



## **Submission to the Senate Education, Employment and Workplace Relations Committee**

### **Inquiry into the Welfare of International Students**

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Co-Presidents, on behalf of Sydney University Postgraduate  
Representative Association (**SUPRA**)

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## **Executive Summary**

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Since the introduction of the Colombo Plan in the 1950s, international students have played a unique role in the Australian higher education sector and in the country more generally. The diverse and significant contributions of international students are well documented in educational and economic literature.

The international student population in Australia has grown steadily since international student fees were deregulated more than twenty years ago. The objective of this submission is to draw to the Senate Education, Employment and Workplace Relations Committee's attention the extent to which services offered to international students by the higher education sector have not increased at the same rate as the growth in international student population.

Some of the significant and, in SUPRA's view, unjust consequences for international students are addressed in this submission.

We have highlighted key issues which SUPRA has become aware of through its casework and activism with international students. Accordingly, this document also contains a range of recommendations regarding critical areas such as accommodation, social inclusion, student visa requirements, international student support (including in relation to academic, language and welfare support), industrial rights, transport concessions and fee regulation.

Through this submission and on behalf of its constituents, SUPRA calls on the Federal Government to undertake a frank and comprehensive assessment of the international student experience in Australia and to take decisive and immediate action to address systemic inadequacies and prejudices within the higher education sector.

The recommendations made in this submission are as follows:

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### **Recommendation 1.1:**

The Federal Government should implement a policy through COAG and CRICOS registration requirements that education providers establish a scheme whereby temporary accommodation upon arrival has already been booked by their provider.

### **Recommendation 1.2:**

The Federal Government must make available further funding to State-based tenancy rights organisations and representative student organisations at education providers to enable these organisations to promote awareness amongst students of their rights and responsibilities under tenancy law.

### **Recommendation 1.3:**

The Federal Government must undertake an investigation and review of private providers of accommodation to ensure compliance with relevant legislation and best practice. Further, the Federal Government must undertake a review of the types of accommodation being offered to international students by education providers, whether those types of accommodation and the terms and conditions of tenancy are a positive or negative influence on the welfare of international students, especially the mental health and wellbeing of international students, and make recommendations as to the most appropriate type of accommodation which needs to be made available or encouraged by education providers.



**Recommendation 2.1:**

The impact of cultural differences should be reflected in administrative and academic decision-making. In particular, education providers should be made aware that fairness in decision-making does not always equate with treating all students in the same way. "Fairness must be considered in the context of all the relevant circumstances. There are situations in which the fair treatment of students may result in students in different circumstances being treated differently." (*Administrative information for higher education providers: student support* (Effective 2009) Department of Education, Employment and Workplace Relations)

**Recommendation 2.2:**

Where education providers have high proportions of international enrolments, the administrative and academic staff of those providers should have adequate training provided to them regarding inter-cultural and communication issues that may arise in their work.

**Recommendation 2.3:**

Education providers should work actively to encourage contact between international and domestic students through mentoring, volunteering and support programs at the commencement of and during candidature. Where peer mentoring programs exist, they should attempt to engage both experienced international students and experienced local students as mentors.

**Recommendation 2.4:**

State and local Governments should be required to spend a portion of CRICOS registration fees to establishing International Student Resource Centres in all major centres with a significant international student population (for example, as exists currently in Melbourne). These Centres should facilitate opportunities for social engagement between local students and the broader community, and be a one stop central referral point for a range of Government and community services.

**Recommendation 3.1:**

That the Department of Education, Employment, and Workplace Relations (DEEWR) and the Department of Immigration and Citizenship (DIAC) undertake an independent investigation of the cancellations of all student visas to date, with a view to revising provisions for the cancellation of student visas, and removing provisions for application of automatic three year exclusion period for obtaining a new visa.

**Recommendation 3.2:**

That DEEWR, together with DIAC, undertake an independent review of all cases of the detention of student visa holders for breaches of visa conditions.

AND THAT all students currently in detention be released into the community pending such an investigation, in accordance with the stipulations set by the Minister for Immigration.

**Recommendation 3.3:**

That DIAC review provisions of the Migration Act and the Migration Regulations in consultation with the community and stakeholders in the higher education sector that relate to international students.

**Recommendation 4.1:**

Education providers should be obliged to offer academic support to students early in their enrolment in order to (as far as they can) prevent students from failing subjects. The goal of

academic assistance programs, as much as possible, should be to enable students to avoid failure, rather than to assist students once they have failed.

**Recommendation 4.2:**

Education providers should provide English language support that is accessible to students, adequately staffed and free of charge (and if not possible, at low cost).

**Recommendation 4.3:**

Education providers should provide information on key internal administrative procedures in plain English and in, at minimum, the two most common languages spoken in the international student population of the provider.

**Recommendation 4.4:**

Welfare services provided to international students must be adequately resourced and staffed, and must be staffed adequately at peak times.

**Recommendation 4.5:**

Support services provided to students by educational institutions must enable students to access information, support and advice on a range of issues, or be able to demonstrate that they can refer students to accessible and low cost sources of information and advice where it is not possible for the support service itself to offer that information or advice.

**Recommendation 4.6:**

Overseas Student Health Cover (OSHC) needs to be comprehensive and affordable. We recommend the Federal Department of Health and Ageing conduct a review of the current Deed of Agreement entered into with all OSHC providers with a view to improving service delivery.

**Recommendation 4.7:**

The Federal Government, through the COAG process and any other mechanisms available to the Federal Government, must provide sufficient funding to the public hospitals in each State / Territory as part of the State-Federal health funding agreements so that awareness training can be provided to medical and allied staff in the public hospitals as to the needs of international students.

**Recommendation 4.8:**

Information services used by international students must be adequately staffed, particularly at peak times.

**Recommendation 4.9:**

Advice about administrative or study matters should be recorded in writing, and those records should be easily accessible to students.

**Recommendation 4.10:**

Students who feel they do not understand the advice they have received, given its complexity, should have the right to ask for an interpreter to assist them at the provider's cost.

**Recommendation 4.11:**

That a National Ombudsman be established to hear complaints from students. The new Ombuds body should be given broad and appropriate powers to investigate and determine cases. The new body should be funded from Higher education providers with all providers required to contribute an amount proportionate to student population.



**Recommendation 5.1:**

The current prohibition against international students working no more than 20 hours per week must be abolished.

**Recommendation 5.2:**

The Commonwealth Government must work with education providers, trade unions and student organisations to devise strategies to inform international students about their rights while working in Australia and their remedies if those rights are transgressed.

**Recommendation 6.1:**

The Federal Government should make it a requirement for CRICOS registration that each State/Territory Government must provide access for international students to the respective State/Territory transport concessions.

**Recommendation 7.1:**

The Commonwealth Government must undertake a comprehensive review of fee increases to international student programs across all areas and providers of the higher education sector.

**Recommendation 7.2:**

That the Department of Education, Employment, and Workplace Relations undertake to develop a systemic mechanism for the setting of international student fees which:

- require HEPs to ensure that enrolment numbers are proportionate to the capacity of Education Providers to meet academic quality standards;
- ensure that fees remain fixed for the duration of a student's course; and
- that fee levels remain under a maximum cap, to be set by the Department and adjusted annually for CPI.

**Recommendation 7.3:**

Educational providers must be made accountable for the spending of international student fee revenues on areas allowable under the *National Code of Practice for Registration Authorities and Providers of Higher Education and Training to Overseas Students 2007* by:

- making data about fee revenues and areas of spending available to students at the institution; and
- ensuring active student input into the spending of international student fee revenues and the form that student support services are to take.

Signed:



**RASHMI KUMAR (Co-President, SUPRA)**

**NICK IRVING (Co-President, SUPRA)**

## Background

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Sydney University Postgraduate Representative Association (**SUPRA**) is the representative organisation for postgraduate students of the University of Sydney. It is one of 34 student organisations in Australia dedicated to promoting the interests of postgraduate students. The University of Sydney's postgraduate population represents over 16 per cent of all postgraduate enrolments in Australia.

Established in 1974, SUPRA's constituency has grown to a point where today, over 16,000 students undertaking research and coursework degrees at a postgraduate level are able to access SUPRA's services. Over 30 per cent of these postgraduate students are also international students<sup>1</sup>.

SUPRA provides free advice, casework and legal services to its subscribers. Since July 2007, over 40 per cent of the total case files opened by SUPRA's casework team were for international students.

SUPRA's positioning within the higher education sector means that it is amply qualified to present the Senate Education, Employment and Workplace Relations Committee (**Committee**) with a unique perspective on the experience of postgraduate international students.

Whilst the impetus for the Committee's Inquiry into the Welfare of International Students (**Inquiry**) may indeed have been the issue of international student safety which came to the fore in June 2009, SUPRA welcomes this opportunity to review the international student experience from a holistic perspective. As disturbing as it has been for the Australian public to learn of discriminatory physical attacks on international students, SUPRA is able to proffer evidence of equally (if not more so) alarming discrimination and inadequacies on a structural level.

SUPRA believes that the issue of student safety is comprehensively and eloquently addressed by other submissions to the Inquiry<sup>2</sup> and in papers produced in other contexts<sup>3</sup>. Accordingly, our submission does not deal with international student safety but focuses on the remaining areas contemplated in the Inquiry's Terms of Reference and follows the structure set out therein.

### Section One: Adequate and Affordable Accommodation

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International students are disproportionately represented in SUPRA's casework statistics in respect of problems relating to tenancy and accommodation. Of SUPRA's total case files opened in relation to tenancy and accommodation since July 2007, more than 70 per cent of them were for international students.

Most of the major University campuses in Sydney are in areas where rents are high, and competition for cheaper rental property is strong. This creates problems in accessing affordable, adequate accommodation that includes services needed by students, such as internet access or cooking facilities.

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<sup>1</sup> The University of Sydney, Statistics 2008, downloaded on 18 August 2009 from [http://planning.usyd.edu.au/statistics/pubs\\_index.php](http://planning.usyd.edu.au/statistics/pubs_index.php).

<sup>2</sup> For example, Barrow, David, and Smith, Sharon (2009) *NUS Submission To The References Senate Standing Committee on Education, Employment and Workplace Relations Inquiry into the Welfare of International Students*, August 2009. To be printed.

<sup>3</sup> *Needs Assessment of International Students*, Universities Australia (2009) *Enhancing the Student Experience & Student Safety: A Position Paper*, June 2009.



Furthermore, there is often family pressure on international students to arrange accommodation before they depart their home country, resulting in students committing to rent a premises, and paying bond money before they have sighted the premises. One solution to the problem of finding accommodation initially would be to promote temporary accommodation, such as a backpackers hostel, to arriving international students. However, anecdotally, SUPRA is aware that temporary accommodation can be difficult to secure. The Federal Government, through both the requirements that apply to CRICOS provides and COAG, could take a more pro-active role in encouraging all State / Territory Governments to implement policies and practices which assist in managing student access to initial temporary accommodation upon arrival.

One such policy could be that each State / Territory government block-book rooms in, for instance, hostels such as the YHA and the YWCA, so that temporary accommodation is available for an initial period of three to four weeks (but perhaps up to 12 months) when international students are moving to the State / Territory to start study. The Federal Government could assist further in such a policy by making funds available to education providers so that they can establish such a scheme of 'upon-arrival-temporary-accommodation'.

This initiative by the Federal Government would be reassuring for parents of prospective international students as many parents are deeply concerned that their child will be so far away from home to study. Before their child departs, parents often want certainty about where their child will be living.

#### **Recommendation 1.1:**

The Federal Government should implement a policy through COAG and CRICOS registration requirements that education providers establish a scheme whereby temporary accommodation upon arrival has already been booked by their provider.

### **Inadequate protection under tenancy law**

Many international students live in accommodation where they may be considered boarders or lodgers under New South Wales common law. This means that they do not have any statutory occupancy rights, and can be vulnerable to issues such as eviction without notice or cause, large rent increases without any negotiating rights, failure to repay or lodge bond monies or security deposits, and unrealistic house rules.

### **Students unaware of their rights and responsibilities under tenancy law**

For many international students, studying overseas is their first experience of living away from their family unit, and their access to local support and knowledge may vary considerably. This lack of knowledge, combined with lack of affordable accommodation and lack of protection under tenancy law means that international students are more commonly targets of real estate scams.

Tenancy services need to be actively promoted to international students, with tenancy information relevant to students available in languages other than English.

It is very important to get accommodation right- as when it goes wrong, it can be a costly and upsetting experience, and have a real negative effect on student satisfaction.



**Recommendation 1.2:**

The Federal Government must make available further funding to State-based tenancy rights organisations and representative student organisations at education providers to enable these organisations to promote awareness amongst students of their rights and responsibilities under tenancy law.

**Commercial residential facilities on University campuses**

Many current efforts to improve student access to accommodation have focused on developing commercial residential facilities, run by private companies, on university-owned land. At the University of Sydney, almost all of the residents of such facilities are international students.

These commercial establishments are not covered by the NSW Residential Tenancies Act 1987, as Section 6(2)(d) states that ‘this Act does not apply to....(d) any part of an educational institution, hospital or nursing home....’. However, SUPRA and the Student Representative Council are aware that the students living in such facilities are subject to unfair conditions. For instance, being required to purchase a certain amount from shops in the residential facility on a weekly basis, not being able to appeal rent increases or dispute damage claims. Due to the exemption from the Act, tenants have limited means of accessing independent arbitration when a dispute arises.

**Recommendation 1.3:**

The Federal Government must undertake an investigation and review of private providers of accommodation to ensure compliance with relevant legislation and best practice. Further, the Federal Government must undertake a review of the types of accommodation being offered to international students by education providers, whether those types of accommodation and the terms and conditions of tenancy are a positive or negative influence on the welfare of international students, especially the mental health and wellbeing of international students, and make recommendations as to the most appropriate type of accommodation which needs to be made available or encouraged by education providers.

**Section Two: Social Inclusion**

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**Individual and systemic discrimination**

It is fundamental to any analysis of how ‘socially inclusive’ a community is to consider the prevalence of discrimination within that community.

The institutional discrimination inherent in denying international students access to transport concessions is discussed below in this submission in Section Six.

The attacks upon international students in Melbourne reported in the media in June 2009 are a clear manifestation of discrimination experienced by international students in Australia. Such events necessarily provoke an immediate and thorough introspection about social inclusion and cultural diversity, which presumably the Committee’s inquiry is, in part, informed by.



However, SUPRA has grave concerns about the instances of discrimination within educational institutions which are much less widely reported or scrutinised. However, concerns about safety that have been raised by student protests offer an important opportunity to address the underlying systemic discrimination making such overt assaults possible and prevalent.

Despite the significant cultural and economic contributions made by international students to Australia over at least the past four decades, prejudices against international students persist on individual and systemic levels. From the belief that international students are exploiting universities to obtain permanent residency to the belief that many international students 'choose' not to socialise outside their peer group, it is clear to SUPRA that there is an astounding lack of understanding within educational institutions about the issues which many international students face.

### **Isolation and loneliness**

International students assisted by SUPRA frequently express a desire to interact with and learn about local communities and Australian cultures generally. For a multiplicity of reasons (some of which are addressed in this submission), there is a commonly-held perception that there are few spaces for international students and local students to exchange experiences and cultures. Particularly in courses where international students comprise a high proportion of enrolments, the opportunities for befriending domestic students and establishing links with the broader community are very limited. As stated elsewhere in this submission, access to affordable accommodation and transport concessions are intrinsically linked to the question of social inclusion.

This is compounded by students having to manage full-time study, often in a second language, and thus having limited time and energy available for social activities which might enable them to improve their English. SUPRA frequently has contact with international students who report feeling disempowered by their English language skills, but who also feel that there is little opportunity for them to improve. SUPRA understands that many international students experience more difficulty with communicating orally in English than in writing, and so would benefit from greater opportunities to practise speaking English.

Poor English communication skills and limited links with the broader community is of particular concern as students are less likely to seek assistance when they experience problems, and are not aware of the support available to them. This, in turn, can increase international students' vulnerability to accommodation and employment problems.

Cultural differences also play a large, but often unacknowledged role, in the preparedness of students to question the behaviour and decisions of those who they see as exercising authority. This means that when study problems arise, international students are often reluctant to complain about what has occurred from fear that it may adversely impact their academic results and visa status.

An associated issue is the sense of isolation experienced by many international students. The paper by Sawir et al, *'Loneliness and International Students: An Australian Study'*,<sup>4</sup> provides both a compassionate and sophisticated perspective into this issue. The paper documents the results of a project studying the experience of 200 international students in Australia. One of its key findings is that *"personal loneliness, both routine and profound, is often endemic to the international student*

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<sup>4</sup> Turcic, Sandra (2008) *Needs Assessment of International Students in the City of Sydney: Project Report* City of Sydney Council, August 2008



experience”<sup>5</sup>. The authors discuss the ‘social’ and ‘cultural’ loneliness experienced by international students and provide suggestions for how educational institutions and their student support services can address these issues. Loneliness and isolation is also identified as a key concern in a report commissioned by the City of Sydney Council titled *Needs Assessment of International Students*<sup>6</sup>.

### **The role of student organisations in social inclusion**

In recognition of the prevalence of such isolation, SUPRA holds regular events for postgraduate students at the University of Sydney. Events like barbecues and educational events (such as seminars and forums about career progression and tenancy matters) are always well-attended by international students, even if they are not specifically targeted to international students or promoted as such. International students frequently communicate to SUPRA that they enjoy coming to these events, whether the events are marketed as social or educational, because they provide a space to socialise and interact with other students (both local and international).

However, like every other student organisation in Australia, the capacity of SUPRA to hold such events and play this key role in the international student experience has been severely curtailed since 2006 as a result of Voluntary Student Unionism (VSU). If student organisations have not been forced to cease operations, they are generally struggling to survive on drastically reduced budgets.

In this context, it is extraordinarily difficult for student organisations to continue to provide international students with the range of events and opportunities that they need. In some cases, clubs and societies have been forced to charge membership fees where previously membership was free. As incomes of international students are typically low, even nominal membership fees can be enough to discourage international students from joining, as they may already be hesitant to participate in such activities.

As with each of the other sections addressed in this submission, the issue of social inclusion (or lack thereof) of international students has significant consequences for academic progression of those students as well as the international student experience in general.

Like many other student organisations, SUPRA’s representative functions are an important aspect of efforts to include international students in higher education. Due to the high proportion of international students amongst SUPRA’s constituency, it is essential that student organisations are effectively funded and that they retain independence from higher education providers. Therefore, VSU must be repealed.

Accordingly, SUPRA recommends the following:

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<sup>5</sup> Sawir, E, Marginson, S, Deumert, A, Nyland, C, Ramia G (2008) *Loneliness and International Students: An Australian Study* Journal of Studies in International Education 2008 12: 148-180

<sup>6</sup> Op cit 148



#### **Recommendation 2.1:**

The impact of cultural differences should be reflected in administrative and academic decision-making. In particular, education providers should be made aware that fairness in decision-making does not always equate with treating all students in the same way. "Fairness must be considered in the context of all the relevant circumstances. There are situations in which the fair treatment of students may result in students in different circumstances being treated differently." (*Administrative information for higher education providers: student support* (Effective 2009) Department of Education, Employment and Workplace Relations)

#### **Recommendation 2.2:**

Where education providers have high proportions of international enrolments, the administrative and academic staff of those providers should have adequate training provided to them regarding inter-cultural and communication issues that may arise in their work.

#### **Recommendation 2.3:**

Education providers should work actively to encourage contact between international and domestic students through mentoring, volunteering and support programs at the commencement of and during candidature. Where peer mentoring programs exist, they should attempt to engage both experienced international students and experienced local students as mentors.

#### **Recommendation 2.4:**

State and local Governments should be required to spend a portion of CRICOS registration fees to establishing International Student Resource Centres in all major centres with a significant international student population (for example, as exists currently in Melbourne). These Centres should facilitate opportunities for social engagement between local students and the broader community, and be a one stop central referral point for a range of Government and community services.

### **Section Three: Student Visa Requirements**

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#### **Restrictions on maximum hours of work**

One of the most problematic issues for international students is the restriction on the maximum hours of work. This is discussed in detail in Section Six below.

#### **Automatic exclusion period for students who breach visa conditions or overstay visas**

The Committee would be aware that under the *Migration Regulations 1994* (Cth) (**Migration Regulations**), any person who breaches a condition of his or her visa or who remains in Australia past the expiry date of a valid visa is subject to an automatic exclusion from Australia for 3 years from the date that person leaves Australia (**Exclusion Period**).

Of course, there are provisions for the Minister for Immigration and Citizenship to exercise his or her discretion to waive that exclusion period. However, on a practical level, this Ministerial discretion is exercised only in particular circumstances.



Each semester, SUPRA assists students who have been excluded from their enrolled courses on the grounds of unsatisfactory academic progression in that course. In many cases, these students have only one or two subjects left to complete in order to qualify for their enrolled courses.

By virtue of exclusion from the University (being a breach of academic progress conditions of a student visa), these students automatically become subject to the Exclusion Period. A domestic student who has been excluded can apply for readmission to the university in another course or admission to another university. However, the effect of exclusion for a significant proportion of international students is that they will never return to their studies in Australia because of the expense, lapse of time and serious inconvenience.

SUPRA calls on the Commonwealth Government to reassess its rationale for such an inflexible penalty.

SUPRA has direct experience through its casework of circumstances where the application of the Exclusion Period to students who have overstayed visas has created unjust outcomes for students.

Applying a three-year mandatory Exclusion Period for obtaining a further visa is an inequitable and excessive response to students who are already in distress from having failed to complete their academic program.

SUPRA understands that, even where the overstay is caused by administrative error on the part of the education provider, the willingness of the Department of Immigration and Citizenship (DIAC) to take this into account is extremely limited.

### **Breaches of visa conditions and immigration detention**

Section 10 of the Senate Legal and Constitutional References Committee report on the Administration and Operation of the *Migration Act 1958* (Cth) (**Migration Act**) expressed concern that student visa cancellations – **more than one-third of which were eventually overturned** – and the detention of international students in immigration detention centres has substantial negative consequences for both the students and the education sector<sup>7</sup>. That report refers to the Evaluation of the *Education Services for Overseas Students Act 2000* (Cth) (**ESOS Act**), which was undertaken in 2005 for the Commonwealth Government. The Evaluation reported that exclusion and detention can be a consequence of failing to meet course requirements<sup>8</sup>.

On 15 July 2009, *The Australian* reported that 36 international students were detained in immigration detention centres as at that date, and that approximately 2,646 students had been detained overall since 2001<sup>9</sup>. This number is considerably higher than the 1,375 persons reported by DIMIA in 2005<sup>10</sup>. The article reveals that the majority of students who had been

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<sup>7</sup> Crossin, Patricia et. al. (2006) *Administration and Operation of the Migration Act 1958*, Department of the Senate, Parliament House, Canberra, March 2006, pp. 305-322. Available at: [http://www.aph.gov.au/Senate/committee/legcon\\_ctte/completed\\_inquiries/2004-07/Migration/report/report.pdf](http://www.aph.gov.au/Senate/committee/legcon_ctte/completed_inquiries/2004-07/Migration/report/report.pdf) Last accessed: 20/08/2009.

<sup>8</sup> PhillipsKPA and Lifelong Learning Associates (2005) *Evaluation of the Education Services for Overseas Students Act 2000*, Department of Education, Science, and Training, Parliament House, Canberra, June 2005, pp.181-2. Available at: [http://www.dest.gov.au/sectors/international\\_education/publications\\_resources/profiles/evaluation\\_report.htm](http://www.dest.gov.au/sectors/international_education/publications_resources/profiles/evaluation_report.htm) Last accessed: 20/08/2009.

<sup>9</sup> Healy, Guy (2009) '36 overseas students in detention' in *The Australian*, July 15, 2009. Available at: <http://www.theaustralian.news.com.au/story/0,25197,25784268-601,00.html> Last accessed: 20/08/2009

<sup>10</sup> Crossin et. al., op. cit, p. 319.



detained were held because of overstaying the duration of their visa, but that breach of other conditions of student visas may attract such a penalty.

International students often need to extend the duration of their student visas due to unforeseen circumstances, including changes to course requirements, needing to repeat a subject, or interruptions in higher degree by research supervision. The prospect of administrative and legislative processes resulting in a student being detained in an immigration detention facility only serves to add unnecessary pressure to already difficult and stressful circumstances. The case of Megumi Ogawa, a PhD student at the University of Queensland and the University of Melbourne, illustrates some particularly troubling possibilities of students having to endure lengthy periods of administrative and legal uncertainty while their cases are determined<sup>11</sup>. In Ogawa's case, immigration detention had a devastating effect on her mental health.

SUPRA finds it disproportionately and unreasonably punitive that students are under threat of detention in cases where they may be in breach of their visa conditions. The Federal Minister for Immigration and Citizenship, Senator Chris Evans, has stated that "*detention in immigration detention centres will only be used as a last resort and for the shortest practicable time*"<sup>12</sup> and that "[t]he department will have to justify why a person should be detained. Once in detention, a detainee's case will be reviewed every three months to ensure that the further detention of the individual is justified"<sup>13</sup>. In light of these comments, SUPRA makes the following recommendations:

**Recommendation 3.1:**

That the Department of Education, Employment, and Workplace Relations (DEEWR) and the Department of Immigration and Citizenship (DIAC) undertake an independent investigation of the cancellations of all student visas to date, with a view to revising provisions for the cancellation of student visas, and removing provisions for application of automatic three year exclusion period for obtaining a new visa.

**Recommendation 3.2:**

That DEEWR, together with DIAC, undertake an independent review of all cases of the detention of student visa holders for breaches of visa conditions.

AND THAT all students currently in detention be released into the community pending such an investigation, in accordance with the stipulations set by the Minister for Immigration.

**Recommendation 3.3:**

That DIAC review provisions of the Migration Act and the Migration Regulations in consultation with the community and stakeholders in the higher education sector that relate to international students.

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<sup>11</sup> Morton, Adam (2006) 'Learning to fight' in *The Age*, July 29 2006. Available at: <http://www.theage.com.au/news/in-depth/learning-to-fight/2006/07/28/1153816381159.html>  
Last accessed: 20/08/2009.

<sup>12</sup> Evans, Chris (2008) Media Release: 'Labor unveils new risk-based detention policy', Tuesday 29<sup>th</sup> July 2008, available at <http://www.minister.immi.gov.au/media/media-releases/2008/ce08072.htm> Last accessed: 20/08/2009

<sup>13</sup> Id.



## Section Four: International Student Support

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As canvassed in the introductory section to this submission, one of SUPRA's primary concerns about the welfare of international students is the inadequacy of both academic and personal support for international students. Like other postgraduate representative organisations, SUPRA believes that despite the growth in international student populations, there has not been a corresponding increase in the level of investment by education providers in support services for international students.

The consequences of inadequate service provision by educational institutions can be devastating for any student, whether international or domestic. However, given that academic progression for international students is inextricably linked to compliance with immigration requirements, and that international students are exposed to significant financial losses for unsatisfactory progression, there is a weighty obligation on education providers to provide international students with holistic support to ensure that they have the best opportunity to progress, and that education providers should be required to demonstrate the effectiveness of their support provisions.

It is SUPRA's view that the current support mechanisms in place are ineffective, although given the lack of evaluation of such mechanisms by education providers, our ability to make accurate judgements on this matter is limited.

SUPRA has identified a number of key areas of student support which it considers critical to avoiding difficulties with progression and as a result, non-completion:

### **(a) academic support**

The substantial financial pressures upon international students and the pressures of adjusting to a new cultural environment are addressed elsewhere in this submission. In addition, international students often also face the challenge of learning in a pedagogical environment which is very different from what they have previously studied in.

There must be an acknowledgement of this reality by education providers and their staff. The importance of ensuring that international students, particularly postgraduate international students enrolled in degree programs of 2 years or less, receive academic feedback and remedial assistance early in their candidature cannot be overstated.

Despite the fact that international students make up only 30 per cent of the University of Sydney's postgraduate population, more than half of SUPRA's casework matters relating to showing good cause, exclusions and academic appeals are for international students<sup>14</sup>.

It is SUPRA's firm view that education providers must focus on preventing international students from failing a unit of study *while they are studying that unit*. That is, students who are not performing well need to be identified and assisted as early as possible in the teaching semester, not only after the final results of a unit are known. SUPRA frequently sees international students who have failed a unit several times, at enormous financial cost, and considerable cost to their confidence.

SUPRA considers that it would be far more effective to design programs which assist students to avoid failure, rather than waiting for students to fail before offering assistance.

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<sup>14</sup> Based on SUPRA's casework statistics for the period from July 2007 to 18 August 2009.

However, inadequate levels of funding at all levels (University, Faculty, School, Department and academic staff) mean that staff to student ratios are already unsustainable and that members of academic staff are already under enormous pressure to manage existing workloads.

As a result, the remedial assistance and detailed feedback which international students require to be able to progress is often not available. International students then become vulnerable to falling behind academically and being excluded from a university course. As stated above in Section Three, exclusion for an international student is considered a breach of a student visa condition and accordingly, results in the student being subject to the Exclusion Period.

**Recommendation 4.1:**

Education providers should be obliged to offer academic support to students early in their enrolment in order to (as far as they can) prevent students from failing subjects. The goal of academic assistance programs, as much as possible, should be to enable students to avoid failure, rather than to assist students once they have failed.

**(b) language support**

As mentioned above, one of the most fundamental problems faced by international students in their studies relates to English proficiency.

SUPRA acknowledges that it is the prerogative of each education provider to set its own IELTS course admission requirements. However, it is essential that English language support services be made available to international students at levels which are appropriate (both in respect of rigour and frequency) to the IELTS requirements.

In SUPRA's experience, this relatively uncontroversial principle is not always applied in practice.

For example, a provider may consider it appropriate to accept students into a postgraduate course with IELTS scores of 5.5, with the knowledge that ideally, a higher score is required to be able to read and interpret academic literature and write adequately in formal English. This would necessitate more rigorous language training to prepare those students for their studies. However, this support is not always guaranteed.

It is untenable for international students to be required to progress academically if they are admitted with low levels of English proficiency and then are unable to access language support to address the language difficulties which arise in their candidature.

Another aspect to the problem of English proficiency relates to the methods by which educational institutions communicate critical information to international students. English language difficulties are often implicated in difficulties progressing. Too often, students are aware of performance problems, and are unaware of the internal processes designed to address these problems. This may affect a student's progression in his or her course, which affects the student's ability to continue to be enrolled full-time, and thus the student's ability to comply with relevant visa conditions.

SUPRA believes that information for students who are not progressing at a satisfactory level should be in plain English or, where possible, be made available in the student's main language.



SUPRA is aware that some universities already publish key information in other languages and argues that this should be required at all educational institutions which enrol a substantial proportion of international students.

It also follows that if students are experiencing language difficulties at an academic level, they may also have difficulty understanding documents in personal spheres of their lives (for example, immigration notices or tenancy agreements). The implications of this are discussed elsewhere in this submission.

**Recommendation 4.2:**

Education providers should provide English language support that is accessible to students, adequately staffed and free of charge (and if not possible, at low cost).

**Recommendation 4.3:**

Education providers should provide information on key internal administrative procedures in plain English and in, at minimum, the two most common languages spoken in the international student population of the provider.

**(c) welfare services**

The *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students* (**National Code**) states that welfare-related services must be made available to students and there must be sufficient support personnel to meet the needs of students. SUPRA has found, however, that relevant services are often unable to offer assistance *when it is needed* due to the pressure of existing workloads on international student support services.

In August 2008, the City of Sydney Council commissioned a report titled '*Needs Assessment of International Students*'. That report identified settlement issues, 'culture shock' and mental health as being primary concerns of the international students interviewed for the report. SUPRA, through its intercampus work, and as part of CAPA, can affirm that these concerns are shared by a large proportion of international students living and studying in New South Wales.

It is critical that education providers understand the reality and extent of risks to the mental health and welfare of international students. There must be obligations upon education providers to ensure that counselling facilities are available and staffed at levels to meet demand, and that the availability of those facilities are comprehensively promoted throughout the duration of candidature to all international students enrolled at that institution.

It is also critical that education providers understand that welfare services for international students should enable students to access a range of support and advice. From SUPRA's casework experience with international students, it is clear that international students require assistance with a wide range of issues, ranging from social and emotional adjustment to negotiating intellectual property agreements with the University, from resolving tenancy problems with a landlord to appealing administrative decisions made by the University.

Many of these issues require a level of English language skills that many international students do not have, and knowledge of services and organisations that they cannot be expected to develop in the short time they spend in Australia. All of these issues can, and do, have significant impacts on the academic performance of students. Accordingly, it is important that the support



services provided to students are equipped to provide them with assistance with a range of issues.

SUPRA reiterates our concerns regarding the lack of understanding within educational institutions of the international student experience. Institutions must carefully review the manner in which both academic and administrative staff interact with and view international students to ensure that the difficulties faced by international students are understood and that prejudicial attitudes are addressed. Staff at all levels of education providers need to be aware that administrative and academic processes can discriminate against international students, whether intentionally or unintentionally, if the student's cultural background means that they are uncomfortable or unwilling to raise grievances about the way a matter has been handled.

Allied to welfare issues is that of health and access to health facilities in New South Wales/all states and territories. It has come to the attention of SUPRA, via our casework with international students, that international students have had mixed experiences when presenting at public hospital emergency departments. Depending on the nature of the critical incident policies and practices of an education provider and the state-based public hospital system, some gaps can develop in the handling of critical incidents between an education provider and a local public hospital. These gaps need to be addressed.

We are aware of many other examples of students who have gone without urgent dental assistance, have delayed seeking medical assistance or who have not sought it at all because of prohibitive costs, or who have not been able to access assistance because of exclusion periods applied by Overseas Student Health Cover (OSHC) insurers and the narrowness of the scope of coverage. Compulsory OSHC does not adequately meet international student needs, and needs to be resolved if students are to get better quality of assistance in future.

**Recommendation 4.4:**

Welfare services provided to international students must be adequately resourced and staffed, and must be staffed adequately at peak times.

**Recommendation 4.5:**

Support services provided to students by educational institutions must enable students to access information, support and advice on a range of issues, or be able to demonstrate that they can refer students to accessible and low cost sources of information and advice where it is not possible for the support service itself to offer that information or advice.

**Recommendation 4.6:**

Overseas Student Health Cover (OSHC) needs to be comprehensive and affordable. We recommend the Federal Department of Health and Ageing conduct a review of the current Deed of Agreement entered into with all OSHC providers with a view to improving service delivery.

**Recommendation 4.7:**

The Federal Government, through the COAG process and any other mechanisms available to the Federal Government, must provide sufficient funding to the public hospitals in each State / Territory as part of the State-Federal health funding agreements so that awareness training can be provided to medical and allied staff in the public hospitals as to the needs of international students.



**(d) information dissemination / services**

Our comments below in Section Eight of this submission deal with the necessity for education providers to provide frank, up to date and accurate information to prospective students.

That obligation to provide relevant information becomes even more critical after a student has enrolled in a course.

The extensive administrative requirements with which international students are required to comply necessitates comprehensive and effective communication between education providers and international students. As discussed above, such communication is often the key to avoiding academic attrition. As such, SUPRA recommends that international student information centres must be funded and staffed at levels which can meet demand. It is also important that where disputes arise, information given to students be accurately recorded and accessible to students.

Policies and procedures which are designed by education providers to assist international students (for example, special consideration for illness and misadventure) will be entirely unsuccessful unless international students are aware of them.

SUPRA recommends as follows:

**Recommendation 4.8:**

Information services used by international students must be adequately staffed, particularly at peak times.

**Recommendation 4.9:**

Advice about administrative or study matters should be recorded in writing, and those records should be easily accessible to students.

**Recommendation 4.10:**

Students who feel they do not understand the advice they have received, given its complexity, should have the right to ask for an interpreter to assist them at the provider's cost.

**(e) National Ombudsman**

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SUPRA supports provisions in the current ESOS National Code 2007 that requires providers of higher education services to have in place an independent and external person or body to hear complaints or appeals. We also support the requirement for providers to implement any decision and/or corrective and preventative action.

At present all public Universities in NSW nominate the NSW Ombudsman as the external complaints handling body. In a recent submission to a NSW Government Ministerial Taskforce considering international education issues we advocated an increase of resources and the establishment of a specialist unit to hear and resolve complaints.

Another option which we would consider superior and would obviate the need for more resources for the State Ombudsman, is the establishment of a specialist National Ombudsman

with appropriate powers and resources. Such a body should have offices in all major metropolitan and regional centres where international students are enrolled.

It could be modelled on experiments overseas. For example, in the United Kingdom, the Office of the Independent Adjudicator for Higher Education has been operating successfully since 2004, and has powers to recommend a range of corrective action, including that: an institution should take steps to assist a student in some way; the institution should change the way it handles complaints or change its procedures; compensation is payable.

**Recommendation 4.11:**

That a National Ombudsman be established to hear complaints from students. The new Ombuds body should be given broad and appropriate powers to investigate and determine cases. The new body should be funded from Higher education providers with all providers required to contribute an amount proportionate to student population.

## **Section Five: Employment Rights and Protections from Exploitation**

The prohibition against any international student working more than 20 hours per week is, in SUPRA's opinion, the cause of many significant problems faced by international students.

While SUPRA believes that full time students should not have to work as well as having to study, the reality for both local and international students is that students frequently have to work to survive. SUPRA is aware that, due to the recent global economic downturn, many international students have unexpectedly had to cover far more of their expenses than they anticipated. The requirement that students coming to Australia to study should have the money to cover current fees, fee increases and fees incurred when repeating subjects after failing, as well as the money to cover (often inflated) living expenses, is unrealistic.

Placing a restriction on the number of hours which international students can work causes several problems. Firstly, wages for part-time and casual work for students are generally low. The majority of university students do not have the skills to gain part time or casual employment in jobs with higher hourly rates, and this is even more so for many international students for whom English is a second language. Low rates of pay mean that students have to work more hours, and this often puts pressure on international students to accept illegal 'cash-in-hand' work.

If international students are placed in the position of accepting illegal work, they may not be prepared to jeopardise their employment by asserting their rights at work. This problem is exacerbated by the fact that international (and local) students often are not aware of their rights guaranteed by Australian workplace laws. Unscrupulous employers can and do exploit the fact that international students can only work 20 hours per week to force them to work in conditions under which no other worker in Australia would be expected to labour. SUPRA is aware that many international students are working for as little as \$5 per hour, and of students having to pursue employers for months over unpaid wages.



**Recommendation 5.1:**

The current prohibition against international students working no more than 20 hours per week must be abolished.

**Recommendation 5.2:**

The Commonwealth Government must work with education providers, trade unions and student organisations to devise strategies to inform international students about their rights while working in Australia and their remedies if those rights are transgressed.

## **Section Six: Access to Transport Concessions**

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### **Accommodation and lack of access to transport concessions**

International students are not eligible for transport concessions in New South Wales. This limits the ability of students to seek accommodation in cheaper suburbs, as high transport costs outweigh any savings made by renting in cheaper suburbs further from the city. Lack of access to transport concessions and lack of affordable accommodation close to inner Sydney educational institutions encourages students to live in overcrowded accommodation in the inner suburbs and the CBD.

The lack of access to transport concessions in NSW and Victoria has fuelled the perception by many families in the home countries of international students that there are institutionalised and personal discriminatory attitudes in Australia towards all international students. An effective way to redress this perception is to make it a condition of CRICOS registration that all states/territories must provide access for international students to the respective state/territory transport concessions as a condition of their CRICOS registration.

**Recommendation 6.1:**

The Federal Government should make it a requirement for CRICOS registration that each State/Territory Government must provide access for international students to the respective State/Territory transport concessions.

## **Section Seven: Fee Regulation**

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### **Fee levels**

Although the issue of international student fees has not been explicitly mentioned in the Terms of Reference for this Inquiry, SUPRA believes that it is essential to include a discussion of fee structures within any inquiry into international student welfare.

International students at the University of Sydney have stated their concerns about the high levels of fees, and the lack of accountability for both general allocation of those fee revenues and for quality assurance of the degree programs they are paying for. The vast majority of SUPRA's constituency is made up of fee-paying students, both domestic and international, and SUPRA finds that many general assessments about postgraduate coursework fees can be said to apply to international students in particular.

With respect to the charging of tuition fees, CAPA provides the following comment about the arrangements under which higher education providers levy fees upon postgraduate fee-paying students:

*Universities have consistently sought to expand their revenue from fees paid by postgraduate coursework students, and have been free to levy fees on students in an extravagant and unconstrained manner (close to \$200 million in 2006 from domestic coursework postgraduates alone).<sup>27</sup> The significant revenues from those fees are rarely reinvested in support of the quality of courses, or the facilities and support services students rely on in undertaking them. The strong demand for coursework postgraduate programs among international students, and the incentives this demand has created, has exacerbated problems in this area.<sup>15</sup>*

<sup>27</sup> Finance 2006 - Financial Reports of Higher Education Providers. Department of Education, Employment and Workplace Relations (DEEWR): [www.deewr.gov.au](http://www.deewr.gov.au).

The Bradley Review of Higher Education undertaken for the Commonwealth Government in 2008 (**Bradley Review**) reported the following:

*It appears that many institutions use international student revenue to support services to domestic students and bolster research infrastructure. While the panel supports the right of institutions to manage their own affairs, it is concerned that there appears to be a systematic pattern across institutions of cross-subsidisation to supplement other institutional activities. This suggests that funds available for teaching of domestic students and for research activities may be insufficient and that services for international students would improve if more funds were made available to institutions.<sup>16</sup>*

Moreover, SUPRA, in our submission to the Bradley Review, argued that:

*SUPRA understands that as federal funding as a percentage of total funding has dropped universities have needed to find alternative revenue streams to make up the shortfalls. Our concern lies not in the fact that we have so many international students but rather whether or not we can offer them what they are paying for.*

*Universities have been applauded for speculating (financially and structurally) with using overseas students to fill in the revenue gaps created by the deregulation of universities. SUPRA would argue that in fact this is a textbook case of the economic leading the pedagogic resulting in losses for all.*

*It is essential that the exploitation of postgraduate coursework and international students be ended and the only way to do this is to remove the mechanism by which they are taken advantage. University fees for postgraduate coursework must be HECS liable. At the very*

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<sup>15</sup> Palmer, Nigel (2008) *Submission to the Review of Higher Education*, Council of Australian Postgraduate Associations, Carlton, Vic., p. 25. Available at: <http://www.capa.edu.au/submission/2008/review-australian-higher-education> Last accessed 17/08/2009.

<sup>16</sup> Bradley, Denise et. al. (2008) *Review of Higher Education: Final Report*, Department of Education, Employment and Workplace Relations (DEEWR), Canberra, ACT, December 2008, p. 93. Available at: <http://www.deewr.gov.au/HigherEducation/Review/Pages/ReviewofAustralianHigherEducationReport.aspx> Last accessed 17/08/2009



*least course fees for all postgraduate coursework degrees need to be transparent and based on cost recovery.*<sup>17</sup>

At the University of Sydney, where revenue from full-fee places is retained by faculties who successfully recruit students to take those places, it is routine for faculties to initiate recruitment strategies based on the fee revenues generated by international student fees. Furthermore, faculties often state plainly that their recruitment strategies are directed towards addressing funding shortfalls resulting from the withdrawal of Commonwealth funds and the abolition of full-fee places for domestic undergraduate students.

At the very least, this state of affairs is unsustainable. It can serve to undermine academic standards, as educational institutions enrol more students than they have the capacity to educate, purely because fee revenues are needed to meet basic operating costs. There is a perception that this is occurring throughout the higher education sector generally.

The cross-subsidisation alluded to within the Bradley Review, and attested to by international student experiences at the University of Sydney, is inequitable. Higher education providers should not be permitted from being able to take advantage of gaps in the information available to overseas students to misinform them about the experience they can expect to have at university.

SUPRA understands that marketing material disseminated by education agents does not uniformly advise students that fees will increase every semester. This lack of information arises from a basic systemic fault within public higher education rather than from malice or deceit.

While international students are expected to pay the full costs of their education and living expenses while studying and living in Australia, SUPRA finds this expectation unreasonable in cases where students are not informed about the true costs of studying and living in Australia prior to arrival.

Under the National Code and legislative instruments under the ESOS Act, providers must make a number of services available to international students, including academic and welfare support services, orientation and critical incident policies<sup>18</sup>.

Under the current state of affairs, higher education providers are not required to report about the proportion of student fee revenues which contribute towards such services, nor are they accountable for the quality of those services. SUPRA recommends that this be rectified.

CAPA made the following recommendations to the Review of Higher Education in 2008<sup>19</sup>:

*Recommendation 16: That the Department of Education, Employment and Workplace Relations (DEEWR) include in their publicly available annual data collection reporting detailed information on fees per course by all providers.*

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<sup>17</sup> Barnsley, Kate et. al. (2008) *Submission to the Bradley Review of Higher Education*, Sydney University Postgraduate Representative Association, Darlington, NSW, pp. 14-17. Available at: [http://www.dest.gov.au/sectors/higher\\_education/policy\\_issues\\_reviews/reviews/highered\\_review/documents/307\\_supra\\_resub\\_pdf.htm?vbc\\_purpose=basic](http://www.dest.gov.au/sectors/higher_education/policy_issues_reviews/reviews/highered_review/documents/307_supra_resub_pdf.htm?vbc_purpose=basic) Last accessed: 19/08/2009

<sup>18</sup> National Code of Practice for Registration Authorities and Providers of Higher and Training to Overseas Students 2007 (Cth), (National Code 2007) Standard 6

<sup>19</sup> Barnsley, Kate et. al. (2008) *Submission to the Bradley Review of Higher Education*, Sydney University Postgraduate Representative Association, Darlington, NSW, pp. 14-17. Available at: [http://www.dest.gov.au/sectors/higher\\_education/policy\\_issues\\_reviews/reviews/highered\\_review/documents/307\\_supra\\_resub\\_pdf.htm?vbc\\_purpose=basic](http://www.dest.gov.au/sectors/higher_education/policy_issues_reviews/reviews/highered_review/documents/307_supra_resub_pdf.htm?vbc_purpose=basic) Last accessed: 19/08/2009 p. 25.



*Recommendation 17: That a comprehensive review be conducted into the quality of postgraduate coursework programs and their fees.*

*Recommendation 18: That the Higher Education Support Act (HESA) be amended with the effect of compelling all providers to commit to a fixed fee schedule for the full duration of all fee paying courses (for both domestic and international enrolments).*

*Recommendation 19: That the Higher Education Support Act (HESA) be amended with the effect of compelling all providers to reinvest revenues from all fee paying courses directly into teaching, facilities and support services for those same programs, and describe detailed reporting requirements accordingly.*

SUPRA supports and echoes these recommendations. SUPRA also recommends that:

**Recommendation 7.1:**

The Commonwealth Government must undertake a comprehensive review of fee increases to international student programs across all areas and providers of the higher education sector.

**Recommendation 7.2:**

That the Department of Education, Employment, and Workplace Relations undertake to develop a systemic mechanism for the setting of international student fees which:

- require HEPs to ensure that enrolment numbers are proportionate to the capacity of Education Providers to meet academic quality standards;
- ensure that fees remain fixed for the duration of a student's course; and
- that fee levels remain under a maximum cap, to be set by the Department and adjusted annually for CPI.

**Recommendation 7.3:**

Educational providers must be made accountable for the spending of international student fee revenues on areas allowable under the National Code by:

- making data about fee revenues and areas of spending available to students at the institution; and
- ensuring active student input into the spending of international student fee revenues and the form that student support services are to take.

**Tuition Assurance Scheme**

The National Union of Students has made a series of very pertinent recommendations to the Committee's Inquiry regarding the Tuition Assurance Scheme (TAS), including:

*Recommendation 1: That the ESOS Act and National Code of Practice include policies and procedures to ensure students affected by closure of education providers are given support to*



*access their updated academic transcripts and ensure that Recognition of Prior Learning obtained with previous provider will continue to be recognised by new education providers.*

*Recommendation 2: That access to the TAS funds, in addition to transferring students to a new provider as well as refunds for students, include ability for students to access funds for additional costs incurred associated with requirement to apply for a new Student Visa due to closure of previous provider and inability to complete course requirements within limits of existing Student Visa.<sup>20</sup>*

SUPRA supports these recommendations, and recommends that the existing provisions under the ESOS Act be enforced more strongly.

## **Conclusion**

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A sophisticated and comprehensive response is required on the part of Governments and participants in the higher education sector in order to address the interconnectedness of discrete components of the international student experience (such as accommodation, English language support and welfare support).

A frank and holistic assessment of the status quo in respect of international students reveals vast gaps between the requirements of international students (in relation to both the nature and volume of assistance required) and the services made available to international students by education providers. In SUPRA's experience, the anger expressed in the international student protests during June 2009 does not even scratch the surface of the widespread and profound disappointment felt by international students about their experiences in Australia.

This Inquiry presents an opportunity for Governments and education providers alike to realign the experiences promised by them to international students with the experiences they are in fact capable of offering to those students. It is unquestionable that, at a minimum, this will require significant injections to funding for international student support services and for awareness-raising campaigns.

International students have made significant political, social and cultural contributions to Australia and their presence, in and of itself, presents unique opportunities to the national higher education sector. However, without such a response, Australia risks squandering these opportunities and failing in its obligations to international students.

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<sup>20</sup> Barrow, David, and Smith, Sharon (2009) *NUS Submission To The References Senate Standing Committee on Education, Employment and Workplace Relations Inquiry into the Welfare of International Students*, August 2009. To be printed.