

UNIVERSITIES AUSTRALIA | SUBMISSION TO THE REVIEW OF AUSTRALIA'S MIGRATION SYSTEM

Universities Australia is the peak body representing Australia's 39 comprehensive universities. We welcome the opportunity to contribute to the review of Australia's migration system.

Australia is a leading provider of international education – third only to Canada and the United Kingdom. Hundreds of thousands of international students choose to study at our world-class universities each year, yet a relatively low number remain in Australia after they graduate. Our visa system is to blame, and we are worse off for this brain drain, particularly in the face of the current skills crisis. Further, the current system makes it difficult to attract more of the world-class researchers and staff our universities and nation relies on. Australia's loss is often our international competitors' gain.

Universities are central to a migration system that supports Australia's future. In this submission, we outline ways to streamline and simplify the visa process to make Australia a more attractive destination for the international students and staff our universities and the economy needs.

Recommendations to bring Australia's migration system into alignment with the skills needs of the nation and the university sector environment.

To streamline and simplify the visa process for university staff and students, the Australian Government could:

1. Improve and simplify pathways into Australia for world-class staff and exempt them from the VETASSESS process, providing a pathway to permanent residency for the primary visa holder and their dependants.
2. Replace the genuine temporary entrant visa requirement with a genuine student visa requirement, to ensure the student visa is not used by non-genuine students to enter the country, but without requiring a discussion of their plans upon graduation.
3. Develop a reporting protocol to supply education providers, employers, and visa applicants with up-to-date data on the status of relevant applications.
4. Create a new category of student visa for migrants who live in Australia but are not citizens or permanent residents, as well as temporary humanitarian visa holders. This category would have similar conditions to those currently experienced by New Zealand citizens studying in Australia.
5. Create a priority system, like the Green Card in the United States, that would introduce nimbleness and flexibility to Australia's migration system.
6. Improve the international education experience in Australia by applying the fortnightly limit on international student working hours to paid work only.
7. Upon completion of their course of study, automatically grant the temporary graduate visa to all international students who meet the course requirements for graduation and the relevant character conditions as assessed by the Department of Home Affairs throughout their course of study.
8. Create a function within Jobs and Skills Australia to advise employers and industry groups on how to navigate the migration system.

INTRODUCTION

Australia is one of the most successful multicultural countries in the world, bringing together a multitude of cultures, experiences, beliefs and traditions. We owe our economic and cultural success to the many and varied people who come to Australia and make it their home. Therefore, our finite policy and administrative resources should foster a migration system that delivers these optimal outcomes for Australia, and removes, as far as possible, ambiguity for people migrating to Australia.

For many migrants, the ultimate goal of coming to Australia is becoming an Australian citizen. Achieving this goal is not only beneficial for individuals, but also for our nation.

Australia needs a migration system that is simple and transparent. We must be clear-eyed about the purpose of our migration system – that is, to grow Australia economically and culturally. Prospective migrants should be able to access information on how their migration case will be administered and should have real-time information on how their application is progressing.

At present, with 100 visa subclasses, the migration system is overly complex, prone to appeal, and reliant on ministerial and administrative discretion. It is not fit-for-purpose. If we reset our system and base it on the policy presumption that Australia benefits from migration, we would simplify and streamline, stripping away unnecessary visa classes, regulation and barriers.

Universities operate in a global marketplace, perhaps more than any other industry in Australia. Australia's university sector plays a critical role in educating the domestic and international graduates who will contribute to our post-pandemic recovery and produce the research that fuels our innovation machine.

To do both these things, they need to be able to attract the very best academics from around the world. As such, our migration program needs to support a strong and dynamic university system. Clear and accessible pathways for skilled migrants who have demonstrated commitment to contributing to Australia's economic and social development are critical in the context of future work and pandemic recovery.

Universities Australia's approach to the review of Australia's migration system is consistent with the position we have put forward in submissions to the Defence Strategic Review, the Employment White Paper and the Productivity Commission's Five-Year Review. More than half of the one million jobs expected to be created in the next five years will require a university degree, underscoring the importance of universities to driving productivity and growing the economy. UA supports and encourages reform of our regulatory levers to encourage the attainment of our national priorities.

THE APPLICATION STAGE

Recommendation 1: Improve and simplify pathways into Australia for academic talent and exempt them from the VETASSESS process, providing a pathway to permanent residency for the primary visa holder and their dependants.

Australia's ability to address national research priorities and tackle domestic and global challenges is becoming increasingly dependent on international collaboration. This collaboration is underpinned by the ability of university staff (and students) to move between institutions in different countries at various stages of their careers.

Australia's complex visa system and long visa wait times leave us vulnerable to losing the top tier academics (both research and education-focused) to our competitors. When this happens, we lose the capacity not only to provide the very best training to the nation's future skilled workforce, but also to train the next generation of researchers and lecturers, so that our knowledge pipeline remains strong and secure.

Many countries with high-ranking and highly competitive university sectors, including the United Kingdom¹, Canada², the Netherlands³, Germany⁴ France⁵, and in other member countries of the European Union⁶ have streamlined visa classes to facilitate the entry of skilled migrants. The recently announced UK Research and Development Roadmap⁷ emphasises the importance of working in collaboration with universities and research institutions to attract global talent through appropriate migration settings aligned with research priorities.

In addition to migration regimes that facilitate the recruitment of highly talented academic staff, these countries often offer identifiable pathways to permanent residency. The prospect of a relatively straightforward transition to permanent resident status can be a deciding factor in attracting highly sought-after knowledge workers. Many international candidates for senior roles within universities are unwilling to accept offers of employment in Australia unless they know they can obtain permanent residency before leaving their countries of origin. Furthermore, the desire to obtain permanent residency when taking a role in an Australian university reinforces a candidate's commitment to contribute to the nation's knowledge economy.

The previous Global Talent Independent program did go some way to providing an option for the expedited entry of knowledge workers into Australia. However, the program excluded the important contributions that world-class researchers in the humanities, arts and social sciences (HASS) disciplines make to our knowledge economy. Additionally, the salary threshold, which currently sits at AUD\$153,600, means many early and mid-career university academics are not eligible.⁸

An additional step in ensuring our visa system attracts the best and brightest academic staff is to make these highly sought-after individuals exempt from the VETASSESS process. The appointment of academic staff involves a rigorous assessment of applicants' qualifications and abilities, including a panel review of a candidate's academic credentials, research and teaching experience and publication record, as well as a personal interview process and often a practical assessment of their ability to deliver a seminar, academic presentation, or lecture. This process far exceeds the skills assessment via the VETASSESS process. The elimination of the skills assessment process would help to streamline the process and reduce the reputational risk to Australia of over-administration.

Recommendation 2: Replace the genuine temporary entrant visa requirement with a genuine student visa requirement, to ensure the student visa is not used by non-genuine students to enter the country, but without requiring a discussion of their plans upon graduation.

International students who graduate from an Australian university are eligible to apply for a post-study work visa. With their Australian university qualification, and having already participated in Australian society, international graduates are ideal candidates for skilled migration. However, only 28 per cent of international graduates use their post-study work rights and only 16 per cent of total international

¹ <https://www.gov.uk/tier-2-general>

² http://www.cic.gc.ca/english/work/apply-who-permit-result.asp?q1_options=1b

³ <https://ind.nl/en/work/Pages/Highly-skilled-migrant.aspx>

⁴ <http://www.bamf.de/EN/Migration/Arbeiten/BuergerDrittstaat/Forscher/forscher-node.html>

⁵ <https://www.campusfrance.org/en/talent-passport-long-visa>

⁶ <https://www.apply.eu/BlueCard/>

⁷ <https://www.gov.uk/government/publications/uk-research-and-development-roadmap/uk-research-and-development-roadmap>

⁸ <https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program/eligibility>

students stay on to become permanent residents.⁹ This is unsurprising, given that the genuine temporary entrant (GTE) requirement – a condition of the student visa – requires potential students to prove, in writing, that they intend to return home after completing their course.¹⁰

While temporary visa holders should not have an automatic right to permanent residence, they should have the right to hold that ambition, and potential students should not be penalised for articulating such ambitions in their visa applications. DHA points out on their website that “the genuine temporary entrant (GTE) requirement is not intended to exclude students who, after studying in Australia, develop skills Australia needs and who then go on to apply for permanent residence.” However, there is substantial evidence that suggests the GTE has the perverse effect of causing potential students to *feel* that they are at risk of penalty if they make their aspirations for permanent migration clear, even if that is not the GTE’s intent.

We therefore argue that the assessment of a student’s ability to study in Australia should be based on past academic record and a streamlined statement of purpose which articulates why the student is capable of undertaking the course of study.

Recommendation 3: Develop a reporting protocol to supply education providers, employers, and visa applicants with up-to-date data on the status of relevant applications.

There is currently no facility for universities to provide an update on the status of a visa application, both in terms of where the application sits in the processing timeline and when an applicant might expect to receive an outcome. This lack of transparency puts many applicants in a state of “limbo”, unable to make decisions regarding their future career due to uncertainty around the outcome of their application and it leaves Australia at risk of missing out on high-quality applicants who choose to pursue their education elsewhere. This has been most keenly felt by international higher degree by research (HDR) students, some of whom have been waiting for a visa processing outcome for as long as three years.¹¹

This is a problem affecting all universities – the flow on effect of which damages our relationship with international students and as well as our nation’s higher education brand.

It is essential that all changes to Australia’s migration system are carefully communicated to stakeholders and the public in a timely manner. This assists the higher education sector’s ability to mitigate risks and will be particularly important for Australia as we recover from the COVID-19 pandemic and navigate the skills crisis currently facing us.

Recommendation 4: Create a category of student visa for migrants who live in Australia but are not citizens or permanent residents, as well as temporary humanitarian visa holders. This category would have similar conditions to those currently experienced by New Zealand citizens studying in Australia.

While more than two thirds of recent migrants aged 15 and over held a formal non-school qualification before they arrived in Australia¹², the dependants of migrants face barriers in accessing education. This is of particular significance for migrants seeking asylum and refugees on temporary protection or safe haven

⁹ <https://research.treasury.gov.au/sites/research.treasury.gov.au/files/2019-08/Shaping-a-Nation-1.pdf>

¹⁰ <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/student-500/genuine-temporary-entrant>

¹¹ <https://www.afr.com/politics/federal/phd-students-stuck-overseas-as-visa-delays-take-up-to-3-years-20221129-p5c24i>

¹² <https://www.abs.gov.au/statistics/people/people-and-communities/characteristics-recent-migrants/latest-release#data-download>

enterprise visas¹³. Access to education not only provides a platform for obtaining or upgrading a qualification, it broadens career options, which could help plug skills gaps, and facilitates social cohesion. Further, and perhaps more importantly, it provides options for young people who are exiting secondary school and have not yet had the opportunity to undertake further education or skills training to access to tertiary study.

While these individuals remain temporary residents, they do so on a long-term basis. To access higher education migrants and their dependents are viewed as “international students” by providers and are required to pay for their tuition in advance – at a cost which often exceeds the costs paid by domestic students. This puts education out of reach for many temporary migrants and prevents these individuals from increasing their skills and contributing to Australia’s economic and social performance, effectively forcing people into lower-skilled and lower-paid work.

Recommendation 5: Create a priority system, like the Green Card in the United States, that would introduce nimbleness and flexibility to Australia’s migration system.

While Australia’s migration system has served Australia’s needs in the past, Australia is facing new challenges in terms of attracting and retaining skilled migrants and developing a pipeline of candidates who can meet our nation’s skills needs. Consideration must be given to developing measures which allow agility within the migration system to provide employers, skilled migrants and industry bodies with incentives to use migration to fill skills gaps.

A system like the United States’ Permanent Resident Card (Green Card) would provide a mechanism where government could work with industry bodies and organisations such as Jobs and Skills Australia to identify priority cohorts who would be invited to apply for direct entry to a fast-track permanent residence program. Precedence would be given to candidates whose skill profile closely match the skills needs of Australia.

INTERNATIONAL STUDENTS

Recommendation 6: Improve the international education experience in Australia by a) applying the fortnightly limit on international student working hours to paid work only.

Australia currently ranks well against our competitors for international student experience, however there are two areas that could be optimised through adjustments to the migration regulations.

International students must comply with their visa conditions while in Australia, one of which is a fortnightly limit on the number of hours they can work during the semester (noting this is currently suspended, and the exact fortnightly hours are under review). Under the current arrangements, if a student undertakes an industry placement or internship activity on an elective basis, the time engaged in this activity counts towards a student’s working hours limit.¹⁴

These work-integrated learning (WIL) experiences are highly valued by international students seeking to gain professional skills and experience. The Council for International Education has acknowledged the importance of ensuring our institutions provide skills-based education and training that produces

¹³ <https://www.refugeecouncil.org.au/barriers-education-seeking-asylum/>

¹⁴ Department of Home Affairs. “Provider Processing Update 9 - July 2018 - Work Limitations.” Australian Government, July 2018.

job-ready graduates.¹⁵ Uptake of non-compulsory WIL activities has steadily increased over recent years, and is encouraged by both the government, employers and universities.

We therefore submit that the fortnightly work hours limit should only include paid work, so that unpaid WIL experiences are exempt, irrespective of whether they are CRICOS-registered experiences or not.

THE POST-STUDY EXPERIENCE

Recommendation 7: Upon completion of their course of study, automatically grant the temporary graduate visa to all international students who meet the course requirements for graduation and the relevant character conditions as assessed by DHA throughout their course of study.

Under the current visa assessment conditions, international students are required to apply for a temporary graduate visa (subclass 485), with wait times sometimes extending to more than 10 months. During this period of uncertainty, many students give up and either go home or to another country. Given the number of checks students go through to get a student visa and the need to satisfy a range of requirements to maintain a student visa, the temporary graduate visa should be applied automatically for students upon completion of their course of study.

Recommendation 8: Create a function within Jobs and Skills Australia, to advise employers and industry groups on how to navigate the migration system.

While Australia's migration system has served the university sector well, the proliferation of visa subtypes and skilled occupation lists, along with the difference in state-sponsored approaches to migration, makes navigating the migration system an onerous and costly process. Users of the system require access to expert advice on a raft of migration issues, ranging from the relevant visa type through to detailed reporting on skills shortages.

Jobs and Skills Australia is well placed to provide expert general advice to stakeholders on a raft of migration-related issues, including on the suitability of visa types to fill particular occupations and differences in state-based skilled occupation lists.

¹⁵ <https://internationaleducation.gov.au/international-network/australia/InternationalStrategy/Council%20for%20International%20Education/Documents/Expert%20Members%20-%20Communique%20-%205%20August%202020%20FINAL.pdf>