



14<sup>th</sup> December 2022

The Director, Skills and Innovation Policy Section  
Skilled Visa Branch  
Immigration Programs Division  
Immigration and Settlement Services Group  
Department of Home Affairs

Dear Sir/Madam,

### **A Migration System for Australia's Future Submission**

Thank you for the opportunity to provide a submission on "A Migration System for Australia's Future".

The submission was written by our migration consultant, Ms Angela Chan who has had extensive experience in the immigration, multicultural and community development fields over the past 35 years. During this time, she has been, *inter alia*, the Chairperson of the NSW Ethnic Communities' Council of NSW, Founding Member, former National President and Life Member of the Migration Institute of Australia, original board member of the Migration Agent's Registration Board, and convened an informal independent group of Masterchefs and Restaurateurs since 2013 (see attached résumé)

It is timely that the migration system should be reviewed to bring it into line with the now second decade of the 21<sup>st</sup> century. Times have changed and the needs of business and migrants have changed to ensure Australia's continued economic growth both nationally and internationally.

Whilst multicultural policy was not part of the terms of reference, it is integral to the success of any migration policy as multiculturalism underpins the strength of Australia as a community. Ergo, multiculturalism should be considered as a whole of government policy and not as a stand-alone policy.



We have only written brief notes for the key questions raised for the submission which we will be happy to elaborate on if provided with the opportunity to discuss with the Committee. Please feel free to contact Ms Chan directly on (02) 9669 6333 or via email at [angela.chan@ptwlaw.com.au](mailto:angela.chan@ptwlaw.com.au).

**Yours faithfully**  
**Pryor Tzannes & Wallis**

A handwritten signature in blue ink that reads "Pryor Tzannes & Wallis". The signature is written in a cursive style with a large initial 'P'.

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## *A migration system for Australia's future*

Submission prepared by:

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This submission seeks to answer the key questions as set out for the Review in its Terms of Reference.

In developing a new migration strategy, the review wants to consider the following key questions which we have addressed:

## **1. What challenges and opportunities does Australia face in the coming decades?**

The major challenges that Australia faces in the coming decades are an increasing:

- ageing population;
- lack of skilled workers;
- lack of locally trained skilled white and blue collar workers in occupations such as tradespeople, service and hospitality industries; ICT/Cyber digital technology, etc.
- lack of health care workers
- lack of child care workers
- lack of innovation
- need for the recognition of overseas qualifications
- recognition of the effect of climate change
- global mobility of the Australian population and businesses

## **2. How can migration contribute to these challenges and opportunities?**

### **• How do we best use the migration program to grow our economy?**

The migration programme is multi-faceted as it endeavours to find a balance between skilled, family and refugee/humanitarian migration. To be able to take the best advantage of all migration streams it needs to be recognised that every migrant who comes to Australia is most likely able to make a positive and valuable contribution. This contribution may range from providing new business and employment opportunities and skills transfers, to parents being able to migrate to Australia so that they can participate in their family dynamics such as, child care, carer responsibilities, etc. Recently arrived migrants are more likely to succeed in settling into Australia if they have the support of their family network. It is a well established fact that if women can have access to reliable child care facilities then they more actively participate in employment which contributes to the economy through productivity and taxation.

### **• How can we design a system that supports and complements opportunities for jobs and skills for Australians?**

Any migration programme must take into consideration supporting the Australian community in providing job opportunities and/or skills transfers to Australian citizens. To achieve this there must be collaboration between all levels of government, employers, unions and education institutions. It is imperative that a total review of our education system be developed with the aim to ensure that children leave the education system with skills and/or training which will prepare them to enter the workforce which is not static but ever



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changing. The skills required by high school children when they leave school is entirely different to that which were required some decades ago, yet there have been little structural changes to our education system. For example, if students want to work in the hospitality industry in Europe, then their study pathway is a formal one which begins in high school and is carried through to either a trade college and/or university.

- **To what extent should the availability of visas with work rights be linked to identified skill and labour shortages?**

Attempting to link work rights to identified skill and labour shortages has been fraught with frustration for employers. For example, the hospitality industry has experienced shortages in the securing of front of house staff as they are on the Short Term Skilled Occupation List (STSOL) and are not eligible to progress to permanent residence. There is an international shortage of skilled workers in the hospitality industry and potential migrants will look to countries that can offer a pathway to permanent residence for the workers. Despite the numerous published articles and pleas by employers about the shortage of hospitality workers, the National Skills Commission now known as Job and Skills Australia are immutable about this problem and have not included the occupation on their 2022 Skills Priority List, as it has determined that there is “no shortage” because the position doesn’t meet their “research” methodology criteria.

- **Should we take a different approach to identifying and counting the number of skilled migrants?**

At the moment, skilled migrants are limited to those who have been granted visas on a skilled temporary/permanent basis and/or are business migrants. Yet skilled migrants (depending on the definition), can be drawn from the vast body of migrants such as partners, parents, refugee and asylum seekers.

A three to five year migration plan should be developed instead of an annual migration plan. A longer plan would be proactive and be able to identify the short-term and long-term needs of the migration programme instead of it being one which is reactive leading to the creation of Priority Migration Skills Occupation Lists, etc. A consequence of giving priority processing to occupations on skills lists is that, although it may process some occupations more quickly, it results in a big black hole consisting of all the other outstanding migration applications which then leads to another shortage of workers developing in other areas.

- **How can we better prevent the exploitation of migrant workers?**

Migrant workers need to be informed of their rights in both English and their community language. Not only does there need to be effective monitoring of sponsors but there must be seen to be action taken by DHA when they become aware of employers, who are often well known and established in the community and who have been publicly shamed by their exploitation of workers, yet nothing is done to cancel their sponsorship as standard business sponsors. It is only until the big employers are sanctioned that employers will be incentivised to take their responsibilities to protect workers against exploitation seriously.



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- **How can we prevent a ‘permanently temporary’ cohort within the migration program?**

All temporary migrants should have a pathway to permanent residence if it can be demonstrated that they have skills, family and/or community connections in Australia and are not a national security risk.

At the moment, there is a permanently temporary cohort who do not have a pathway to permanent residence which is an intolerable situation. Australia does not want to become like Turkey where migrant workers who have lived in the country for more than 30 years, had family and children educated in Turkey and yet, they will never be entitled to permanent residence and/or citizenship. Denying multiple generations of the security of permanent residence and/or citizenship is not in the best interests of Australia as people must be encouraged to participate as full citizens to ensure community harmony.

- **How could we best use the migration program to assist Australia to build its sovereign capabilities and to address major challenges such as climate change, technological shifts and the ageing population?**

This is not a hard question to address as the major challenges such as climate change, technological shifts and the ageing population have been identified as issues which the nation needed to address some twenty years ago, in varying degrees. However, these matters now appear to be raised as “new” issues as no forward planning has been carried out despite the fact that these issues were identified years ago. The migration programme must urgently address these critical issues as otherwise, we will continue to fall behind in these areas. Similarly, we should develop our Business Innovation Investment Programme (BIIP) where SC188C visa applicants should be encouraged to invest their \$5 million into complying investments which are related to climate change, technological shifts and the ageing population.

- **How can we attract and retain the best talent from around the world?**

As Australians, we assume that Australia is the best place in the world for anyone to migrate. However, Australians often do not understand the international competition that other countries offer and use to attract the best talent from around the world. Australia ranks behind the United States, United Kingdom and Canada in the competition for migrants. Australia must lift its game in many areas before we can attract and retain the best talent from around the world. For example, a major disincentive for migrants to apply to come to Australia – especially, if they are in the upper echelon around the world, is the lack of processing applications in a timely manner and/or the lack of certainty about the existence of whether the category of migration will still exist despite the long waiting times for processing. In particular, it should be noted that the worse possible step the government could do is to stop processing and allocating the lowest level of processing for Business Innovation Investment Programme (BIIP) applications.

The BIIP programme, especially, the Significant Investor Visa 188C is one the most sensible visa categories, any government has offered. Attracting migrants who are willing to invest \$5 million into complying investments should be strongly welcomed by the government. To turn away or discourage people from investing in this category at a time when there is so much uncertainty with Australia’s economic forecast due to the pandemic and the war in Ukraine, does not make sense. It is estimated that this programme has



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generated some \$40 billion in investments into Australia whilst representing only 1% of the overall migration programme numbers.

The best talent in the world will not apply for migration to Australia unless they can trust the system and there is integrity of the migration programme which guarantees that the category of migration that they applied for has not been abolished or had the numbers reduced, especially after many have waited for lengthy processing times. The SIV 188C clients have undertaken significant expense to facilitate the transfer of their assets and funds only to find that their application has the lowest processing allocation. The numbers for the SIV 188C categories have also not been allocated to their fullest potential.

- **How do we ensure the migration program supports Australia's international interests?**

Australia's international interests lies primarily within the Asia Pacific region in addition to our involvement in international agreements involving the United States and European countries.

Australia's economic development is also dependent on our international relations particularly with our Asian and Pacific neighbours. To this end, Australia's future migration programmes should support applicants from the Asian and Pacific region countries as this will strengthen international relations between Australia and these countries which is in Australia's best interest. Australia should seek to attract business and skilled migrants from countries that lead the world in new technologies, etc. which in turn would support our international interests.

- **How do we address the specific needs of regional Australia?**

The problem with attracting migrants to regional areas of Australia has been an ongoing one for decades. It is difficult to expect migrants to settle in rural/regional areas of Australia if the basic infrastructure of banks, hospitals, dentist, accountant, public transport and other government services are not available.

There should be incentives for migrants to work in rural/regional areas of Australia which will ensure they remain in these areas for at least three years. There should also be recognition that there are very specific needs of business and migrants in regional Australia and that one size does not fit all, i.e. what works in the city does not necessarily work in regional Australia.

### 3. **What are the current and potential barriers in allowing migration to play these roles?**

- **How can we make the system simpler and fairer for both migrants and employers?**

The fairest and simplest system of migration for both migrants and employers is to ensure certainty of migration policies. It is also essential that the red tape and paperwork is truly reduced to its minimum. Unfortunately, when this was done in the past 10 years, this resulted in even more complex migration regulations and procedures for both migrants and employers.





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- **How can we make the migration system more flexible and responsive to the changing needs of our economy and society?**

It needs to be recognised that in the 21<sup>st</sup> century people's needs and expectations insofar as migration from their country of origin have changed dramatically over the past fifty years. There needs to be a review to "modernise" migration policy which addresses the global mobility of individuals and companies. Issues such as Resident Return Visas and Citizenship need to be reviewed.

- **How can we make the migration system more accessible to small employers and start-ups?**

The structure of small employer companies and start-ups has changed significantly over the past decade, insofar as businesses no longer need large infrastructure to be successful. It is not uncommon for small employers and start-ups to only have one employee as many tasks are now carried out through the free market gig economy whilst almost all administrative work, such as filling out forms, and customer service, can be carried out by using digital platforms.

The changes to the running of small businesses and start ups should be recognised in the requirements of immigration when assessing sponsorships and nominations.

- **How could longer-term planning support investment in the necessary infrastructure and services?**

By introducing a three-five year migration programme, better planning can be made to support investment in infrastructure and services. Infrastructure and services can be delivered as part of a longer-term migration programme. Access to funds through the SIV188C programme could be used to invest in infrastructure and improved government services.

- **What are the barriers to the participation of migrants in the labour market, including those entering through the family and humanitarian streams and secondary migrants?**

The barriers to the participation of migrants in the labour market have not changed since the commencement of the post-war migration programme. Barriers such as:

- Difficulties in obtaining recognition of overseas qualifications
- Lack of opportunities offered by local employers to employ overseas workers who lack "local experience".
- Lack of a career path for overseas workers to higher levels of management within companies.
- Attitudinal discrimination in the workplace where overseas workers speak with an accent or are visibly different in skin colour or dress from their co-workers.
- Lack of support from family, including parents who are unable to migrate, thereby hindering the settlement of the overseas worker in areas such as childcare, etc.
- Access to extra English language classes at the workplace.



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#### **4. What reforms are needed to ensure the migration system can meet the challenges and opportunities that lie ahead?**

- **How can we better identify and respond to future labour market needs?**

A three-five year migration programme will help better identify and respond to future labour market needs. Any migration programme should be proactive and not reactive.

Section 48 of the Migration Act needs to be reformed to allow the cohort of unlawful persons to regularise their status if they have support from their employer, family and/or community. There are currently 140,000 people in Australia who need resolution of their status – many of whom have skills which can be utilised in the labour market.

- **How do we best structure pathways to permanent residence and citizenship to meet the nation's needs?**

The nation's needs will be best met if pathways to permanent residence are provided when overseas workers initially apply for their temporary visas after a qualifying period. Similarly, migrants should be encouraged to take up Australian citizenship at the earliest opportunity. When a migrant decides to become an Australia citizen, in many cases, this means that they have made the choice to surrender their citizenship of their country of origin which is a major step. In circumstances where the majority of family members can apply for citizenship, after a qualifying period, then it follows that the principal applicant, who is often the breadwinner and required to work overseas for indefinite periods of time which results in them often not being able to meet the residency requirements, they should also be allowed to proceed to citizenship together with their other family members. Resident Return Visas should also be reviewed, as it is often confusing for migrants who obtain permanent residence who discover that permanent residence is really only for a five year period, if they travel overseas and that the length of the grant of any subsequent RRV is dependent upon the amount of time they have spent in Australia.

- **How do we further strengthen and maintain Australians' public confidence in the migration program?**

Australia's public confidence can be strengthened and maintained in the migration programme providing that people can TRUST the government's migration policies, procedures and processing. This is the only way to maintain integrity of the migration programme. Migration categories should not be ceased or suspended at the whim of the government of the day unless there is a demonstrated matter of national security which is based on fact and not outdated information and media sensationalism. Damage is caused to community relations when ethnic groups become the target of adverse criticism and should be avoided.



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- **What principles should underpin our future migration system, including to address migrant worker exploitation?**

Any future migration system should ensure that all applications are processed quickly and that migrants do not have to wait for 2 years to have a permanent skilled SC186 ENS application processed. More importantly, is the need for the government to ensure that appeals to the AAT/MRD are handled in a fair and quick manner. It is not unusual for appellants to the AAT/MRD to wait for 3-4 years before their appeal is allocated a member and can be heard. This is unacceptable and the AAT/MRD needs to be sufficiently resourced and suitably qualified Members appointed to administer an effective appeals system.

Employers should understand that if applications are processed quickly, and if they are found to be involved in worker exploitation then the penalties will be harsh and impact negatively on their business. Monitoring must be increased but community education should be used as a warning for any first offence followed by more severe penalties for any subsequent offence. Exploitation of workers is unacceptable and preys upon the most vulnerable who need to be protected by the unambiguous laws.

- **Are there other ways our migration system can support Australia's future prosperity and well-being?**

The most effective way for the migration system to support Australia's future prosperity and well being is by continuing to offer the Business and Innovation Investment Programme – in particular, the SC188C which entails an investment of \$5 million into complying investments. Since its inception some \$40 billion has been invested in Australia which is the most productive of all migration programmes as it only represents approximately one percent of the entire numbers for the migration programme.

Australia should take advantage in developing its place in the Asia Pacific region as an international financial powerhouse. Singapore has successfully taken advantage of using its business migration programmes to turn Singapore into a world leading financial powerhouse. Australia should take up the challenge and follow its neighbours in developing its economy both nationally and internationally by using the migration programme to its advantage.