

JOINT STANDING COMMITTEE ON MIGRATION.

REVIEW OF BUSINESS INNOVATION AND INVESTMENT PROGRAM.

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PREAMBLE.

This is a submission from a small business without access to research resource. We can attempt to highlight only some major topics for consideration.

Australia's Business Skills visa program is an attempt to attract entrepreneurs to Australia.

We identify what we believe to be a major obstacle to the designing and implementation of such a program.

Senior managers in Government (and in large companies) are concerned with "The Process". This is so far removed from the activities and concerns of small business entrepreneurs that there exists an unbridgeable conceptual divide.

For decades, this author has worked at senior levels in large companies and for decades as a self employed entrepreneur. The difference in management culture is stark. Neither is better or worse, just vastly different.

Senior managers in large business and in government are smart, educated, hard working and well intentioned. But the process orientation of large business and government organisations never offers an insight to the daily grind of an entrepreneur.

It would seem that the large organisations have a view that entrepreneurs are, or should be "hero entrepreneurs", being some incarnation of Bill Gates or Richard Branson. Nothing could be further from the truth.

The daily routine of common garden variety entrepreneur is the minutia of generating sales, fulfilling sales orders at a profit, watching competitor threats, collecting payment for goods and services, ensuring performance and payment of suppliers, managing the overdraft, dealing with a staff member with marital problems that are causing performance and decision making problems in the business, coping with the rivers of red tape foisted onto business by government, and dealing with the bullyboy stand over tactics of trade unions. And all of this is undertaken in the shadow of the mortgage that the entrepreneur has taken on the family home to finance his or her business dream.

There are no specialist managers in small business, the entrepreneur undertakes it all.

Until this current Parliament, small business could not identify a "Champion" in government; now we have a champion of our cause.

It seems that the amorphous mass of several million small businesspersons and self employed entrepreneurs caused previous governments to put SME's into the too hard basket; they failed to engage with this dynamic and productive segment of the market. Thus, it being easier to communicate with big business or industry associations, small business entrepreneurs had been ignored and damaged. This left a huge and detrimental gap in government's knowledge and ability to act.

Small business, independent contractors and entrepreneurs are the major growth engine of economies around the world. These sources of growth have remain without assistance to date, but a well designed and "light-touch" managed Business Skills migration program can add to the stock of entrepreneurs and to the growth of the Australian economy.

THE INQUIRY.

The Joint Standing Committee on Migration shall inquire into the Business Innovation and Investment Program (BIIP), excluding the Significant Investor Visa stream.

The inquiry is tasked to:

- Assess whether the BIIP is meeting its intended objectives and if any adjustments are necessary.
- Consider the conditions involved in the decline in rates of application for the BIIP, in light of rates of application for the previous Business Skills Program.
- Evaluate the current eligibility criteria, with particular regard to the operation of the BIIP points test, and its effectiveness in selecting suitable migrants.
- Weigh the size of the current BIIP program against the emphasis placed on other elements of the skilled stream of the migration program in generating economic growth.

Objectives of the Regulations.

The recent changes to the Migration Regulations, the subject of this inquiry were inserted by SLI 2012, 82 inserted Part/Subclass 188 with effect on and from 01/07/2012.

Explanatory Notes to SLI 82¹

These are not helpful in understanding the objectives behind the BIIP program.

We find the Explanatory Notes state:

The amendments are designed to strengthen and improve immigration policy in relation to certain skilled migration visas [they].....

- * *recognise and encourage business innovation by introducing a business innovation points test as part of a new Business Innovation stream in the Business Skills (Provisional) (Class EB) visa class;*
- * *reward entrepreneurial talent and diverse business expertise by introducing a Venture Capital Entrepreneur stream in the Business Skills - Business Talent (Migrant) (Class EA) visa class;*
- * *increase the asset thresholds which must be met by applicants for Business Skills visas;*

Department Policy (PAM)

Whilst this author holds that it is dangerous or ultra vires for a government department to restate the objectives of legislation, we agree with some of the principles outlined in DIBP policy. Perhaps Parliament should have thought of the program in this way in the first place.

Searching further for guidance on what the program is to achieve, we find the Procedures Advice Manual states¹:

The objectives of the Business Skills program are to:

¹ 09/05/2014 - > PAM3 - MIGRATION REGULATIONS - OTHER > GenGuideM - Business Skills visas - Visa application and related procedures

- *maximise the number of business migrants successfully engaging in business in Australia and*
- *achieve better dispersal of the business migration intake to enable regional and low growth areas of Australia to attract business persons they need to promote regional economic development and growth and*
- *provide a clearer pathway to permanent residence for persons who establish a business while temporarily resident in Australia and*
- *ensure that only those business persons with the most substantial business backgrounds and capital to invest and who have the highest level of state/territory government support are eligible for a Business Talent (Migrant) visa. All other business migration applicants must apply for a provisional visa under the 2-stage processing arrangements and may apply for permanent residence after successfully getting into business in Australia.*

AUSTRALIA IS IN COMPETITION FOR “BEST QUALITY” IMMIGRANTS.

International Competition for Immigrant Investors.

The competition for well resourced immigrants is global. Presently, Australia is not faring well compared to say, the USA EB5 visa.

The requirements for the EB5 visa is USD500,000 investment in a State or municipal approved project and the applicant is quickly granted the cherished US Green Card.

We compare the extreme difficulty to which applicants for an Australian business skills visa are subjected to the US experience. US Officials have a starkly contrasting light handed approach to checking of applications.

It cannot be said that Australia is more vulnerable than USA to any of the problems of immigration, including character and background testing for applicants. It can only be said that Australia's approach is to treat applicants as though they were criminals. The Australian approach is insulting and demeaning to high achieving businessmen and women. It is excessively bureaucratic and detrimental to Australia's interests in attracting good quality, well resourced immigrants.

It must be realized that Australia's migration program is effectively an arm of a national marketing program. In reality, except for that which is undertaken privately by professional migration advisers, Australia makes little effort marketing itself to prospective immigrants.

FAILING TO ACHIEVE THE STATED OBJECTIVES

To our understanding, there are few if any applicants in streams mentioned in the Explanatory Note. To that extent, the amendments have failed. We hold that the failure is due to a fundamental lack of understanding within all parts of government of what it is to be an entrepreneur.

We suggest that the best thing that can be done to enhance achievement of objectives is simplification of the existing Business Skills visa regime and making processing more expeditious as a formula for attracting best profile business persons.

The great bulk of applications come from small business owners; we argue later that this is entirely appropriate. In encouraging entrepreneurial business owners to Australia, we look to the next generations (their offspring) as providing significant entrepreneurial thrust in Australia.

The Program Fails to Foster Technology.

Whilst we concede that attracting technology entrepreneurs through a migration program is difficult is difficult, it is unarguable that the program is failing.

We argue that the best way for DIBP (as distinct from other government departments) to foster entrepreneurship is to facilitate the immigration of small business owners to Australia.

We suggest that in the many years during which Australia has sought business migrants, no significant cohort of hi-tech entrepreneurs is identifiable. There are few if any patent holders, there are few if any venture capital recipients applying for these visas.

It appears that the department policy makers may have read a text book on business but have no actual experience in the cut and thrust of private enterprise and in particular of SMEs or entrepreneurship.

We suggest that the Business Skills program as it currently stands has the potential for encouraging entrepreneurs to Australia; it is not in need of tinkering or adjustment.

We suggest that if a new idea emerges for identifying and attracting hi-tech innovators to Australia, then rather than taking actions that will destroy a visa regime that is a productive source of entrepreneurs, the new idea should form the basis of a new subclass of visa.

The Program Fails to Achieve Dispersion of Immigrants.

It is said that an aim of the Business Skills Visa program is to achieve a;

“better dispersal of the business migration intake to enable regional and low growth areas of Australia to attract business persons they need to promote regional economic development and growth”²

This writer seriously doubts that a migration program can achieve that end. A study “*Regional Development Through Immigration? The Reality behind the Rhetoric*” concludes:

The relative lack of success of schemes in Australia and elsewhere to encourage migrant settlement in non-metropolitan centres suggests that the future of Australia's population distribution is more likely to be shaped indirectly by policies which encourage (or discourage) economic development outside core regions of the country rather than by direct interventions to influence where new immigrants to Australia settle³.

This is an important message to government. Direct tinkering with programs does not get results. The importance of shaping the regulatory regime overwhelms other considerations.

There is much research by well intended persons about the health of regional Australia but the same inevitable conclusions are to be drawn⁴,

there have been “little picture” policies rather than “big picture” policies.

and

There is no statewide settlement plan or “blueprint”, nor do policies direct investment to preferred locations in accordance with an overall strategy.

² DIBP Procedures Advice Manual - Migration Regulations > GenGuide M - Business Skills visas - Visa application & related procedures > The Business Skills Category, 4.1 Policy Background (op cit)

³ “*Regional Development Through Immigration? The Reality behind the Rhetoric*” Graeme Hugo, Consultant, Social Policy Group, 30 November 1999; available on the Australian Parliamentary Library website

⁴ “*Small Town Decline and Survival: Trends, Success Factors and Policy Issues*” Paul Collits, Manager Policy NSW Department of State and Regional Development. Paper presented to the “*Future of Australia’s Country Towns*” Conference at La Trobe University, Bendigo, June 2000.

Immigration departments in various countries (cited by *Hugo*, op cit) have failed to achieve the stated objectives of dispersion of immigrants.

We can see no obvious reason why first, second generation, or longer history Australian stock would migrate⁵ to regional centers, let alone why overseas immigrants would do so.

We return to our main point, the benefit of the Business Skills Visa program to Australia is the introduction of more and more entrepreneurs, who will produce more and more entrepreneurial offspring, and this underpins future benefit for Australia.

The dispersion of population to regional centers will follow market forces.

Encouraging the dispersion of entrepreneurs out of the cities and into regional areas will be achieved only by the creation of a regulatory framework that benefits regional Australia generally.

It is pie in the sky for the DIBP to believe its policies can achieve dispersion of population to regional Australia.

COMPLAINTS ABOUT THE CURRENT PROGRAM.

Changes to the Program.

The decisions people make about migration are part of a course of action that lasts for many months, if not years.

We are painfully aware of the inveterate tinkering with migration regulations. This seems to be unproductive make-work by policy makers and does not assist Australia's reputation as a stable country.

The immigration decision is not one taken lightly by families. We see this recognised by advocates of the humanitarian program who say that families take great risks getting to Australia. The disruption to family and financial risks taken by business immigrants are no less worthy of Australia's earnest consideration.

We urge that the only changes to the Business Skills visa program or other skilled worker programs, are to make the process simpler, and to improve the visa application processing times, to cut the waiting period from 18 months to 2 months.

Too many changes.

In all, the writer has lived and worked in China for more than 20 years, including the last 10 years operating as a migration agent. The opinions here are gained anecdotally from about 700 or 800 personal interviews with prospective migration clients, or Chinese migration agents.

⁵ This writer was born in Newcastle, a regional city in NSW, and after many years abroad has returned to live there because that is where aged parents live. There are only positive things to say about the lifestyle in a regional city, however, in the absence of high speed rail communication with capital cities, it seems doubtful that anyone would chose to depart Sydney to live in a city with such a limited market. The writer spends a significant part of each year travelling abroad for business.

The immigration process starts with prospective applicants forming a favorable impression of the destination country as compared to their own country and competing destination countries. The lead time for a visa grant is usually at least 18 months, sometimes as long as 30 months. No applicant can plan his or her life when Government makes rapid fire changes to the criteria.

The past years have seen more than 40 announcements of change to immigration policy for students, business persons and skilled workers. That is too much for the market to absorb.

We are dealing with consumer marketing, consumers need confidence in the brand. The frenzied rate of change we have seen recently in Australia's visa regime is damaging. We can recover only in the long term by delivering stability to Australia's visa regime. These changes cause confusion and despair amongst overseas migration agents, forcing them to the promotion of visas for more client friendly jurisdictions.

Standards of Proof and Department Attitudes.

In civil proceedings, the standard of proof is balance of probabilities. In criminal proceedings, the standard demanded is that of beyond reasonable doubt. It has been judicially observed in regards to administrative decision that;

"... to determine whether a fact does or does not exist generally the civil standard should be held to apply to its decision making with due regards being paid to serious issues"⁶

Immigration is a civil matter, yet the Department's approach belies an attitude that immigration is a criminal matter.

The Department's demand for evidence goes far beyond balance of probabilities; it exceeds the criminal standard.

The Department's demands, attitudes and processes are demeaning and insulting to the high achieving entrepreneurs Australia seeks to attract as immigrants. The Department projects an image of haughty indifference to the dignity of visa applicants.

The culture of the Department must change and such unreasonable demands must be stopped.

Processing Time.

A competent migration agent can prepare business skills application, including allowing time for the preparation of third party reports (auditor, property valuer, police checks) in about two months. Yet it takes the department 12 to 18 months to determine an outcome.

The application forms (what is your name, where do you live, when were you born) are evidenced by notarised passports, hukou, birth certificates, marriage certificates; there is minimal checking required by the Department.

The third party reports (auditor, property valuer) are not challenged, there is nothing to be done by the Department here.

What causes the unfortunately long processing time?

⁶ *Epeabaka v Minister for Immigration and Multicultural Affairs* (1997) 150 ALR 397 at 400

It seems Australian officials might attempt to manage the volume of immigration by imposing administrative roadblocks, onerous demands for more and more documentation and professional audits and reports, when a more appropriate solution to any perceived “flood” of immigration would be to cap the number of visa grants.

Is the demand for documentation merely make-work in the department offices, justified under the guise of protecting Australia?

One of the major competitive advantages that a migration program can offer is quick turnaround of applications. This is a matter entirely in the Australian government’s hands, yet there is no evidence of government attempting to do better.

The field is then left for other jurisdictions to cherry pick the best candidates.

The EOI and Time to Make an Application.

The EOI process allows a 60 day window between invitation to apply for a visa and the lodgement of the application.

The HK DIBP requires audits to be conducted by HK or Australian auditors. However, the Chinese company the subject of the audit, would normally use a local accounting company. Thus, when engaged to conduct an audit for migration purposes, the HK Auditors complain of the inadequacy of the time frame in which they are required to investigate a company and prepare a complying audit report.

Quoting a Hong Kong auditor;

“As you understand, the period of auditing must be no less than 2 years and therefore the applicant has to prepare lots of information and documents especially for limited audit while for those private enterprise, the standard of corporate governance and financial control may not be highly satisfied, so it normally takes quite long time on documents, information, explanations, collection and further assessment will be required to determine the accuracy, true and fair of the information provided to us as an auditor to judge if we can give a clean report and sign.”

A large element of this problem is the standard of proof required by the DIBP, comments on this matter are elsewhere in this submission.

Department Information Sources.

The Rules of Evidence have been developed over centuries to ensure fairness of procedure. We recognise that these rules do not apply to administrative decision makers, but to completely ignore these rules is to allow decision making to descend into arbitrariness, or unfairness or worse by meeting an injustice upon an applicant. As stated by Evatt J;

“... the Tribunal is not, in the hearing process, “bound by the rules of evidence” .. But this does not mean that all rules of evidence can be ignored as of no account... No Tribunal can, without grave danger of injustice, set them aside.”⁷

⁷ *R v War Pensions Entitlements Appeals Tribunal; Ex parte Bott* (1933) 50 CLR 228 at 256

The department uses whatever channels it has to source information on applications. When there is an issue, the department does not provide procedural fairness; it's as if Saeed⁸ was never decided.

We have experience of the department, in writing, accusing a decent businessman of fraud. We requested the department re-issue its letter, requesting the information they required but omitting the implication of fraud.

We requested access to the party who provided the information (we suspect it to be a stock-broker who acted for our client) but the department "closed shop".

We pointed out that an allegation of fraud is an allegation of a criminal offence (*Migration Act s4A*) and that for such an allegation to be made, there should be strong and verifiable evidence, which my client should be permitted to examine.

This letter was met with a response from the Vice Consul - Immigration which can only be described as a whitewash.

Wednesbury unreasonableness.

A client has been asked to produce evidence of turnover, profits and accumulation of capital going back decades.

In Australia there is an obligation to hold records for 5 years after the lodgement of a tax return, in China there is no obligation to retain records.

To demand that a visa applicant produce documents to a standard more onerous than that in Australia, or China, where such documents may not have been retained, is so unreasonable that no reasonable decision maker could ask for that material.

The culture of the Department must change and such unreasonable demands must be stopped.

Access To Finance Is Hampered By Government Delay.

*The new National Responsible Lending Laws that came in to effect last year were always a disaster waiting to happen for small business credit. Now that this legislative mess has hit landfall prepare to watch SME insolvencies spike.*⁹

Finance for any business is its lifeblood. It seems now that another ill conceived policy from government is about to create havoc amongst SME's.

DIBP just "does not get it" when dealing with small business; and small business is a major employer in our economy.

Newly landed business immigrants, who suffer from huge delays in processing their permanent residence visa, consequently find difficulty in securing bank finance, face with yet another barrier to success.

⁸ *Saeed v Minister for Immigration and Citizenship* [2010] HCA 23 (23 June 2010)

⁹ "A nail in the coffin for SME credit" Nick Samios, *The Business Spectator*, 8/February/2011

We would suggest that one beneficial change to the visa system would be to speed the processing times from the 12 to 18 months now suffered by applicants, to about 1 or 2 months.

A competent migration agent can complete all the necessary data collections, audits, property and asset valuations, etc, in about 2 months. Why does DIBP need 10 times that time to process the visa application? There seems no plausible excuse for the delay.

THE BUSINESS SKILLS VISA PROGRAM.

The Business Skills Visas were introduced in the 2002¹⁰ for implementation on 1/March/2003, they were updated in 2012.

We recite here that the objectives of the Business Skills category:

- *maximising the number of business migrants successfully engaging in business in Australia*
- *better dispersal of the business migration intake to enable regional and low growth areas of Australia to attract business persons they need to promote regional economic development and growth*
- *to provide a clearer pathway to permanent residence for persons who establish a business while temporarily resident in Australia.*

The official government policy is designed to foster entrepreneurship. We hold that entrepreneurship is good for the nation. Entrepreneurship is itself a creative process and benefits will flow from fostering it.

For ease of reading this paper, we divide the working population into “entrepreneurs” and “wages earners”.

We acknowledge wage earning Chief Executives and Boards of Directors of listed companies as entrepreneurs, but consider their numbers small compared to the overall number of entrepreneurs and that it would be misleading, inappropriate and irrelevant in a discussion about SMEs and entrepreneurship to consider the attributes of these directors. Besides, these directors do not risk their own money; they risk shareholders funds which is other people’s money. In that respect they are significantly different to SME entrepreneurs.

DISCUSSION ON ENTREPRENEURS.

We suggest that fostering entrepreneurship is an essential matter for the overall health of the nation.

We suggest that entrepreneurial families are 2.5 times more likely to produce entrepreneurial offspring than are families of wage earners (see the derivation in the end notes). Encouraging entrepreneurial families to Australia is more likely with the Business Skills visa program than any other visa program.

We suggest that the Department takes a longer term view of the program; that the benefits of encouraging entrepreneurial families to Australia will be found quite a few years after the family has landed or will be found in the next generation, the children of the immigrant entrepreneurs.

¹⁰ Migration Amendment Regulations 2002 (No. 10) 2002 No. 348: Reported in the Delegated Legislation Monitor 12 – 14 February 2002 (in Hansard)

Evidence shows that entrepreneurs are older, the Business Skills visa is available for applicants to 55 years. It seeks to target entrepreneur, but the cut off is too low.

It might be appropriate to create a test other than “exceptional economic benefit” to the nominating state to allow older entrepreneurs to come to Australia, bringing with them their skills and experience. Either that, or define the benefit in the regulations to allow applicants to self assess on that criteria.

We suggest that tinkering with the existing Business Skills visa program is inappropriate, tinkering has not worked in the past, and there is nothing to suggest it will work in the future.

What are Entrepreneurs?

We hold that government departments, and parliament itself, have very little idea of what it is to be an entrepreneur.

Much of the hype around entrepreneurship today focuses on ‘hero entrepreneurs’ – the stereotypical image of Virgin founder Richard Branson and his extroverted, risk-taking personality. Yet this picture doesn’t accurately reflect day-to-day life as an entrepreneur. It doesn’t tell us about the way ideas are born or the networks, systems and skills – not to mention plain luck – on the road to success.¹¹

Unarguably, the occurrence of a “Bill Gates” is a one in a multi-million phenomenon but Government frequently seems to hold Bill as the paradigm of entrepreneurship. That is inaccurate, misleading and a poor model when discussing entrepreneurship.

It would be smarter to just attract common garden variety entrepreneurs.

Regulatory Environment.

The overall regulatory environment for business is not of DIBP’s making, but it is a prime consideration for investor immigrants. Those formulating immigration policy must bear in mind the overall regulatory environment. One cannot tinker with a working model of business migration chasing a pipe dream that is excluded by the overall regulatory regime.

It seems unrealistic to try to lure technology and innovation to Australia through a migration program.

Australia is a small market with a high cost base. Should a developable product be identified, it would be manufactured in China, or if it is of an IT nature, developed in India and exploited in California, of an Australian fashion design it would be manufactured somewhere in Indo-China.

Australia’s restrictive employment laws and practices are detrimental to all business; they are seriously injurious to small business. They are laws imposed from high political level at the behest of the trade union movement, imposed without understanding of the vast differences between large companies and small companies.

¹¹ *Beyond the Hype: Insights into Entrepreneurial Life in Australia.* Dr Danielle Logue. UTS Business School April 2014

Australia's regulatory regime does not favor attracting entrepreneurial types when Australia is relatively highly taxed;

*Australia must lower its corporate tax rates to match its nearest neighbours, or risk losing significant overseas investment capital to jurisdictions in which corporate tax rates are more favourable*¹²

Australian regulators have a "tall poppy" mentality and the high marginal taxation rates inhibit the accumulation of capital that is required for successful growth of business or for entrepreneurial flair;

*The chairman and chief executive of the eponymous Forbes business publication empire said Australia's top income-tax rate of 47 per cent was "much too high"*¹³

To attract business people to Australia, one would first identify Australia's competitive advantages. That is where the conversation bogs down because Australia offers no great attraction to entrepreneurs and innovators aside from the lifestyle.

Achieve an improvement in DIBP attitudes, keep the program consistent, simplify it, speed the processing and make immigration to Australia generally more client friendly, this will make the program "sing".

Why do we want more entrepreneurs?

It is found that a significant contributor to employment growth is small, entrepreneurial businesses.

*.. finding was that it was small firms which were the prime source of this employment creation, the implication was that, at least in the USA, they were thus responsible for much of the economic growth.*¹⁴

Simon Bridge concludes;

*Although there may be clear signs that the successful economies of the future will be entrepreneurial economies, a lot of our thinking has not caught up with this.*¹⁵

We argue that we should foster entrepreneurship, for itself. The entrepreneurs will get on with the job and create employment. The families of entrepreneurs will produce significantly more entrepreneurial offspring and a virtuous cycle is in place.

How to obtain more entrepreneurs?

Entrepreneurs will emerge from all sectors of the Australian population; however, they will emerge more strongly from the families of entrepreneurs.

¹² "Wake up Australia: company tax rates are too high" the Association of Chartered Certified Accountants

¹³ Glenda Korporaal From: The Australian September 29, 2010

¹⁴ "Does Some of Our Industrial Thinking Lag Behind Economic Evolution?" Simon Bridge, Ulster University, January 2011. Citing work of DL Birch. Published by Independent Contractors of Australia,

¹⁵ Simon Bridge op cit

If government wishes to encourage entrepreneurship (it should), the best thing to do is to take a longer term view of population issue, set the basics in place allowing the entrepreneurs get on with their business. The contribution that the DIBP can make to the development of Australia's future is by sourcing entrepreneurs through immigration and allowing them and their families to get on with the business of creating jobs.

Small business entrepreneurs live their job; the job and the business is part of everything they do. They rarely switch off for the weekend; they undertake the business of their business every day. This constant engagement with their business is not oppressive nor is there a need for bullying trade unions or their lackeys in government to "protect" these small businesspersons. Entrepreneurs live this lifestyle because they love their work; it is an essential part of their lives.

The intensive business environment of an entrepreneur's family life exposes the children to the lifestyle. The children gain an understanding of the lifestyle and pecuniary benefits flowing from entrepreneurship and the exposure to "living the dream" prepares them for that vocation.

The Business Skills visa program, as it now stands, encourages immigration of entrepreneurial families, beyond that, micromanagement by government is futile, perhaps counterproductive.

Entrepreneurs beget entrepreneurs.

"Daddy, where do entrepreneurs come from?" "Well son, a daddy entrepreneur and a mummy entrepreneur who love each other very much...."

Flippancy aside, it seems that compared to wage earner families, entrepreneur families produce significantly more entrepreneurs.

Thus, if we are seeking to increase the stock of entrepreneurs in Australia, we should be seeking to increase the number of entrepreneur families. The existing Business Skills Visa regime does this, no change, aside from simplification and more expeditious processing is necessary.

Research finds the correlation between an entrepreneur and the fact of his or her family being entrepreneurs is significant.

*"With regard to the impact of role models such as family members or entrepreneur friends, 37.8 percent of respondents indicated they played an important, very important, or extremely important role in the decision to start a company."*¹⁶

This finding leads to the conclusion that an entrepreneurial family is 2.5 times more likely (than a wage earners family) to produce an entrepreneur. This conclusion requires a little maths; exhibited in the End Notesⁱⁱ. The conclusion is that we should look for the benefits from encouraging entrepreneurs in the families of the immigrants.

¹⁶ "The Anatomy of an Entrepreneur; Family Background and Motivation", Kaufman Foundation for Entrepreneurship. Authors Vivek Wadhwa Associate Director, Center for Entrepreneurship and Research Commercialization at Duke University and Senior Research Associate, Harvard Law School. Raj Aggarwal Dean and Sullivan Professor, College of Business Administration, The University of Akron. Krisztina "Z" Holly Executive Director, USC Stevens Institute for Innovation, Vice Provost for Innovation, University of Southern California; Alex Salkever, Visiting Researcher Masters of Engineering Management Program, Pratt School of Engineering, Duke University

GOVERNMENT STIFLES INNOVATION.

Business innovation will not come because the DIBP wishes it so, or because the department tinkers with visa criteria. Innovation is in fact, stifled by most government actions in most jurisdictions.

It is argued that a positive effect on innovation from government intervention cannot be found, see *Professor Ken O'Neill*

“overall rates of entrepreneurship or business growth are not rising or, where they are, it is difficult to attribute them to specific policy interventions of the sort which are universally applied.”¹⁷

The Independent Contractors Australia organization argues¹⁸ that Government is biased against entrepreneurs and most of the activity of Government damages or discourages entrepreneurship.

Neither do governments nor research organizations “get it” when it comes to dealing with entrepreneurs, they do not understand the process of innovation in the SME.

Bridger finds;

we are in the throes of a new revolution which will again re-focus our economic thinking ... [a] mismatch is likely to happen ... between the enterprising individuals who are at the forefront of the new economy and the legislators who attempt to set and police the rules that we need to govern our economic affairs.¹⁹

We would urge Government to stay well clear of the field; do not tinker. Government has nothing to add to the innovation process, except to encourage entrepreneurship with broad policy settings and to refrain from attempts to micromanage the migration process.

Studies by the Australian Institute for Commercialisation²⁰ show there is great difficulty experienced by Australian SMEs in introducing new technology.

We suggest that if native born Australians have difficulty incorporating high technology into their businesses, then any immigrant from any background will face equal, if not higher barriers.

The quest by DIBP to directly encourage high technology by immigration is the ultimate alchemist's dream.

But DIBP does indirectly encourage innovation through the existing Business Skills visa program. That is adequate, no more tinkering or “help from government” is required.

¹⁷ “Entrepreneurship and SME Policy---No need to innovate?” A presentation to the 36th International Small Business Congress 2010 by Professor Ken O'Neill

¹⁸ “A deliverer or destroyer of SME entrepreneurship?” Ken Phillips: Executive Director, Independent Contractors Australia at the 2010 ICBC. 36th International Small Business Congress. Taipei Taiwan 4-7 October 2010

¹⁹ Simon Bridger op cit

²⁰ ‘Overcoming the Industry - Research Sector Divide’ June 2006

Government does not understand what is involved in entrepreneurship.

The writer is a self employed entrepreneur in a business that deals with government at various levels and has been so employed for many years. It is this writer's anecdotal findings that Government has no understanding of the approaches taken by the entrepreneur, nor of the workings of the entrepreneur's mind.

In fact the everyday activities of the government official are so far removed from those of the entrepreneur that thought patterns and decision making criteria are irreconcilable.

*"... although the business world has changed, governments have not. To a very great extent, those in the upper reaches of the Civil Service and the corporate world are alike – both have a career path and structure that depends on process rather than entrepreneurial flair."*²¹

Government officers have such limited knowledge of entrepreneurship or the factors that underlie the innovation process that it would be counter-productive for government to attempt to meddle in the affairs of entrepreneurs.

The best thing to do is encourage the migration of small business operators by change to DIBP attitudes, simplification and more expeditious processing, and stay away from the SME's and let those involved in these small but important businesses get on with their activities.

Entrepreneurs are older.

The existing Business Skills visas cut out for applicants at 55 years; the program thus fails to target the entrepreneur demographic particularly well.

Research²² shows 85% of entrepreneurs are over 40 and 46% are over 50 years (table follows)

AGE DISTRIBUTION OF ENTREPRENEURS

Age	Population %
under 25	3%
25 to 34	13%
35 to 49	38%
50 to 65	37%
65 and over	9%

Department private statements indicate a belief that there is a concern that these older entrepreneurs will promptly become a burden on the public purse. Events in the budget before the current Commonwealth Parliament are setting those fears to rest. And besides, entrepreneurs genuinely want to work longer than wages employees do.

²¹ "David Cameron's business plan isn't good enough" 7/Jan/2011 The Telegraph, by Lord Young of Graffham (until recently the UK Prime Minister's enterprise adviser)

²² "People who are Self Employed Profile" Roy Morgan Research 2009

Government and SME's.

The Independent Contractors Australia group believes of government assistance:

“There are a lot of good programs. But when pitted against the often heavy hand of government regulation, the negativity of much regulation swamps any good done by government education.”²³

Phillips lists²⁴ many areas (and actively campaigns for these matters to be addressed) where Government action is damaging or where lingering Government inaction is damaging to entrepreneurs, matters include;

- Workers compensation availability to the self employed
- Unfair contracts (Phillips finds examples of government departments acting unfairly)
- Trade union bullying and government acquiescence to it
- Doctrinaire political motivation, unconcerned with the greater good
- Continual meddling and interference with superannuation

These are the strategic areas where Government can and should act, these areas create a regulatory regime (or destroy it) in which entrepreneurs can thrive and prosper and bring to the community the benefits sought by Government.

With entrepreneurs, Government either does not “get it” or alternatively, finds dealing with the amorphous mass of 2 million self employed entrepreneurs is too difficult.

Government policies and much of our collective managerial and cultural approach to, or should I say antagonism towards, self-employment, suppresses self-employment and hence suppresses economic development.²⁵

Or worse, Government operates under the sway of trade unions who despise independent contractors. The trade unions see independent contractors as traitors in the trade union view of society as class warfare.

FINALLY.

We restate our position, DIBP is wishing for the Alchemists’ dream result if the department believes it can influence the development or importation of technology with any form of “short termism”.

We restate our position that only entrepreneurs produce innovation and that Government interference inhibits the development of innovation.

We restate our position that change such as technology innovation needs a long term view; that short term solutions are not available to Government.

²³ “A deliverer or destroyer of SME entrepreneurship?” Ken Phillips: Executive Director, Independent Contractors Australia op cit

²⁴ See website <http://www.contractworld.com.au/index.php>

²⁵ “Self-employed people and the systemic suppression of economic development. A global perspective”. Ken Phillips January 2011

We restate our position that the Business Skills Visa program increases the stock of entrepreneurs, and this will accelerate the development of entrepreneurs in Australia.

We restate our position that the only changes necessary are attitude changes in the DIBP, simplification and expeditious processing of visa applications.

This writer's qualification to comment.

The writer has worked in manufacturing in large Australian companies at an operational management level, at senior strategic management level in Australian public listed companies, in very large private companies (Chinese and Australian), in small locally owned enterprises in China, Hong Kong, Macau, Taiwan, and Australia. Subsequently, the writer has been a self employed entrepreneur for more than 20 years.

END NOTES.

ⁱ **Overview of the Regulation Amendment**

The amendments are designed to strengthen and improve immigration policy in relation to certain skilled migration visas. The amendments implement a new methodology of selecting skilled migrants known as 'SkillSelect', by harmonising skill requirements across skilled visa subclasses and introducing an invitation requirement for some key visas. The amendments also progress the Government's simplification and deregulation agenda, by introducing seven new visas in a revised structure incorporating the concept of 'streams' within subclasses. Thirty three visa subclasses are being repealed in accordance with both Schedules 1 and 2 of the Migration Amendment Regulation 2012 (No. 2).

In particular, the proposed amendments to the Migration Regulations 1994:

- * introduce a streamlined and simplified pathway to permanent residence, via the permanent employer-sponsored visa program, for eligible Subclass 457 (Business (Long Stay)) visa holders;*
- * recognise and encourage business innovation by introducing a business innovation points test as part of a new Business Innovation stream in the Business Skills (Provisional) (Class EB) visa class;*
- * reward entrepreneurial talent and diverse business expertise by introducing a Venture Capital Entrepreneur stream in the Business Skills - Business Talent (Migrant) (Class EA) visa class;*
- * increase the asset thresholds which must be met by applicants for Business Skills visas;*
- * align key skill standards across the General Skilled Migration, Employer Nomination and Business Skills visas to improve the integrity of the skilled visa program;*
- * introduce a new requirement for applicants to be invited by the Minister to apply for a General Skilled Migration or Business Skills visa;*
- * require all skilled visa applications to be lodged electronically;*
- * simplify visa subclasses by eliminating distinctions between applications made in Australia and outside Australia, and by removing complex qualifying visa requirements; and*
- * make a number of minor and technical amendments.*

ii **Entrepreneur families produce significantly more entrepreneurs.**

Entrepreneurs (equated with self employed) constitute about 20% ^A of the working population of Australia.

^Asource “*A desk audit into the data and research on micro-business profiling in Australia*” ; Audit by Monash University, Supported by Commonwealth Bank of Australia, Coordinated by Independent Contractors Australia.

Of all entrepreneurs in society, 37.8% is found to have an entrepreneurial family background. (“The Anatomy of an Entrepreneur; Family Background and Motivation” op cit)

Thus 20% of working population produces 37.8% of entrepreneurs.

Thus we can conservatively estimate that an entrepreneurial family is 1.5 times more likely to produce an entrepreneur than is a wage earning family.

This proportion would appear higher when we note that entrepreneurs are frequently married to each other, so the number of entrepreneurial families is lower than 20%, maybe as low as 15%, thus making the entrepreneurial family 2.5 times more likely to produce an entrepreneur