

# Paths for the Albanese Government to improve immigration in 2023

By Abul Rizvi

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**After six months of getting across the state of disrepair in the visa system and implementing some urgent interim measures, 2023 will have to be a year of immigration policy action for the Albanese Government.**

Much will depend on the interim report of the [Parkinson review](#) due in February 2023, although there will be limits on the range of issues the review can address. Then there will be a lag in the Government assessing the recommendations, developing required regulations, securing budget funding and implementing systems changes for recommendations that are agreed upon.

The delays in this will frustrate many. That cannot be avoided if effective implementation is to be achieved.

But let's start by identifying the big immigration issues that need to be tackled.

## Population directions

Following Home Affairs Minister [Clare O'Neil](#)'s criticism that the current migration system lacks a clear strategy and Treasurer [Jim Chalmers](#)' warnings about [population ageing](#), the review should discuss the role of migration in Australia's population directions but without risking another "big Australia" debate. These inevitably become ill-informed with the usual suspects lining up in their respective corners.

That debate will be fuelled in any case by the net overseas migration outcome for 2022 which may exceed all records if a large portion of the [massive excess](#) of visitor arrivals over departures in 2022 extends its stay beyond 12 months. Treasury's [2022 Population Statement](#) is likely to have significantly underestimated the rate at which net migration is rising despite the Department of Home Affairs ([DHA](#)) running significantly behind *pro rata* in delivering the larger 2022-23 migration program.

At some stage, the Government will need to help Australians better understand the role of migration in our population direction as well as in meeting skill shortages that will persist over the long term, even with massive investment in local training.

## Immigration levels

Having increased the 2022-23 migration program to a record 195,000, indications to date are that DHA is, unsurprisingly, [struggling to deliver](#) to that level. Visa grants over the next six months will need to accelerate significantly which means most offshore skilled migrants may not arrive until the June and September quarters of 2023. That will be after the next wave of overseas students who will arrive in the March quarter of 2023.

If Treasury forecasts of employment growth in 2023-24 falling to 0.75% (or possibly lower if much of the [global economy is in recession](#) as the IMF is forecasting) are realised, those offshore migrants will be arriving into a weakening labour market. Note, skilled migrants have a four-year wait for access to social support. Many will be forced into low-skill and low-pay jobs until the labour market

recovers or may leave Australia.

I recall that in the second half of the 1980s, similar to the current situation, business lobby groups convinced the [Hawke](#) Government to slam on the immigration accelerator. But after the 1990 recession, [Paul Keating](#) and [John Hewson](#) were in a race to propose the biggest cuts to migration. Like the economy, migration management proceeds in cycles.

Having criticised the Albanese Government for not increasing the 2022-23 migration program fast enough, Opposition Leader [Peter Dutton](#) will happily fall back into his preferred position of criticising the Government for not cutting the program fast enough if Australia again enters recession.

That will put the Government under pressure to cut the program in either 2023-24 or 2024-25. Cutting immigration levels when the [labour market weakens](#) has been standard practice of Australian governments for decades.

## **Skilled Independent versus state-nominated migration**

In making any cuts, the Government will need to choose between cutting the Skilled Independent category or the state government-nominated categories — the two biggest skilled migration categories in 2022-23.

While long-standing policy is to cut the Skilled Independent category first, the [Grattan Institute](#) has recommended to the Parkinson review that state-nominated categories be given lower priority compared to the Skilled Independent category.

That would be a mistake.

State governments are best placed to identify the skills needed in their jurisdictions, including regional areas of those jurisdictions. While Skilled Independent migrants can settle in Sydney or Melbourne and achieve better salaries, that is not necessarily the best outcome for Australia. Skilled

migrants settling in the smaller states or in regional Australia generally earn lower salaries but also make a significant contribution to those parts of the country — regional towns need more nurses and teachers just as much as Sydney and Melbourne.

No Commonwealth or state governments have ever considered state-nominated categories a lower priority than skilled independents. The Parkinson review should agree with longstanding practice and reject the Grattan recommendation.

## **Employer Sponsored migration — skilled versus unskilled**

Over the past decade, Australia has fallen into a bizarre situation where policy on higher skilled Employer Sponsored visas is run by DHA while policy on low skill Employer Sponsored visas (essentially now the Pacific Australia Labour Mobility ([P.A.L.M.](#)) Scheme) is run by the Department of Foreign Affairs and Trade ([DFAT](#)).

DFAT is in the luxurious position where it takes credit for helping farmers and others access cheap, easily exploited migrant workers while DHA must manage the P.A.L.M. Scheme workers applying for asylum (currently around 300 per month and over 5,000 since November 2019) and the Fair Work Ombudsman must deal with the numerous cases of exploitation and abuse.

It is likely the [Parkinson review](#) will sensibly recommend a higher minimum salary for higher skilled Employer Sponsored visas in exchange for visa streamlining and greater integrity monitoring. That would be good policy but may lead to industry lobby groups pressing DFAT to allow a wider scope of semi and unskilled migrants under an enlarged P.A.L.M. Scheme where there is no visa-specific minimum salary other than the minimum wage that applies to all jobs and comparatively fewer worker protections. That is already happening with [skilled meat workers](#).

The P.A.L.M. Scheme was always a slippery slope towards Australia becoming a guest worker society with appalling levels of worker exploitation that have been well documented for decades in North

America and Europe.

The exploitation problem will be a challenge even when the Government implements the new Pacific Engagement Visa ([PEV](#)) that will provide P.A.L.M. Scheme workers with a pathway to permanent residence unless the Government also implements a much stronger role for unions in the P.A.L.M. Scheme to limit exploitation and provides for a [skills training pathway to the PEV](#) with a clear and certain timeframe rather than a silly visa lottery that DFAT prefers.

## Overseas students

For most of the last 30 years, overseas students have been the key to Australian immigration policy. In most years prior to the pandemic, overseas students represented around 40% of net migration. After the number of overseas students in Australia fell during the pandemic, in 2021-22 they contributed over 60% to net migration.

Offshore student visa applications in 2022 will set an all-time record, largely driven by the attraction of unlimited work rights. The Morrison Government made Australia's student visas essentially into work visas which [trashed the reputation](#) of Australia's international education industry.

Fixing student visas must be a priority for the Parkinson review and address a number of key problems:

1. Too many overseas students are undertaking courses that are not relevant to Australia's long-term needs but more suited to what universities want to deliver. For example, courses in finance or business, often because these are low cost but high profit. There are not nearly enough overseas students who have undertaken courses in occupations in high demand, particularly in health and education but also in the traditional trades — which is, of course, an issue for TAFE and the construction industry.
2. It is far too easy for cheap, low-quality

education providers in Australia to poach students from more expensive, higher-quality providers. This must be addressed, including by the education quality regulators dealing more quickly with low-quality education providers that are essentially visa factories that assist students to work rather than study.

3. Overseas students are struggling to get skilled jobs that get them the requisite skilled work experience to put them on the pathway to permanent residence. This is despite the current tight labour market. Universities must do better in helping overseas students secure skilled jobs and communicating the benefits of employing overseas students to Australian employers. Or are universities recruiting students without sufficient aptitude for the courses they are doing simply because they are prepared to pay the requisite fees?
4. The very high number of offshore student visa applications being refused by DHA (partly due to concerns about fraud) is something universities also need to reflect on — particularly if they are recruiting students more interested in work rights than study. Managing the return to restricted work rights from 1 July 2023 should also be a focus for universities and the Government.

A substantially new approach to student visas and the pathway to permanent residence is needed.

## Asylum seekers

After some delay, the Albanese Government will in 2023 implement its election commitment to create a pathway to permanent residence for the 19,650 legacy boat arrivals who have been granted either a Temporary Protection Visa ([TPV](#)) or a Safe Haven Enterprise Visa ([SHEV](#)). This will inevitably lead to the usual Peter Dutton hysteria about restarting the boats. But he has now [cried wolf on that](#) so often that the hysteria will quickly die down.

The Government will need to work out the best pathway to permanent residence for TPV/SHEV

holders. That will require regulation changes, budget funding to provide for the wider range of services and benefits these permanent residents will have, systems changes as well as space in an enlarged Humanitarian Program.

The more difficult cohort will be those legacy boat arrivals who have already been refused a TPV/SHEV or are likely to be refused — between 10,000 to 12,000 people. Returning these people to their home countries is an impossible task. Just note the difficulties the former Coalition Government had trying to return the [Biloela family](#).

There are three broad options for this cohort:

1. Allow them to reapply for protection. There are numerous risks with this approach including significant budget costs; uncertainty about how many would be successful/unsuccessful potentially leaving a large number who are again refused (back to square one) and the inevitable criticism from Dutton *et al*/that giving these people a second crack at demonstrating they meet the criteria for protection sets a very poor precedent.
2. Allow them to apply for any existing visa they consider they are eligible for and then let the cards lay where they fall. While this is a much more attractive option from a cost and optics perspective, there is again the risk many of the cohort would not meet the criteria for any existing visa (again, back to square one).
3. Allow them to apply for a newly created state-nominated visa based on a minimum period of employment in the relevant state. As most of this cohort would currently be in some sort of employment, this option provides the greatest potential for ensuring the bulk of the cohort secures permanent residence. It is the option I would be recommending.

A third cohort of asylum seekers the Government must consider is those who arrived by boat after the re-introduction of offshore processing. The Government has made it clear this cohort will not be

resettled in Australia but has accepted the New Zealand Government offer to resettle 150 persons *per annum* in NZ.

Asylum seeker advocates are pressing the Government to change this policy. This is likely to not only be futile but will also encourage many of these asylum seekers to not accept the NZ offer. That would be the worst outcome of all as it would just prolong the current uncertainty.

The best available outcome is for the places offered by NZ to be fully taken up thus putting pressure on the Government to negotiate additional places with the NZ Government. This may already be what the Australian Government is thinking.

The final and by far the largest asylum seeker cohort is made of those who have arrived by air since 2014, particularly as part of a massive [labour trafficking scam](#) that started under Peter Dutton's watch. While the number of people applying for asylum fell to as low as 600 per month during the pandemic after peaking at around 2,500 per month under Dutton, the re-opening of international borders and the size of the asylum seeker backlog is now acting as a honeypot for both labour traffickers and people in Australia opportunistically applying for asylum to extend stay.

The monthly asylum application rate reached 1,643 in November 2022 and can be expected to continue to rise. While Minister O'Neil made an oblique reference to this in her [speech](#) to the National Press Club, there is no immediate political pressure on the Government to deal with this cohort. After all, the problem started under Peter Dutton and he will be reluctant to draw attention to the issue.

But as time passes and the size of this cohort continues to grow, pressure on the Albanese Government to act will rise. Most governments in North America and Europe who have experienced similar challenges have been inclined to kick the can down the road. Sadly, the risk is the Australian Government will do the same. That will mean the size of this cohort will continue to grow.

## Visa integrity

Following extensive reporting by the Nine Network late last year, Minister O'Neil indicated she would initiate an independent review of visa integrity. The details of that review have not yet been announced but I [wrote last year](#) about what such a review should cover.

The issues should include:

- getting a detailed handle on the size and nature of the visa integrity challenge;
- reasons behind the extensive decline in DHA compliance activity and what needs to be done to return this to more traditional levels;
- why so little has been done to address the massive labour trafficking scam that started in 2014 and what might be done about that now;
- what is driving the reported levels of fraud in the student visa system and how best to address that;
- what is driving the huge increase in visitors applying for further visas after arrival and what needs to be done to ensure visitor visas are not extensively used to by-pass the appropriate offshore visas;
- more effective operation of the [Movement Alert List](#);
- how best to address the extensive exploitation of migrant workers; and
- identification and publication of a set of key indicators of the health of the visa system.

## Administration of the Department of Home Affairs

A visa system does not fall into the disrepair Minister O'Neil has described by itself. The Albanese Government has started to address some of the problems by increasing funding in 2022-23 for visa processing and appointing a new Associate Secretary.

But much more will be needed, including:

- including a more sensible approach to long-

term funding of visa processing and compliance;

- re-injecting a client service culture in the Department;
- improving the underlying visa I.T. system; and
- addressing the [extraordinarily low level of staff morale](#).

These are all big issues that will take many years to fully address. But good progress must be made on all of these in 2023 if Australia is to again have a visa system that is internationally competitive.

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