workplace Relations
PO Box 6100
Parliament House
CANBERRA ACT 2600

sent via email: eewr.sen@aph.gov.au

Inquiry into the Protecting Local Jobs (Regulating Enterprise Migration Agreements) Bill 2012

Dear Committee Secretary

The Business Council of Australia appreciates the opportunity to comment on the proposed Protecting Local Jobs (Regulating Enterprise Migration Agreements) Bill 2012.

The Business Council brings together the chief executives of more than 100 of Australia's leading companies. For almost 30 years, the Business Council has provided a unique forum for some of Australia's most experienced corporate leaders to contribute to public policy reform that affects the whole community. Our vision is for Australia to be the best place in the world in which to live, learn, work and do business.

While many other developed countries continue to face serious uncertainty, Australia has the opportunity to keep its economy resilient by delivering on an unprecedented investment pipeline particularly in the resources sector. A challenge for Australia is that rising costs, supply chain issues and increased competition from other countries mean successful delivery of the investment pipeline is far from assured. A major risk to delivery of the pipeline is the shortage of sufficient labour with the required skills, especially in the construction phase. The changes the government made to the migration system, with the introduction in May 2011 of Enterprise Migration Agreements (EMAs), recognised the risk that skills shortages pose to the investment pipeline so fundamental to the Australian economy and overall community prosperity.

The Business Council would like to make the following points in relation to the proposed Bill.

- When it comes to filling jobs in our companies and on our major projects, members of the Business Council, who represent all sectors of the economy, prefer to employ Australians wherever possible.
- There is no financial incentive to employ temporary migrant workers ahead of Australians because migrant workers cannot be paid less than Australians and the administration and compliance requirements associated with employing temporary migrant workers add to costs.
- The reality, however, particularly for the mega projects in the resources sector, is that finding enough Australian workers with the specialised skills who are prepared to work in or move to what are often remote locations away from their families and friends can be difficult.
- Continuing to skill-up Australian workers is a priority, but this cannot be relied on to ensure a sufficient supply of workers, particularly in the intensive construction phase of major projects in the short term.

- This is why the EMA program was conceived to help Australia overcome temporary and acute labour shortages in the high-performing sectors which are underpinning our economy.
- EMAs are a critical contingency planning tool for resource companies facing potential skills shortages and a tough market for finance. Having approval to bring in additional skilled workers, if required, helps companies demonstrate to financiers that they have the capacity to source sufficient workers.
- The Business Council specifically opposes the draft legislation's proposed obligation to 'require employers to advertise jobs to locals *before* they can get an EMA'. This would imply that firms could only seek to access an EMA at a very late stage of project implementation, after domestic workforces have been secured and as work is nearing commencement. Together with likely (lengthy) delays in finalising any resulting agreement, this would effectively mean companies would no longer be able to use EMAs as a contingency management tool – which would likely place a number of projects at risk.

Current protections are strong

The requirements of Enterprise Migration Agreements already include strong protections for domestic workers.

EMAs are only available for large-scale resource projects that have capital expenditure of more than two billion dollars and a peak workforce of more than 1,500 workers.

EMAs require compliance with sponsorship obligations, including paying Australian market salary rates. This means workers from outside Australia cannot undercut Australian working conditions.

EMAs require resources projects to demonstrate effective, genuine and ongoing local recruitment efforts, to ensure labour accessed from outside Australia is only supplementary. Since 25 May 2012, firms have had access to the Resources Sector Jobs Board, as a way to demonstrate they have made genuine attempts to recruit Australian workers before recruiting workers from outside Australia.

EMAs require a comprehensive training plan, demonstrating how the project will invest in skilling-up Australians to meet future skill needs in the sector. This includes a requirement to spend a share of payroll on training, setting measurable targets for training that develops skills in occupations in shortage, and a commitment to reducing reliance on labour from outside Australia over time.

Conclusion

Australia's pipeline of major capital projects is currently helping to drive our economy's growth and is laying the foundations for enduring national prosperity.

EMAs play an important role in helping us manage temporary and acute labour shortages, including providing important support for companies to manage their risks in being able to deliver projects in a difficult economic environment.

The Business Council believes the current policy settings around EMAs get the balance right between protecting local jobs and ensuring the very large projects which are vital to the strength and resilience of the national economy are able to proceed. By enabling these investments to go ahead, EMAs help secure all the employment and other opportunities for Australians that would otherwise not exist.

In what remains an uncertain and volatile global economy Australia cannot afford to increase the risks of not being able to deliver on an investment pipeline that promises to transform our cities and regions for the better for years to come.

Yours sincerely

Jennifer Westacott
Chief Executive