



**NSW BUSINESS MIGRATION PROGRAM REFORMS
1st NOVEMBER 2011**

FACT SHEET

The NSW Government previously announced a number of reforms to its business migration program from 1 September 2011 including:

- removal of requirements for business research visits on a 456 visa
- removal of the requirement to provide a detailed business plan
- the opportunity for all applicants to present their business proposal during an interview.

The Government is now announcing further reforms to take effect from 1 November 2011. These reforms are designed to make NSW more competitive in attracting high value immigration. The changes include:

- Introduction of separate thresholds for NSW sponsorship for business migration to Sydney and regional NSW
- Revised thresholds for NSW sponsorship for Business Talent visa sub class 132
- Revised arrangements for applicants who wish to change their proposed business activity in NSW
- Relaxation of the requirement for an applicant's Business Commitment to be consistent with their business skills and experience
- Exclusion of a limited number of industry sectors from business migration to Sydney. Applicants in these sectors can still migrate to regional NSW.

The details of these changes are outlined in this Fact Sheet and in a Frequently Asked Questions (FAQ) sheet.

Business migration is a two stage process and there are a number of provisional visa holders who may be affected by these changes. Transitional arrangements have been developed to ensure that existing provisional visa holders are not adversely affected by these changes. These transitional arrangements are also outlined in these documents.

Thresholds for NSW Sponsorship for Sydney & Regional NSW

From 1 November 2011, NSW will ask applicants for sponsorship for provisional business skills visas and the Business Talent visa to commit to establishing a business or investment in either Sydney or Regional NSW. The definition of Sydney and Regional NSW is discussed below.

The criteria for NSW sponsorship for Sydney and Regional NSW will be:

Visa	Threshold	Sydney	Regional NSW
Business Owner 163 & Senior Executive 164	Net Personal & Business Assets	\$800,000	\$500,000
	Turnover	\$500,000	\$300,000
	Business Investment Commitment	\$500,000	\$300,000
Investor 165*	Net Personal & Business Assets	\$1.125 million	\$1.125 million
	Designated Investment	\$750,000	\$750,000
Business Talent 132	Turnover	\$4.0 million	\$3.0 million
	Business Investment Required	\$3.0 million	\$2.0 million
	New Jobs Created	5	3
Business Owner 892**	Turnover	\$200,000	\$200,000
	<u>Two out of Three Criteria (DIAC)</u>		
	Net Personal & Business Assets	\$250,000	\$250,000
	Net Business Assets	\$75,000	\$75,000
	No of Employees	1	1
	Business Investment Committed <i>(Applicants Sponsored for provisional visa after 1 November 2011)</i>	\$500,000	\$300,000
Investor 893*	Designated Investment	\$750,000	\$750,000

*Separate thresholds for Investor visas for Sydney and Regional NSW will take effect from 1 July 2012 and will be announced at a later date.

**Further separate thresholds for NSW sponsorship for Business Owner (Residence) visa 892 for Sydney and Regional NSW will be introduced from 1 July 2012.

As a transitional arrangement, the new thresholds will not apply to applicants who have already conducted their business research, have been interviewed by NSW in the last six months prior to 1 November 2011, who have received a satisfactory result from that interview and who apply for NSW sponsorship prior to 31 December 2011.

Definition of Sydney & Regional NSW

Sydney and Regional NSW are defined by postcodes. The definition of regional NSW for the purpose of the NSW business migration program includes:

- Newcastle
- Wollongong
- Central Coast

Applicants sponsored by NSW for provisional 163, 164 and 165 (Regional) visas commit to establish a business or investment in regional NSW. They are not required to live in regional NSW. Applicants are however reminded that the Department of Immigration and Citizenship still requires business owners to be actively involved in the day to day management of their business.

The post codes that define Sydney and Regional NSW are:

Area	Town	Post Codes
Sydney & Suburbs		1000-1920; 2000-2249 2555-2574; 2740-2786
Regional NSW	Newcastle	2264-2279; 2280-2300; 2302- 2310
	Williamstown	
	Nelson Bay	2314-2327
	Maitland	
	Cessnock	
	Central Coast	2250-2251; 2256-2263
	Wollongong	2500-2530
	Kiama	

	Gerringong	2532-2535
	Gerroa	
	Berry	
	Mittagong	2575
	Lithgow	2790
	Others	2311-2411; 2420-2490;
		2531-2551; 2576-2594;
		2618-2739; 2787-2898

Change in Business Activity

Provisional visa holders sponsored by NSW are expected to conduct business activity in accordance with the Business Commitment sponsored by NSW.

Provisional visa holders sponsored by NSW wishing to change the primary nature of their proposed business may be subject to certain conditions if they wish to be sponsored by NSW for a second stage permanent residence visa.

The NSW Government is implementing revised arrangements for NSW sponsored provisional 163 and 164 visa holders granted their visas after 1 October 2009.

Date of Visa Grant	NSW Requirement
Granted 163, 164 Visa Before 1st October 2009	<p><i>Existing Requirement Continues</i></p> <p>You do not need NSW agreement to change your business activity</p>
Granted 163, 164 Visa After 1st October 2009	<p><i>New Requirement</i></p> <p><i>(excludes applicants where NSW has already agreed a change in business activity)</i></p> <p>Applicants need to make a written submission to NSW explaining</p> <p>(i) why you wish to change (ii) with a new Business Commitment</p> <p>NSW will assess if request is genuine and if new Business Commitment is acceptable to NSW.</p>

The new Business Commitment must deliver the same level of business investment and new jobs as the previous business commitment.

The applicant must deliver this level of investment and new jobs to obtain NSW sponsorship for second stage permanent residence visa.

DIAC is expected to offer an extension to the provisional visa for those applicants who need more time to deliver their Business Commitment.

The NSW Government will support business migrants through its business advisory services to help them build businesses that meet these requirements.

For business migrants located in Sydney, the new Business Commitment cannot be in one of the excluded industry sectors (see below)

Business Commitment Consistent with Business Skills & Experience

NSW has in the past required applicants to enter into business activity consistent with their business skills and experience. NSW Small Business advises all prospective new business owners that they need relevant industry experience. However it is possible in some cases for business skills to be successfully transferred across a number of industries.

NSW will no longer require new applicants for NSW sponsorship for provisional visas or the Business Talent visa to have a Business Commitment consistent with their business skills and experience. However applicants are asked to consider the transferability of their skills across industry sectors.

NSW will not sponsor applicants to migrate to Sydney with a Business Commitment in one of the excluded industry sectors.

Excluded Industry Sectors in Sydney

NSW will not sponsor applicants to migrate to Sydney with Business Commitments in a limited number of industry sectors where NSW does not need additional entrants. There are already a large number of business migrants operating in Sydney in these sectors.

There are NO restrictions on the entry into business in these industry sectors in Regional NSW.

The excluded industry sectors in Sydney are defined by the definitions in the Australia & New Zealand Standard Industrial Classification (ANZSIC) 2006. The excluded sectors by ANZSIC class codes are:

ANZSIC Group	ANZSIC Class Codes
Cafés, Restaurants & Takeaway Food Services (H451)	Cafes & Restaurants (H4511) Takeaway Food Services (H4512)
Supermarket & Grocery Retailing (G411)	Supermarket & Grocery Stores (G4110)
Specialised Food Retailing (G412)	Fruit & Vegetable Retailing (G4122)
Electrical & Electronic Goods Retailing (G422)	Other Electrical & Electronic Goods Retailing (G4229) (<i>Light fittings</i>)
Household & Textile Goods Retailing (G421)	Houseware Retailing (G4213) Manchester & Other Textile Goods Retailing (G4214)
Recreational Goods Retailing (G424)	Newspaper & Book Retailing (G4244)
Clothing Footwear & Personal Accessory Retailing (G425)	Clothing Retailing (G4251) Footwear Retailing (G4252) Other Personal Accessory Retailing (G4259)

The list of excluded industry sectors in Sydney will be reviewed annually.

As a transitional arrangement, the excluded industry sectors in Sydney will not apply to applicants who have already conducted their business research, have been interviewed by NSW in the last six months prior to 1 November 2011, who have received a satisfactory result from that interview and who apply for NSW sponsorship prior to 31 December 2011.

Applicants Released From Other States

NSW is not aware of the Business Commitment if any made by applicants sponsored by other States/Territories who are subsequently released to move to NSW.

Applicants released by their first sponsoring State or Territory before 1 November 2011 will be assessed for NSW sponsorship for second stage

permanent residence visas against the NSW criteria for the 892/893 visa in place prior to 1 November 2011.

Applicants released by their first sponsoring State or Territory after 1 November 2011 will be assessed for NSW sponsorship for second stage permanent residence visas against the same criteria as NSW applies to those seeking NSW sponsorship for provisional visas after 1 November 2011.

Applicants Released by Other State/Territory Before 1st November 2011	Can establish a business in Sydney or regional NSW
	There is no restriction on activity by industry sector
Applicants Released by Other State/Territory After 1st November 2011	Cannot establish a business in Sydney in excluded industry sector
	Must make a business investment of \$500,000 in Sydney \$300,000 in Regional NSW

Change in Primary Applicant for Business Owner (Residence) visa sub class 892

NSW continues to require applicants sponsored by NSW after 1 October 2008 to seek NSW agreement for a change in the nominated primary applicant for the permanent residence visa.

Applicants must make a written submission to NSW demonstrating that the proposed new primary applicant has an overall successful business career.

Seminar

An information seminar for stakeholders to explain these changes and answer any questions will be held at the NSW Trade and Investment Centre, Level 47 MLC Centre 19 Martin Place on Thursday 10 November 2011 from 5.00 pm to 7.00 pm. If you wish to attend please RSVP to bizmigration@business.nsw.gov.au

Further Questions

If you have any questions or require further information please contact the NSW business migration team at:
02 9338 6692 (tp)
bizmigration@business.nsw.gov.au