



**Law Council**  
OF AUSTRALIA

*Office of the President*

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Dear Dr Gruen

### **Review of the Australian and New Zealand Standard Classification of Occupations**

The Law Council of Australia (the **Law Council**) thanks the Australian Bureau of Statistics (the **ABS**) for the opportunity to respond to its review of the Australian and New Zealand Standard Classification of Occupations (**ANZSCO**) and consultation sought in relation to two documents published by the ABS: [Skills in ANZSCO Options Paper](#) and [ANZSCO Maintenance Strategy](#).

The Law Council is grateful to the Migration Law Committee of the Federal Litigation and Dispute Resolution Section for assistance in the preparation of this submission.

### **Executive Summary**

ANZSCO occupation classifications presently form a fundamental underpinning of the Skilled Visa framework under the *Migration Act 1958* (Cth) and Migration Regulations 1994 (Cth). As presently employed, these classifications determine who may be able to apply for a skilled visa, the priority with which their visa application will be processed, and whether they can apply for permanent residency.

As a result, to ensure the skilled migration program is best deposed to address labour needs in Australian businesses, it is critical that the ANZSCO occupations reflect the contemporary Australian labour market.

The Law Council considers the proposals detailed in the Options Paper and the Maintenance Strategy to increase the frequency of reviews, invite more regular public consultation, ensure occupations are self-contained, and consider a wider range of sources to inform updates, will all assist to improve the utility of ANZSCO going forward. There are aspects of these proposals which could be adjusted to produce further benefit, as described below.

While the implementation of ANZSCO by other agencies is presently beyond scope of the Maintenance Strategy, the Law Council notes that to ensure the benefits of a more dynamic ANZSCO are fully realised, it will be necessary to ensure the updates to ANZSCO are applied expeditiously within the skilled migration program.

## Review background

To quote from the [Submission Guide](#) for this consultation:

*ANZSCO provides a systematic classification structure that categorises the entire range of occupational activity in the Australian and New Zealand labour markets. It is used by governments and organisations in activities such as matching jobseekers with job vacancies, shaping educational pathways, skilled migration programs and workforce strategies that equip Australians with skills to get jobs and stay employed.<sup>1</sup>*

The Australian Government recently announced funding over four years for the ABS to undertake a comprehensive update of ANZSCO (for delivery by December 2024) and to develop an ongoing maintenance program slated to commence in 2025.<sup>2</sup>

According to the Submission Guide, the update is to commence from July 2022 and the ABS will release further information on the schedule of review work, including the timeline for stakeholder input, in due course.<sup>3</sup> The Law Council looks forward to participating in this process when the opportunity arises.

This submission responds to the [Options Paper](#) and a [Maintenance Strategy](#) which, respectively:

- provides options to address concerns raised by stakeholders as to how ANZSCO is derived and managed, with any options supported by users to be ‘implemented over time’;<sup>4</sup> and
- proposes a strategy for maintaining ANZSCO after the completion of the comprehensive update.

The Options Paper identifies ‘six key areas of concern with how skill is currently reflected in ANZSCO due to developments in how key stakeholders in Australia now define and measure skill’ and then ‘presents six proposed options to address these areas of concern and provide a contemporary representation of skill in ANZSCO’.<sup>5</sup>

The Law Council is primarily concerned with the first two proposed options being:

- Undertake more frequent reviews of ANZSCO’s occupations** – This proposal is intended to address concerns that ANZSCO’s skill level does not reflect the contemporary Australian labour market.
- Ensure all occupations in ANZSCO contain a unique set of tasks and improve consistency of language** – This proposal is based on the premise that ‘each of ANZSCO’s 1,070 occupations should be described by a set of tasks

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<sup>1</sup> Australian Bureau of Statistics, ‘ANZSCO Submission Guide’ (Web Page) < [https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting\\_documents/ANZSCO%20Submission%20Guide\\_June%202022.pdf](https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting_documents/ANZSCO%20Submission%20Guide_June%202022.pdf) 1.

<sup>2</sup> Commonwealth of Australia, ‘Budget Measures – Budget Paper No. 2 2022-23’ 173.

<sup>3</sup> Australian Bureau of Statistics, ‘ANZSCO Submission Guide’ (Web Page) [https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting\\_documents/ANZSCO%20Submission%20Guide\\_June%202022.pdf](https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting_documents/ANZSCO%20Submission%20Guide_June%202022.pdf) 3.

<sup>4</sup> Australian Bureau of Statistics, ‘Skills in ANZSCO Options Paper’ (Web Page, 2022) [https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting\\_documents/Skills%20in%20ANZSCO%20Options%20Paper.pdf-1](https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting_documents/Skills%20in%20ANZSCO%20Options%20Paper.pdf-1) 13.

<sup>5</sup> Ibid 3.

which uniquely define an occupation'.<sup>6</sup> The Options Paper proposes this would be achieved by assigning the tasks currently recorded against each Unit Group to the relevant occupations within that Unit Group and providing additional (occupation specific) detail. The Options Paper suggests the proposal 'will ensure that where the same tasks and duties are undertaken by different occupations, consistent language is used'.<sup>7</sup>

The Law Council understands that the Maintenance Strategy directly addresses the first proposal in the Options Paper to undertake more frequent reviews of ANZSCO's occupations by providing a strategy 'designed to deliver more frequent and timely updates to the classification in a sustainable ongoing manner, to keep it reflective of the contemporary labour market'.<sup>8</sup>

The Maintenance Strategy provides for an updated model designed to ensure all categories in ANZSCO are reviewed on an annual basis for minor changes and otherwise changes are to be assessed within a five-year cycle. Relevantly, this is supported by a prioritisation framework, data suitability framework and a communication and consultation plan.

### **Comment on whether the proposals address previous Law Council concerns**

This submission addresses the use of ANZSCO as it interacts directly with the Australian skilled migration program. ANZSCO is used to provide the definitional categories for occupations on the skilled migration occupation lists, as given effect through a series of legislative instruments applicable to different visa programs<sup>9</sup> and forms a key underpinning to Australia's skilled visa programs.

The Law Council has previously made submissions which raise concerns about how ANZSCO is maintained and employed in the skilled migration context; specifically that:

- ANZSCO is a static document that is not agile or adaptable to the realities of evolving labour trends, particularly in the technology industry. It should be comprehensively updated (**Issue 1 – Stagnancy**);<sup>10</sup> and

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<sup>6</sup> Australian Bureau of Statistics, 'Skills in ANZSCO Options Paper' (Web Page, 2022) [https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting\\_documents/Skills%20in%20ANZSCO%20Options%20Paper.pdf-1](https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting_documents/Skills%20in%20ANZSCO%20Options%20Paper.pdf-1) 8.

<sup>7</sup> Ibid, 9.

<sup>8</sup> Australian Bureau of Statistics, 'ANZSCO Maintenance Strategy' (Web Page, 2002), [https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting\\_documents/ANZSCO%20Maintenance%20Strategy%20Information%20Paper.pdf](https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting_documents/ANZSCO%20Maintenance%20Strategy%20Information%20Paper.pdf) 1.

<sup>9</sup> Department of Home Affairs, 'Skilled Occupations List', (Web Page) <https://immi.homeaffairs.gov.au/visas/working-in-australia/skill-occupation-list>.

<sup>10</sup> See, Law Council of Australia, 'Migration Program 2022-23' 10 December 2021, <https://www.lawcouncil.asn.au/publicassets/7c5b8a3b-5861-ec11-9446-005056be13b5/4140%20-%20Australias%202022-23%20Migration%20Program.pdf> 14; Law Council of Australia, Submission, *Inquiry into Australia's skilled migration program*, (1 April 2021), 9; Law Council of Australia, Submission to Department of Education, Skills and Employment, *Consultation on Skilled Migration Occupation Lists*, (13 February 2020), 1; Law Council of Australia, Submission to Senate Legal and Constitutional Affairs Reference Committee, *Inquiry into the effectiveness of the current temporary skilled visa system in targeting genuine skills shortages*, (21 December 2018) 8.

- the ANZSCO dictionary does not allow for granular descriptions of the role being nominated and therefore a particular ANZSCO occupation code can best fit a range of roles (**Issue 2 – language and description**).<sup>11</sup>

In the Law Council's view, ANZSCO has historically been slow to pick up emerging and uniquely specialised occupations. For example, the digital revolution has created jobs for highly skilled workers in entirely new occupations and industries such as 'Big Data' architects, digital marketing specialists, and data scientists – all these occupations that did not exist five years ago. Inability to sponsor overseas workers in these specialised fields means that Australian businesses are potentially missing out on the opportunity to recruit overseas talent.

The Law Council's response below is contextualised by these two primary concerns and is framed in reference to the [Submission Guide](#) published by the ABS, broadly addressing question 1 under parts 4.1 and 4.2.

## Issue 1 - Stagnancy

### *Regular updates*

As a general statement of principle, if ANZSCO is to be used effectively, it must be swiftly and comprehensively updated in conjunction with user consultation. The Law Council considers the proposed Maintenance Strategy, with an annual review informed by biannual user submissions, is a good step forward and may adequately address issues with ANZSCO's stagnancy. The Law Council agrees with the proposition in the Maintenance Strategy that ongoing updates are preferable to large, irregular updates.<sup>12</sup>

The Law Council understands that the Strategy will not commence until 2025, which may mean, depending on the frequency of any updates while the present review and comprehensive update is ongoing, it may be two or three years before contemporaneous updates inform the content of ANZSCO on an ongoing basis. If this understanding is correct, the Law Council suggests consideration be given to bringing forward the regular updates, where possible.

The Law Council notes that the agility of ANZSCO in a migration context is also impacted by the frequency with which updates to ANZSCO are picked up and applied within the skilled migration occupation lists. Previously there have been instances where ANZSCO codes have been changed (for example, 'Fruit & Nut Grower'), however the skills occupation lists did not adopt corresponding changes, causing significant confusion. The Law Council notes that how the updates are implemented by other government agencies is outside the scope of the Maintenance Strategy.<sup>13</sup> However, the Law Council draws this issue to the attention of the ABS for completeness and in the event the ABS is minded to expand the scope of the Maintenance Strategy or has the occasion to raise this issue in consultation with the Department of Home Affairs.

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<sup>11</sup> Law Council of Australia, Submission to Senate Legal and Constitutional Affairs Reference Committee, *Inquiry into the effectiveness of the current temporary skilled visa system in targeting genuine skills shortages*, (21 December 2018) 13

<sup>12</sup> Australian Bureau of Statistics, 'ANZSCO Maintenance Strategy' (Web Page, 2002), [https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting\\_documents/ANZSCO%20Maintenance%20Strategy%20Information%20Paper.pdf](https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting_documents/ANZSCO%20Maintenance%20Strategy%20Information%20Paper.pdf) 2.

<sup>13</sup> Ibid 12

## Consultation

The Maintenance Strategy appropriately includes a communication plan and consultation model to allow for transparent decision making and active engagement with users of ANZSCO. However, the Law Council suggests that the proposed biannual consultation process may be inadequate, and suggests that instead the ABS should allow for public submissions via an easily accessible online portal on an ongoing basis. This would create a more comprehensive consultation mechanism through continuous industry and user input.

## Increased Data Sets

The maintenance strategy asserts 'new data sources and methods are required to support more timely updates to the classification'.<sup>14</sup>

The Law Council understands that current methodology utilises conventional best practices using traditional statistical data sources. The Law Council understands that it does not include use of emerging analytical methods from the field of cognitive computing and artificial intelligence that has the ability to capture new and niche skill sets well before they become detectable through conventional labour market studies.

The Law Council welcomes the use of new data sources and further suggests it may be suitable to incorporate salary surveys/guides prepared by market recruitment agencies.<sup>15</sup> These surveys often contain useful sub-classifications and niche occupations. The Law Council understands that the incorporation of new data sources would need to meet the ANZSCO Data Suitability Framework.<sup>16</sup>

## Issue 2 - Language and description

The Law Council welcomes the proposal to 'ensure all occupations in ANZSCO contain a unique set of tasks and improve consistency of language'.<sup>17</sup>

Regarding the importance of each occupation containing a unique set of tasks, it is worth noting the implication of the present state, in which the ANZSCO dictionary does not allow for granular descriptions of the role being nominated, is that a particular ANZSCO occupation code can best fit a range of roles. From a business perspective, the roles that fall under the same occupation code may be quite different in terms of the skillset and experience required.<sup>18</sup> This can create confusion for potential migrants, their advisers and Departmental delegates.

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<sup>14</sup> Australian Bureau of Statistics, 'ANZSCO Maintenance Strategy' (Web Page, 2002), [https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting\\_documents/ANZSCO%20Maintenance%20Strategy%20Information%20Paper.pdf](https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting_documents/ANZSCO%20Maintenance%20Strategy%20Information%20Paper.pdf) 1.

<sup>15</sup> See eg. Hays, 'Hays Australia Salary Guide 2022-2021: Insight for Employers' (Web Page) <<https://www.hays.com.au/salary-guide/employers>><https://www.hays.com.au/salary-guide/employers>.

<sup>16</sup> The ANZSCO Data Suitability Framework is based on the quality dimensions codified in the ABS Data Quality Framework, see, ABS 'ABS Data Quality Framework' (Web Page) <<https://www.abs.gov.au/websitedbs/D3310114.nsf/home/Quality:+The+ABS+Data+Quality+Framework>>;

Australian Bureau of Statistics, 'ANZSCO Maintenance Strategy' (Web Page, 2002), [https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting\\_documents/ANZSCO%20Maintenance%20Strategy%20Information%20Paper.pdf](https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting_documents/ANZSCO%20Maintenance%20Strategy%20Information%20Paper.pdf) 6.

<sup>17</sup> Australian Bureau of Statistics, 'Skills in ANZSCO Options Paper' (Web Page, 2022) [https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting\\_documents/Skills%20in%20ANZSCO%20Options%20Paper.pdf-1](https://consult.abs.gov.au/standards-and-classifications/review-of-anzSCO/supporting_documents/Skills%20in%20ANZSCO%20Options%20Paper.pdf-1) 3.

<sup>18</sup> See Law Council of Australia, Submission to Senate Legal and Constitutional Affairs Reference Committee, 'Inquiry into the effectiveness of the current temporary skilled visa system in targeting genuine skills shortages', (21 December 2018) 13.

Consistency of language is extremely valuable to allowing ANZSCO to be a practical tool for users.

Further, the provision of more specific descriptions of occupations would limit current ambiguities in the definitions. In this context, the Law Council notes additional specialisations are helpful in the immigration context (see for instance the sub-specialisations for '149999 Hospitality, Retail and Service Managers NEC'). It is important to highlight however, that excessively sub-granular specialisations should be limited to allow for a degree of flexibility and in recognition of the inherent diversity of specialisations.

### **Further commentary on the proposals**

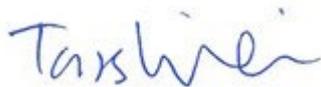
The Options Paper also presents a proposal to 'enable customised views of occupations in ANZSCO to support "job pathway analysis"'.<sup>19</sup> This proposal is intended to broaden and clarify ANZSCO for users, so that they can better understand the job pathways within the Australian labour market.

The Law Council suggests it may be useful for a more defined 'related occupations' structure within ANZSCO. ANZSCO Unit Grouping is not always accurate for immigration purposes (for example the ICT and Engineering occupations in different unit groups may be related). Consequently, the Law Council suggests that a more defined framework for related occupations may be helpful.

### **Contact**

Please contact Matthew Wood, Acting Principal Policy Lawyer, on 02 6246 3755, or at [matthew.wood@lawcouncil.asn.au](mailto:matthew.wood@lawcouncil.asn.au), in the first instance if you require further information or clarification.

Yours sincerely



**Mr Tass Liveris**  
**President**

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<sup>19</sup> Australian Bureau of Statistics, 'Skills in ANZSCO Options Paper' (Web Page, 2022) [https://consult.abs.gov.au/standards-and-classifications/review-of-anzsko/supporting\\_documents/Skills%20in%20ANZSCO%20Options%20Paper.pdf-1](https://consult.abs.gov.au/standards-and-classifications/review-of-anzsko/supporting_documents/Skills%20in%20ANZSCO%20Options%20Paper.pdf-1) 10.