



Migration Institute
of Australia

SUBMISSION

Migrant Intake into Australia Supplementary submission to the Productivity Commission



Migration Institute of Australia
ABN 83 003 409 390

Phone: +612 9249 9000 | Fax: +612 9279 3172 | Email: info@mia.org.au | Website: www.mia.org.au

**Migrant Intake into Australia
Productivity Commission
GPO Box 1428
Canberra City ACT 2601**

MIA Supplementary Submission for the Productivity Commission Inquiry into Migrant Intake into Australia

The Migration Institute of Australia as the peak professional association for Registered Migration Agents welcomes the opportunity to provide input into migration and government policy through the preparation of submissions and the invitation to appear at the Productivity Commission hearings for the Migrant Intake into Australia Inquiry.

The Migration Institute of Australia provided its first submission to this Inquiry in June 2015. During the public hearings in Sydney, the Productivity Commissioners asked the MIA to provide further follow up information on matters that had emerged during the review.

This second submission to the Productivity Commission provides this further information, which primarily focussed on the benefit of the Significant Investor Visa and Premium Investor Visa program. The MIA also addresses the Productivity Commission's information requests included in the Interim report.

If we can be of further assistance, please feel free to contact me

Yours faithfully,

Kevin Lane
Chief Operating Officer
2 February 2016

Productivity Commissioners' Information Request – Public Hearing

The Productivity Commissioners requested further information from the MIA on the benefit of the SIV and PIV programs, as opposed to paying a significant amount to 'buy a visa'.

Recommendation 1

The MIA recommends that no changes be made to the SIV and PIV investment visa classes until the financial and investment effect of these visa programs have been allowed to mature and be effectively assessed.

Recommendation 2

The MIA recommends that the current requirement for SIV investment in managed funds be removed.

Recommendation 3

The MIA recommends that processes for direct investment in government nominated projects be developed.

Recommendation 4

The MIA recommends that the venture capital component be retained in the SIV investment program.

Recommendation 5

The MIA recommends that the notion of buying an unregulated visa with a one off government payment be rejected.

Migrant Intake into Australia – Draft Report - Further Information Requests

Recommendation 6

The MIA recommends that the reduction of government funding to the tertiary education and training sector across Australia be examined for its impact on the skills levels of Australians

Recommendation 7

The MIA recommends that the opportunities for highly skilled migrants to have family members to join them be increased as an incentive to attract them to settle in Australia.

Recommendation 8

The MIA recommends that funding for informal English language classes be provided to community based groups, schools and public libraries to increase the access to language learning and practise.

Recommendation 9

The MIA recommends that the ISLPR® test be added to the list of accepted English language tests for migration purposes.

Recommendation 10

The MIA recommends that all accepted English language tests approved for migration purposes be calibrated to ensure consistent validity and reliability across providers.

Recommendation 11

The MIA recommends that no cap be placed on the numbers of temporary 457 visas granted for specific occupations.

Recommendation 12

The MIA recommends that great care be taken in changing the current points system to prevent unintended consequences in skilled migrants occupational and employment profiles.

Recommendation 13

The MIA recommends that the 'not elsewhere classified' occupational suffix be reintroduced to the CSOL to provide employers with flexibility in the sponsoring skilled workers.

Recommendation 14

The MIA recommends that the current lower threshold for tested English language ability be retained for TRT employer nominated permanent residents.

Recommendation 15

The MIA recommends that the current exemption from English language testing be retained for TRT employer nominated permanent residents.

Recommendation 16

The MIA recommends that further investigation of the potential for additional contributory visa subclasses in high demand visa classes be undertaken.

Recommendation 17

The MIA recommends that the additional visa places be allocated for any contributory visa subclasses that are created.

Productivity Commissioners' Information Request – Public Hearing

The Productivity Commissioners requested further information from the MIA on the benefit of the SIV and PIV programs, as opposed to paying a significant amount to 'buy a visa'.

DRAFT RECOMMENDATION 10.3

The Australian Government should abolish the Significant Investor Visa and Premium Investor Visa streams.

The Productivity Commission's interim report recommends that the Significant Investor Visa (SIV) and Premium Investor Visa (PIV) classes be abolished. The Productivity Commissioners also asked the MIA representatives during the public hearing in Sydney the difference between the SIV and PIV classes and simply buying a visa as suggested in the Becker¹ model?

The Significant Investor Visa (SIV) was created in November 2012 and was introduced as part of a new Business Innovation and Investment Program (BIIP) which commenced from 1 July 2012. The SIV requirements were revised in July 2015 with specific investment vehicles and funds allocation were implemented at that time.

It is difficult to understand the Productivity Commission's recommendation to abolish these visas, when the full four years of the first SIVs granted have not yet even been completed and the PIV program is only months old. It is too early to assess the success of these visa programs. Early figures presented on the DIBP website November 2015 indicate that complying investments have amounted to \$5.625 billion dollars². These capital inflows that are unlikely to have occurred without the SIV program.

The Becker model argues that those with the funds to buy a visa would make their purchasing decision based on the return on the investment and subsequently contribute to an economy in order to gain that return. The MIA does not believe there is evidence to support that contention and that simply paying \$5 million or even \$15 million for a visa would make that applicant any more likely to invest in Australia.

The SIV and PIV currently require the visa holder to invest in Australia. Additionally, the SIV and PIV generally require the applicant to have acquired their wealth from a history of business or investment experience. If this business or investment acumen and ability is removed from the visa criteria, there is no encouragement for the purchasing visa holder to be either adept or able to effectively engage in these activities. The profile of the high value visa purchaser could become that of the wealthy elderly retiree or individuals looking for a 'bolthole' without any commitment to Australia or its society.

An individual buying an expensive visa may not even wish to physically reside in this country. While this may seem a cost effective outcome for the government that receives the cash lump sum payment without any concomitant costs, it does not recognise the longer term

¹ Becker G, *The Challenge of Immigration – A Radical Solution*

² <http://www.border.gov.au/about/reports-publications/research-statistics/statistics/work-in-australia/significant-investor-visa-statistics>

benefits of income tax, transfer of skills and business experience, development of overseas business connections and markets, and social cohesion. Taxation revenues alone may amount to around \$500,000 per annum per SIV holder. Under the current visa policies, the physical residence requirement is invaluable in ensuring investors live in Australia and allows them to observe investment opportunities, uncover business ideas and engage with local business.

While the SIV may be effective in ensuring investment, its direct impact on sectors of the economy where funds are most needed might not be as effective. Under current policy, \$5 million is invested in managed funds, with fund managers are the direct recipient of any upward gain. A more effective use of the funds would be a mandatory investment in Federal or State nominated investment priorities, such as infrastructure projects. This would provide revenue for government project investments and reduce the consolidated revenue investment in these projects. The USA EB-5 Immigrant Investor visa program provides a model for this form of investment program.

Similarly, the venture capital (VC) component of the SIV visa should be retained. While the Productivity Commissioners claimed during the public hearings in Sydney that there were sufficient VC funds available in Australia, ABS statistics reveal that investment in VC companies has fallen by more than fifty percent since the 2008 global financial crisis³. Without the SIV product, foreign direct investment will be more difficult to attract to these areas.

The SIV and PIV programs serve two purposes, they are migration programs as well as programs for attracting investment to Australia and should be assessed on their success for both purposes. Allowing migrants to pay a fee to consolidated revenue in return for a visa, rather than making a business investment, sends a completely different and contradictory message to those migrants.

Recommendation 1

The MIA recommends that no changes be made to the SIV and PIV investment visa classes until the financial and investment effect of these visa programs have been allowed to mature and be effectively assessed.

Recommendation 2

The MIA recommends that the current requirement for SIV investment in managed funds be removed.

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The MIA recommends that processes for direct investment in government nominated projects be developed.

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The MIA recommends that the venture capital component be retained in the SIV investment program.

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The MIA recommends that the notion of buying an unregulated visa with a one off government payment be rejected.

³ ABS, Feb 2014: Venture Capital and Later Stage Private Equity (VC&LSPE) Series 5678.0

Migrant Intake into Australia – Draft Report Further Information Requests

INFORMATION REQUEST 5.1

The Commission seeks evidence and information on whether investment in skills by incumbents and firms has been negatively affected by immigration and, if so, the size of the effect.

The MIA cannot provide empirical data on the effects on investment in skills and training by immigration. However, it can be expected that a higher percentage of companies are now providing training to Australians to meet the training benchmark obligations required of 457 sponsors. The effect of this will to have increased, rather than decreased, the investment in skills training for Australians.

It must be noted that the decrease in both federal and state government funding to tertiary education, training and apprenticeships will have had a far greater impact on the skills levels of Australians, than a small number of 457 visa holders who may possibly have been employed at the expense of training for Australians. This reduction in funding and support decreases the available pool of skilled Australian workers, exacerbating skills shortages and forcing employers to look overseas to fill skilled positions in Australia. Additionally, skilled 457 visa holders most often proceed to permanent residency, creating a positive effect on Australia's skills levels, which government funding cuts to the tertiary training and education sector do not.

Recommendation 6

The MIA recommends that the reduction of government funding to the tertiary education and training sector across Australia be examined for its impact on the skills levels of Australians.

INFORMATION REQUEST 5.2

The Commission is interested in information on policies that are likely to be more effective in attracting highly skilled immigrants to live and work in Australia.

The pool of source skilled migrants is decreasing due to less push and more pull factors for applicants. The increasing living standards and growing middle classes in traditional source countries such as India and China are removing the need to migrate for improved living standards. At the same time the number of first world countries competing for this reducing pool of applicants is increasing.

With this greater variety of options these migrants will be looking for more subtle inducements than simply the chance to earn a higher salary. Lifestyle improvements are likely to be the most attractive of these including more liveable societal conditions, good schooling for their children, better health care and the ability for family members to join them in this country.

The DIBP reports that a substantial economic contribution is made by family stream migrants through their participation in the workforce, although the level of individual contributions varies with the migrant's visa category, country of origin and skills profile.⁴ The MIA's initial submission to this Inquiry reported the importance of one's family, particularly aging parents, being able to join permanent migrants in Australia. This could be a strong motivator for choosing Australia for a proportion of these migrants. The current stringent and difficult entrant requirements for parents of skilled migrants destroys family cohesion, denies the children and grandchildren of migrants the opportunity to coexist and support each other as they would in their originating societies and the opportunity to contribute to the social cohesion and economy of Australia. The MIA has previously recommended methods that would assist in reducing current pressures on the family migration program numbers.⁵

Recommendation 7

The MIA recommends that the opportunities for highly skilled migrants to have family members to join them be increased as an incentive to attract them to settle in Australia.

INFORMATION REQUEST 6.1

How can the Adult Migrant English Program be better tailored to meet the individual needs of immigrants for English-language training? Are there lower cost approaches to increasing the access of recent immigrant groups (such as those on a family visa) to English-language classes, including conversation classes?

Whilst the MIA supports the AMEP, formal English language classes may not be suitable for all migrants requiring assistance in learning or improving their language skills. Additionally, only certain visa class holders are eligible for AMEP courses. There may be cultural and cost barriers that prevent some migrants undertaking AMEP courses. For example, attitudes to female education, child care responsibilities or lack of education in the home country may produce significant barriers to improving language skills.

Less formal methods of encouraging interaction may provide an added avenue for some migrants. Community groups, playgroups, parent groups, public libraries and volunteer tutoring programs are suggested venues and access points for providing less formalised language learning. As many of these groups already operate from local council or community facilities at low cost, the cost of these courses would become more reasonable and may attract a broader spectrum of migrants.

Recommendation 8

The MIA recommends that funding for informal English language classes be provided to community based groups, schools and public libraries to increase the access to language learning and practise.

⁴ ⁴DIBP commissioned study: *Contribution of Family Migration to Australia*, Khoo S, McDonald P & Edgar B, ANU, 2013, p 73

INFORMATION REQUEST 9.1

How widespread and valid are the concerns raised by ISLPR Language Services regarding the current acceptable English tests for immigrants to Australia? What are the likely benefits and costs of introducing ISLPR® or other validated English-language tests as an accepted test for assessing the English-language proficiency of those seeking a temporary visa?

The ISPLR test has been the standard test used in government funded English language training and education programs for many years. As a variety of different English language tests are now approved for migration purposes, it seems unreasonable that the ISPLR test is excluded.

Of more concern to the MIA is that the different language tests be calibrated so that the English level results are consistent across all approved testing providers. Anecdotal evidence suggests there are differences between the results of the different tests, with some appearing easier to achieve high scores in than others. MIA Members are reporting vastly different English ability results for the same applicant from different testing providers. Test takers over the years have also reported that tests from the same provider, taken in different countries, differ in difficulty as well. Test providers argue this is untrue.

Recommendation 9

The MIA recommends that the ISLPR® test be added to the list of accepted English language tests for migration purposes.

Recommendation 10

The MIA recommends that all accepted English language tests approved for migration purposes be calibrated to ensure consistent validity and reliability across providers.

INFORMATION REQUEST 9.2

The Commission seeks feedback on the merit of caps on temporary 457 visa numbers for specific occupations. It is particularly interested in participants' views on whether the recommendations from the Independent Review into Integrity in the Subclass 457 Programme (the Azarias Review) — and which have been supported by the Australian Government — are likely to lead to the more accurate identification of genuine labour market shortages for occupations on the Consolidated Sponsored Occupations List.

The cost of sponsoring 457 workers is higher than that of hiring local labour and the sponsor obligations substantial. The addition of the skilled lists of allowable occupations further restricts the ability of employers to sponsor overseas workers. These are effective in controlling the numbers of 457 sponsored employees. The current 457 system has demonstrated that it is reactive to labour market conditions, with numbers sponsored each year fluctuating with the state of the economy and the labour market (Table 1).

Financial year	Number grants	457	%change from previous year	Top 3 occupations
2008/9	54830		No data	No data available
2009/10	38910		-31	Health, ICT, construction
2010/11	54360		+38	Health, other, construction
2011/12	71840		+42	Construction, other, health
2012/13	81550		steady	Other, construction, health
2013/14	40150		-39	Other, accommodation & food, ICT
2014/15	55310		+12.5	Other, ICT, accommodation & food

Table 1: Primary 457 visa grants by financial year⁶

A more fundamental problem exists with the choice of occupations included on the Skilled Occupations List (SOL) and the Consolidated Skilled Occupation List (CSOL). For example, the three accounting professional associations argue that there is a shortage of accountants in Australia, yet the DIBP has continued to halve the number of places available for accounting professionals in the skilled migration program over the past three years. In comparison, other professional groups such as dentists, have been successful in having the profession removed from the SOL and labour representatives have been successful in limiting the number of trade occupations that are included.

A cap on specific occupations is only necessary where there is a limited number of visas available, as in the permanent skilled migration program, to prevent an imbalance in the occupations that are being accepted. This became starkly evident in previous migration programs, when overseas students with lower skill level Australian qualifications, overwhelmed the skilled migration program with excessive numbers of cooks and hairdressers. This problem has since been rectified by limiting the pathways for skilled migration by international student graduates.

The current employer sponsored temporary visa program is self-limiting. MIA does not support the introduction of a cap on the numbers of 457 visa holders in specific occupations.

Recommendation 11

The MIA recommends that no cap be placed on the numbers of temporary 457 visas granted for specific occupations.

INFORMATION REQUEST 10.1

The Commission seeks information on the potential impacts of tightening the points test for the onshore independent visa subclass of the skilled immigration program, including granting more points for:

- ***superior English-language proficiency***
- ***better academic results***
- ***qualification in under-supplied fields***

⁶ DIBP Statistics <http://www.border.gov.au/about/reports-publications/research-statistics/statistics/work-in-australia>

It is somewhat difficult to understand how adding extra points to superior English language proficiency would provide a net impact on labour market outcomes for skilled migrants. Generally, those migrants who have superior English language skills, equivalent to an IELTS 8, already have English proficiency that would be in excess of a large proportion of the native English speakers. It would be expected that these migrants would also have achieved better academic outcomes, especially if they had studied at Australian educational institutions, when compared to international students with lower language abilities.

Adding points for 'better' academic results is unlikely to provide significant change to the initial labour market outcomes for skilled migrants. Employers in Australia do not tend to look to the minutiae of an applicant's level of achieved results. The difference between credit and distinction average achievement will not necessarily translate to better job applicants. The difference between the two cohorts in labour outcomes is not likely to be so significant that it warrants increased points allocation. Similarly, the increased academic standing of an Honours degree is not particularly well understood in Australia. The attainment of a Masters degree provides a more obvious benchmark for Australian employers. It is likely that any DIBP process for measuring 'better' academic results would be cumbersome. From human capital perspective increasing points for 'better' academic results, may provide a small increase in the quality of initial applications for the skilled migration program, but would be rendered at an unacceptable increase in administrative costs.

Adding points for qualifications in undersupplied occupations may have more success in attracting applicants. In February 2010 the system that awarded additional points for possessing an occupation on the 'Migration Occupation in Demand' list (MODL) was abolished. The MODL provided additional points to applicants with occupations in severe shortage in Australia. This list appeared to work well in attracting skilled applicants in areas of occupational shortage. The removal of MODL points from the points test at that time had an unexpected consequence. When the MODL points were first removed, the balance of the points within the new points test made it almost impossible for many registered nurses over the age of 34 years to gain enough points for skilled independent migration. This was at a time when the occupation had the most critical labour shortages of any occupation in Australia.

Introducing extra points for certain occupations also has the potential to skew international student study patterns towards qualifications for those occupations. While this may assist in eventually reducing the undersupply in some occupations, the flow on effect can be simply that of moving the oversupply to those occupations and creating new undersupplies in others.

Recommendation 12

The MIA recommends that great care be taken in changing the current points system to prevent unintended consequences in skilled migrants occupational and employment profiles.

INFORMATION REQUEST 11.1

The Commission seeks feedback on the use of the Consolidated Sponsored Occupations List in the immigration pathway from temporary to permanent employer-sponsored skilled immigration. Is the list sufficient to allow both temporary skilled (subclass 457) visas and employer-nominated permanent visas to meet their stated objectives?

The stated objectives of the temporary and permanent employer sponsored are to allow employers to sponsor skilled workers to fill genuine vacancies where they cannot find Australian employees. The broader CSOL provide almost 200 hundred more occupations than the SOL and provides more scope for sponsoring employers. However, both lists are relatively static and slow to respond to emerging occupations, especially those not listed in the current ANZSCO.

Case officers and others often complain that employers and RMAs attempt to 'shoehorn' applicants into unsuitable occupational classifications. The MIA would argue that in many cases this a result of the inflexibility of the lists and ANZSCO in recognising the diversity of skilled occupations.

The previous use of occupational classifications with the suffix 'not elsewhere classified' (nec) occupation captured many of these occupations. This was particularly useful for new and emerging occupational classifications. For example, nanotechnology engineers are not recognised in the ANZSCO, but the classification of 'engineer nec' 233999 could be utilised to nominate such engineers.

Recommendation 13

The MIA recommends that the 'not elsewhere classified' occupational suffix be reintroduced to the CSOL to provide employers with flexibility in the sponsoring skilled workers.

INFORMATION REQUEST 11.2

The Commission is seeking information on the English-language requirements for the Temporary Residence Transition stream of the employer-nominated (subclass 186) visa, including:

- the benefits and costs of having a lower English-language requirement than other skilled immigration streams ('vocational' rather than 'competent')***
- the benefits and costs of the exemption from English-language testing for immigrants who have undertaken five years education with all tuition in English.***

The benefits of having a lower standard of English language for employer sponsored Temporary Residence Transition (TRT) visas accrues to the sponsor and lowers the risk to both the sponsor and the Government. Employers initially have a broader applicant pool to choose from. The 'try before you buy' component for the sponsored employer and the government, tests the potential permanent employee and migrant in the Australian labour market to assess whether they can be effective with this slightly lower English language level. If the temporary visa holder does fulfil that potential, they must be considered a lower risk applicant for permanent migration, than an untested direct entry applicant.

The costs are primarily borne by the sponsoring employer under the TRT scheme. If the visa holder is found to be unable to undertake the role for which they were sponsored, it is the sponsor's responsibility to return them to their country of origin. If the sponsor does not fulfil that obligation, the government, may be required to assume that responsibility, but that cost is transferred to the visa holder who acquires a debt to the Commonwealth Government.

Whether the English language ability is tested or is provided as an exemption based on tuition conducted in English, is most likely a moot point. The more important indicator will be that person's performance in the Australian labour market.

Recommendation 14

The MIA recommends that the current lower threshold for tested English language ability be retained for TRT employer nominated permanent residents.

Recommendation 15

The MIA recommends that the current exemption from English language testing be retained for TRT employer nominated permanent residents.

INFORMATION REQUEST 13.1

The Commission seeks participants' views on the potential impacts of the following alternative visa charging models in conjunction with retaining the qualitative criteria under the current system:

- ***Option 1: A market-based price for each visa subclass***
- ***Option 2: A fiscally-reflective charge by visa subclass***
- ***Option 3: An additional charge in exchange for relaxing specific selection criteria***
- ***Option 4: A uniform levy across visa classes***
- ***Option 5: A new visa subclass with a limited number of places and a very high charge, with only health, character and security checks.***

The MIA provided significant commentary in its previous submission to the Productivity Commission on the visa fees, charges and alternative entry mechanisms. In that submission the MIA recommended that the integrity of Australia's migration program continue to be protected through the mechanisms of the current skilled, family and humanitarian streams.

Pure price based models were rejected because of the potential to reduce skilled migrants and unbalance population characteristics required to ensure future prosperity, economic balance and social cohesion.

Of the five options presented above, the MIA supports Option 4, the uniform levy across visa classes. However, there may be some potential for incorporating elements of Option 3, an additional charge for visas in high demand, as currently occurs with the contributory parent visa class. If such additional subclasses were incorporated in existing visa classes, additional numbers of places for these new subclasses must also be provided and not be at the expense of those currently allocated within the migration program.

The MIA believes Option 5 is unlikely to gain acceptability or credibility with an Australian public who are anecdotal opposed to 'selling visas'. Similar resistance is evident in the current public debate on foreign investment in Australian agricultural lands and industries. The concept should also be considered in the context of the recent Migration Amendment 'Charging for a Migration Outcome' Act 2015⁷, which criminalises actions that are not dissimilar to this suggestion. While this option might increase government revenue with a one off payment, the ongoing ramifications could be potentially disastrous.

Recommendation 16

The MIA recommends that further investigation of the potential for additional contributory visa subclasses in high demand visa classes be undertaken.

Recommendation 17

The MIA recommends that the additional visa places be allocated for any contributory visa subclasses that are created.

⁷Migration Amendment (Charging for a Migration Outcome) Act 2015
<https://www.comlaw.gov.au/Details/C2015A00161>