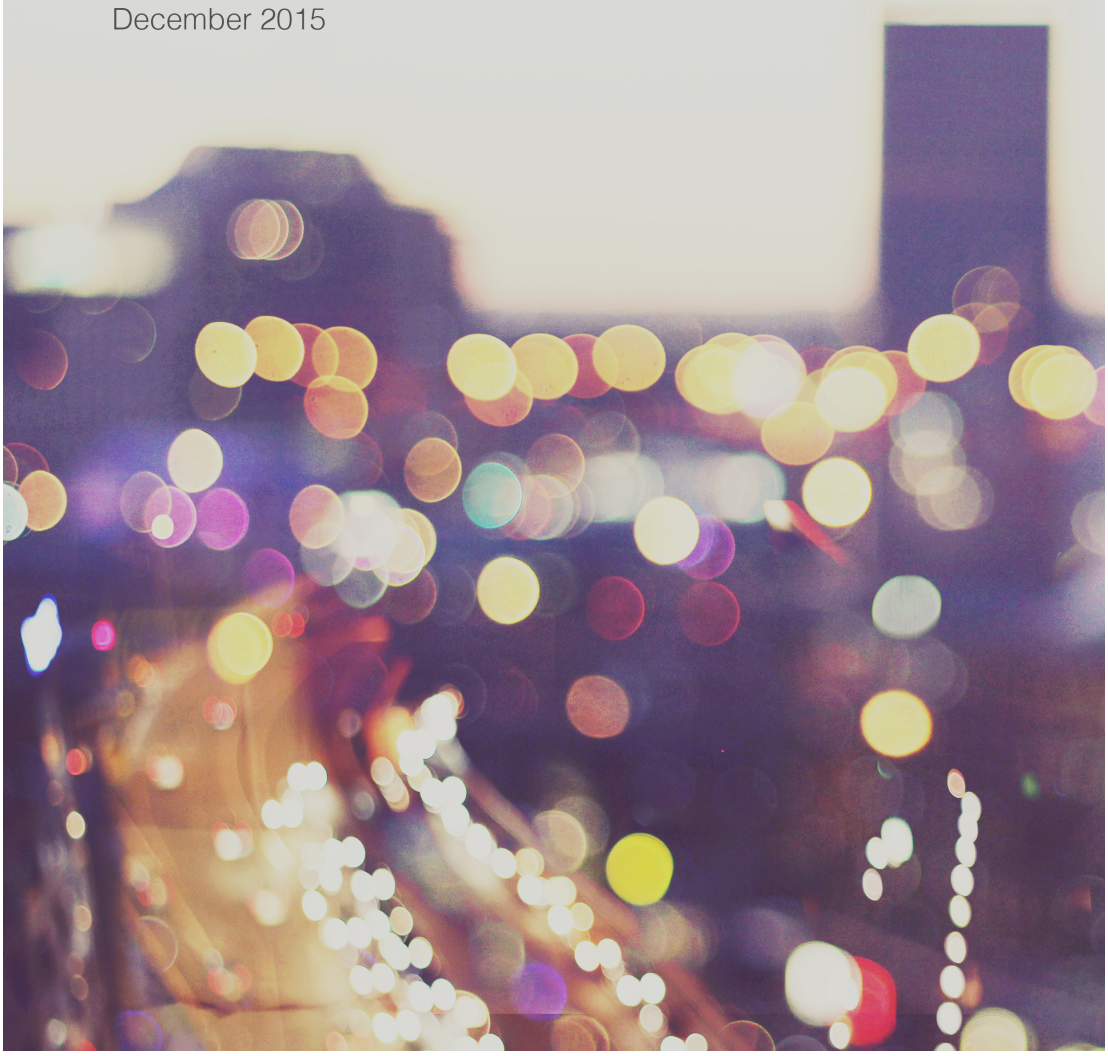
Submission to Draft Productivity Commission Report on Australia's Migrant Intake

Submission by Anna Boucher, University of Sydney

December 2015



Dr Anna Boucher is a Senior Lecturer in Public Policy and Political Science at the University of Sydney. She lectures in the areas of immigration, public policy, Australian politics and comparative political science. She holds a PhD in Political Science from the London School of Economics, where she was a Commonwealth Scholar and a Director of the LSE's Migration Studies Unit. She also holds Arts/Law degrees from the University of Sydney. Her research on skilled immigration, ethnicity, gender and immigration flows has been published in a range of journals, including *International Migration Review*, *International Migration*, *Migration Studies* and *Policy and Politics*. Her first book on skilled immigration policy in Australia and Canada over a quarter-century is published with Manchester University Press. Her second book, a review of immigration policies and processes in 61 immigration countries (with Dr Justin Gest) is under contract with Cambridge University Press, New York. She has presented her research on immigration at the International Organisation for Migration in Geneva, Oxford University and domestic and international conferences. She is a frequent commentator in the Australian and international media on immigration and integration issues. In 2015-6 she is the University of Sydney Laffan Fellow. The comments in this submission reflect the positions of the author rather than the University of Sydney.

I thank Drs Chris Wright and Kate McMillan and Professors Eleanor Kofman and Lesleyanne Hawthorne for their expertise that informs several of the arguments in this submission.

Submission to Draft Productivity Commission Report on Australia's Migrant Intake

Given the scope of the Draft Report on Migrant Intake, this submission to the Productivity Commission focuses upon key areas of interest, requests for information and draft recommendations.

The viability and appropriateness of a price-based visa system

The Productivity Commission rejected the option of a price-based visa system as the central mechanism for selection of immigrants into Australia. For the temporary system, this position was defended on the basis that a visa charge system cannot be imposed on uncapped immigration, which is the case for temporary flows. For the permanent system, a series of arguments were made related both to the viability of the proposed model, the likely reduction in the economic quality of immigrants selected and potential public safety concerns. These factors, in turn, it is argued, would lead to a diminished public confidence in the immigration program (Draft Report, pp.17; 32; 389).

I support the Productivity Commission's rejection of a price-based visa system for the reasons outlined and also due to the human rights and equity considerations that I addressed in my original submission (Boucher 2015a). Furthermore, I support the Commission's rejection of a user-pays social security system for immigrants (pp.400-2). Not only would such an approach be logistically unfeasible, it would also create considerable inequities between Australian-born and overseas-born citizens and residents and could lead, as the Commission argues, to a two-tiered system of citizens that could compound poverty among immigrants in older age. I return to these issues below.

The Commission identifies a number of possible hybrid models that would combine a visa charge system with the existing selection criteria (Chapter 13). The five main hybrid options are as follows:

"Option 1: A market-based price by visa category — the existing qualitative criteria for each subclass would be retained. However, charges would be set on a basis consistent with demand and supply conditions for each visa category (and could be set through an auction, tender or administrative approach) — effectively multipart pricing.

Option 2: A fiscally-reflective charge by visa category — the existing qualitative criteria for each subclass would be retained. However, charges would be set according to the expected net lifetime fiscal costs (or a proportion thereof) for each visa category.

Option 3: A charge in exchange for relaxed criteria — a charge could allow prospective immigrants who are currently ineligible under the skill stream to, for example, purchase points or be exempt from the age criterion under this stream.

Option 4: A uniform levy paid by all skilled and family immigrants — all immigrants would pay a flat levy in addition to a base fee for infrastructure, settlement services and other initial costs.

Option 5: A paid permanent visa — a new visa class with a small quota (potentially as a replacement for the Significant and Premium Investor Visas) would be established. Only health, character and security checks would apply, with a relatively high charge as the main rationing mechanism (Draft Report, p.32)."

Although small levies are imposed in a number of countries (p.439), generally, a charge-based system has not been the preferred approach to immigration selection globally. The pros and cons of each of the options are considered below.

Option 1: This option would seem to impose a price-based system as an additional selection factor over the top of existing selection criteria. Aside from the equity concerns I have already raised over the imposition of higher charges (Boucher 2015a), it is unclear if this approach would manage demand for visas, in the ways envisaged by government in its terms of reference (Draft Report, v).

Option 2: A 'fiscally-reflective' charge might be difficult to set given prospective and unpredictable changes in medical innovation or increased longevity that shape both future social security and medical costs to the Commonwealth. Aside from equity issues, which also confront such an approach, the Commission's analysis indicates that over the life course, most permanent immigrants already make a net-positive contribution to Australia. On this basis, it is unclear if such a charge would perhaps actually result in a reduction in current fees that government can legitimately impose.

Further, if a time limit were to apply for migrant access to either social security or Medicare, there are difficult questions as to what the logical period for restrictions might be. Lengthy eligibility limitations already exist for both the Aged Pension and Disability Support Pension and welfare waiting periods also exist for most other social security payments with the exception of some family-based benefits in the first two-years of permanent residency. A rationale for the extension of such waiting periods beyond this length of time is not defended in the Draft Report and would seem to present equity concerns, given that access to these benefits can be viewed as a key right of membership for permanent residents and citizens in Australia. As such, further delays in access to these payments could raise the risk of entrenchment of two classes of membership. Further, evidence from comparator countries demonstrates that long-term denial of access to welfare provisions, in particular the Aged Pension for older immigrants, can increase poverty in old age, particularly for female migrants (Boyd 1991; 1992; Kaida and Boyd 2011). This is a policy outcome that the Australian government has worked hard to avoid over recent decades (Carney 2006) and is important to protect against for future generations of ageing overseas-born Australians as well.

Restricting access to the Aged Pension to those with Australian citizenship would not only be 'uncredible' as suggested by the Commission (Draft Report, p.402). It could also, potentially, reduce the period in which new immigrants are ineligible for the payment, given that the current waiting period of one decade is shorter than the four-year waiting period for naturalisation. A preferable option would appear to be to continue to select immigrants at the early stages of their life course, who are less likely to draw a full aged pension, given larger superannuation accrual.

A narrower question is raised as to whether the Contributory Parent Visa charge should be increased. Currently the charge is set at 12.5 per cent of the estimated costs of these immigrants upon the health and social security systems, based on actuarial modeling when the visa was introduced in 2003 (see Boucher 2011 for a history). There is therefore a live question as to whether the visa charge should be raised to a larger percentage of predicted costs. Such an approach that treats contributory aged parents as costs to Australia may overlook the extent to which these migrants make a considerable contribution, both social and economic. A report by the consultancy firm KPMG in Australia for the Department of Immigration and Citizenship, found that aged parents could save their sponsors around $A13,800 per year in childcare costs for a family with two children, as well as allowing that household to generate an additional $A55,066 in income (KPMG 2009, p.iii). In light of significant increases in the cost of childcare in Australia in recent years, the estimated contribution in 2015 is likely to be much higher. Further, the capacity of Australia to attract the best skilled immigrants may be reliant upon continued maintenance of an affordable contributory parent visa, given the importance of multi-generational families in the source countries which now predominate in Australia's immigration flows (KPMG 2009).

Option 3: A charge that allowed ineligible individuals under the skilled stream to essentially buy their way in through lower conditions (through purchasing of points on the points test) is not only unmeritocratic, it also has the potential to bring in migrants who represent a larger cost to the public system over the long-term. The capacity to pay a charge in the short-term might not be predictive of long-term productivity. Further, lowering of requirements around age or English language abilities could raise concerns over integration of these immigrants into the labour market in the longer term. As the charge would be directed at permanent immigrants, this option is worrisome as the effects would continue into the future. Research in the UK demonstrates that the imposition of high immigration costs have differentials effects upon female than male applicants, given global gendered differences in both earning and wealth accumulation (Kofman and Wray, 2015).[1]

Option 4: A levy might be one viable policy option if there was a desire in government to recoup more costs from immigrants at the point of entry. Attempts to raise levies in addition to already expensive immigration processes will however, probably be deeply politically unpopular, especially among existing Australian citizens and residents sponsoring family members from overseas. A Right of Landing Fee (ROLF) was introduced as a policy option in Canada in the mid-1990s and was so electorally unpopular, that the Conservative Harper government ultimately halved it. Of particular concern in the Canadian context was that the ROLF was applied equally across all visa classes and that it would be therefore impose a greater cost for those from poorer countries who were more highly represented in family reunification streams. It was also reminiscent of a head tax that had been applied to restrict flows of Asian immigration into Canada in the early twentieth century and as such, was viewed as containing racist undertones (Boucher 2011, Chapter 4).

[1] Kofman and Wray's analysis consider the imposition of minimum salary thresholds upon sponsors under the UK immigration system, which at £18,600 per annum. This criterion is now the subject of a Human Rights Act (1998) UK court challenge.

[2] Now known as the Survey of Recent Migrants to Australia and administrated through the Social

Option 5: It is unclear how this proposed visa would overcome the existing limitations that the Commission identifies with the Significant and Premium Investor Visa: In fact, the major difference appears to be that such a visa would impose lower investment requirements upon entrants than under the existing arrangements and as such, there is little for Australia to gain from such a visa.

A separate issue arises as to whether, if the status quo position is retained, existing charges for visa processing should nonetheless be revised. The Commission notes that at present, government receives three times the revenue of visa processing costs through its charges relative to the actual costs to government. As such, the direct costs of a visa are already met through the current system (Draft Report, p.31). The Commission does argue that the existing method for setting of visa fees is unclear, with some such as the Contributory Parent Visa set on a partial cost-recovery basis and for others, no clear rationale apparent (Draft Report, pp. 432-433). While the establishment of the charge and fee for the Parent Visa followed a political process, this has not been the case for other visas and as such, the current settings probably result from incremental increases over time and potentially, perceptions of capacity of applicants and employers to pay. I support the Commission's recommendation that the Department of Immigration and Border Protection publish a historical record of fees across the different visas and move towards a more transparent methodology for setting of these fees into the future (Recommendation 13.1).

The need for better administrative data on immigration flows

The Commission recommends that the Australian Government provide researchers with better access to administrative and microdata to enable further research on central issues of immigration policy (Recommendation 7.2, p.36). I agree with this recommendation. The current data sources are insufficient and present a lacunae from a research perspective: The Census records migrant stock but is less responsive to dynamic changes in immigration flows the Census is only conducted every five years. Further, the Census does not contain questions about visa class, a key variable of interest. While the HILDA Survey includes a temporary immigration supplement since 2011, there is more scope for updating of this sample as the Australian population continues to grow and as temporary immigration as a percentage of Net Overseas Migration rises. The Department of Immigration and Border Protection has conducted the Continuous Survey of Immigrants to Australia [2] however, this instrument only surveys permanent immigrants and not temporary entrants; a major omission. Comprehensive statistical studies on temporary immigrants have either not been updated in recent years (I.e. Tan et al 2009 on the Working Holiday Maker Programme) or have simply not been conducted (such as the extent of work undertaken by international students). In other countries such as New Zealand and Canada, linked immigration and tax administrative datasets of the kind identified by the Commission have been used to undertake detailed studies on the effects of temporary immigration upon domestic workers, including young people and welfare beneficiaries (i.e. McLeod and Máre 2013). The provision of analogous datasets to Australian researchers would allow such analysis to be undertaken.

[2] Now known as the Survey of Recent Migrants to Australia and administrated through the Social Research Centre ANU: http://www.srcentre.com.au/csam

The position of long-term resident New Zealand citizens

The Commission recommends that non-Protected Special Category Visa Holders from New Zealand be granted pathways to permanent residency or citizenship (recommendation 9.4, see also Draft Report, page 324). This recommendation is in keeping with the findings of the *Strengthening Trans-Tasman Economic Relations* Study that was joint authored by the Australian Productivity Commission and the New Zealand Productivity Commission in 2012. I support this recommendation while noting that it is unclear which existing visa pathway would be most appropriate for long-term temporary New Zealand citizens. Many of these temporary New Zealand visa holders have not applied under the permanent streams not only because they are unaware of the limitations of their existing temporary status, but also because around 60 per cent are ineligible under existing permanent residency selection criteria (Fifield 2014: 8). Dr Kate McMillan from Victoria University of Wellington, New Zealand, conducted an online survey of New Zealanders rising temporarily in Australia, with over 2,300 responses. A majority of respondents did not know what their level of welfare entitlements were in Australia before moving there, demonstrating widespread ignorance around current policy settings.[3]

In order to accommodate these visa holders, a new form of permanent residency status would probably be required. This would render NZ citizens eligible for welfare payments, the preclusion of which was the rationale behind the introduction of the temporary visa category in 2001 (McMillan 2014). To avoid the concern over one-way Trans Tasman migration that informed the 2001 restriction, another policy option would be to create a permanent residency pathway for New Zealanders who had been present in Australia for a considerable period of time (say ten years). This would reduce concerns about a welfare magnet effect that might operate if the usual two-year eligibility for most forms of working-age welfare payments were to apply to New Zealand citizens who had gained this new form of residency visa.

Further research needed on a possible relationship between temporary immigration and domestic youth unemployment

The Productivity Commission notes that Australian evidence on a possible relationship between temporary immigration and youth unemployment is scant and seriously needed (pp8-9). As the Commission demonstrates in its draft report, preliminary commissioned analysis identifies a correlative relationship between the percentage of overseas born and rates of youth unemployment in Australia. However, this analysis uses stock data of overseas born that does not differentiate between immigrants on temporary or permanent visas or naturalized citizens of migrant first-generation migrant background. The potential labour substitutability of these three groups could differ. In particular, those on temporary visas have less bargaining power by virtue of the precariousness of their visa status. This temporary status might in turn inform they relative attractiveness to some employers, particularly in key industries such as service and manufacturing where unemployment Australian youth might also seek work but demand higher wages and better working conditions. In turn, we may be observing the emergence of a segmented labour market, where Australians seek work in certain sectors, and international students and working holiday-makers in others. As such, future research will need to differentiate between

[3] The results of this part of the survey are not yet published but are available from Dr McMillan at Kate.McMillan@vuw.ac.nz

these groups and length-of-stay in Australia to date, especially because the average length of temporary status prior to conferral of residency and mobility between different temporary visas is increasing (Draft report, p.376).

As research published in the Commission's Draft Report notes, former international students who transition to permanent residency primarily through the Skilled Independent Visa have the poorest labour market outcomes of all groups of entrants under the skilled permanent sub-classes (p.17). As such, we might predict downskilling of these entrants from graduate-level positions into the low-skilled positions that could otherwise be sought by Australian workers as the lower end of occupational grades.

These hypotheses need to be tested through further research, which considers the relationship between particular forms of temporary immigration status and youth unemployment of Australians both overseas and domestic born and permanent residents. Further, as the Draft Report notes, casual relationships would need to be explored through statistical modeling. The correlative analysis, while important in tracking these trends and providing indicative evidence, does not control for key variables of interest, including endogenous impacts of immigrants settling in areas of job availability.

While the Commission argues that these issues could fruitfully be considered in the current Senate Inquiry into Australia's Temporary Work Visa Programs, neither the Interim Report nor submissions to this Inquiry have considered the topic in depth, instead focusing on the separate (and important) issue of exploitation of working rights of temporary visa holders (Senate 2015).

The possible need for quotas for the Working Holiday Makers Program

The Commission is generally positive about the net economic contributions of the Working Holiday Maker Program (WHMP) to the Australian economy (Draft Report, p.300). It does note that some concerns were raised in submissions about the need for the imposition of a cap upon this program during periods of high youth unemployment (Draft Report, p.). Based on the Commission's (2006) analysis, which found that the WHMP creates as many jobs as it displaces in aggregate, the Commission did not recommend the implementation of caps. Instead, it recommended ongoing monitoring of the effects of the program. At the same time, it noted that the program might create "negative effects upon self-correction by markets" and "the potential to thwart attempts to improve Indigenous labour market participation in regional Australia" (Draft Report, p.305).

I believe that a stronger position is required on the growth in the WHMP, including the potential imposition of annual quotas for this visa class. Since the Commission's 2006 study, entry into the program has grown rapidly. The Program has also been conditionally expanded to new source countries[4] with larger wage differentials to Australia, thereby creating stronger incentives for the transformation into a quasi low-skilled work visa. Further, while the Commission cites the work of McLeod and Maré (2013) that considered among other visas, the impact of WHMP visas upon the work opportunities and wages of domestic New Zealanders and found there to be no

[4] These include Bangladesh, Turkey and Thailand.

statistically significant effects, that study does demonstrate indirect negative effects of these programs for both young New Zealanders and welfare beneficiaries (McLeod and Maré 2013: 40). Although the overall finding of their report was one of a slight positive effect, the authors did caution reliance upon its findings in part due to the buoyant period over which much of the analysis was undertaken and give some data constraints (Ibid, vii).[5] Further, New Zealand imposes quotas in its Working Holiday Visa Scheme upon some countries, which is not the case in Australia (Immigration NZ 2015). In short, the McLeod and Maré (2013) study of a different country context with different policy parameters would not seem to ameliorate the concerns raised by some stakeholders in Australia of the possible effects of the WHMP. Other countries such as Canada also impose quotas on their similarly purposed International Experience Class (CIC 2015b). The possibility of quotas for the WHMP and the potential ramifications of not curtailing further growth in the program, should in my view be given more serious attention in the final Productivity Commission report.

Reforming permanent skilled immigration

The Productivity Commission is generally supportive of Australia's current permanent skilled immigration configuration (Draft Report, Chapter 10). Nonetheless, it makes several recommendations to further improve the labour market outcomes of entrants, particularly those arriving onshore, and predominately through the Skilled Independent Category. Many of these entrants are former international students. While the Commission notes that the rolling out of the 485 post-study visa could mean that the performance of these individuals will improve in future years (as they are present longer in Australia before acquiring permanent residency and therefore have longer to improve English language abilities), it also raises the possibility of further refinement of the points test, in particular potentially through:

- Raising English-language proficiency requirements;
- Increasing academic result requirements (as opposed to simply degree attainment); and
- Additional points for qualifications in under-supplied fields (Draft Report, Information Request 10.1).

The merits of each of these options are considered in turn.

Raising English language requirements

Currently the English language requirements for the Skilled Independent sub-class are set at a minimum of IELTS 6 (component English). However, to gain maximum points allocated for English, an applicant must obtain a superior English score of IELTS 8) (Department of Immigration and Border Protection 2015). As the Expression of Interest System under SkillSelect now works by offering visas to top-ranked applicants, those with lower English scores will necessarily be the lowest ranked for the Skilled Independent visa. Therefore, the question of whether raising English language requirements would improve the quality of applicants depends upon the size of applicants with lower English ranking currently sitting in the SkillSelect

[5] Further, direct comparison of the numbers of WHMs arriving in NZ with those into Australia is difficult as the McLeod and Maré 2013 study uses "number of months" worked rather than "number of entrants" as its central measure for temporary migrant activity, which is not a measure which has been used to-date in the Australian studies.

database. This information is not provided in the Productivity Commission's report however, a recent article by Peter Mares indicates that the Department of Immigration and Border Protection has recently ceased a large number of skilled immigration applications. As such, it would appear that the new EOI system combined with use of sections 39 and 85 of the Migration Act (1958) cap and cease powers is sufficient to select top-ranked applicants without further refinement of the selection criteria. In short, we might need to know the IELTS scores of applicants actually selected through the new EOI system (rather than omitted from the pool) in order to understand the requisite English score prevailing among accepted migrants. As the SkillSelect system has only be in place since 2013, future findings of the Continuous Survey of Migrants to Australia should provide the relevant data to answer this question adequately.

It is possible that an applicant may score highly on other selection criteria under the points test and poorly in their IELTs examination, thereby using different areas of the points test to off-set one another. Therefore, an additional question is whether the threshold for English language should be raised from 6 to 7. Research-to-date does indicate that English language requirements are one of single biggest predictor of labour market outcomes of new skilled immigrants both in Australia and Canada (CIC 2010, p.46; DIAC 2010; Hawthorne and To 2014, p.109). On its face, this presents some support for raising the minimum IELTS score. There are several considerations here:

i) English language requirements might be operating as a proxy for country of origin. Therefore, raising English language requirements could act to exclude immigrants from Non-English Speaking Backgrounds. Evidence from Canada indicates that raising English language requirements in the 2002 reforms to the *Immigration Refugee Protection* Act had the effect of excluding more Chinese applicants from entry (Shi 2004). This finding was corroborated by internal Citizenship Immigration Canada modeling in 2010, which demonstrated that those increases to language testing in 2002 had had a disproportionate effect on applicants from China, South-East and South Asia (CIC 2010, pp.5, 25). Raising of English language requirements must therefore be reconciled with broader goals of non-discriminatory immigration policy; a central pillar of Australia's immigration programme; and

ii) High English language ability may not be as necessary for some occupations as others. Those occupations where safety considerations or written communications skills are paramount may require higher IELTS scores than that involve more human interaction or visual, service or caring skill sets.

Increasing academic results requirements

Level of academic attainment matters for the employment outcomes of domestic compared with international students in Australia (Hawthorne and To 2014, p.109). These researchers demonstrate that those with a masters degree have statistically significantly better labour market outcomes than those with a bachelor. While doctorates also improve employment outcomes compared with those with a masters degree, the magnitude of the effect is not as great as for the former (Ibid). There are no studies to date that seek to address the question of whether academic results within these different degrees levels in turn informs the subsequent employment outcomes

of international students in Australia. Presumably, other factors that inform hiring decisions such as the institution where the degree was attained, work experience and interpersonal skills would also be important.

Qualification in under-supplied fields

This policy option would involve allocating more points under the Skilled Independent sub-class for qualifications in under-supplied fields. Australia previously had a system based on allocating bonus points for occupations in demand. This system had the effect of generating oversupply in key occupations as it incentivised international students to enrol in courses that attracted a greater number of points on the points test. A central problem with this "specific skill" model was that it was difficult to adequately predict emerging skill shortages that accommodated the lag between the creation of shortage lists and the processing of applicable visas. On the basis of these perverse outcomes, the points test was reformed and a more general human capital model was adopted, albeit accompanied with an ongoing occupational list (see Boucher 2016, Chapter 5-6 for a history). Given this historical experience with a targeted skill model, as well as the capacity under the current SkillSelect system to apply caps upon over-supplied occupations, and the opportunity for employers to bring in occupations in strong need through both the ENS programme and the 457 temporary visa, an additional level of targeting for under-supplied fields does not appear necessary.

English language requirements for the Temporary Residence Transition stream of ENS (subclass 186)

Information Request 11.2

The Productivity Commission is interested in knowing whether it should render mandatory English language requirements for the Temporary Residence Transition sub-class (Information Request 11.2). Currently, there is an exemption in place for those with lower English requirements who have completed five years of training in Australia. As the Commission notes however, depending upon the quality of that training, the resultant English language skills will be variable, raising concerns about whether adequate language training will be conferred over the period of study (Draft Report, pages 385-6). On the other hand, the increased period of time between international student status and permanent residency accrual (largely as a result of the introduction of 485 post-study visas) may lead to better English language qualifications among putative applicants for this visa given their longer period of living in Australia (Draft Report, page 383, citing Gregory 2014). The advantages of this exemption seem to largely accrue to applicants through the avoidance of IETLS testing costs. Given the demonstrated relationship between poor language outcomes and labour market outcomes more broadly, the costs would appear to fall on Australia through reduced future earning potential of entrants. The exemption does not appear justified on the available evidence, although as Professor Lesleyanne Hawthorne notes, no independent study has been undertaken of this particular visa sub-class.

457s and the construction of the Consolidated Sponsored Occupations List (CSOL)

The Productivity Commission argues that the CSOL list is arbitrary in its definition of "skill", lacks transparency in its construction, which in turn raises the risk of undue influence by key interests in the determination of appropriate occupations to include

(page 25). This echoes the findings of the recent Review into the Integrity of the Subclass 457 Visa Programme (the Azarias Review) and it should be noted that in June of this year, the tripartite Migration Advisory Council on Skilled Immigration was established, which includes in its remit the role of reviewing the CSOL (Department of Finance 2015). Yet, it is unclear whether this advisory council will achieve the goal of independent evaluation of skills shortages, given that it is comprised primarily of trade union and employer groups rather than a more independent panel of five economists, as is the case with the Migration Advisory Committee (MAC) in the UK (MAC 2015).

As I have argued elsewhere (Boucher 2015b, p.6), while the MAC in the UK has removed some of the more controversial decisions around the construction of immigration shortage lists from the remit of government, it does bring other concerns, including the capacity of such an agency to initiate reviews, the extent of tenure of members of the Committee to maximise independence and a potential increased politicisation of the process of occupational list construction through the public awareness around migration policy that is generated through the existence and publications of such a committee.

On the other hand, such a body would increase the transparency of the list construction process over a tripartite committee, which would in all likelihood be stymied by predictable oppositional perspectives on labour market reform from business and union bodies. In addition, a tripartite body would not necessarily generate evidence based on scientific, academic analysis. Rather evidence would be based on anecdotal reports from relevant sectors rendering broader industry-wide conclusions on supply, demand and skills shortages difficult. In contrast, an academic expert-led panel could engage in a more detailed fashion with conceptual questions such as the construction of skills shortages and whether these are generated by a lack of migrant labour or rather, by insufficient training of domestic born workers. The various modes to date for establishment of shortage lists for both permanent and temporary skilled immigration (within government, through the Australian Workforce and Productivity Agency -- which operated as a form of tripartite panel to advise on the Skilled Occupation List for permanent skilled immigration -- and now the Council) have been and continue to function less independently from government than the economist-led MAC in the United Kingdom. Previous analysis on these councils has conflated a tripartite body and the UK MAC. The latter model is preferred in terms of the independence it provides through its composition.

457 visas and capping

A separate issue raised by the Commission is whether the 457 visa should be capped for key occupations in oversupply. The Commission cites the work of Hawthorne (2015, p.) that provides some evidence of overcrowded professions in which there are nonetheless a large number of 457 entrants. The Commission argues that the implementations of the Azarias Report, in particular the recommendation for the establishment of a tripartite council to evaluate and monitor the CSOL, should be sufficient to more adequately manage flows into the 457-visa program (Draft Report, page 309). This Council would have within its remit the power to evaluate capping of occupations on the CSOL (Azarias et al 2014, p.50). As the Migration Advisory Council on Skilled Immigration was only established in June 2015, it is too early to

evaluate how effective it has been in determining areas of potential oversupply and recommending occupational caps to government (see Department of Finance 2015). Nonetheless the concerns raised above regarding the operation of a tripartite as opposed to expert-led committee emerge here as well. On this basis, I believe that the possibility of capping CSOL occupations should not be dismissed outright but should be evaluated in tandem with the performance of the Council over 2015-6. Further, a clear explanation needs to be developed for the far smaller number of occupations on the Skilled Occupation List (SOL) for permanent independent skilled immigration than the 457-CSOL list. We might expect that this relates to the heightened need for a broader list for temporary skilled immigration for which responsiveness to sudden labour market shortages (and conversely contraction during periods of oversupply) is a key rationale. However, if this were the case, we would also expect the occupations on the list to fluctuate with economic conditions whereas, in fact, it has been generally capacious and has not changed dramatically over the years, with the exception of the removal of some semi-skilled occupations such as meat processing.

Inclusion of low and semi-skilled occupations on the CSOL

While noting that the construction of the CSOL was arbitrary, the Commission also rejected the expansion of the 457-visa class into semi-skilled occupations. The creation of a Low-Skilled Temporary Visa has been advocated both by some employer organisations and academics (i.e. Howe and Reilly 2015, 3).[6] I agree with the Commission's alternate position that such a policy move could create considerable labour market competition effects and should be rejected as a policy option at present (Draft Report, p.25). The development of a low-skilled visa before it is established whether the current policy configurations are contributing to the Australian youth unemployment picture is premature. Further, comparator nations such as Canada and the United Kingdom have restricted opportunities for working rights of international students in order to manage this visa emerging as a de facto low-skilled visa that might create labour market competition effects for domestic workers and to protect vulnerable overseas workers from exploitation (ICEF 2015; CIC 2015a). Before an evidence-base is established in Australia as to the effects of both WHMPs and international student immigration as defacto forms of semi-and-low skilled labour visas, it appears premature to pilot a general Low Skilled Visa. Evidence in Canada suggests that Low-Skilled Pilots, once established, are difficult to reduce or contain (i.e. Alboim and Kohl 2013, p.46; Gross 2014).

References

Alboim, N. and K. Cohl. 2013. *Shaping the future: Canada's rapidly changing immigration policies*. Ottawa: Maytree Foundation.

Azarias, J; Lambert, J; McDonald, P and Malyon, K. (2014) Robust new foundations: A streamlined, transparent and response system for the 457 Programme, Independent Review into Integrity in the 457 Programme, available at https://www.border.gov.au/ReportsandPublications/Documents/reviews-and-inquiries/streamlined-responsive-457-programme.pdf, September 2014.

[6] Howe and Reilly (2015, 3) do argue that this would in turn necessitate changes to the Working Holiday Maker and International Student visa working rights. Such a step would in essence transform these visas away from the de facto work visas that they have in respects become.

Boyd, M. 1991. 'Immigration and Living Arrangements: Elderly Women in Canada.' *International Migration Review* 25:4-27.

Boyd, M. 1992. 'Foreign-Born, Female, Old and Poor.' *Canadian Woman Studies* 12:50-52.

Boucher, A. (2016). *Gender, Migration and the Global Race for Talent*, Manchester: Manchester University Press.

Boucher, A. (2015a) Submission to the Productivity Commission Inquiry into Migrant Intake, Issue Paper, June 2015.

Boucher, A. (2015b). Submission to the Skilled Visa Review and Deregulation Taskforce's 'Simplification of the skilled immigration and temporary activity visa programmes," Proposal papers, May 2015.

Boucher, A. (2011). *Venue Setting and Diversity-Seeking*, London: London School of Economics, Doctoral Dissertation.

Carney, T. 2006. *Social security law and policy.* Sydney: Federation Press.

Boucher, A. and Carney, T. (2013) "Social Security for Migrant Workers and Their Families in Australia: More Australian Exceptionalism?" In (2013) *Social Security and Migrant Workers*, Arellano, P, Vonk, G. and Olivier, M. (eds) Kluwer, Amsterdam.

CIC (Citizenship Immigration Canada) 2015a. "As an international student, can I work in Canada without a permit?", available at http://www.cic.gc.ca/english/helpcentre/answer.asp?q=496&t=15

CIC 2015b. "International Experience Canada: Travel and Work in Canada," available at http://www.cic.gc.ca/english/work/iec/

CIC (Citizenship and Immigration Canada) . 2010 . Evaluation of the Federal Skilled Worker Program: Evaluation Division . Ottawa : CIC, Research and Evaluation Division .

Department of Finance (2015). Ministerial Advisory Council of Skilled Migration, available at http://www.finance.gov.au/resource-management/governance/register/body/80136/

DIAC. 2010. *How new migrants fare: Analysis of the Continuous Survey of Australia's Migrants*. Canberra: Australian Department of Immigration and Citizenship.

Department of Immigration and Border Protection (2015), "Skilled Independent Visa Sub-Class 189," available at https://www.border.gov.au/Trav/Visa-1/189-#

Fifield, M. (2014). "Examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011, Appendix 2, available at

Gregory, R.G. 2014, *The Two-Step Australian Immigration Policy and its Impact on*

Immigrant Employment Outcomes', Institute for Labor Studies (IZA) Discussion Paper Series No. 8061, available at http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Completed_inquiries/2014/744/index

Gross, D. 2014. *Temporary Foreign Workers in Canada: Are They Really Filling Labour Shortages*. Toronto: Howe Institute.

Hawthorne, L. (2015). Submission 43 to the Productivity Commission Issue Paper on Migrant Intake, Melbourne University.

Hawthorne, L. and A. To. 2014. 'Australian Employer Response to the Study-Migration Pathway: The Quantitative Evidence 2007-2011.' *International Migration* 52:99-115.

Howe, J. and Reilly, A. (2015) Submission to Parliamentary Inquiry on the Impact of Australia's temporary visa programs on the Australian labour market and on the temporary work visa holders, University of Adelaide, Public Law and Policy Research Unit.

ICEF Monitor (2015) 'UK confirms elimination of work rights for non-EU students in further education," available at http://monitor.icef.com/2015/07/uk-rules-governing-work-rights-for-international-students/

Immigration New Zealand (2015). "A Working Holiday Visa in New Zealand," http://www.immigration.govt.nz/migrant/stream/work/workingholiday/

Kaida, L. and Boyd, M. (2011) 'Poverty variations among the elderly: the roles of income
security policies and family co-residence', *Canadian Journal of Ageing*, 30 (1): 83–100.

Kofman, E. and Wray, H. (2015). Unpublished evidence provided in Human Rights Act (1998) action against UK Immigration Rules Threshold Requirement, on appeal to the UK Supreme Court.

KPMG (2009). Benefits of Parent Migration, Report for the Department of Immigration and Citizenship, provided to author by Matt Kennedy, Department of Immigration and Citizenship, Canberra.

Mares, P. (2015) "Immigrations disappearing visa applicants," 24 September 2015, available at http://insidestory.org.au/immigrations-disappearing-visa-applicants

McLeod, K. and D. Maré. 2013. *The Rise of Temporary Migration in New Zealand and its Impact on the Labour Market*,. Ministry of Business, Innovation and Employment. URL: <www.dol.govt.nz\publications\research\rise-temp-migration-nz-impact-labour-market-2013\rise-of-temporary-migration-in-NZ-and-its-Impact-on-the-Labour-Market2013.pdf>.

McMillan, Kate, 'Political and social rights for Second Country Nationals: Freedom of movement and citizenship in Australasia', Citizenship Studies, Vol. 18 No. 3/ 4 June 2014.

Migration Advisory Committee (2015). "Who we are," available at https://www.gov.uk/government/organisations/migration-advisory-committee/about#who-we-are.

Productivity Commission (Australia) and NZPC (Australian Productivity Commission and New Zealand Productivity Commission) 2012, *Strengthening trans-Tasman Economic Relations*, Joint Study, Final Report.

Senate [Senate Education and Employment References Committee]. (2015). Australian's Temporary Work Visa Programs, Interim Report, October 2015.

Shi, J. 2004. 'The impact of Canada's new immigration act on Chinese independent migrants.' *Canadian Journal of Urban Research* 13:140-154.

Tan, Y. et al. 2009. *Evaluation of Australia's Working Holiday Maker (WHM) Program*. National Institute of Labour Studies, Flinders University: Adelaide.