



MINERALS COUNCIL OF AUSTRALIA

VISA SUBCLASS 457 INTEGRITY REVIEW

ENGLISH LANGUAGE REQUIREMENTS /  
OCCUPATIONAL HEALTH AND SAFETY

SUBMISSION

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## **EXECUTIVE SUMMARY**

Australia's minerals sector is performing strongly. The strength and scale of global demand for Australian mineral commodities is robust and is expected to continue to expand, driven by vigorous growth in demand from new markets in China and India as well as from traditional markets like Japan, Korea and Taiwan. Employment in the sector has grown by 66 per cent in the last 5 years and is projected to grow by a further 68 per cent over the next 12 years.

The shortage of skilled labour is one of the significant capacity constraints to the ability of the Australian minerals sector to respond to the global demand for minerals commodities. The sector currently relies on skilled migrants recruited under the Visa Subclass 457 to overcome the chronic skilled labour shortages being experienced by the industry across the nation. Without skilled labour, Australia's ability to respond to this once in a generation opportunity to create national wealth could be squandered.

Whilst the number of skilled migrants recruited by the minerals sector are not great in the context of the national intake they are all critical to enabling the sector to respond to the global demand for minerals commodities.

The minerals sector's general requirement of the skilled migration system can be summarised as requiring an efficient, effective and timely system that has integrity.

Ensuring that skilled migrants have adequate English language assists in maintaining the integrity of the Subclass 457 visa process as it sets a similar expectation to that expected of all workers in the minerals sector.

However, the MCA is concerned that the integrity or effectiveness of the International English Language Testing System (IELTS) used to assess the English language competence of skilled migrants has been questioned by mineral sector employers. Unfortunately there are worrying instances where skilled migrants have trouble with site inductions even though they have supposedly achieved the requisite IELTS attainment levels.

The MCA would welcome an examination of alternative and hopefully more reliable English language assessment regimes.

Because of sector specific safety and health hazards, the duty of employers to provide a safe workplace, and the interdependency for safety of all members of a work team, it is important that workers are competent in speaking, reading and writing English.

This requirement for competence in literacy applies to all potential employees in the minerals sector, whether they are male, female, young, old, Indigenous or skilled migrants.

## **1 INTRODUCTION**

### **1.1 The Minerals Council of Australia (MCA)**

The Minerals Council of Australia (MCA) represents Australia's exploration, mining and minerals processing industry, nationally and internationally, in its contribution to sustainable development and society. As the peak industry association MCA actively:

- Develops pre-competitive public policy in support of the industry's contribution to sustainable development and society;
- Advocates the pre-competitive public policy on behalf of members to opinion leaders;
- Identifies and promotes leading operational principles and practices that companies agree will not be compromised for competitive advantage.

### **1.2 The Australian Minerals Sector**

Australia's minerals sector is performing strongly. The strength and scale of global demand for Australian mineral commodities is robust and is expected to continue to expand, driven by vigorous growth in demand from new markets in China and India as well as from traditional markets like Japan, Korea and Taiwan.

The sector accounted for more than 30 per cent of new capital expenditure in Australia in 2006-07. Employment in the sector has grown by 54,000 or 66 per cent in the last 5 years and company tax paid by the mineral sector has increased more than eight-fold over the same period. The economy wide impact of the current expansion is substantial. Access Economics has estimated that in the 2008-09 Budget, more than \$15 billion in Commonwealth revenues will be directly attributable to the minerals sector.

Australia is well positioned to capitalise on the strongest global market growth in minerals commodities in a generation provided we can address the capacity constraints to supply. Foremost among these capacity constraints is the shortage of skilled labour skills. Despite the very rapid growth in employment, skilled vacancies in the sector have grown five-fold since 2003.

A recent study conducted for the MCA by the National Institute of Labour Studies has revealed that an additional 86,000 site-based workers will be required by 2020 to meet projected mineral commodity output, an increase of 68 per cent from 2008.<sup>1</sup> A significant gap has opened up between the requirements of the economy (including the minerals sector) for professional and skilled labour and the capacity of Australia's labour market and education sector to deliver.

Australia's higher education sector and vocational education and training sector have struggled to provide the human and intellectual capital the minerals industry

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<sup>1</sup> National Institute of Labour Studies, *The Labour Force Outlook in the Australian Minerals Resources Sector: 2008 to 2020*, June 2008

needs to remain globally competitive and this situation will continue into the future unless significant government effort and resources are expended to address key market failures.

### **1.3 The Australian Minerals Sector Labour Force Characteristics**

The labour force of the Australian minerals sector can be characterised as follows:

- Employs about 140,000 people or about 1.3% of the Australian labour market;
- Operates primarily in remote and regional Australia;
- Is one of the fastest growing industry sectors in Australia with a 66% increase in the past five years;
- Job vacancies have grown five-fold in the past five years;
- Chronic shortages of mining industry professionals;
- Acute shortages of mechanical and electrical tradespeople;
- Acute shortages of experienced miners and plant operators;
- No apparent shortages of entry level mine operators;
- Took 8% of Australia's temporary skilled migrant intake in 2007-08;
- Workforce growth is projected to be 68%, or 86,000 people by 2020;
- Two thirds of the projected growth is for tradespeople and experienced miners and operators;
- An industry with a strong training culture with:
  - Expenditure on training per employee at three times the national average;
  - 96% of mining industry employers have workers engaged in training;
  - 83% of mining industry employers are engaged with VET sector training;
  - Primarily delivered by private training providers.

Whilst the absolute numbers involved in the minerals sector are relatively small, the impact of skills shortages is highly significant as the sector is highly productive and produces more than 60 per cent of Australia's merchandise exports.

### **1.4 Skilled Labour Needs of the Minerals Sector**

The skilled labour needs of the Australia minerals sector cannot be met solely by relying on population shifts from within Australia nor skilled migration from overseas. The sustainable medium to long-term solution lies in recruitment and training of 'locals' to work in exploration, mines and minerals processing facilities.

To succeed this strategy requires an emphasis on:

- Local recruitment, including the recruitment of school leavers, Indigenous Australians and women;
- Preparing young people who have disengaged from the traditional education system for successful careers in the minerals sector;
- Entry-level qualifications that are universally valued by the sector;

- Increased industry support for mechanical and electrical trades apprenticeships; and
- Increased productivity through continual training and up-skilling of existing mine workers with quality, nationally accredited training and assessment materials.

However, this will also require significant reform of the education and training system, an agenda that is beyond the remit of this inquiry.

## **1.5 OHS in the Minerals Sector**

The MCA's guiding vision, beliefs and awareness are as follows.

### Safety and Health Vision

- An Australian minerals industry free of fatalities, injuries and diseases.

### Safety and Health Beliefs

- all fatalities, injuries and diseases are preventable.
- no task is so important that it cannot be done safely.
- all hazards can be identified and their risks managed.
- everyone personally responsible for the safety and health of themselves and others.
- safety and health performance can always be improved.

### Safety Awareness Definition

- The state of mind where we are constantly aware of the possibility of injury and act accordingly at all times.

### *MCA Commitment to Safety and Health*

The focus of the MCA's policies and work program is on leadership at all levels to ensure recognition of excellence, consistent reporting, enhancing the health of the workforce and the adoption of good practice occupational health and safety management.

The MCA'S safety and health position can be summarised as:

- continuous improvement, where all parties work together in support of a safety culture based on trust and openness, not an adversarial legal approach based on a blame culture;
- risk-based safety and health management systems that includes hazard identification, risk analysis, risk reduction and control, and risk monitoring;
- empowerment of employees to identify the hazards and assess the risks in their work environment, and to raise concerns with management;
- regulatory practice based on consistency, transparency, probity, clarity of role, flexibility and rational pragmatism; and
- policies directed towards before the fact prevention, rather than after the fact retribution.

### *Minerals Sector OHS Performance*

Unfortunately there were four fatalities during the 12 months to 30 June 2008 in the Australian minerals sector, three at mines and one at a smelter.

Since 1 July 2008 there have been a further two fatalities. On 29 July a 53 year-old maintenance worker died as a result of a scissor-lift collapse at a railway workshop and on 26 August a 26 year-old male was killed in a workshop accident at a mine. Both occurred in the Pilbara region of WA.

Whilst the safety performance of the Australian minerals sector has improved in recent years the vision of an industry free of fatalities, injuries and diseases is far from being achieved. The improvement is not celebrated, as there is no comfort in the improvement for the deceased individuals and their families. There are numerous hazards at minerals sector worksites but with the best safety management systems available, a strong and committed leadership, and a skilled workforce that is aware of the hazards our goal of zero harm is attainable.

All employers have a duty of care to provide a safe work place. This includes ensuring that all employees are capable, competent and aware of the hazards they may be confronted with. Minerals industry employers therefore recognise that a good command of the English language as a necessary pre-requisite to communicating hazardous situations for personnel working at their site.

### **1.6 Minerals Sector Collaboration**

The MCA and its related State representative partners, the Queensland Resources Council and the Chamber of Minerals and Energy of Western Australia have collaborated in this submission to the Integrity Review. The organisations have agreed to consult and collaborate further on future positions and recommendations related to the Review.

## **2 SKILLED MIGRATION IN THE MINERALS SECTOR**

### **2.1 Skilled Migration Utilisation**

The minerals sector is a modest user of the skilled migration system with the number rising significantly in recent years. Skilled migrants are a critical input to addressing the skilled labour shortages of the sector. In 2007-08 the sector took 4,890 skilled migrants, or 8 per cent of all primary Visa holders. Most went to Western Australia (3,100).

Skilled migrants make up about 3 per cent of the sector's workforce and are very critical to the continuing success of the minerals sector.

Mining sector skilled migrants were predominantly from English speaking countries and from the high-end qualifications group. There are a number from the Philippines.

## **2.2 Skilled Migration Experiences**

The minerals sector has not made much use of the General Skilled Migration system, almost exclusively preferring the Subclass 457 Visa system. The greatest concern of minerals sector employers is the deterioration in the processing time for applications.

## **2.3 Skilled Migration Policy Position**

The minerals sector's general requirement of the skilled migration system can be summarised as requiring an efficient, effective and timely system that has integrity.

We strongly support the need for English language tests. Sound English language competency is necessary for safety in the minerals sector. However, the minerals sector is concerned that the current English language testing procedures have flaws.

# **3 ENGLISH LANGUAGE REQUIREMENT**

## **3.1 English Language Tests and Integrity**

Competency in the English language ensures that all workers are able to understand and respond to OHS hazards in the work place; actively participate in interactive safety management systems; share their skills with other workers; and participate effectively in the Australia labour market. It also enables people living and working in remote and regional Australia to integrate effectively in the community.

Ensuring that skilled migrants have adequate English language assists in maintaining the integrity of the Subclass 457 visa process as it sets a similar expectation to that expected of all workers in the minerals sector.

## **3.2 English Language Exemptions**

The English language test exemptions are reasonable. However, it is noted that most skilled migrants engaged by the minerals sector would exceed the \$75,000 salary threshold for exemption from the test (average salary for minerals sector skilled migrants is \$125,000).

Nevertheless, the requirement for competence in the English language remains valid and mineral sector employers generally undertake their own language training or sponsor language training for the immigrant.

We do not propose a change to the exemption threshold.

### **3.3 The IELTS Test**

The integrity or effectiveness of the International English Language Testing System (IELTS) used to assess the English language competence of skilled migrants has been questioned by mineral sector employers. Unfortunately there are worrying instances where skilled migrants have trouble with site inductions even though they have supposedly achieved the requisite IELTS attainment levels.

The MCA would welcome an examination of alternative and hopefully more reliable English language assessment regimes.

### **3.4 English Language Levels of Attainment**

The English language levels of attainment specified for skilled migrants of an IELTS score of 4.5 is not questioned.

An IELTS score of 4 is a "limited user" of English with basic competence in familiar situations but has frequent problems in understanding and expression. A score of 5 is a "modest user" of English with a partial command of the language who should be able to handle basic communication in own field.

## **4 OCCUPATIONAL HEALTH AND SAFETY**

### **4.1 English Language Ability and Safety**

As stated previously, the minerals sector has a vision of an industry free of fatalities, injury and disease. This remains our number one value with a zero tolerance to fatalities and serious injury. However, much work in this area remains to be achieved.

Because of sector specific safety and health hazards, the duty of employers to provide a safe workplace, and the interdependency for safety of all members of a work team, it is important that workers are competent in speaking, reading and writing English.

This requirement for competence in literacy applies to all potential employees in the minerals sector, whether they are male, female, young, old, Indigenous or skilled migrants.

## **4.2 Employee Participation in Safety Programs**

All effective safety management systems require the active involvement of all employees in the identification of hazards and the development of safe work practices. The use of immigrant languages and translators can help but at mine sites, competence in the English language remains necessary for active involvement in safety programs.

## **4.3 Skilled Migrants and OHS Regulators**

There should not be different standards of safety for different classes of employees. All employees can expect the same standard. Therefore, any program that seeks to require the OHS Regulator to target workplaces with skilled migrants is not supported. Safety regulations and enforcement should not be marginalised.

# **5 CONCLUSIONS**

The minerals sector currently relies on skilled migrants recruited under the Visa Subclass 457 to overcome the chronic skilled labour shortages being experienced by the industry across the nation.

Whilst the number of skilled migrants recruited by the minerals sector are not great in the context of the national intake they are all critical to enabling the Australian minerals sector meet the challenges of the global demand for minerals commodities. Without skilled labour, Australia's ability to respond to this once in a generation opportunity to create national wealth could be squandered.

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