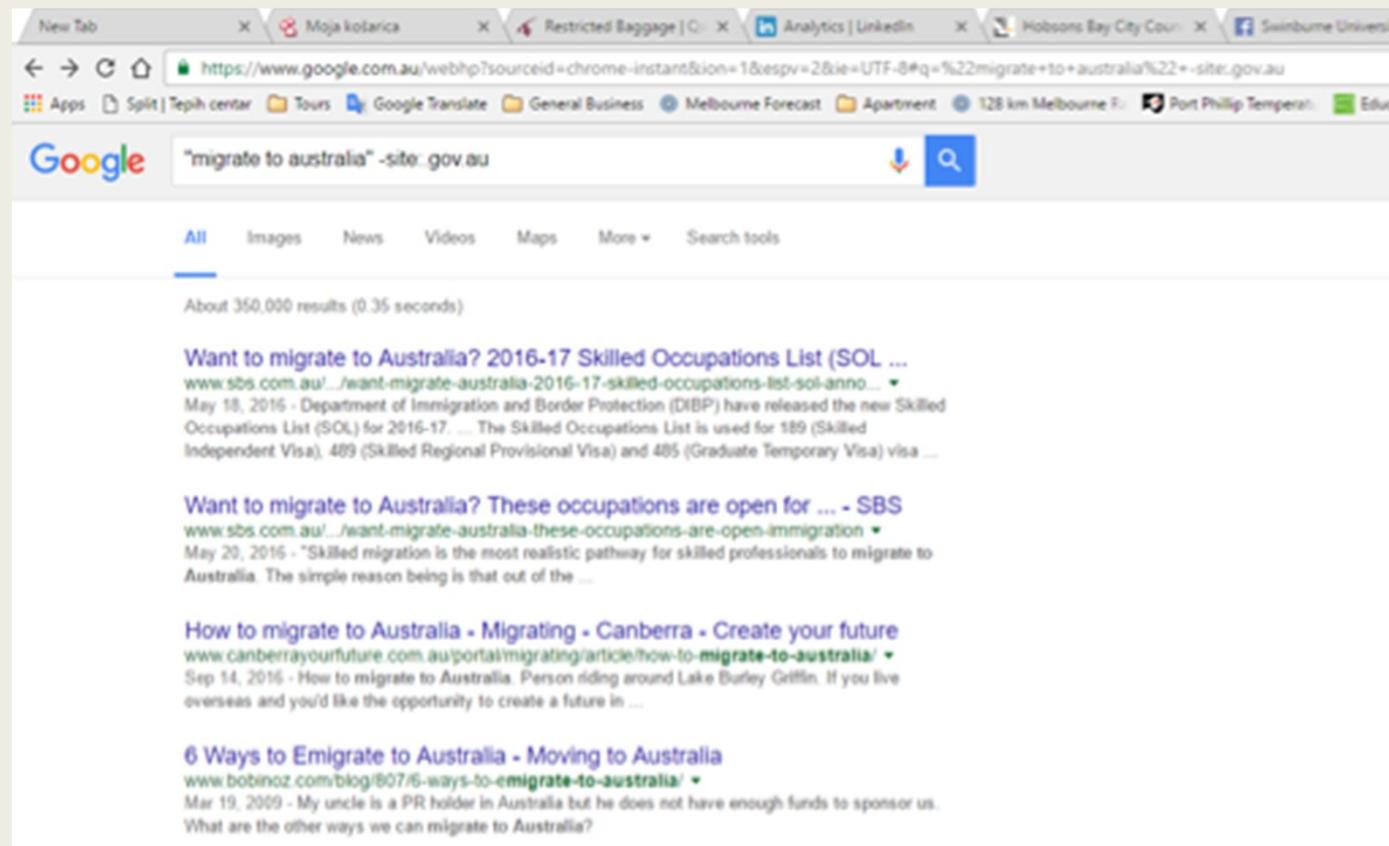


MIGRATION AND INTERNATIONAL EDUCATION IN AUSTRALIA – A DISCONNECTED LANDSCAPE

AIEC 2016

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“Migrate to Australia” – 350,000 Websites



Migration Regulations

The Migration Regulations are the heart of the visa system. The Migration Act provides the legal framework but the regulations provide the visa rules. So what do the regulations say about the Genuine Temporary Entrant requirement (GTE)?

500.212

The applicant is a genuine applicant for entry and stay as a student because:

*(a) the applicant **intends genuinely to stay in Australia temporarily**, having regard to:*

(i) the applicant's circumstances; and

(ii) the applicant's immigration history; and

(iii) if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and

(iv) any other relevant matter; and...

Note that it is the perceived *intention* of the student that is the key. If the student's intention is to study, then eventually obtain permanent residence, they must be refused.

Ministerial Direction 69

Migration Act allows for the Minister to write directions to help interpret the Regulations. In this case there is a Ministerial Direction – called Ministerial Direction 69.

The applicant's circumstances

- 6. Decision makers should have regard to the applicant's circumstances in their home country and the applicant's potential circumstances in Australia.*
- 7. For primary applicants of Subclass 500 Student visas, decision makers should have regard to the value of the course to the applicant's future.*
- 8. Weight should be placed on an applicant's circumstances that indicate that the Student visa or Student Guardian visa is intended primarily for maintaining residence in Australia.*

This is mainly to filter out non-genuine students. It does not mean you can have a secondary purpose to eventually seek permanent residence.

Policy to be followed by Ministerial Delegates (Immigration Officers)

Procedure Advice Manual

A GTE is a student visa applicant whose circumstances support a genuine intention to enter and remain in Australia temporarily, notwithstanding the potential for this intention to change over time to an intention to remain in Australia for an extended period or permanently.

Here we see the mental gymnastics required to reconcile the regulation and the reality. A student can plan to apply for further visas, even permanent visas, but only after they have been granted their student visa.

Productivity Commission Report

April 2015

The sustainability of international education exports is more closely linked to regulatory settings than in many other sectors. Regulatory settings around student visas and education quality are crucial.

The lack of a synchronised and coherent strategy for these two interacting policy levers has the potential to undermine the sector's ability to take advantage of the opportunities offered by growth in the global education market.

Problems:

- BRAND DAMAGE
- Student harm.
- Confused marketing.
- Perverse behaviours and outcomes.

Solutions?

- The international education sector needs to take more interest in migration regulation and explaining migration pathways to students.
- The GTE test should be abandoned.

The National Code 2007

- One of the objectives is to protect the interests of overseas students.
- Standard 2 requires registered providers to provide information that enables students to make informed decisions about studying in Australia.
- Standard 4.3 states that a registered provider must not accept a student or enter into an agreement if it knows or reasonably suspects the agent to be d. providing immigration advice where not authorised under the Migration Act 1958 to do so.
- Standard 7 requires the student stay with their provider for 6 months of the principal course unless a release letter is provided.

Students needing visa/migration advice

- The student experience relating to visa/migration advice.
- The importance to students of their student, temporary and permanent visa options is an important component of their student experience.
- Institutions rarely provide the service of a Registered Migration Agent.
- The International Student Barometer (ISB) results have demonstrated over a number of years that visa advice is an area where student expectations are not being met.
- Students are not only seeking advice on temporary/permanent visa options, but are also seeking assistance in lodging applications to extend their student visa or apply for a post study work visa. They are concerned about completing the online application and the need to provide a GTE statement.

Unethical migration/education agents

- Students are desperately seeking temporary and permanent visa advice and support.
- They are vulnerable to exploitation by unethical migration/education agents.
- Knowing that institutions are reluctant to provide this support to students, they approach the international student associations to get access to the students.
- They are also busy handing out brochures in areas where international students frequently visit. For example, certain areas of the CBD.

Sustainability of stand alone education agents

- As part of the research undertaken for this presentation, I contacted some of the longstanding and reputable education agents.
- I was advised that they would need to employ the services of a Migration Agent if they were to remain competitive in this current environment.

Topics for discussion

- Should visa/migration options be part of the informed decision making process?
- Should institution and other stakeholders provide a visa/migration advisory service to students?