



PARLIAMENT OF AUSTRALIA

Migration, Pathway to Nation Building

Joint Standing Committee on Migration

September 2024

CANBERRA

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Foreword

Arthur Calwell, the namesake of my electorate in north-west Melbourne and Australia's inaugural Minister for Immigration, famously said on 2 August 1945 that:

If Australians have learned one lesson from the Pacific war now moving to a successful conclusion, it is surely that we cannot continue to hold our island, continent for ourselves and our descendants unless we greatly increase our numbers.¹

With this, at the twilight of World War II, Calwell initiated the policy of 'populate or perish' to encourage largescale migration into Australia as a means of enhancing our national security. While 'populate or perish' is usually the slogan most closely associated with Calwell, national defence was not the only concern on his mind when he established the migration program nearly 70 years ago.

For Calwell, migration was also a driver of national growth and prosperity—it was a nation-building endeavour. Migration, Calwell said, was 'something essential to our national welfare and something that is above all sectional interest'.² Calwell was at the forefront of bringing in refugees fleeing the horrors of the Second World War and for welcoming thousands of displaced Europeans. He was instrumental in broadening the scope of immigration into Australia beyond the British Isles, and was known for promoting tolerance and pushing for reforms for the greater acceptance of resident Chinese Australians. His pioneering reforms were so transformative that some have credited Calwell as the "father of multiculturalism" in Australia.³ Indeed, in the same 2 August 1945 speech, Calwell made a point that, unfortunately, resonates with much of the contemporary debates on migration when he lamented that

... campaigns are fostered in this country from time to time on racial and religious grounds by persons who have ulterior motives to serve. The activities of such people cannot be too strongly condemned. They are anti-Australian and anti-Christian, and make not for national unity and national wellbeing but for the

¹ Hon Arthur Calwell MP, Minister for Immigration, House of Representatives, *Official Hansard*, 2 August 1945, p. 4911.

² Hon Arthur Calwell MP, Minister for Immigration, House of Representatives, *Official Hansard*, 2 August 1945, p. 4915.

³ Neil McMahon, 'The Speech that Changed Australia', *The Age*, 5 December 2014, <https://www.theage.com.au/national/victoria/the-speech-that-changed-australia-20141204-1208h3.html>, viewed 27 September 2024; Mary Elizabeth Calwell, 'Arthur Calwell and the Gift of Immigration', Museum of Australian Democracy, 28 August 2017, <https://www.moadoph.gov.au/explore/stories/history/arthur-calwell-and-the-gift-of-immigration>, viewed 27 September 2024.

creation of discord and bitterness that is harmful to Australia at home and abroad.⁴

The point of this historical background is that, from its inception, Australia's migration program was consciously an endeavour of grand-scale nation building. Arguably, in important ways, modern Australia started with Calwell's speech on 2 August 1945.⁵ At the time, we were a nation of 7 and a half million people, overwhelmingly of Anglo-Saxon-Celtic heritage; in another 30 years, the population had almost doubled, with the nation peopled by those of increasingly diverse origins. The migration program that Calwell initiated fundamentally reshaped Australian society and laid the foundations for our modern multiculturalism and evolving national identity.

Over the last several years, Australia's migration program has been badly neglected. It has been used as a means to address discrete issues in other policy areas—be it filling ad-hoc gaps in the labour market, acting as a source of revenue for higher education, as an avenue to attract investment, or otherwise been used as a political tool for short term partisan gain by successive governments. Migration *policy* has for too long been relegated to an afterthought; regarded merely as the sum of parts of the migration system without much consideration given to its transformative historical role or future potential to shape our national trajectory. It is time that this stops, and migration policy is again given its rightful place as a central element in our collective nation building work. While migration can, and should, infuse our labour market with vitally needed skills and provide international students an opportunity to study at our universities, these aspects should be part of a consolidated migration policy based on a larger nation building vision. Since being elected to power, the Labor Government has taken great leaps towards this end, with the Migration Review and the new Migration Strategy. These are necessary steps that should be warmly welcomed. Yet, there is still more than can be done to provide a solid basis for migration policy in the coming years.

While debates around the pros and cons of migration often hinge around economic considerations—as, indeed, does much of this report—the matter is more fundamental. Migration, by definition, is about the movement of *people* and the formation and reshaping of communities and societies. Australia has historically shunned the use of migration to build a 'guest worker' program, as in some European and Middle Eastern states, instead envisioning it quintessentially as a nation building exercise based on the long-standing tradition of permanent migration. The primary concern of the migration program should be in welcoming new Australians and ensuring that they are fully integrated as productive and valued members of the Australian community. While temporary migration, including temporary work migration, must remain within the system, instances of 'permanent temporariness' that characterise guest worker programs must be minimised for a priority on permanency. The Government's efforts to refocus our migration system again towards

⁴ Hon Arthur Calwell MP, Minister for Immigration, House of Representatives, *Official Hansard*, 2 August 1945, p. 4915.

⁵ Neil McMahon, 'The Speech that Changed Australia', *The Age*, 5 December 2014, <https://www.theage.com.au/national/victoria/the-speech-that-changed-australia-20141204-1208h3.html>, viewed 27 September 2024.

permanency and the reduction of permanent temporariness should be praised and extended.

The Committee has produced a comprehensive report for this inquiry, covering virtually every aspect of the system and offering recommendations on how to improve it. Given the importance of the inquiry topic for the development of the country over the coming decades—its economy, society, culture, and sense of national identity—the Committee felt that the matter deserved as fulsome consideration as possible.

Of central importance, many of the issues surrounding the migration system stem from a lack of foresight and long-term planning based on solid evidence. Evidence based policy-making, however, requires research capacity within government. The incremental hollowing out of this capacity has left government unprepared to implement, monitor, evaluate, and reform policy. As a matter of priority, the research capacity of government on migration matters must be re-built through the establishment of a national research institute of migration studies. Only then can we hope to see the implementation of migration policy that is fit for purpose, integrated into a nation building project, and reactive to evidence, not political whim.

Secondly, the Committee heard much evidence that Australia is losing its attractiveness as the preferred migration destination for many skilled migrants. The Committee heard convincing evidence that, at a high level, this is due to the amalgamation of immigration, multicultural affairs, and citizenship functions together with border and national security and policing functions within the Department of Home Affairs. In order to deliver a migration system of world-class standing, particularly as a central element in a wider nation building project, migration should be delivered by a department dedicated to that purpose alone.

The Committee received evidence that the migration system is failing regional, rural, and remote parts of Australia. The problems faced in Australia's metropolitan centres, such as skills shortages, difficulties in attracting and retaining skilled migrants, access to services and amenities, and adequate housing, are amplified in the regions. While the Committee offers a number of recommendations specific to addressing issues around regional migration, the matters are so significant that the Committee felt that a further dedicated inquiry on regional migration priorities is warranted.

The example of Canada was raised by many contributors to the inquiry as a world leader in migration policy. The Committee heard that the Canadian model of 'newcomer services', which provides a range of services to newly arrived migrants and their families to aid them in integrating to Canadian society, was a model worthy of learning from. Australian settler services are widely regarded as world-class and have served the country well for decades. Yet, settler services in Australia, in contrast to newcomer services in Canada, are only accessible by people in Australia's Humanitarian Program, that is, refugees. Migrants come from a wide array of personal circumstances and histories, with some more adaptable than others, irrespective of the visa class on which they enter. While generally speaking, refugees may require more supports than other classes of migrant, this is not necessarily always the case, for visa primary applicants as well as their families. The Committee was persuaded by evidence that settlement services should be extended to all types of migrants on the basis of need. Our system should be more agile in assessing that need and offering tailored supports to all. To do so is to acknowledge that migration can be an arduous process for anybody and

that some require more supports than others. The societal benefits of offering settlement services to migrants on the basis of need—in terms of integration outcomes, not to mention the benefits to individual migrants and their families, in the long-term would more than offset the costs of offering these services.

While there is much to be praised in Australia's system of migration, improvements can, and should, be made. The Committee offers recommendations covering virtually every aspect of the system, some more pressing than others. The Committee is very grateful to all those who took time to make submissions and appear as witnesses at hearings and private briefings. This evidence has been instrumental for the Committee's consideration of the issues at hand. The overwhelming impression left by this evidence was the vastly positive contribution made by migration to Australian society; it has enriched us culturally and materially. It is of vital importance that this positive legacy be extended and improved. Migration must once again become the pathway to nation building in Australia.

Finally, this has been a long inquiry reflecting the scope and magnitude of its terms of reference. There are many people who must be thanked for their diligence and commitment. I especially want to thank the Deputy Chair of the Committee, Dr Anne Webster, the Member for Mallee, for her support and collegiality as we worked towards achieving a bipartisan consensus on issues vital to Australia's national interests. I want to thank the Secretariat, Jeff Norris, Danton Leary, Nicole McLennan, and Lachlan Wilson, for their support and acknowledge, their incredible capacity, and competence which was of the highest standard.

I want to also thank Hon Clare O'Neil, the then Minister for Home Affairs, for referring this inquiry and I commend the recommendations to the Government and Parliament.

Ms Maria Vamvakinou MP

Chair



Abbreviations

AAS	Australian Academy of Science
AAT	Administrative Appeals Tribunal
AAV	Australian Agricultural Visa
ABF	Australian Border Force
ABS	Australian Bureau of Statistics
ACA	Australian Constructors Association
ACCPA	Aged and Community Care Providers Association
ACMID	Australian Census Migrant Integrated Dataset
ACN	Australian College of Nursing
AHISA	Association of Heads of Independent Schools of Australia
AHPRA	Australian Health Practitioners Regulation Authority
AIHW	Australian Institute of Health and Welfare
AIMA	Australian Institute of Multicultural Affairs
AMAC	Australian Multicultural Advisory Council
AMC	Australian Multicultural Council
AMEP	Adult Migrant English Program
AMRC	Australian Migrant Resource Centre
ANAO	Australian National Audit Office
ANU	Australian National University
ANZSCO	Australian and New Zealand Standard Classification of Occupations
AO	Officer of the Order of Australia
APHA	Australian Private Hospitals Association

APL	Australian Pork Limited
APM	Australian Police Medal
APS	Australian Public Service
AQF	Australian Qualifications Framework
ASL	Average Staffing Levels
ASRC	Asylum Seeker Resource Centre
ATGA	Australian Table Grape Association
ATN	Australian Technology Network of Universities
AUSCO	Australian Cultural Orientation
AVA	Australian Veterinary Association
BCA	Business Council of Australia
BIIP	Business Innovation and Investment Program
BIMPR	Bureau of Immigration, Multicultural and Population Research
BYTAP	Backpacker and Youth Tourism Advisory Panel
CAD	Canadian Dollar
CALD	Culturally and Linguistically Diverse
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment
CEDA	Committee for Economic Development of Australia
CEO	Chief Executive Officer
CPD	Centre for Policy Development
CPSU	Community and Public Sector Union
CRISP	Community Refugee Integration and Settlement Pilot
CRSA	Community Refugee Sponsorship Australia
CSP	Community Support Program
DAMA	Designated Area Migration Agreement

DAR	Designated Area Representative
DEWR	Department of Employment and Workplace Relations
DIAC	Department of Immigration and Citizenship
DPA	Distribution Priority Area
eGFR	estimated Glomerular Filtration Rate
ENS	Employer Nominated Scheme
EOI	Expression of Interest
ERP	Estimated Resident Population
FECCA	Federation of Ethnic Communities' Councils of Australia
FIONA	Fiscal Impact of New Australians
FSP	Fellowship Support Program
GP	General Practitioner
GPD	Gross Domestic Product
HECS	Higher Education Contribution Scheme
HELP	Higher Education Loan Program
HIA	Housing Industry Association
HILA	Horticulture Industry Labour Agreement (program)
HISP	Humanitarian Integration and Settlement Program
HIV	Human Immunodeficiency Virus
HSP	Humanitarian Settlement Program
IARC	Immigration Advice and Rights Centre
ICCPR	International Covenant on Civil and Political Rights
ICSE	Integrated Client Service Environment
ICT	Information and Communications Technology
IELTS	International English Language Testing System
IGR	Intergenerational Report

IHEA	Independent Higher Education Australia
IME	Immigration Medical Examination
IMG	International Medical Graduate
IOM	International Organization for Migration
IQNM	Internationally Qualified Nurses and Midwives
IRIS	Immigration Records Information System
JSCM	Joint Standing Committee on Migration
KYR	Know Your Roots
LGA	Local Government Area
LGBTQI+	Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex
LMT	Labour Market Testing
MBA	Master Builders Australia
MBS	Medicare Benefits Schedule
MF	Migration Five
MIA	Migration Institute of Australia
MM	Monash Modified (model)
MOU	Memorandum of Understanding
MSC	Mapping Social Cohesion
NAATI	National Accreditation Authority for Translators and Interpreters
NARWP	Newly Arrived Resident's Waiting Period
NGO	Non-Governmental Organisation
NFF	National Farmers' Federation
NMAC	National Multicultural Advisory Council
NOM	Net Overseas Migration
NRHA	National Rural Health Alliance
OAM	Medal of the Order of Australia

OECD	Organisation for Economic Co-operation and Development
OMA	Office of Multicultural Affairs
OMARA	Office of the Migration Agents Registration Authority
OSB	Operation Sovereign Borders
PALM	Pacific Australia Labour Mobility (scheme)
PC	Productivity Commission
PCBC	Primary Care Business Council
PEV	Pacific Engagement Visa
PIC	Public Interest Criteria
PLF	Pacific Labour Facility
PR	Permanent Residency
PSM	Public Service Medal
QPASTT	Queensland Program of Assistance to Survivors of Torture and Trauma
RACGP	Royal Australian College of General Practitioners
RACS	Refugee Advice and Casework Service
RAI	Regional Australia Institute
RBA	Reserve Bank of Australia
RCoA	Refugee Council of Australia
RDTGGA	Robinvale and District Table Grape Growers Association
RMA	Registered Migration Agent
RoS	Resolution of Status (visa)
RRAP	Return and Reintegration Assistance Program
RUN	Regional Universities Network
RWA	Rural Workforce Agencies
SAF	Skilling Australians Fund

SBS	Special Broadcasting Service
SCOA	Settlement Council of Australia
SCT	Significant Cost Threshold
SDP	Service Delivery Partners
SEMMA	South East Melbourne Manufacturing Alliance
SESR	Skilled Employer Sponsored Regional (visa)
SETS	Settlement Engagement and Transition Support
SHEV	Safe Haven Enterprise Visa
SIS	Specialised and Intensive Service
SME	Small and Medium-sized Enterprise
SPA	Sustainable Population Australia
SSI	Settlement Services International
STEM	Science, Technology, Engineering, and Mathematics
SUPRA	Sydney University Postgraduate Representative Association
TGV	Temporary Graduate Visa
TIS	Translating and Interpreting Services
TPV	Temporary Protection Visa
TRT	Temporary Residence Transition
TSMIT	Temporary Skilled Migration Income Threshold
TSS	Temporary Skill Shortage (visa)
UMA	Unauthorised Maritime Arrival
UN	United Nations
UNC	Unlawful Non-Citizen
UNHCR	United Nations High Commissioner for Refugees
VET	Vocational Education and Training

WDA	Wimmera Development Association (Wimmera Southern Mallee Development)
WHM	Working Holiday Maker
WHO	World Health Organization
WLSA	Women's Legal Services Australia
YTS	Youth Transition Support



Members

Chair

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Calwell, VIC

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Terms of reference

The Joint Standing Committee on Migration will inquire into and report on Australia's migration system, with reference to:

1. The role of permanent migration in nation building, cultural diversity, and social cohesion;
2. Immigration as a strategic enabler of vibrant economies and socially sustainable communities in our cities and regional hubs;
3. Attraction and retention strategies for working migrants to Australia;
4. Policy settings to strengthen skilled migrant pathways to permanent residency;
5. Strengthening labour market participation and the economic and social contribution of migrants, including family and humanitarian migrants and the partners of working migrants;
6. The role of settlement services and vocational training in utilising migrant experiences, knowledge, and opportunities; and
7. Other related matters that may assist the inquiry.

List of recommendations

Recommendation 1

- 2.103** The Committee recommends that the Australian Government works with the state and territory governments through the National Cabinet Education Ministerial Council to promote in the Australian Curriculum the significance and value of migration in Australia's history and future.

Recommendation 2

- 2.104** The Committee recommends that the Australian Government promotes and celebrates migration and multiculturalism as central elements in Australia's national story through our national cultural institutions.

Recommendation 3

- 3.43** The Committee recommends that the Australian Government, through National Cabinet, works in collaboration with state and territory governments to devise an inter-governmental strategy that embeds nation building in forward plans, and acts to unify and guide the development of policy.

Recommendation 4

- 3.54** The Committee recommends that the Australian Government considers the complex relationship between migration and the Australian environment and investigate measures that would help to ameliorate any negative impacts.

Recommendation 5

- 5.45** The Committee recommends that the Australian Government considers re-establishing the Department of Immigration, Citizenship and Multicultural Affairs as a standalone department, to administer the current immigration and citizenship, multicultural affairs, settlement services, and social cohesion functions of the Department of Home Affairs.

Recommendation 6

- 6.16** The Committee recommends that the Australian Government allows biometric data collected for visa application purposes be stored and remain valid for 12

months following the date of collection and be useable for multiple visa applications within that period.

Recommendation 7

- 6.20** The Committee recommends that as part of any upgrade to information technology upgrades to migration and visa processing systems that the Australian Government considers investigating options for the initial capture and provision of biometric data for visa applicants through utilisation of smart technology biometric capture. This data could then be further verified at Australian Biometrics Collection centres if warranted in country of origin, or verified upon arrival in Australia.

Recommendation 8

- 6.35** The Committee recommends that the Australian Government explores simplifying the health requirements to a single Public Interest Criterion that incorporates an entitlement to apply for a waiver of the health requirements.

Recommendation 9

- 6.36** The Committee recommends that the Australian Government removes specialised education services from the description of 'community service costs' in the policy settings for the Australian visa Significant Cost Threshold, with appropriate considerations to Budget impacts.

Recommendation 10

- 6.37** The Committee recommends that the Australian Government increases the Significant Cost Threshold to an amount that will enable Australia to remain competitive with comparable countries, with appropriate consideration to Budget impacts.

Recommendation 11

- 6.72** The Committee recommends that the Australian Government undertakes a digital English language testing pilot in the higher education sector, to examine the robustness of a digital system to withstand or detect fraud, and consider the feasibility of a broader roll out.

Recommendation 12

- 6.73** The Committee recommends that the Australian Government empowers Jobs and Skills Australia to review the English language requirements for a range of

occupational roles to ensure that they align with the work and safety requirements of the position.

Recommendation 13

- 6.74** The Committee recommends that the Australian Government removes the requirement to retest the English language proficiency of visa applicants already in Australia, where the level of proficiency required is the same or lower than the English language requirement that the applicant had previously satisfied.

Recommendation 14

- 6.91** The Committee recommends that the Australian Government conducts a comprehensive review to guide the staged reform of the Migration Act 1958 to ensure that the Act remains fit for purpose as the legislative framework supporting the new migration strategy.

Recommendation 15

- 6.92** The Committee recommends that the Australian Government amends the Migration Act 1958, and any other relevant subordinate legislation, to enable recognition of the skills, and qualifications of secondary applicants when considering the primary applicant's visa suitability.

Recommendation 16

- 6.114** The Committee recommends that the Australian Government develops internal mechanisms to assess, and report publicly in relevant Annual Reports, the effectiveness of the measures introduced to:
- reduce the visa backlog;
 - modernise the visa system; and
 - embed simplification as a key objective of all actions in the Migration Strategy.

Recommendation 17

- 6.115** The Committee recommends that, in due course, the Auditor-General and Australian National Audit Office considers conducting a performance audit into the effectiveness of the measures outlined in Recommendation 16.

Recommendation 18

- 6.150** The Committee recommends that the Australian Government provides greater transparency to applicants, agents, and sponsors regarding the progress of visa applications.

Recommendation 19

- 6.151** The Committee recommends that the Australian Government requires external agencies contracted to perform assessment services for visa applications to abide by a best practice service level agreement for processing times.

Recommendation 20

- 6.181** The Committee recommends that the Australian Government considers reintroducing the '90-day rule' into the Migration Act 1958 to ensure that refugee status determinations are concluded within 90 days.

Recommendation 21

- 6.182** Recognising that reform of the migration system will place further pressure on Departmental systems and staff, the Committee recommends that the Department of Home Affairs reintroduces a change management process to better support staff, guide implementation of reforms, and monitor the effect of this process.

Recommendation 22

- 6.183** The Committee recommends that the Australian Government makes use of the existing skills and knowledge of Department of Home Affairs staff during all stages of the work to upgrade the existing legacy visa processing systems.

Recommendation 23

- 6.184** The Committee recommends that the Australian Government's commitment to 'modernise the visa system experience for migrant and employers' includes:
- automation of low-risk processes, and
 - a real time tracker for applicants to chart the progress of their application.

Recommendation 24

- 6.185** The Committee recommends that the Department of Home Affairs conducts a feasibility study into the creation of a secure digital portal for visa application

documentation and investigate legislative changes that would enable sharing of this information with trusted partners.

Recommendation 25

6.216 The Committee recommends that the Australian Government, recognising that the current permanent parent visas fail to offer realistic completion time frames, considers whether to:

- cease to offer permanent parent visas to new applicants, and
- expedite the development of appropriate visa settings for the family migration stream.

Recommendation 26

6.217 The Committee recommends that the Department of Home Affairs' 'enhanced outreach program' incorporates feedback and periodic review processes to ensure that its operation is fit for purpose.

Recommendation 27

7.81 The Committee recommends that the Australian Government undertakes modelling to identify a new age limit for Employer Nominated Scheme visas, between 50 and 60, that considers tax, fiscal, pension, and relevant ageing population factors.

Recommendation 28

7.82 The Committee recommends that the Australian Government considers introducing standing exemptions on the age limit for Employer Nominated Scheme visas for the following applicants:

- Applicants who will be employed in a senior management role;
- Applicants who worked in Australia over the COVID period and held their temporary visa before 18 April 2017;
- Applicants who have been working in Australia for a considerable period, before seeking to settle in Australia; and
- Applicants whose permanent presence in Australia is of inherent benefit regardless of their age.

Recommendation 29

7.100 The Committee recommends that the Australian Government considers amending the Migration Act 1958 and the Migration Regulations 1994 to include provisions to deliver measures to ensure that the process by which the

Minister, or their delegate, determines which persons who have submitted an Expression of Interest to apply for a skilled independent visa are invited to apply is authorised by law.

Recommendation 30

7.101 The Committee recommends that the Australian Government publishes more granular information, in a timely manner, about the profile of forthcoming invitation rounds, to better enable potential applicants to make informed decisions around their applications for skilled independent visas.

Recommendation 31

7.140 The Committee recommends that the Australian Government continues to prioritise the development and implementation of the Skills in Demand visa, informed by widescale stakeholder consultation, and ensures that the three streams: Specialist Skill Pathway, Core Skills Pathway, and Essential Skills Pathway address the full gamut of demand for labour in the economy.

Recommendation 32

7.205 The Committee recommends that the Australian Government considers the phasing out of Labour Market Testing requirements in favour of a data-driven approach by Jobs and Skills Australia, especially for the agriculture sector, which is tailored to specific geographic and industry conditions.

Recommendation 33

7.206 The Committee recommends that the Australian Government amends the Migration Act 1958 or the Migration Regulations 1994 to expressly confer on Jobs and Skills Australia the statutory responsibility of determining skills and workforce shortages for the purposes of migration law.

Recommendation 34

7.207 The Committee recommends that the Australian Government replaces the current skilled migration occupation lists with lists produced by Jobs and Skills Australia, based on the Australian and New Zealand Standard Classification of Occupations but flexible enough to account for newly emerging occupations in the economy.

Recommendation 35

- 7.208** The Committee recommends that the Australian Government conducts more regular updates of the Australian New Zealand Standard Classification of Occupations.

Recommendation 36

- 7.243** The Committee recommends that the Australian Government considers providing Jobs and Skills Australia the statutory power to oversee the work of Australia's skills assessment authorities and also provides an appeal mechanism for skills assessment decisions.

Recommendation 37

- 7.244** The Committee recommends that the Australian Government takes the lead in a nationally coordinated approach to harmonising the regulation of skills assessment, qualification recognition, and occupational licensing requirements in partnership with state and territory governments and professional bodies to ensure more effective and efficient processes.

Recommendation 38

- 7.245** The Committee recommends that the Australian Government, as part of a wider nationally coordinated approach to harmonising the regulation of skills assessment, qualification recognition, and occupational licensing requirements, establishes an online portal as a one-stop-shop for navigating these processes, available in multiple languages.

Recommendation 39

- 7.246** The Committee recommends that the Australian Government works to establish mutual recognition of skills and qualifications with partner governments and accreditation authorities of countries with similar standards to Australia.

Recommendation 40

- 7.247** The Committee recommends that the Australian Government, through a competent body, provides for automatic skill and qualification recognition and, including where possible, occupational licensing of foreign workers coming from countries where standards for a given occupation are equivalent to or higher than that of Australia.

Recommendation 41

- 7.264** The Committee recommends that the Australian Government redesigns the Skilling Australians Fund levy so that it more directly contributes to the skilling of locals to meet the needs of industries that rely on foreign workers and pay the levy.

Recommendation 42

- 7.265** The Committee recommends that the Australian Government trials the application of trailing employer fees to all classes of employer sponsored visa.

Recommendation 43

- 8.60** The Committee recommends that the Australian Government adopts the Canadian model to broaden eligibility to settlement services to all migrants on the basis of need, (1) with an emphasis in stronger local partnerships to improve outcomes and integration and (2) including better tailored and targeted employment supports for migrants

Recommendation 44

- 8.61** The Committee recommends that the Australian Government improves the existing public relations program to increase the level of confidence that Australian employers have in skills, experience, and qualifications acquired by migrants overseas.

Recommendation 45

- 8.81** The Committee Recommends that the Australian Government amend the Migration Act 1958, to better account for the skills and experience of secondary applicants in the points test for skilled migration visa applicants.

Recommendation 46

- 9.52** The Committee recommends that the Australian Government undertakes a pilot program to better aid refugees in navigating the skills assessment and qualification recognition processes in Australia.

Recommendation 47

- 9.53** The Committee recommends that the Australian Government refers to relevant examples in Germany to devise mechanisms through which skills assessing authorities can help refugees substantiate their claims around their skills,

experience, and qualifications in cases where official documentation is unavailable.

The Government should ensure that any such mechanism is robust enough to ensure safety and quality standards for the Australian community. The Committee, further, recommends that this be implemented as part of an online portal for navigating these processes as included in Recommendation 38.

Recommendation 48

- 9.54** The Committee recommends that the Australian Government establishes a system through which refugees are more directly connected to job opportunities relevant to their skills and qualifications that is built into the skills assessment and qualification recognition processes, and that the skill value of refugees is effectively promoted to potential employers.

Recommendation 49

- 9.107** The Committee recommends that the Australian Government works within the existing funding framework to improve specialised refugee employment support services and that that employment support service providers be incentivised to help refugees find jobs, or pursue small business opportunities, best aligned to their skills, qualifications, and experience.

Recommendation 50

- 9.108** The Committee recommends that, unless there are compelling reasons related to security or the public interest, that the Australian Government provides work rights to asylum seekers on bridging visas to allow them to support themselves and their families and contribute to the Australian economy and society.

Recommendation 51

- 9.109** The Committee recommends that the Australian Government makes available more specialised employment and domestic violence support services for migrant women.

Recommendation 52

- 9.132** The Committee recommends that the Australian Government offer exemptions on a case-by-case basis to allow the use of an interpreter for the citizenship test for refugees who are older, lack formal education, or have experienced trauma and hardship.

Recommendation 53

- 9.133** The Committee recommends that the Australian Government conducts an audit of citizenship interview and testing sites to ensure that these are located in areas of greatest demand.

Recommendation 54

- 9.141** The Committee recommends that the Department of Home Affairs develops clear exemption guidelines that recognise the importance of providing a pathway for refugees to establish their identity claims when documentary evidence is unobtainable, while minimising the risk of fraud.

Recommendation 55

- 10.27** The Committee recommends that the Australian Government allows Working Holiday (subclass 417) and Work and Holiday (subclass 462) visa holders to work in tourism and hospitality in all hard-to-staff rural and remote areas of Australia as part of their 88 days or 6 months to qualify for their second- or third-year Working Holiday Maker visa.

Recommendation 56

- 10.28** The Committee recommends that the Australia Government reviews the definitions used by Australian Government departments in legislation and regulation in relation to regional Australia with a view to fostering a more uniform approach, especially in relation to their application in policies and procedures.

Recommendation 57

- 10.29** The Committee recommends that the Australian Government ensures that the definition of regional Australia, and its constituent parts, used by the Department of Home Affairs to underpin its policies and procedures, is both consistent and sufficiently nuanced to support the attraction and retention of migrant workers to the areas in which they are needed in regional Australia.

Recommendation 58

- 10.64** The Committee recommends that the Australian Government works with state and territory governments to tailor a campaign that promotes the virtues of relocating to Australia's regions to skilled migrants.

Recommendation 59

10.65 The Committee recommends that the Australian Government works with state and territory governments to tailor a suite of incentives that encourage migrants to move to Australia's regions.

Recommendation 60

10.107 The Committee recommends that the Australian Government works with all tiers of government and major stakeholders to develop a package of scaled incentives that foster the long-term settlement of healthcare professionals in outer regional or remote areas.

Recommendation 61

10.108 The Committee recommends that the Australian Government considers offering prioritised access to parent visas to International Medical Graduates who spend a predetermined period working in regional, rural, and remote areas to incentivise those doctors to remain in regional areas.

Recommendation 62

10.152 The Committee recommends that the Australian Government reviews Designated Area Migration Agreements and Industry Labour Agreements to ensure that they are fit for purpose.

Recommendation 63

10.182 The Committee recommends that the Australian Government increases the age of eligibility for a Working Holiday Maker visa to 35 across the two subclasses of the scheme.

Recommendation 64

10.183 The Committee recommends that the Australian Government reviews the Working Holiday Maker program with a view to standardising requirements and reducing disparities between participating countries and visa subclasses.

Recommendation 65

10.184 The Committee recommends that that Australian Government aligns locations eligible to satisfy specified work requirement across the two visa subclasses of the Working Holiday Maker program.

Recommendation 66

10.185 The Committee recommends that the Australian Government continues to improve the educational program directed at Working Holiday Maker scheme participants to provide them with knowledge of their rights while working in Australia and implement more robust mechanisms to monitor compliance with labour laws by businesses employing Working Holiday Maker visa holders.

Recommendation 67

10.220 The Committee recommends that the Australian Government improves communication systems to ensure that local councils and relevant community and government organisations are given adequate prior notice of the arrival and composition of PALM workers.

Recommendation 68

10.221 The Committee recommends that Australian Government initiates longer term relationships between a receiving region in Australia and a participating PALM nation to develop culturally specific programs to foster productive cultural exchange and participation.

Recommendation 69

10.222 The Committee recommends that, in due course, the Australian Government reviews outcomes relating to the expansion of Medicare to participants in the PALM Family Accompaniment Pilot.

Recommendation 70

10.267 The Committee recommends that the Australian Government collaborates with all levels of government to ensure that settlement service providers located in regional, rural, and remote settings are adequately resourced to deliver settlement services uniquely required in regional Australia.

Recommendation 71

11.46 The Committee recommends that the Australian Government develop and implement the establishment of a fully funded, independent collaborative institution for research and data collection and analysis related to migration policy, and associated policy impacts in social cohesion, employment, health, and any other relevant policy and portfolio considerations.

The institution should be overseen by an advisory panel of eminent experts and representatives from key Australian Government departments, state and

territory governments, as well as leaders in the research, community and business sectors.

Recommendation 72

- 11.48** The Committee recommends that any research or data analysis outcomes resulting from the work of the institution be made publicly available through the DATA scheme administered by the Office of the National Data Commissioner.

Recommendation 73

- 12.11** The Committee recommends that the Minister for Home Affairs refer Terms of Reference for an inquiry into regional migration to the Joint Standing Committee on Migration for inquire and report in this term of Parliament.



1. Introduction

The Inquiry Process

- 1.1 On 27 October 2022, the Joint Standing Committee on Migration (the Committee) wrote to the then Minister for Home Affairs, the Hon Clare O’Neil MP, proposing a new inquiry titled ‘Migration, Pathway to Nation Building’. On 22 November 2022, the then Minister responded by referring the new inquiry to the Committee with broad Terms of Reference, as listed at page xxvii.¹
- 1.2 The Committee adopted the referral on 23 November 2022, opened the inquiry for submissions and reached out to a wide array of interested parties to directly invite contributions. Submissions officially closed on 16 March 2023, but the Committee continued to accept submissions on a case-by-case basis until July 2023.
- 1.3 In total, the inquiry received 131 submissions from a diverse range of groups and individuals, including industry peak bodies, refugee and migrant advocacy groups, migration agents, settlement service providers, think tanks and policy consultants, academics, researchers and learned societies, youth groups, and government. The full list of submissions is at Appendix A.
- 1.4 The Committee held 11 public hearings over the course of the inquiry, hearing from 128 witnesses. Aware that regional Australia faces unique challenges that intersect with the migration system, the Committee was particularly concerned to go to a regional setting to hear directly from those living there. To this end, the Committee conducted a public hearing in the town of Robinvale, Victoria, on 27 May 2023, hearing from local businesses on how migration can be better leveraged to support regional economies and communities. A list of witnesses who appeared at these hearings is at Appendix B.
- 1.5 As part of these public hearings, the Committee received responses to Questions on Notice and Questions in Writing from 32 witness groups. These responses are listed at Appendix C.

¹ Hon Clare O’Neil MP, Minister for Home Affairs, to Ms Maria Vamvakinou MP, Chair, Joint Standing Committee on Migration, 22 November 2022, https://www.aph.gov.au/-/media/02_Parliamentary_Business/24_Committees/244_Joint_Committees/Migration/47p/Migration_Pathway/Letter_from_the_Minister_for_Home_Affairs_-_22_Nov_2022.pdf?la=en&hash=CEF8AAD92EB727F0F9B8C6A53A8BDCBCE6698A85, viewed 15 August 2023.

Background

- 1.6 Since the formation of the new Australian Government in May 2022, there have been a number of announcements, reviews, and other developments affecting Australia's migration system. These developments have direct bearing on the Committee's present inquiry and are summarised below.

Jobs and Skills Summit, September 2022

- 1.7 On 11 July 2022, the Australian Government announced that it would hold a Jobs and Skills Summit, bringing together unions, employers, civil society groups and government to discuss Australia's current and future economic challenges. 'Improving migration settings to support higher productivity and wages' was announced as one of the main focus areas for the Summit.²
- 1.8 On 17 August 2022, the Government released an issues paper in the lead-up to the Summit.³ The issues paper covered five broad areas, one of which was 'delivering a high-quality labour force through skills, training and migration'. Highlighting the significant contribution skilled visa holders make to Gross Domestic Product (GDP) and noting perennial labour shortages, particularly in healthcare, technology and specialised trade roles, the paper suggested that the migration system needed reform to make it simpler and more flexible for both employers and potential migrants to navigate.⁴
- 1.9 The Jobs and Skills Summit was held over 1–2 September 2022 at Australian Parliament House, Canberra. The second day included two sessions on migration: 1) the role of skilled migration in resolving the current skills and labour shortage crisis, and 2) a migration system for Australia's future.⁵

Government Announcements and Outcomes

- 1.10 During the former session, the then Minister for Home Affairs announced that the Government would increase the number of permanent migration visas available from 160,000 places to 195,000, emphasising that the Government's priority was 'to move

² Hon Anthony Albanese MP, Prime Minister and Hon Dr Jim Chalmers MP, Treasurer, 'Jobs and Skills Summit to be held in September', *Joint Media Release*, 11 July 2022, <https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/jobs-and-skills-summit-be-held-september>, viewed 17 August 2023.

³ Hon Dr Jim Chalmers MP, Treasurer, 'Release of Jobs and Skills Summit issues paper', *Media Release*, 17 August 2022, <https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/release-jobs-and-skills-summit-issues-paper>, viewed 17 August 2023.

⁴ Australian Government, 'Jobs + Skills Summit: Issues paper', 17 August 2022, https://treasury.gov.au/sites/default/files/2022-08/2022-302672-ip_0.pdf, viewed 17 August 2023.

⁵ Australian Government, 'Jobs and Skills Summit: Agenda', https://treasury.gov.au/sites/default/files/inline-files/jobs-and-skills-summit-final-agenda_0.pdf, viewed 17 August 2023.

away from the focus on short-term migrants, towards permanency, citizenship and nation building'.⁶

- 1.11 In the same session, the then Minister for Immigration, Citizenship and Multicultural Affairs, Hon Andrew Giles MP, announced that the Government would invest \$36.1 million into visa processing to surge staff capacity by 500 people over the following nine months in order to reduce the backlog of visa applications that accumulated over the COVID-19 period and to bring down visa processing times.⁷
- 1.12 In addition to these announcements, the Government also stated that it would increase the duration of post study work rights for recent international student graduates with certain in-demand degrees by two additional years—four years for bachelor degrees, five years for master degrees, and six years for doctoral degrees—to strengthen the pipeline of skilled labour in the economy.⁸
- 1.13 The 'Jobs and Skills Summit—Outcomes' document acknowledged that increasing migration numbers requires all level of government to work together to ensure that the nation's infrastructure, housing, and social services are well planned to meet demands.⁹
- 1.14 The Summit also served as a platform for the Government to announce a wide-ranging review of 'the purpose, structure and objectives of Australia's migration system' to ensure the system is fit-for-purpose in the coming decades.¹⁰

A Migration System for Australia's Future Review

- 1.15 Pivoting off the Jobs and Skill Summit, on 2 September 2022, the then Ministers for Home Affairs, and Immigration, Citizenship and Multicultural Affairs jointly announced

⁶ Hon Clare O'Neil MP, Minister for Home Affairs, 'Jobs and Skills Summit – The role of skilled migration in resolving the current skills and labour shortage crisis', *Media Release*, 2 September 2022, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/transcript-job-skills-summit-skilled-migration-02092022.aspx>, viewed 17 August 2023.

⁷ Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multiculture Affairs, 'Speech at the National Jobs and Skills Summit', *Media Release*, 2 September 2022, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/speech-national-jobs-skills-summit.aspx>, viewed 17 August 2023.

⁸ Australian Government, 'Jobs +Skills Summit: Outcomes', p. 4, <https://treasury.gov.au/sites/default/files/inline-files/Jobs-and-Skills-Summit-Outcomes-Documents.pdf>, viewed 17 August 2023; Australian Government, 'Extended Post-Study Work Rights: Eligible Occupations and Qualifications', 21 February 2023, <https://www.education.gov.au/download/15013/list-occupations-and-qualifications-eligible-post-study-work-rights-extension/31474/document/pdf>, viewed 17 August 2023.

⁹ Australian Government, 'Jobs +Skills Summit: Outcomes', p. 5, <https://treasury.gov.au/sites/default/files/inline-files/Jobs-and-Skills-Summit-Outcomes-Documents.pdf>, viewed 17 August 2023; Australian Government, 'Extended Post-Study Work Rights: Eligible Occupations and Qualifications', 21 February 2023, <https://www.education.gov.au/download/15013/list-occupations-and-qualifications-eligible-post-study-work-rights-extension/31474/document/pdf>, viewed 17 August 2023.

¹⁰ Australian Government, 'Jobs +Skills Summit: Outcomes', p. 4, <https://treasury.gov.au/sites/default/files/inline-files/Jobs-and-Skills-Summit-Outcomes-Documents.pdf>, viewed 17 August 2023; Australian Government, 'Extended Post-Study Work Rights: Eligible Occupations and Qualifications', 21 February 2023, <https://www.education.gov.au/download/15013/list-occupations-and-qualifications-eligible-post-study-work-rights-extension/31474/document/pdf>, viewed 17 August 2023.

a 'comprehensive review' of Australia's migration system to report by the end of February 2023—the so-called *A Migration System for Australia's Future* review (the Review). In making this announcement, the then Ministers referenced the previously announced increase of 35,000 permanent visa places available and noted the need to shift the system away from 'a guest worker economy' for Australia to be competitive 'in the global race for talent'.¹¹

- 1.16 From its announcement, it is clear that the Government intended the Review to be the basis of the largest reforms to the migration system in generations. On this, the then Minister for Home Affairs stated:

This is a turning point in our history as momentous as the post war 'populate or perish' program that was the foundation of our post-war reconstruction, nation building and national security.¹²

- 1.17 The then Minister for Immigration, Citizenship and Multicultural Affairs, meanwhile, made explicit the Government's expectation that the review would lead to migration becoming centrally important to the project of nation building in contemporary Australia, noting that the Government:

...is committed to re-establishing immigration as a nation-building function of Government, in order to realise our full potential as a reconciled nation that harnesses its diversity.¹³

- 1.18 The Review's Terms of Reference pointed to demographic and economic challenges facing Australia, including an ageing population, slowing population growth, reduced productivity growth and endemic skills shortages, as the major background factors to the Review, and noted that these phenomena are mirrored across the countries of the Organisation for Economic Co-operation and Development (OECD). They suggested that, coupled with the employment, education, and training of Australians, migration could be leveraged to alleviate these issues, improving economic outcomes and improving Australia's sovereign capabilities.¹⁴

¹¹ Hon Clare O'Neil MP, Minister for Home Affairs, and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'Australia's Migration Future', *Joint Media Release*, 2 September 2022, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/australias-migration-future.aspx>, viewed 17 August 2023.

¹² Hon Clare O'Neil MP, Minister for Home Affairs, cited in Hon Clare O'Neil MP, Minister for Home Affairs, and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'Australia's Migration Future', *Joint Media Release*, 2 September 2022, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/australias-migration-future.aspx>, viewed 18 August 2023.

¹³ Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, cited in Hon Clare O'Neil MP, Minister for Home Affairs, and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'Australia's Migration Future', *Joint Media Release*, 2 September 2022, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/australias-migration-future.aspx>, viewed 18 August 2023.

¹⁴ Department of Home Affairs, 'A Migration System for Australia's Future: Terms of Reference for the Independent Strategy Leads', <https://www.homeaffairs.gov.au/reports-and-pubs/files/terms-of-reference-migration-strategy.pdf>, viewed 22 August 2023.

- 1.19 The Terms of Reference were broad in scope, encompassing any reforms for the creation of a 'simple, efficient migration system' that complements the economy, Australia's education and training systems, the building of sovereign capabilities, the attraction of highly skilled migrants, the establishment of clear paths to permanent residency, and the fostering of enhanced integration with Australia's international partners. Specifically excluded from the Terms of Reference was irregular migration, status resolution and Operation Sovereign Borders, the functions and activities of the Australia Border Force, administered programs, and Public Interest Criteria required for the approval of visas.¹⁵
- 1.20 To conduct the review, the Government appointed Dr Martin Parkinson AC PSM, Professor Joanna Howe, and Mr John Azarias 'based on their distinguished expertise'. The reviewers received submissions and conducted targeted roundtable consultations to inform their findings and recommendations.¹⁶
- 1.21 In the course of the current inquiry and prior to the public release of the Review, the Committee received a private briefing from the reviewers on the findings and likely outcomes of the Review.

Discussion Paper and Final Report

- 1.22 In November 2022, the reviewers released a discussion paper to help guide submitters to the Review. This paper noted that the 'current migration system is complex and inflexible, lacks a strategic rationale, and no longer meets our demands' and suggested that it was time to 'consider the merits of a whole-of-government approach to a redesigned migration system' through a new migration strategy. The paper then outlined the challenges and opportunities for the current migration system and posed a range of questions for stakeholders to engage with in providing submissions to the Review.¹⁷
- 1.23 The reviewers presented their final report—*Review of the Migration System*—(the Report) to the Government on 21 March 2023.¹⁸ Centrally, the Report noted that Australia's current migration system is 'not fit for purpose' and, going back to first principles, sought to 'delineate the objectives of the migration system'.¹⁹
- 1.24 As noted by the reviewers, the myriad of problems facing the migration system are the result of a lack of clearly delineated objectives guiding the system. As with other

¹⁵ Department of Home Affairs, 'A Migration System for Australia's Future: Terms of Reference for the Independent Strategy Leads', <https://www.homeaffairs.gov.au/reports-and-pubs/files/terms-of-reference-migration-strategy.pdf>, viewed 22 August 2023.

¹⁶ Department of Home Affairs, 'A Migration System for Australia's Future', <https://www.homeaffairs.gov.au/reports-and-publications/reviews-and-inquiries/departmental-reviews/migration-system-for-australias-future>, viewed 22 August 2023.

¹⁷ Department of Home Affairs, 'A Migration System for Australia's Future', Discussion Paper, November 2022, https://www.homeaffairs.gov.au/reports-and-pubs/files/reviews-and-inquiries/discussion_paper.pdf, pp. 2, 3-12, viewed 22 August 2023.

¹⁸ Department of Home Affairs, 'A Migration System for Australia's Future', <https://www.homeaffairs.gov.au/reports-and-publications/reviews-and-inquiries/departmental-reviews/migration-system-for-australias-future>, viewed 21 August 2023.

¹⁹ Australian Government, *Review of the Migration System*, Final Report, March 2023, pp. 1, 2.

areas of public policy, setting clear objectives for the migration system, they argued, is vital for good policy design and implementation. This is particularly important for large and complex systems with significant public impact, such as migration.²⁰

- 1.25 To this end, the Report identified five core objectives upon which to re-build the migration system in the promotion of Australia's national interest:
- 1 Building Australia's prosperity by lifting productivity, meeting labour supply needs and by supporting exports;
 - 2 Enabling a fair labour market, including by complementing the jobs, wages, and conditions of domestic workers;
 - 3 Building a community of Australians;
 - 4 Protecting Australia's interests in the world; and
 - 5 Providing a fast, efficient, and fair system.²¹
- 1.26 In pursuance of these core objectives, the reviewers provided 12 broad reform directions, further subdivided into 38 more detailed options, for the Government to consider. The 12 reform directions were:
- 1 Develop a clear migration strategy to guide Australia over coming decades;
 - 2 Redefine how Australia determines the size and composition of the migration program;
 - 3 Better target permanent skilled visas to maximise economic outcomes and remain internationally competitive;
 - 4 Be led by the evidence, in temporary skilled migration;
 - 5 Adopt principles and guardrails to manage risk in temporary skilled migration;
 - 6 Resolve and avoid 'permanently temporary' migration;
 - 7 Restore the Working Holiday Maker program to its original intention;
 - 8 Review approach to Parent visas;
 - 9 Strengthen international student outcomes and transitions;
 - 10 Unlock all migrant potential;
 - 11 Improve and restore clarity to the role of migration in international relations; and

²⁰ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 21.

²¹ Australian Government, *Review of the Migration System*, Final Report, March 2023, pp. 3, 22.

12 Invest in policy, service delivery and enabling capabilities.²²

- 1.27 In laying out the need for a new migration strategy based on clear objectives, the Report noted the crucial importance of maintaining public confidence in the system and what it aims to achieve. While many factors can influence how the public view migration, several key factors in bolstering confidence in the system include: a need to ensure the working rights and conditions of all migrants are protected so as to avoid perceptions that migration is being used to erode local wages and conditions; maximising social cohesion through the successful integration of migrants into Australia's multicultural society; maintaining the integrity of the system by minimising illegitimacy and ensuring monitoring and compliance; and ensuring transparency and fairness in the system.²³
- 1.28 Closely related to the need for the system to have clearly articulated objectives is the necessity for the management of the system to be coordinated. The Report noted that the migration system is currently viewed by different areas of government as a tool to achieve specific policy objectives within each of these areas' policy focus. Such a dispersed approach has led to confusion and complexity as to what the system's objectives are. The Report emphasised the need for one section of government to take stewardship of the migration system in entirety to ensure it stays focused on its core objectives.²⁴
- 1.29 Added to this, the Report argued the need for Government to re-build and better value capability and expertise on immigration within government through investment in staff development, technological improvements and culture change within the Department of Home Affairs.²⁵

Government Response to the Report

Temporary Skilled Migration Income Threshold and Temporary Skills Shortage Visa Holders

- 1.30 As a first response to the findings of the Report, on 27 April 2023, the Government announced an increase to the Temporary Skilled Migration Income Threshold (TSMIT) from \$53,900 to \$70,000, commencing from 1 July 2023.²⁶
- 1.31 The TSMIT sets the minimum salary an employer must meet when nominating a skilled migrant for subclass 482, 494, 186 and 187 visas to work in the country. The

²² Australian Government, *Review of the Migration System*, Final Report, March 2023, pp. 7-10.

²³ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 27.

²⁴ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 29.

²⁵ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 29 and Chapter 18.

²⁶ Hon Clare O'Neil MP, Minister for Home Affairs and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs 'Temporary Skilled Migration Income Threshold Raised to \$70,000', *Joint Media Release*, 27 April 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/temporary-skilled-migration-income-threshold-raised.aspx>, viewed 14 September 2023.

rationale for the TSMIT is to ensure that these visas subclasses are not used to undercut the Australian labour market.²⁷

- 1.32 In announcing this change, the Government highlighted that the previous TSMIT (\$53,900) had been frozen since 2013 and that 90 per cent of all full-time jobs in Australia currently paid a salary above it. The new TSMIT (\$70,000) was reached through a calculation of what the old TSMIT would have been approximately had it been indexed to inflation.²⁸ The then Minister for Home Affairs emphasised that the change would ensure the program was functioning as ‘a skilled worker program, not a guest worker program’.²⁹
- 1.33 At the same time, the Government also announced that all Temporary Skill Shortage (TSS) short term visa holders would be able to access a pathway to permanent residency within the existing capped permanent program.³⁰

The Draft Migration Strategy

- 1.34 Secondly and more fundamentally, on the same day as the above announcements, the then Minister for Home Affairs announced the release of the Government’s draft Australian Migration Strategy—*A Migration System for a More Prosperous and Secure Australia* (the draft strategy). The draft strategy outlined ‘a series of directions for significant reform’ and invited consultation by stakeholders. A finalised strategy was earmarked for release by the end of 2023.³¹
- 1.35 The draft strategy reproduced the five core objective identified in the Report and highlighted the lack a ‘national long-term planning process’ to manage migration, despite migration accounting for two-thirds of Australia’s population growth.³²
- 1.36 In addressing this lack of planned management in the migration system, the draft strategy called for the creation of a ‘new nation building endeavour with state and

²⁷ Department of Home Affairs, ‘Nominating a position—salary requirements’, <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/salary-requirements>, viewed 14 September 2023.

²⁸ Hon Clare O’Neil MP, Minister for Home Affairs and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘Temporary Skilled Migration Income Threshold Raised to \$70,000’, *Joint Media Release*, 27 April 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/temporary-skilled-migration-income-threshold-raised.aspx>, viewed 14 September 2023.

²⁹ Hon Clare O’Neil MP, Minister for Home Affairs, ‘Australia’s Migration System’, National Press Club address, 27 April 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/national-press-club-address-australias-migration-system-27042023.aspx>, viewed 12 September 2023.

³⁰ Hon Clare O’Neil MP, Minister for Home Affairs and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘Temporary Skilled Migration Income Threshold Raised to \$70,000’, *Joint Media Release*, 27 April 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/temporary-skilled-migration-income-threshold-raised.aspx>, viewed 14 September 2023.

³¹ Hon Clare O’Neil MP, Minister for Home Affairs, ‘Australia’s Migration System’, National Press Club address, 27 April 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/national-press-club-address-australias-migration-system-27042023.aspx>, viewed 12 September 2023.

³² Department of Home Affairs, ‘A Migration System for a More Prosperous and Secure Australia: Outline of the Government’s Migration Strategy’, April 2023, p. 2, <https://immi.homeaffairs.gov.au/programs-subsite/files/migration-strategy-outline.pdf>, viewed 14 September 2023.

territory governments to plan our migration intake'.³³ Central aspects of this endeavour include the alignment of infrastructure, state and territory governments better identifying the needs and priorities of their migrant communities, the introduction of faster pathways to permanency, improving compliance around international students, reducing the number of international students on bridging visas, and reducing exploitation of vulnerable and insecure migrant workers.³⁴

The Migration Strategy

- 1.37 On 11 December 2023, the Government released the *Migration Strategy – Getting migration working for the nation* report (the Strategy). The Strategy recognised that migrants have been and will remain 'an essential part of Australia's economic and social fabric' that have helped build Australia's 'modern dynamism and diversity, contributing their skills, experience and cultures to the making of a nation that is both outward-facing and internally cohesive'.³⁵
- 1.38 Despite this, the Strategy also acknowledged that Australia's 'migration system is not the nation building engine it once was', as it fails to adequately attract and retain people who are best placed to lift the nation's skill base, boost exports, improve productivity, and raise living standards. As such, the Strategy finds that the permanent migration program 'could be better targeted towards lifting Australia's long-term economic productivity and workforce participation'.³⁶
- 1.39 As noted above, the Report found that 'a lack of clarity on what Australia has been trying to achieve through migration is at the heart of the problems the system faces today'.³⁷ In response to this, the Strategy sets five 'core objectives' to underpin the migration system going forward. These are:
- Raising living standards by boosting productivity, meeting skills shortages and supporting exports;
 - Ensuring a fair go in the workplace by complementing the jobs, wages and conditions of all workers and preventing migrant worker exploitation;
 - Building stronger Australian communities by better planning the migration intake, and giving migrants the opportunity to invest their lives in Australia through permanent residence and citizenship; and
 - Strengthening international relationships by building stronger economic and social connections with our region and international partners.

³³ Department of Home Affairs, 'A Migration System for a More Prosperous and Secure Australia: Outline of the Government's Migration Strategy', April 2023, p. 6, <https://immi.homeaffairs.gov.au/programs-subsite/files/migration-strategy-outline.pdf>, viewed 14 September 2023.

³⁴ Department of Home Affairs, 'A Migration System for a More Prosperous and Secure Australia: Outline of the Government's Migration Strategy', April 2023, p. 6, <https://immi.homeaffairs.gov.au/programs-subsite/files/migration-strategy-outline.pdf>, viewed 14 September 2023.

³⁵ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 8.

³⁶ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 10.

³⁷ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 21.

- Making the system work by being fast, efficient and fair for migrants and employers.³⁸

1.40 In order to achieve these objectives, the Strategy sets out a comprehensive approach based on eight 'key actions' developed through consultation with 'business, unions, civil, international education, civil society and many Australians' and based around the main findings of the Report. The eight key actions are as follows:

- 1 Targeting temporary skilled migration to address skills needs and promote worker mobility.
 - A new Skills in Demand visa with 3 targeted pathways, and visa settings that encourage migrant worker mobility in the labour market.
- 2 Reshaping permanent skilled migration to drive long-term prosperity.
 - A commitment to explore a reformed points test for permanent skilled migration, and a new Talent and Innovation visa for migrants who can drive growth in sectors of national importance.
- 3 Strengthening the integrity and quality of international education.
 - A package of integrity measures to lift the standards for international students and education providers, while ensuring graduates help meet skills shortages and do not become 'permanently temporary'.
- 4 Tackling worker exploitation and the misuse of the visa system.
 - A comprehensive suite of legislation, powers, penalties and policies to combat worker exploitation and restore integrity to the migration system.
- 5 Planning migration to get the right skills in the right places.
 - A longer-term, evidence-based approach to planning migration that closely collaborates with states and territories and ensures population planning is based on the best available population data and forecasts.
- 6 Tailoring regional visas and the Working Holiday Makers program to support regional Australia and its workers.
 - A new direction to ensure visas for regional Australia are prioritised first, and a commitment to evaluating regional migration settings and the Working Holiday Maker program to ensure migration supports development objectives in regional Australia and does not contribute to worker exploitation.
- 7 Deepening our people-to-people ties in the Indo-Pacific.
 - A new approach to developing people-to-people links with our region, including through a direct pathway to citizenship for New Zealand and increased mobility with Pacific Island and Southeast Asian countries.

³⁸ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 12.

- 8 Simplifying the migration system to improve the experience for migrants and employers.
 - A system-wide simplification agenda that will streamline visa settings, reduce visa classes and make the system easier to use.³⁹

Multicultural Framework Review

- 1.41 On 2 June 2023, the Government announced another major review with direct implications for the current inquiry—the Multicultural Framework Review (the review)—a ‘first principles review of multiculturalism in Australia’.⁴⁰ The review was directed to consider the institutional arrangements and policy and legislative settings of the Commonwealth in relation to multiculturalism. The review was to be guided by the following three principles:
 - Advancing a multicultural Australia;
 - Supporting Australia’s cohesive and inclusive multicultural society; and
 - Ensuring settings are fit for purpose in harnessing the talents of all Australians.⁴¹
- 1.42 The Government appointed a panel of ‘three eminent Australians’ to conduct the review. The panel consisted of Dr Bulent Hass Dellal AO as Chair, Ms Nyadol Nyuon OAM, and Ms Christine Castley.⁴² The Panel was supported by a Reference Group made up of representatives from peak bodies, community groups and civil society organisations.
- 1.43 On the announcement of the review, the Government called for submissions from interested parties and flagged that the review panel would be conducting nation-wide consultations with key community stakeholders, Commonwealth and state and territory government officials, and members of the public to inform the review.⁴³
- 1.44 On 24 July 2024, the Government announced the release of the report of the Multicultural Framework Review, entitled *Towards Fairness—a multicultural Australia for all* (the report). Upon release of the report, the Government noted that ‘Australia’s last major review of multiculturalism was more than half a century ago’ and since that

³⁹ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 13.

⁴⁰ Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘Submissions open for the Multicultural Framework Review’, *Media Release*, 15 August 2023, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/submissions-open-multicultural-framework-review.aspx>, viewed 20 September 2023; Australian Government, Multicultural Framework Review, ‘Terms of Reference’, <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-framework-review/terms-of-reference>, viewed 20 September 2023.

⁴¹ Department of Home Affairs, ‘Terms of Reference’, Multicultural Framework Review, <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-framework-review/terms-of-reference>, viewed 20 September 2023.

⁴² Department of Home Affairs, ‘Panel and Reference Group’, Multicultural Framework Review, <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-framework-review/panel-and-reference-group>, viewed 21 September 2023.

⁴³ Department of Home Affairs, ‘Multicultural Framework Review’, <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-framework-review/multicultural-framework-review>, viewed 21 September 2023.

time, Australia had been ‘transformed into a nation which welcomes people from nearly every country on Earth’.⁴⁴

- 1.45 The Multicultural Framework Review received a total of 796 submissions from across the Australian community, including 126 in languages other than English, following consultations with over 1400 individuals and 750 organisations.⁴⁵
- 1.46 The *Towards Fairness* report offers recommendations ‘on what measures are needed to remain a country that continues to enjoy the benefits of its diversity and the measures needed to adapt to the present social, economic and political landscape’. Of note, the report emphasises that the ‘principles of mutual respect and equality embedded in multiculturalism are not privileges reserved for a select few; they are fundamental indicators of societal wellbeing for all and a way of fostering a thriving, harmonious community’.⁴⁶
- 1.47 The report outlined a roadmap for ‘a renewed multicultural framework’, based on three interconnected principles: 1) Connection (setting the foundations); 2) Identity and Belonging (creating a welcoming Australia); and 3) Inclusion (working together to get services right). The roadmap, according to the report, ‘along with the right institutional settings, provides the continuum needed to sustain a successful, fair multicultural Australia for all’.⁴⁷
- 1.48 In total, the report provides 29 recommendations, including the following 10 ‘high-priority recommendations’:
- 1 Australian Government to affirm commitment to multicultural Australia;
 - 2 Australia to formally observe the UN International Day for the Elimination of Racial Discrimination on 21 March;
 - 3 Develop a national plan to celebrate Australia’s cultural diversity, to synchronise existing federal, state, territory and local government initiatives such as Harmony Week to acknowledge and celebrate Australia’s cultural diversity;
 - 4 Establish a Multicultural Affairs Commission and Commissioner, and standalone Department of Multicultural Affairs, Immigration and Citizenship, with a dedicated minister;
 - 5 The Department of Home Affairs, through government and non-government consultation to action an immediate review of the Australian citizenship test

⁴⁴ Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘An Australia for all: the Multicultural Framework Review’, *Media Release*, 24 July 2024, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/an-australia-for-all-the-multicultural-framework-review-24072024.aspx>, viewed 9 August 2024.

⁴⁵ Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘An Australia for all: the Multicultural Framework Review’, *Media Release*, 24 July 2024, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/an-australia-for-all-the-multicultural-framework-review-24072024.aspx>, viewed 9 August 2024.

⁴⁶ Australian Government, *Towards Fairness: A multicultural Australia for all*, 2024, p. 11.

⁴⁷ Australian Government, *Towards Fairness: A multicultural Australia for all*, 2024, pp. 15-16.

procedures, including considering providing the test in languages other than English and in alternative and more accessible formats;

- 6 Leverage Australia's diversity of languages to support our economic prosperity through a revitalised language policy led by the Australian Government;
- 7 Ensure the sustainability and quality of language services (interpreting and translating);
- 8 Establish a fully funded TIS [Translating and Interpreting Services] National capacity within the existing business unit;
- 9 Boost National Accreditation Authority for Translators and Interpreters (NAATI) funding; and
- 10 Improve efficiency and effectiveness of multicultural grants and funding programs, with consultation and co-design of guidelines and common standards across the Australian Government, state and territory and local governments and community sectors.⁴⁸

Other Government Announcements

Temporary Protection Visa and Safe Haven Enterprise Visa holders

- 1.49 On 13 February 2023, the Government announced that refugees on Temporary Protection (subclass 785) visas (TPV) and Safe Haven Enterprise (subclass 790) visas (SHEV) would be provided a pathway to permanent residency.⁴⁹ The announcement applies to refugees on TPVs and SHEVs who arrived prior to the commencement of Operation Sovereign Borders in 2014 and were holding a valid TPV or SHEV prior to 14 February 2023. The decision affects approximately 19,000 refugees, who are now eligible to apply for a Resolution of Status visa.
- 1.50 The announcement does not apply to those persons who arrived prior to the commencement of Operation Sovereign Borders but have subsequently been found not to be owed protection as a refugee—that is, those not holding a TPV or SHEV visa. This group comprises approximately 12,000 people.
- 1.51 This decision, also, does not apply to any person arriving as an Unauthorised Maritime Arrival after 14 February 2023. Under Operation Sovereign Borders, such people are subject to offshore processing and are not eligible for permanent protection. As the then Minister for Home Affairs made clear at the time of the announcement, there was 'zero chance of settling in Australia under Operation

⁴⁸ Australian Government, *Towards Fairness: A multicultural Australia for all*, 2024, p. 17.

⁴⁹ Hon Clare O'Neil MP, Minister for Home Affairs and Hon Andrew Giles, Minister for Immigration, Citizenship and Multicultural Affairs, 'Delivering a permanent pathway for Temporary Protection Visas holders', *Joint Media Release*, 13 February 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/permanent-pathway-for-tpv-holders.aspx>, viewed 21 September 2023.

Sovereign Borders’ for those arriving irregularly without a valid visa.⁵⁰ Such persons who are found not to engage the country’s protection obligations and have exhausted all other avenues to remain in Australia, are required to depart as soon as possible.

Direct Pathway to Australian Citizenship for New Zealanders

- 1.52 On 22 April 2023, the Prime Minister, Hon Anthony Albanese MP, the then Minister for Home Affairs, and the then Minister for Immigration, Citizenship and Multicultural Affairs jointly announced a new direct pathway to Australian citizenship for eligible New Zealanders.
- 1.53 Under this change, as of 1 July 2023, New Zealanders on Special Category (subclass 444) visas in Australia are able to apply directly for citizenship without having to become permanent residents first, provided that they meet a four-year residence and other eligibility requirements.⁵¹

Best Practice Principles and Standards for Skilled Migration Assessing Authorities

- 1.54 On 12 September 2023, the then Minister for Home Affairs, the then Minister for Immigration, Citizenship and Multiculturalism, and the then Minister for Skills and Training, Hon Brendan O’Connor MP, announced a review of the skills assessments processes for migrant workers.⁵² The review aims to ‘develop new standards for skilled migration assessing authorities to raise the integrity, quality and timeliness of migration skills assessments’ to improve outcomes for migrants, employers, and industry.⁵³
- 1.55 As part of this review, the Government released a discussion paper, ‘Draft Best Practice Principles and Standards for Skilled Migration Assessing Authorities’, and is consulting a range of stakeholders, including assessing authorities, government

⁵⁰ Hon Clare O’Neil MP, Minister for Home Affairs and Hon Andrew Giles, Minister for Immigration, Citizenship and Multicultural Affairs, ‘Delivering a permanent pathway for Temporary Protection Visas holders’, *Joint Media Release*, 13 February 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/permanent-pathway-for-tpv-holders.aspx>, viewed 21 September 2023.

⁵¹ Hon Anthony Albanese MP, Prime Minister, Hon Clare O’Neil MP, Minister for Home Affairs, Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘Direct pathway to Australian citizenship for New Zealanders’, *Joint Media Release*, 22 April 2023, <https://www.pm.gov.au/media/direct-pathway-australian-citizenship-new-zealanders>, viewed 19 February 2024.

⁵² Hon Clare O’Neil MP, Minister for Home Affairs, Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, Hon Brendan O’Connor MP, Minister Skills and Training, ‘Skills assessment reform for migrant and local businesses’, *Joint Media Release*, 12 September 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/skills-assessment-reform-migrants-local-businesses-12092023.aspx>, viewed 20 February 2024.

⁵³ Department of Employment and Workplace Relations, ‘Best Practice Principles and Standards for Skilled Migration Assessing Authorities’, <https://consultations.dewr.gov.au/best-practice-principles-and-standards-for-skilled-migration-assessing-authorities>, viewed 20 February 2024.

departments, education and training providers, business and industry groups, unions, and multicultural community organisations.⁵⁴

Report Structure

1.56 The report consists of 12 chapters.

Chapter 1: Introduction

1.57 Chapter 1, the present chapter, provides relevant background information, including recent Government announcements and reviews with direct bearing on the inquiry, and an overview of the conduct of the inquiry.

Chapter 2: Migration and the Formation of Modern Australia

1.58 Chapter 2 provides a historical overview of the role that migration has played in the formation of modern Australia. The earliest migrations into the continent occurred 60,000 years ago with the arrival of Australia's First Nations' people. In more recent times, large-scale migration from the British Isles and later from all over the world has forged Australia as one of the world's most successful multicultural societies. The chapter establishes the essential place of migration in the story of modern Australia and for our future nation building efforts.

Chapter 3: Migration and Nation Building

1.59 Chapter 3 discusses, in conceptual terms, the central place migration has played and will continue to play in the endeavour of nation building in Australia. It provides an overview of the concept of nation building and examines how it is inextricably entwined with migration in the Australia context. It examines why migration is important to Australia, economically, socially, and culturally.

Chapter 4: Australia's Migration System

1.60 Chapter 4 provides a factual overview of the current state of the migration system in Australia. The chapter provides the necessary background to understanding current challenges in the system and opportunities for improvements.

Chapter 5: Attracting and Retaining Skilled Migrants

1.61 Chapter 5 acknowledges that Australia is in a global competition for highly skilled migrant workers and that there is a need to tailor policy to improve how we attract and retain such highly sought after workers. The chapter focuses on the cultural and institutional environment within which our migration policy is set and administered.

⁵⁴ Department of Employment and Workplace Relations, 'Best Practice Principles and Standards for Skilled Migration Assessing Authorities', <https://consultations.dewr.gov.au/best-practice-principles-and-standards-for-skilled-migration-assessing-authorities>, viewed 20 February 2024

Chapter 6: Reducing Complexities and Costs, Improving Processing Times and Transparency

- 1.62 Chapter 6 addresses the widely acknowledged flaws in our current visa processing system and provides recommendations to improve these processes. Our current system is overly complex, costly, and comparatively slow and fails to serve the needs and interests of Australian businesses, the Australian community, and prospective migrants.

Chapter 7: Skilled Migration

- 1.63 Chapter 7 discusses ongoing and endemic skills shortages within the Australian economy and the role that the migration system should play in helping to ameliorate this. It outlines current challenges faced by Australian businesses in accessing appropriately skilled workers from overseas and provides recommendations for improving the system

Chapter 8: Maximising the Workforce and Social Participation of Migrants and their Families

- 1.64 Chapter 8 examines how we can maximise the contribution that migrants and their families make to both the Australian economy and wider society. Migrants come to Australia with much to contribute, but often the system fails to support these migrants and their families in maximising their contribution. The chapter focus on the need for robust settlement services to support migrants in their integration into Australian society.

Chapter 9: Humanitarian Entrants

- 1.65 Chapter 9 is dedicated to examining our current Humanitarian Program and how it can be improved for the benefit of refugees, asylum seekers and other displaced persons, and Australia. Refugees have been an important component to our wider migration program since the Second World War, and refugees have contributed immeasurably to Australian life. Improving the current system will allow humanitarian entrants to contribute even more.

Chapter 10: Regional Migration

- 1.66 Chapter 10 deals with the unique challenges and opportunities that are experienced by regional Australia in relation to migration policy. Regional businesses often rely heavily on migrant labour and many regional settings have thriving migrant communities. Yet, Australia's biggest cities still often disproportionately attract the largest share of migrants. Ensuring that regional locations can access and retain migrant workers will have substantial benefits for regional communities, regional businesses, and migrants.

Chapter 11: Improving our Research Capacity

- 1.67 Good public policy must be founded on robust research. Chapter 11 looks at how government can produce better migration policy outcomes with a stronger focus on research.

Chapter 12: Conclusions

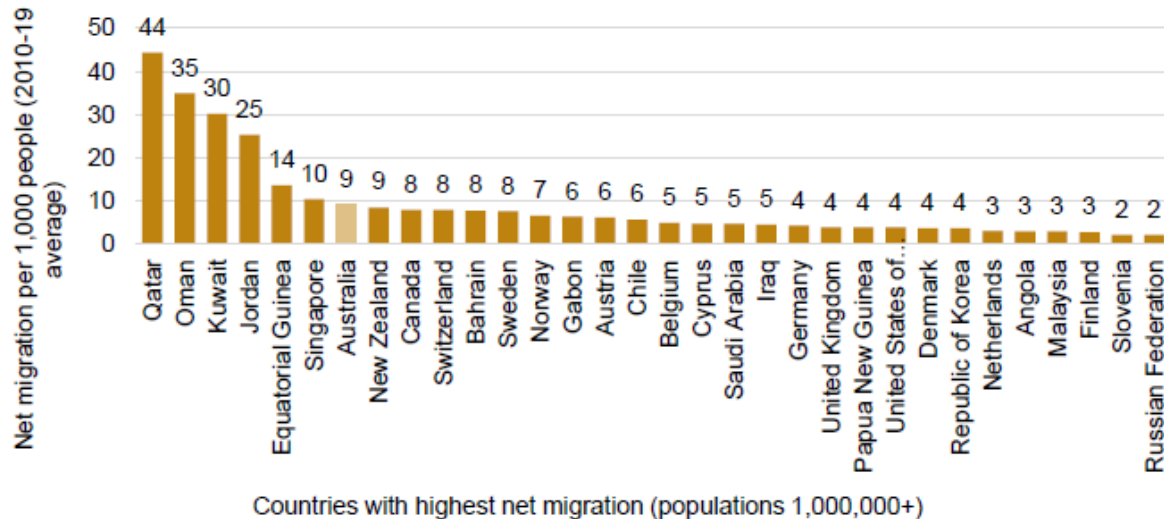
- 1.68 Chapter 12 summarises the key findings and recommendations of the inquiry and earmarks areas for further inquiry.

2. Migration and the Formation of Modern Australia

Australia as a Migrant Nation

- 2.1 Modern Australia is indelibly a migrant nation and migration has been central to Australia's national story.¹ Australia has among the highest levels of net migration in the world and half the population was either born overseas or has at least one parent who was born overseas. Proportionally, Australia takes far more migrants than the UK or the USA and even more than comparable countries like Canada and New Zealand. Only countries that rely heavily on guestworkers, such as Singapore and the Gulf States, take more immigrants, but the vast majority of these people inevitably return to their countries of origin at the end of their working sojourn (Figure 2.1). Reflecting this situation, while Australia accounts for 0.3 per cent of the world's population, 2.8 per cent of the world's immigrants live here.²

Figure 2.1 Net Migration by Country, Averages 2010-2019



Source: The Migration Hub at ANU, *Submission 70*, p. 5.

- 2.2 As Noel Pearson has pointed out, modern Australia comprises three great parts that form one indissoluble commonwealth: the ancient heritage of Australia's Indigenous

¹ Department of Home Affairs, *Submission 127*, p. 4.

² The Migration Hub at ANU, *Submission 70*, p. 5; Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 1.

peoples, the British legacy of our social and governmental structures, and our modern multicultural society that brings together people and cultures from across the world.³ While the former has ancient origins, the latter two components are outcomes of modern migration flows.

- 2.3 Thus, while Australia's First Nations' people have deep and enduring connections to Country from time immemorial, the modern nation-state of the Commonwealth of Australia is one founded on migration.⁴ Flows of migrants and policy settings affecting the nature and scale of these have profoundly shaped and reshaped the character of Australian culture and society over its modern history.
- 2.4 This chapter provides a historical overview of migration into Australian, from the earliest movement of humans into the continent, through the population explosion of the Gold Rush era and the restrictive policies of the 'White Australia' period, to the establishment of a universal and non-discriminatory migration program and the formation of our modern multicultural policies. It traces how Australia's national and cultural identities are inextricably tied to migration and serves to provide background to later discussions on our current migration settings and how these can serve as a core component in nation building into the future.

First Nations' Migrations into Australia

- 2.5 Current archaeological, genetic, and linguistic evidence suggests that the first migrations of humans into what would become Australia occurred between 50,000 to 65,000 years ago. This migration into the ancient continent of Sahul, combining New Guinea, mainland Australia and Tasmania during the latter stages of the last ice age when sea levels were lower, represented one of the earliest and furthest movements of modern humans out of Africa.⁵
- 2.6 Genetic analysis suggests that all First Nations Australians can claim common descent from this first wave of migration into the continent, meaning that Indigenous Australians are one of the world's oldest continuing ethnolinguistic populations outside of Africa and have effectively occupied Australia since before the continent took its present form.⁶

³ Noel Pearson, 'A Rightful Place – Race, recognition and a more complete commonwealth', *Quarterly Essay* 55, September 2014; Australian Human Rights Commission, *Submission* 42, p. [1].

⁴ The Migration Hub at ANU, *Submission* 70, p. 5

⁵ Alan Cooper, Alan N Williams, Nigel Spooner, 'When did Aboriginal people first arrive in Australia?', *The Conversation*, 7 August 2018, <https://theconversation.com/when-did-aboriginal-people-first-arrive-in-australia-100830>, viewed 25 September 2023; Chris Clarkson, Ben Marwick, Lynley Wallis, Richard Law Kelsham Fullagar, Zenobia Jacobs, 'Buried tools and pigments tell a new history of humans in Australia for 65,000 years', *The Conversation*, 20 July 2017, <https://theconversation.com/buried-tools-and-pigments-tell-a-new-history-of-humans-in-australia-for-65-000-years-81021>, viewed 25 September 2023.

⁶ Ed Yong and Nature Magazine, 'Genomes Show Indians Influx to Australia 4,000 Years Ago', *Scientific American*, 14 January 2013, <https://www.scientificamerican.com/article/genomes-show-indians-influx-to-australia-4000-years-ago/>, viewed 27 September 2023; Rebecca Morelle, 'Ancient migration: Genes link Australia with India', *BBC News*, 14 January 2013, <https://www.bbc.com/news/science-environment-21016700>, viewed 27 September 2023; Carl Zimmer, 'How Did Aboriginal Australians Arrive on the

- 2.7 Once arriving in northern Australia, around the Kimberley region, the ancestors of Australia's First Nations peoples quickly spread around the east and west coasts and into the continent's interior, reaching Tasmania via a land bridge approximately 40,000 years ago.⁷
- 2.8 Some archaeological and genetic evidence further suggests that there were subsequent migrations of peoples from South Asia into northern Australia around 4,000 years ago, with these populations' genetic, linguistic, and technological features becoming absorbed and distributed through Australia's existing First Nations' peoples. This research also suggests that these later arrivals may have also been accompanied by the ancestors of Australia's native dog, the dingo.⁸
- 2.9 Prior to the arrival of Europeans into Australia, it is estimated that the Indigenous population numbered between 300,000 to 1.2 million, with some estimates much higher, at 3 million.⁹ These groups were separated into around 500-600 distinct tribes, speaking around 200 different languages, who generated unique ways of living and cultures and helped shape the continent's land, vegetation, and waterways over millennia.¹⁰

Migrations to Colonial Australia

Convicts and Free Settlers

- 2.10 The arrival of the First Fleet on 18 January 1788 ushered in the next major wave of migrants into Australia, when 11 ships carrying over 1,400 convicts, sailors, marines, and civil officers arrived in Botany Bay. A week later, on 26 January, Port Jackson was established as Britain's first penal colony in Australia, after Botany Bay was deemed unsuitable for settlement.

Continent? DNA Helps Solve a Mystery', *New York Times*, 8 March 2017, <https://www.nytimes.com/2017/03/08/science/aboriginal-australians-dna-origins-australia.html#:~:text=their%20remarkable%20story,-,All%20living%20Aboriginal%20Australians%20descend%20from%20a%20single%20founding%20population,populations%20remained%20isolated%2C%20rarely%20mixing>, viewed 25 September 2023.

⁷ Stefani Crabtree, Alan N Williams, Corey J A Bradshaw, Devin White, Frédérik Saltré, Sean Ulm, 'We mapped the "super-highways" the First Australians used to cross the ancient land', *The Conversation*, 30 April 2021, <https://theconversation.com/we-mapped-the-super-highways-the-first-australians-used-to-cross-the-ancient-land-154263>, viewed 27 September 2023.

⁸ Ed Yong, 'Genomes Show Indians Influx to Australia 4,000 years Ago', *Scientific American*, 14 January 2013, <https://www.scientificamerican.com/article/genomes-show-indians-influx-to-australia-4000-years-ago/>, viewed 26 September 2023.

⁹ Alan N Williams, 'Australia's colonisation was no accident, say the numbers', *The Conversation*, 26 April 2013, <https://theconversation.com/australias-colonisation-was-no-accident-say-the-numbers-13730>, viewed 25 September 2023; Corey J A Bradshaw, Alan N Williams, Frédérik Saltré, Kasih Norman, Sean Ulm, 'The First Australians grew to a population of millions, much more than previous estimates', *The Conversation*, 30 April 2021, <https://theconversation.com/the-first-australians-grew-to-a-population-of-millions-much-more-than-previous-estimates-142371>, viewed 25 September 2023.

¹⁰ Louise C. Johnson, Tanja Luckins and David Walker, *The Story of Australia: A New History of People and Place*, Oxon: Routledge, 2022, p. 9.

- 2.11 The bonded transportation of convicts was an integral part of the UK's penal system and had been imposed as an alternative punishment to execution since the early 17th century in England and Wales. The practice became regulated and more common following the passing of the *Transportation Act 1717* by the UK Parliament, which established a seven-year sentence for convictions for non-capital offences and 14 years for capital offences that had been commuted. The death penalty was imposed for those who returned prior to the completion of their sentence. Over 50,000 convicts were sent to Britain's colonies in the Americas by 1775.¹¹
- 2.12 The American War of Independence closed the Americas off to further convict transportation from Britain from 1776. Facing social upheaval at home, with massive agricultural and industrial changes and a rapidly growing prison population, Britain sought an alternative outlet for the bonded transportation of convicts. The British government initially considered Africa and the Caribbean as sites for transportation but found them to be unsuitable.¹² James Cook had surveyed the eastern coast of Australia in 1770, and in 1783 the site of Cook's first landing, Botany Bay, was proposed as a suitable location for the establishment of a penal colony. In 1785 the British government agreed to this proposal.¹³
- 2.13 More ships and convicts followed the First Fleet's arrival in 1788, with the first free settlers arriving in Port Jackson in 1793—five men and two families. A second penal colony was established at Sullivans Cove, Van Diemen's Land (later Tasmania), in 1803.¹⁴
- 2.14 Changes in the 1820s and 1830s resulted in great increases in the numbers of convicts and free settlers arriving in Australia. For one, demobilisation of the British army and navy following the end of the Napoleonic Wars (1815), and economic disruptions and increased unemployment in Britain resulted in a rise in conviction rates and the number of convicts being transported. Illustrative of this, between 1805 and 1842, while the population of Great Britain doubled in size the number of prosecutions increased by 600 per cent.¹⁵

¹¹ National Museum of Australia, 'Convict transportation peaks', <https://www.nma.gov.au/defining-moments/resources/convict-transportation-peaks>, viewed 5 October 2023.

¹² National Museum of Australia, 'Convict transportation peaks', <https://www.nma.gov.au/defining-moments/resources/convict-transportation-peaks>, viewed 5 October 2023.

¹³ British Library, 'Timeline of James Cook's voyages', <https://www.bl.uk/the-voyages-of-captain-james-cook/timeline#:~:text=19%20April%201770%3A%20The%20east,was%20made%20at%20Botany%20Bay>, viewed 5 October 2023; National Museum of Australia, 'Convict transportation peaks', <https://www.nma.gov.au/defining-moments/resources/convict-transportation-peaks>, viewed 5 October 2023; Parliament of New South Wales, '1788 to 1810 – Early European Settlement', <https://www.parliament.nsw.gov.au/about/Pages/1788-to-1810-Early-European-Settlement.aspx>, viewed 6 October 2023.

¹⁴ Hamish Maxwell-Stewart and Deborah Oxley, 'Convicts and the Colonisation of Australia, 1788-1868', *Digital Panopticon*, Digital Panopticon Project, https://www.digitalpanopticon.org/Convicts_and_the_Colonisation_of_Australia,_1788-1868, viewed 5 October 2023; Parliament of New South Wales, '1788 to 1810 – Early European Settlement', <https://www.parliament.nsw.gov.au/about/Pages/1788-to-1810-Early-European-Settlement.aspx>, viewed 6 October 2023.

¹⁵ Geoffrey Sherington, *Australia's Immigrants: 1788-1988*, Second Edition, Sydney: Allen & Unwin, 1990, pp. 38-40.

- 2.15 Secondly, in an effort to reduce administrative costs, the British government introduced a system of land grants for wealthy immigrants to Australia and the provision of convict labourers to service the land without fee. A settler was entitled to the use of one convict per one hundred acres of land received via grant. In exchange, these settlers were responsible for clothing, housing, and feeding their convict labourers.¹⁶
- 2.16 As well as leading to an increase in the number of free settlers and reducing administrative costs, this policy was designed to reduce Britain's reliance on continental Europe for the provision of wool for the British textiles industry. And while this policy of large-scale land grants to settlers led to a flourishing economy based on wool exports, it was also based on the flawed legal principle of *terra nullius*, that declared all land in Australia as Crown Land, and led to the widescale dispossession of the continent's Indigenous peoples.¹⁷
- 2.17 Finally, a process of law reform in the 1820s and 1830s saw the number of capital offences dramatically reduced in favour of transportation. This resulted in a massive increase in the number of convicts being transported to Australia.¹⁸
- 2.18 Convict transportation peaked in 1833 when 7,000 prisoners were sent to Australia. By 1868, when the system came to an end, around 160,000 convicts had been transported to the Australian penal colonies—80,000 to NSW (1788–1840), 70,000 to Tasmania (1803–1853), and 10,000 to Western Australia (1850–1868). Of these, 130,000 were transported after the end of the Napoleonic Wars in 1815. These convicts were mainly English, Welsh, Irish, and Scots together with a small number from other parts of the British Empire.¹⁹
- 2.19 The vast majority of convicts were men, with only 15 per cent being women, resulting in a majorly imbalanced sex-ratio within the settler population of the nascent colonies. The British government attempted to redress the imbalance by promoting the migration of more free women to Australia. While these efforts did increase the number of women settling in Australia, these numbers were again matched by an increase in the number of free men migrating, resulting in a persistent gender imbalance.²⁰
- 2.20 In 1831, the policy of land grants ceased and was replaced with a new system based on the sale of land to fund thousands of assisted migrants from Britain and Ireland to

¹⁶ Hamish Maxwell-Stewart and Emma Watkins, 'Transportation', *Digital Panopticon*, Digital Panopticon Project, <https://www.digitalpanopticon.org/Transportation>, viewed 6 October 2023.

¹⁷ Hamish Maxwell-Stewart and Emma Watkins, 'Transportation', *Digital Panopticon*, Digital Panopticon Project, <https://www.digitalpanopticon.org/Transportation>, viewed 6 October 2023.

¹⁸ Hamish Maxwell-Stewart and Emma Watkins, 'Transportation', *Digital Panopticon*, Digital Panopticon Project, <https://www.digitalpanopticon.org/Transportation>, viewed 6 October 2023.

¹⁹ James Jupp, *An Immigrant Nation Seeks Cohesion: Australia from 1788*, London: Anthem Press, 2018, p. 4; Louise C. Johnson, Tanja Luckins and David Walker, *The Story of Australia: A New History of People and Place*, Oxon: Routledge, 2022, p. 29.

²⁰ Hamish Maxwell-Stewart and Deborah Oxley, 'Convicts and the Colonisation of Australia, 1788-1868', *Digital Panopticon*, Digital Panopticon Project, https://www.digitalpanopticon.org/Convicts_and_the_Colonisation_of_Australia,_1788-1868, viewed 5 October 2023.

move to Australia. In 1832, Britain's Colonial Office established the Land and Emigration Commission to further increase the number of free settlers relocating to the Australian colonies, in particular skilled labourers, families, and single women. By the latter part of the 1830s, the number of free settlers arriving outstripped that of the number of convicts being transported. By 1850, the Commission had assisted in the passage of 127,000 emigrants, or about 70 per cent of the total of all immigration during that period.²¹

Migrations during the Gold Rushes

- 2.21 The discovery of gold at Ophir near Orange, New South Wales, in 1851, and subsequent finds in Victoria and the other Australian colonies, profoundly changed the nature and scale of migration to Australia—seeing a massive increase in the numbers of migrants and a diversification of source countries.
- 2.22 No Australia colony felt the impacts of the gold rushes more than Victoria. Between 1851 and 1861 the population of Victoria jumped from 77,345 to 538,628 as people rushed to stake claims in the Victorian goldfields from other parts of Australia and from overseas. Of these new international arrivals, 170,000 came from England, 87,000 from Ireland, 61,000 from Scotland, and 10,000 from Germany. Significantly, not all were from Europe, with 25,000 Chinese migrants also arriving during this time.²² At the time, Victoria accounted for around half the total Australian population.
- 2.23 Despite an image that the gold rushes were a magnet for attracting large numbers of Europeans fleeing poverty, most gold seekers were self-funded, skilled, and well educated; tradespeople such as blacksmiths, carpenters, masons, and skilled workers such as miners. And while a majority were single men, many were also accompanied by female relatives, wives, and children—that is, families—and contributed to the formation of enduring communities and the establishment of Victoria's great inland cities.²³
- 2.24 In total, between 1851 and 1861, more than 600,000 people arrived in the Australian colonies. While the majority were from Britain and Ireland (81 per cent—300,000 from England and Wales, 100,000 from Scotland, and 84,000 from Ireland), significant numbers also come from continental Europe (60,000), China (42,000), the United States (10,000), and from New Zealand and the South Pacific (5,000).²⁴ From

²¹ National Museum of Australia, 'Assisted migration', <https://www.nma.gov.au/defining-moments/resources/assisted-migration>, viewed 6 October 2023.

²² James Jupp, 'Gold Rushes (Australia)', in Bean, F., Brown, S. (eds.), *Encyclopedia of Migration*, Springer, Dordrecht, 2015.

²³ Geoffrey Sherington, *Australia's Immigrants: 1788-1988*, Second Edition, Sydney: Allen & Unwin, 1990, pp. 92-94; Monash University, 'Migration and the Gold Rush', and interview with Charles Fahey, June 2011, <https://www.latrobe.edu.au/news/articles/2011/podcasts/migration-and-the-gold-rush/transcript>, viewed 15 November 2023.

²⁴ John William Knott, 'Arrival and Settlement 1851-1880', in *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Edited by James Jupp, Cambridge: Cambridge University Press, 2001, p. 38; Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, Migration Heritage Centre, 'Australia's migration history',

a population of 430,000 in 1851, by 1871 this had ballooned to 1.7 million—an increase of almost 300 per cent.²⁵

- 2.25 The presence and success of the Chinese miners led to resentment, discrimination, and occasional violence against them from European settlers in Australia. It also saw the introduction of a range of discriminatory legislation in the Australian colonies in an effort to curtail the number of Chinese immigrants arriving. Despite these efforts, significant numbers of Chinese settlers remained in Australia after the gold rushes subsided, working as merchants, grocers, launderers, gardeners, tailors, hawkers, furniture makers, and cooks, becoming a small but integral part of the Australian community.²⁶
- 2.26 The lasting significance of the gold-rush migrations were not population increase and diversification alone. As well as increasing the general level of education and skills of the population, and buttressing some of the highest living standards in the world at the time, the new arrivals brought new political ideals and activism as well. The civil unrest that culminated in the Eureka Rebellion in 1854, when miners revolted against government licensing fees and for greater political rights, is believed by many to have laid the foundations of Australian democracy. The upswell of public opinion following the rebellion led to the establishment of manhood suffrage for 'British subjects' in the Australian colonies prior to the United Kingdom (1854 in South Australia and 1857 in Victoria, 1858 for New South Wales, 1859 for Queensland)²⁷ and led to other world-leading social experiments such as the secret ballot and the eight-hour day.²⁸
- 2.27 In addition to the migrants attracted by the prospect of striking it rich in the goldfields, from the early 1860s, a steady stream of Pacific Islanders arrived in Australia as indentured labourers, primarily for work in the Queensland agriculture sector, particularly in the sugar industry. Between 1863 and 1904, over 62,000 Pacific Islanders arrived in Queensland on short and medium-term indenture. While most of these workers had come voluntarily, thousands had been forcefully recruited by so-called 'blackbirders'. From a population of 2,500 in 1871, the number of Pacific Islanders in Australia had increased to 9,500 by 1891. Similar to the Chinese miners, the presence of a population of a comparatively low-paid, subservient indentured

<https://www.migrationheritage.nsw.gov.au/belongings-home/about-belongings/australias-migration-history/index.html>, viewed 6 October 2023.

²⁵ National Museum of Australia, 'Gold rushes', <https://www.nma.gov.au/defining-moments/resources/gold-rushes>, viewed 16 November 2023.

²⁶ Louise C. Johnson, Tanja Luckins and David Walker, *The Story of Australia: A New History of People and Place*, Oxon: Routledge, 2022, pp. 63-64.

²⁷ Marian Sawer, 'Inventing the Nation Through the Ballot Box', based on a paper for the Department of the Senate Occasional Lecture Series, 21 September 2001, Appendix, <https://www.aph.gov.au/binaries/senate/pubs/pops/pop37/sawer.pdf>, viewed 22 November 2023.

²⁸ James Jupp, 'Gold Rushes (Australia)', in Bean, F., Brown, S. (eds.), *Encyclopedia of Migration*, Springer, Dordrecht, 2015; Australian Electoral Commission, 'Australian voting history in action', 16 September 2020, https://www.aec.gov.au/About_AEC/25/theme1-voting-history.htm, viewed 22 November 2023; National Museum of Australia, 'Gold rushes', 8 February 2023, <https://www.nma.gov.au/defining-moments/resources/gold-rushes>, viewed 22 November 2023.

labourers caused resentment and concerns around deteriorating labour standards among the White population.²⁹

- 2.28 Assisted migration to Australia also continued on a large scale following the discovery of gold, with 230,000 migrants arriving during the 1850s mainly from the United Kingdom and Ireland. Following the peak of migration during the gold rushes, a combination of high fertility and a steady stream of migration, both assisted and unassisted and mainly from Britain, resulted in a gradually increasing non-Indigenous population in Australia. From a total population of 1.7 million in 1871, Australia recorded a population of nearly 3.8 million by the time of Federation in 1901.³⁰

Migration Post-Federation

The 'White Australia' Policy

- 2.29 The six Australian colonies federated on 1 January 1901 to form the new nation-state of the Commonwealth of Australia. The popular resentments that arose towards Chinese and Pacific Islander workers on the goldfields and sugarcane plantations took various forms in colonial laws restricting the entry of non-Europeans, was soon to be reflected in the migration laws at the federal level.
- 2.30 In some of its first significant legislative acts, the new federal parliament put in place several pieces of legislation designed to restrict non-British, and more generally non-European, immigrants from settling in Australia—what is referred to as the 'White Australia' policy. As pointed out by Professor Joy Damousi, Dr Rachel Stevens, and Dr Mary Tomsic, the 'White Australia' policy was one 'that throughout the twentieth century celebrated a homogenous white British culture' as the basis of Australian national identity.³¹
- 2.31 The central pieces of legislation underpinning this policy were the *Immigration Restriction Act 1901*, the *Pacific Islanders Labourers Act 1901*, and section 15 of the *Post and Telegraph Act 1901*, and later, the *Naturalization Act 1903*. The latter three laws served, respectively, to
- 1 restrict the entry of Pacific Islanders into, and facilitate their removal from, Australia;

²⁹ Kay Saunders, 'Pacific Islanders', in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge: Cambridge University Press, 2001, pp. 610-2; Louise C. Johnson, Tanja Luckins and David Walker, *The Story of Australia: A New History of People and Place*, Oxon: Routledge, 2022, p. 71.

³⁰ National Museum of Australia, 'Assisted migration', <https://www.nma.gov.au/defining-moments/resources/assisted-migration#:~:text=In%20the%20early%201830s%20migrants,the%20debt%20to%20be%20repaid>, viewed 6 October 2023; Louise C. Johnson, Tanja Luckins and David Walker, *The Story of Australia: A New History of People and Place*, Oxon: Routledge, 2022, p. 72; Australian Bureau of Statistics, 'Historical Population', 18 March 2019, <https://www.abs.gov.au/statistics/people/population/historical-population/2016>, viewed 30 November 2023.

³¹ Professor Joy Damousi, Dr Rachel Stevens, Dr Mary Tomsic, *Submission 24*, p. 2.

- 2 require that ships carrying Australian mail employ only White labourers; and
 - 3 restrict 'aboriginal native[s] of Asia, Africa or the Pacific Islands' from becoming citizens (or, more accurately, 'British subjects').
- 2.32 The former law (the Immigration Restriction Act) provided government officials with a powerful mechanism to selectively restrict 'undesirable' migrants from entering and settling—a 'dictation test' that was based on a model used in South Africa.³²
- 2.33 Under the 'dictation test', a prospective immigrant was required to write down not less than 50 words in any European (and from 1905, any 'prescribed') language as determined by the customs officer. The test was deliberately designed to be failed, a fact acknowledged by the then Prime Minister, Alfred Deakin, who informed the House of Representatives in December 1905 that 'the object of applying the language test is, not to allow persons to enter the Commonwealth, but to keep them out'.³³
- 2.34 This restrictive principle was also made explicit in a Home and Territories Department circular to customs officials in March 1927 on the application of the dictation test. The circular made clear that the intent of the test was to act 'as an absolute bar' to entry for 'undesirable' potential migrants and that officers should therefore select 'a language with which the immigrant is not sufficiently acquainted'.³⁴
- 2.35 The effect of the restrictive nature of the 'dictation test' was that pass rates were miniscule: of the 805 times the test was administered between 1902 and 1903 only 46 people passed, of the 554 times it was administered between 1904 and 1909, only six people passed, and after 1909 no one passed.³⁵ From 1901, non-Europeans could only enter Australia temporarily under strict conditions.³⁶
- 2.36 The Immigration Restriction Act made no reference to race or ethnicity, but in application it was designed to restrict the immigration of non-Whites into Australia, and more specifically, non-British and non-Irish. In time, the impact of the 'White Australia' policy became reflected in Australia's demographics, with significant decreases in the proportion of the population not originating from the British Isles, and particularly those of Asian heritage. By 1947, only 2.7 per cent of Australia's population was born outside of Australia, the United Kingdom or Ireland. And while in

³² Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 14.

³³ Hon Alfred Deakin MP, Prime Minister, House of Representatives, *Official Hansard*, 6 December 1905, p. 6341.

³⁴ National Archives of Australia, 'Directions for applying the dictation test from the Home and Territories Department', <https://www.naa.gov.au/students-and-teachers/learning-resources/learning-resource-themes/society-and-culture/migration-and-multiculturalism/directions-applying-dictation-test-home-and-territories-department>, viewed 7 December 2023.

³⁵ Museum of Australian Democracy, 'Immigration Restriction Act 1901', <https://www.foundingdocs.gov.au/item-did-16.html#:~:text=This%20package%20included%20the%20Pacific,should%20employ%20only%20white%20labour>, viewed 8 December 2023.

³⁶ Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 14.

1901, people of Asian descent made up 1.25 per cent of the population, by the late 1940s, they only made up around 0.21 per cent. In 1947, the total non-European population of Australia was a mere 0.25 per cent.³⁷

Migrations under the 'White Australia' Policy

- 2.37 Between Federation and World War I, the Australian states managed various programs promoting the transport and settlement of new arrivals to Australia. Between 1905 and 1914 around 390,000 migrants arrived, and while the vast majority of these were from Britain, thousands come from other parts of Europe, such as France and Italy, and New Zealand. At the time of the outbreak of the World War I, when immigration virtually ceased, Australia's population was almost 5 million.³⁸
- 2.38 In 1921, the Commonwealth took responsibility for immigration under the Joint Commonwealth and States Scheme. In 1922, the UK Parliament passed the Empire Settlement Act which provided for UK Government funds to support the emigration and settlement of British subjects from the British Isles to the Dominions and for the development projects associated with assisted migrants, such as providing subsidies for land settlement and the establishment of farmland. Over the 1920s, Australia absorbed a net migration intake of 340,000, two-thirds of which were assisted migrants. Also during this time, 23,000 Italians arrived, many escaping economic hardships resulting from the World War I, as did 8,000 Yugoslavs (80 per cent of whom were Croats) who were mainly peasants who took up unskilled labour upon arrival.³⁹
- 2.39 With the Wall Street Crash of 1929 and the onset of the Great Depression, immigration to Australia drastically reduced again, as the unemployment rate rose to above 30 per cent. The assisted migration program was suspended until 1938.⁴⁰
- 2.40 In the nation's first formal international commitment to take in refugees, in 1938, the Australian Government agreed to accept 15,000 Jewish refugees fleeing Nazi persecution. By 1939, over 5,000 had arrived in Australia prior to migration out of Europe becoming impossible. The failure to bring in the full complement of Jewish

³⁷ National Museum of Australia, 'White Australia Policy', May 2023, <https://www.nma.gov.au/defining-moments/resources/white-australia-policy>, viewed 8 December 2023; Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 27.

³⁸ Geoffrey Sherington, 'Settlement 1881-1914', in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge: Cambridge University Press, 2001, pp. 49-53; Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 16.

³⁹ Michale Roe, 'Inter-War British Migration to Australia', in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge: Cambridge University Press, 2001, pp. 58-9; Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, pp. 18-9.

⁴⁰ Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 18.

refugees was important background for the later establishment of the Department of Immigration to more effectively and efficiently manage the migration process.⁴¹

- 2.41 By the time World War II broke out, Australia's population had reached around 7 million. A central driver of this population increase was migration, particularly assisted migration. Between 1901 and 1940, around 425,000 assisted migrants arrived in Australia, accounting for about half of all arrivals. Reflecting Australia's continuing connection to the British Empire at the time and the Australian government's concern to maintain the 'Britishness' of the Australian population, virtually all of these migrants were from the UK and Ireland.⁴²

'Populate or Perish' and the Establishment of the Department of Immigration

- 2.42 While the onset of World War II virtually shut down migration into Australia, the spectre of invasion by a foreign power during the War caused widespread belief that the country must increase its population or face the threat of destruction. This idea was referred to as 'populate or perish'. Reflecting this belief, in 1944, Prime Minister Curtin proposed that Australia implement a post-war migration program to counter the country's isolation and vulnerability, suggesting that a population of at least 30 million was needed. Under this vision, the Australian Government committed to increasing the population by two per cent per annum—one per cent through natural increase and one per cent through immigration.⁴³

- 2.43 With the end of the War approaching, the Chifley Government began considering strategies to increase the population through large-scale migration from Britain. On 13 July 1945, the Department of Immigration was first formally established with Arthur Calwell appointed as Australia's inaugural Minister for Immigration. In August of that year, Minister Calwell informed the Parliament that:

If Australians have learned one lesson from the Pacific war ... it is surely that we cannot continue to hold our island continent for ourselves and our descendants unless we greatly increase our numbers.⁴⁴

- 2.44 In line with the Australian Government's long-held concern to maintain and promote the 'Britishness' of Australia's national character, Calwell initially sought out much greater immigration from the UK to meet Australia's migration needs. From 1945, the Department of Immigration managed a range of assisted passage schemes to encourage British immigration to Australia, including the general Assisted Passage Migration Scheme. Participants of this scheme were colloquially referred to as 'Ten

⁴¹ The Hon Arthur Calwell MP, Minister for Immigration, *Official Hansard*, 6 March 1947, pp. 430–435; Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 20.

⁴² Reg Appleyard, 'Post-War British Immigration', in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge: Cambridge University Press, 2001, p. 62.

⁴³ Reg Appleyard, 'Post-War British Immigration', in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge: Cambridge University Press, 2001, p. 62; Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, pp. 21, 2.

⁴⁴ The Hon Arthur Calwell MP, Minister for Immigration, House of Representatives, *Official Hansard*, 2 August 1945, p. 4911.

Pound Poms', as the price of passage was £10 per adult, so long as the person was under 45 years of age and in good health. Children travelled for free. The only condition applying to this scheme was that participants remain in Australia for at least two years.⁴⁵

- 2.45 The UK government also contributed to these schemes. In 1946 and 1947, Australia entered into agreements with the UK government to co-fund the passage of British ex-servicemen and other selected civilians and their dependants to Australia as assisted migrants. These schemes were immensely popular with the British public, with an estimated 650,000 applications submitted by March 1947.⁴⁶
- 2.46 While popular with the British public, the assisted passage schemes were less popular among Britain's leadership, who emphasised the need for people to remain in the UK to help rebuild in the wake of the War and amid domestic labour shortages. The UK government successively reduced its financial contribution to the schemes over the first half of the 1950s, although it maintained a modest contribution until 1972. The Australian Government increased its contributions over this time to cover the shortfall.⁴⁷
- 2.47 Despite the popularity of assisted passage, it soon became clear that Britain could only provide about 50 per cent of Australia's demand for migrants—through both the assisted passage schemes and the unrestricted entry of other UK citizens into Australia. This fact forced the Australian Government to look further afield for potential new Australians. Irrespective of this, immigration from the UK would remain the core of Australia's intake until the 1980s.⁴⁸
- 2.48 In addition to migration from Britain, the Australian Government committed to accepting large numbers of displaced persons from continental Europe from the early post-war period. This was facilitated by cooperation with the International Refugee Organization (the precursor to the United Nations High Commissioner for Refugees [UNHCR]), which had been established to resettle the approximately 11 million survivors of Nazi atrocities and other displaced by the War. The first group arrived in November 1947 from the Baltic states—839 migrants from Latvia, Lithuania and Estonia.⁴⁹

⁴⁵ The Hon Arthur Calwell MP, Minister for Immigration, House of Representatives, *Official Hansard*, 2 August 1945, pp. 4911-4917; Geoffrey Sherington, *Australia's Immigrants: 1788-1988*, Second Edition, Sydney: Allen & Unwin, 1990, p. 190; Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 36.

⁴⁶ Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 26.

⁴⁷ Geoffrey Sherington, *Australia's Immigrants: 1788-1988*, Second Edition, Sydney: Allen & Unwin, 1990, p. 190; Reg Appleyard, 'Post-War British Immigration', in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge: Cambridge University Press, 2001, pp. 62-5.

⁴⁸ Reg Appleyard, 'Post-War British Immigration', in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge: Cambridge University Press, 2001, pp. 62-5.

⁴⁹ National Museum of Australia, 'Postwar Immigration Drive', 28 September 2022, <https://www.nma.gov.au/defining-moments/resources/postwar-immigration-drive>, viewed 20 December 2023; National Museum of Australia, 'End of the White Australia Policy', <https://www.nma.gov.au/defining-moments/resources/end-of-white-australia-policy>, viewed 22 December 2023; Ann-Mari Jordens, 'Post-War

- 2.49 This group of migrants would become known as ‘Calwell’s beautiful Balts’ and played a significant role in popularising the idea of large-scale migration among the Australian population. For this cohort, Department officials were required to select individuals who were young, strong, and physically attractive. Calwell later commented that ‘[t]he men were handsome and the women beautiful. It was not hard to sell immigration to the Australian people once the press published photographs of that group’. This was the first move by the government away from a focus exclusively on Britain as a source of permanent migration.⁵⁰
- 2.50 Between 1947 and when the scheme ceased in 1954, Australia settled more than 170,000 migrants from Eastern and Western Europe through the Displaced Person Scheme.⁵¹ These migrants were assisted with a range of supports prior to departure from Europe, during transit on passenger ships, and following arrival in Australia. These supports included English language classes, temporary housing up to one year after arrival, and employment services.⁵² An additional 11,512 refugees arrived independently of the Australian Government during this time, mainly Jewish refugees assisted by various Jewish agencies.⁵³
- 2.51 Australia benefitted greatly from the Displaced Person Scheme. For one, government officials could select refugees based on skills needed for Australian industry. Secondly, the United Nations arranged for shipping of the refugees. And thirdly, the refugees were required to remain in jobs selected by the Australian Government for a minimum of two years, helping to boost vital industry sectors at a time of labour shortage and economic boom.⁵⁴
- 2.52 From 1951, Australia entered into treaties with a number of countries to facilitate the settlement of migrants to Australia. These agreements allowed the government to more selectively choose prospective migrants based on occupational categories and skill levels needed for primary and secondary industries in Australia. The first of such treaties were with the Netherlands in February and Italy in March of 1951. Subsequent treaties were signed with Austria, Belgium, West Germany, Greece, and Spain in 1952 and the United States, Switzerland, Denmark, Norway, Sweden, and

non-British Migration’, in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge: Cambridge University Press, 2001, pp. 65-6; Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 28.

⁵⁰ National Museum of Australia, ‘Postwar Immigration Drive’, 28 September 2022, <https://www.nma.gov.au/defining-moments/resources/postwar-immigration-drive>, viewed 20 December 2023; National Museum of Australia, ‘End of the White Australia Policy’, <https://www.nma.gov.au/defining-moments/resources/end-of-white-australia-policy>, viewed 22 December 2023; Calwell cited in Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 28.

⁵¹ Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 29.

⁵² Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 31.

⁵³ Ann-Mari Jordens, ‘Post-War non-British Migration’, in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge: Cambridge University Press, 2001, p. 66.

⁵⁴ Geoffrey Sherington, *Australia’s Immigrants: 1788-1988*, Second Edition, Sydney: Allen & Unwin, 1990, p. 196.

Finland in 1954. Due to the flows of migration resulting from these treaties, by the end of the decade, two thirds of all migrants settling in Australia were non-British.⁵⁵

- 2.53 This inflow of migrants from a diverse range of European source countries from the late 1940s played a major role in Australia's post-war nation building infrastructure projects, central among which was the Snowy Mountain Hydro-electric Scheme. The Scheme commenced in August 1949, took 25 years to complete, and employed over 100,000 workers from 30 different countries over its duration. At its peak, the Scheme employed around 10,000 workers and was the largest and most ambitious infrastructure project in Australian history.⁵⁶

Dismantling the 'White Australia Policy'

- 2.54 The large-scale migrations from non-British sources from the 1940s and 1950s, particularly from Southern Europe, helped fundamentally shift popular thinking towards non-British migration and eventually Australia's sense of national identity. On this background, through the late 1940s and into the 1960s, there were a range of gradual legislative and policy shifts that undermined and eventual overthrew the foundations of the White Australia policy.
- 2.55 In 1952, in one of the first governmental acts demonstrating this gradual shift in policy thinking towards non-European migrants, the Japanese wives of Australian servicemen who had served in the Pacific War were allowed to settle permanently in Australia, together with another 800 non-European refugees.⁵⁷
- 2.56 In addition to the changing composition of Australian society which resulted in increased acceptance of ethnic diversity within the population, there were international factors at play. In the post-colonial international environment of the late 1940s and 1950s, the existence of the White Australia policy was criticised as an international embarrassment that inhibited Australia in forging good relations with the emerging independent Asian states in the region. From the 1950s, the arrival of international students from Asia under the Colombo Plan played a major factor in undermining opposition to the presence of non-European migrants and eroding the popular sentiment underpinning the White Australia policy.⁵⁸
- 2.57 In 1958, one of the key legislative centrepieces of the White Australia policy, the *Immigration Restriction Act 1901*, was repealed and replaced with the *Migration Act 1958*. At the time of the Second Reading speech for the bill that would become the Act, the then Minister for Immigration, Alexander Russell Downer, informed the

⁵⁵ Ann-Mari Jordens, 'Post-War non-British Migration', in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge: Cambridge University Press, 2001, p. 67.

⁵⁶ Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 32.

⁵⁷ Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 44.

⁵⁸ Peter McDonald, 'Migration to Australia: From Asian Exclusion to Asian Predominance', *Revue européenne des migrations internationales*, Vol. 35, No. 2, 2019, p. 89.

House of Representatives that the bill was a ‘technical document’ ‘to consolidate and amend Australia’s immigration statutes’ that had ‘nothing to do with the Government’s current immigration policy’. Despite this, the Act served to abolish the Dictation Test, which in Minister Downer’s words was ‘an archaic, heavy-handed piece of machinery, in the category of those singularly ugly museum pieces of the Victorian age’ that had ‘evoked much resentment outside Australia, and has tarnished our good name in the eyes of the world’.⁵⁹

- 2.58 The next major shift occurred in 1966. In that year, the government of Prime Minister Harold Holt initiated a major review of the ‘restrictive aspects of our immigration policy’. According to Holt, Australia’s growing involvement in ‘Asian developments’, the rapid growth in trade between Australia and its Asian neighbours, the growth of tourism from Asia to Australia, the considerable number of international students from Asia studying in Australia (‘well over 12,000’), and the growing scale of diplomatic relations between Australia and countries in the Asian region, made ‘such a review desirable in our eyes’.⁶⁰
- 2.59 Under the new policy introduced by the Holt Government, all potential migrants were subject to the same visa application process and became eligible for Australian citizenship after the same five-year waiting period (down from 15 years for non-European migrants). From now on, race or nationality would not factor into requirements for visa eligibility. Rather, would-be migrants would be judged on their skills and potential to contribute to Australian society.⁶¹
- 2.60 The change in policy was soon also reflected in Australia’s international relations. In 1967, Australia entered into an immigration agreement with the Republic of Türkiye. By 1971, almost 10,000 Turkish immigrants had arrived in Australia, representing the first substantial migration of Muslims into the country.⁶²

Multicultural Australia

- 2.61 Just as the mass migrations during the Gold Rushes had profound demographic impacts on the country, the post-war migration boom and loosening of the White Australia policy soon became reflected in Australia’s population figures.
- 2.62 By 1971, Australia had a total population of nearly 13 million, compared to 7.4 million in 1947. Between 1947 and 1971, the migration program had been responsible for 59 per cent of this growth. One in three people in Australia were either a post-war migrant or a child of a migrant and, moreover, 12 per cent of the population were born outside of Australia and the UK (compared to only three per cent in 1947), with

⁵⁹ Hon Alexander Russell Downer MP, Minister for Immigration, House of Representatives, *Official Hansard*, 1 May 1958, p. 1396.

⁶⁰ Hon Harold Holt MP, Prime Minister, House of Representatives, *Official Hansard*, 8 March 1966, p. 34.

⁶¹ National Museum of Australia, ‘End of the White Australia policy’, <https://www.nma.gov.au/defining-moments/resources/end-of-white-australia-policy>, viewed 29 January 2024.

⁶² Geoffrey Sherington, *Australia’s Immigrants: 1788-1988*, Second Edition, Sydney: Allen & Unwin, 1990, p. 223.

a total of 1.5 million migrants arriving from countries other than Britain between 1945 and 1976.

- 2.63 From 1966, there was also a steady increase in migration from Asian countries, with 750 arriving that year and over 2,700 in 1971.⁶³ Table 2.1 highlights the changing composition of Australia's migration figures between 1947 and 1974.

Table 2.1 Australia's Migration 1947-74

Origin	1947-51	1951-61	1961-66	1966-71	1971-74	Total Average
British	41.4	32.6	54.7	53.9	61.6	45.4
Northern Europe	7.5	26.3	0.8	4.9	0.5	11.2
East Europe	37.3	5.0	6.6	13.3	6.1	13.2
South Europe	11.5	33.1	29.4	11.3	0.9	20.9
Asia	1.6	2.3	5.2	11.2	22.7	6
Africa	0.1	0.2	1.5	1.5	2.0	0.9
America	0.5	0.4	1.8	3.8	7.4	2.0
Other (Pacific etc.)	0.1	0.1	--	0.1	0.1	--
Total	100.0	100.0	100.0	100.0	100.0	100.0
Annual Average Intake	116,089	83,253	92,051	121,284	66,194	94,894
Average Annual Australian Loss	-5,728	-5,019	-12,954	-17,056	-18,555	-10,327
Average Annual Net Total	110,361	78,234	79,097	104,228	47,639	84,567

Source: Geoffrey Sherington, *Australia's Immigrants: 1788-1988*, Second Edition, Sydney: Allen & Unwin, 1990, p. 223.

- 2.64 The evolving face of Australian society demanded shifts in policy that better reflected these demographic changes and prepared the country for the future. The final vestiges of the White Australia policy were removed in 1973 by the new government of Gough Whitlam. In its place, a new policy and philosophy for Australian society was articulated and implemented—multiculturalism.

⁶³ Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, pp. 45, 47, 50.

- 2.65 The first policy statement outlining multiculturalism in Australia came from the Minister for Immigration in the Whitlam Government, Al Grassby, in a 1973 address: 'A Multi-cultural Society for the Future'. Grassby employed the concept of the 'family of the nation' to theoretically describe the principles of multiculturalism. This concept, he argued,

...ought to convey an immediate and concrete image to all. In a family the overall attachment to the common good need not impose a sameness on the outlook or activity of each member, nor need these members deny their individuality and distinctiveness in order to seek a superficial and unnatural conformity. The important thing is that all are committed to the good of all.⁶⁴

- 2.66 This statement was echoed by the then Opposition Spokesperson for Labour and Immigration, Malcolm Fraser, in April 1974, when he proclaimed that there:

...is a need to overcome the complex problems confronting migrants, especially non-English speaking migrants, who already live in the multi-cultural society of today's Australia.⁶⁵

- 2.67 The first major legislative manifestation of the new policy of multiculturalism came with the enactment of the *Racial Discrimination Act 1975*. The Act implemented Australia's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (1969). Through this, racial and other forms of discrimination became prohibited under Australian law.⁶⁶

- 2.68 With the election of the Fraser Government in 1975, the policy of multiculturalism gained bipartisan support. In 1977, the Fraser-appointed Australian Ethnic Council produced the first official definition of multiculturalism in Australia, which it described as 'cultural pluralism' based on social cohesion, equality of opportunity, and cultural identity. The Council stated:

In our view, an acceptance of the multicultural nature of Australian society implies that government and established institutions acknowledge the validity of ethnic cultures and respond in terms of ethnic beliefs, values and customs ... What we believe Australia should be working towards is not a oneness, but a unity, not a similarity, but a composite, not a melting pot but a voluntary bond of dissimilar people sharing a common political and institutional structure.⁶⁷

⁶⁴ Hon A. J. Grassby, 'A Multi-cultural Society for the Future', Immigration Reference Paper, Canberra: Australian Government Publishing Service, 1973, p. 5.

⁶⁵ Hon Malcolm Fraser MP cited in Elsa Koleth, 'Multiculturalism: A Review of Australian Policy Statements and Recent Debates in Australia and Overseas', Parliamentary Library, *Research Papers No. 6*, 2010-11, October 2010, p. 5.

⁶⁶ Elsa Koleth, 'Multiculturalism: A Review of Australian Policy Statements and Recent Debates in Australia and Overseas', Parliamentary Library, *Research Papers No. 6*, 2010-11, October 2010, p. 4.

⁶⁷ Australian Ethnic Affairs Council cited in Elsa Koleth, 'Multiculturalism: A Review of Australian Policy Statements and Recent Debates in Australia and Overseas', Parliamentary Library, *Research Papers No. 6*, 2010-11, October 2010, p. 6.

- 2.69 The foundations of Australia's multicultural policy were given concrete substance with the release of the Galbally Report (*Review of Post-Arrival Services and Programs*) in 1978. In 1977, Prime Minister Fraser had tasked Frank Galbally to review post-arrival programs and services for migrants. The resulting report is viewed as a watershed in the development of Australia's multiculturalism, as it highlighted that every Australian should be allowed to maintain their cultural identity without prejudice or disadvantage and should be encouraged to understand and embrace other cultures, and it identified the need to provide special services and programs for migrants to ensure equality of access to government services available to the whole community.⁶⁸
- 2.70 Following the Galbally Report, in 1979, the Fraser Government established the Australian Institute of Multicultural Affairs (AIMA) to raise awareness of cultural diversity and promote social cohesion, understanding, and tolerance.⁶⁹ As a tangible outcome of the multicultural policies adopted by the Fraser Government, between 1975 and 1982, around 200,000 migrants arrived from Asian countries.⁷⁰
- 2.71 With the governments of Prime Ministers Bob Hawke and Paul Keating, between 1986 and 1996, multicultural programs were reformed and expanded at both the federal and state and territory levels and efforts were made to place multiculturalism as central to an Australian national identity based on tolerance and cultural diversity.
- 2.72 The Office of Multicultural Affairs (OMA) was established in 1987 within the Department of Prime Minister and Cabinet, replacing the AIMA, as a central coordinating body for multicultural policy, as was the Bureau of Immigration, Multicultural and Population Research (BIMPR) in 1989 to conduct research to inform policy, and the National Multicultural Advisory Council (NMAC) in 1994 to advise on multicultural matters.⁷¹
- 2.73 While the government of Prime Minister John Howard, from 1996, wound back some of the central institutional supports of multicultural policy, such as disbanding the OMA and the BIMPR, it also re-affirmed the key principles of Australian multiculturalism through the *A New Agenda for Multicultural Australia* policy statement in 1999 and the creation of the Council for Multicultural Australia for the promotion of social harmony and the benefits of cultural diversity in 1998.⁷²

⁶⁸ Elsa Koleth, 'Multiculturalism: A Review of Australian Policy Statements and Recent Debates in Australia and Overseas', Parliamentary Library, *Research Papers No. 6*, 2010-11, October 2010, pp. 6-7.

⁶⁹ Department of Home Affairs, 'Our history – Multicultural affairs', <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/about-multicultural-affairs/our-policy-history#:~:text=1979%20%E2%80%93%20an%20Act%20of%20Parliament,social%20cohesion%2C%20understanding%20and%20tolerance>, viewed 13 February 2024.

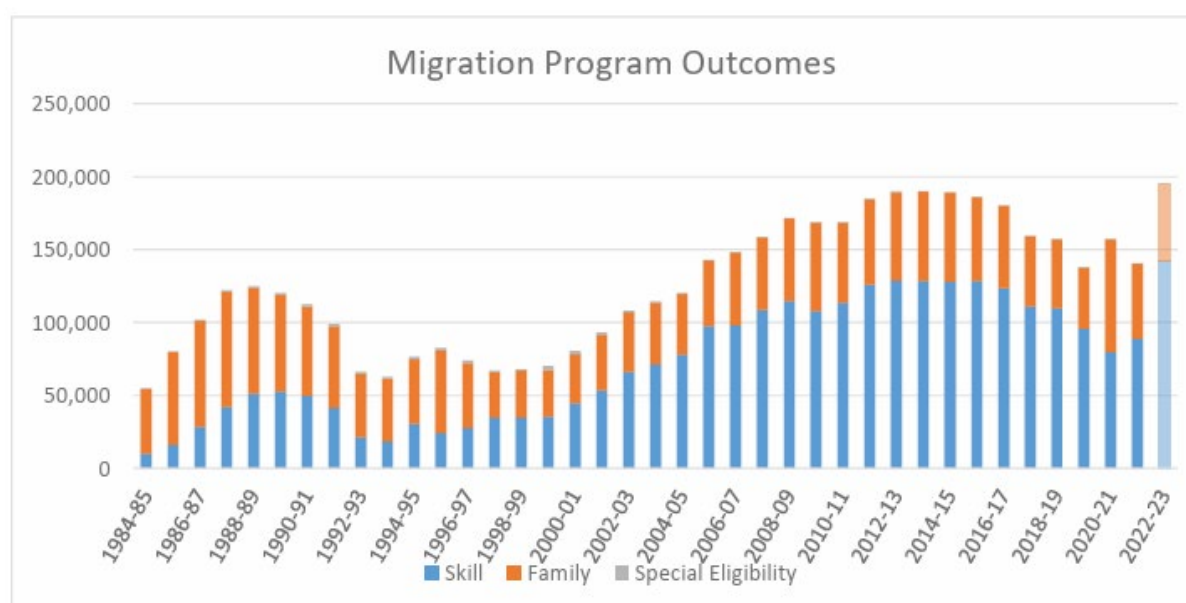
⁷⁰ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 21.

⁷¹ Elsa Koleth, 'Multiculturalism: A Review of Australian Policy Statements and Recent Debates in Australia and Overseas', Parliamentary Library, *Research Papers No. 6*, 2010-11, October 2010, pp. 9-11; Department of Home Affairs, 'Our history – Multicultural affairs', <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/about-multicultural-affairs/our-policy-history#:~:text=1979%20%E2%80%93%20an%20Act%20of%20Parliament,social%20cohesion%2C%20understanding%20and%20tolerance>, viewed 13 February 2024.

⁷² Elsa Koleth, 'Multiculturalism: A Review of Australian Policy Statements and Recent Debates in Australia and Overseas', Parliamentary Library, *Research Papers No. 6*, 2010-11, October 2010, pp. 12-15.

- 2.74 As well as committing to furthering the policy of Australian multiculturalism, the Howard Government also enacted a shift in the composition of the permanent migration program that remains relevant today. From 1996, the focus of the program was shifted towards skilled migrants away from family migration. The proportion of skilled migrants has remained relatively high versus family migration since that time.⁷³ Figure 2.2 below shows the distribution of Skill and Family visa streams from 1985 to 2022, including the planning levels for 2022-23.

Figure 2.2 Migration Program Outcomes by Stream, 1984-85 to 2021-22 with 2022-23 Planning Levels



Source: Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 23.

- 2.75 The central tenets of Australian multiculturalism were affirmed again by the government of Prime Minister Kevin Rudd, with the creation of the Australian Multicultural Advisory Council (AMAC) in 2008, which was tasked with providing the government with advice on steps to promote cohesion, overcoming racism and intolerance, and fostering positive engagement with diversity.
- 2.76 In 2010, the AMAC presented advice and recommendations to government on promoting cultural diversity through *The People of Australia* statement. This led, in February 2011, to the launching of *The People of Australia – Australia's Multicultural Policy* by the government of Prime Minister Julia Gillard endorsing the AMAC's statement.⁷⁴ The policy addressed 'the importance of the economic and social

⁷³ Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 71.

⁷⁴ Elsa Koleth, 'Multiculturalism: A Review of Australian Policy Statements and Recent Debates in Australia and Overseas', Parliamentary Library, Research Papers No. 6, 2010-11, October 2010, pp. 18-19; Department of Home Affairs, 'Our history – Multicultural affairs', <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/about-multicultural-affairs/our-policy->

benefits of diversity, as well as our need to balance the rights and obligations of all who live here' and reaffirmed the government's 'unwavering support for a culturally diverse and socially cohesive nation'. The policy also announced the creation of new independent multicultural advisory body, the Australian Multicultural Council to replace the AMAC.⁷⁵

- 2.77 At the same time as the *People of Australia* multicultural policy was released, the Parliamentary Joint Standing Committee on Migration (JSCM) was referred an inquiry into 'the economic, social and cultural impacts of migration in Australia', including the role of multiculturalism and social inclusion, settlement services, and the contribution of migration to 'Australia's long term productivity'.⁷⁶ The Committee made 32 recommendations focussed on, among other things, supporting multiculturalism and diversity, social inclusion, settlement and participation, and research.⁷⁷
- 2.78 In its response to the JSCM's recommendations, the government of Prime Minister Malcolm Turnbull asserted that it was 'unwavering in its commitment to a multicultural Australia: one which celebrates and acknowledges the benefits that diversity brings—socially, economically and culturally' and supported or supported in principle an overwhelming majority of the Committee's recommendations. In its response, the Turnbull Government also referred to its 2017 multicultural statement: *Multicultural Australia: United, Strong, Successful*.⁷⁸
- 2.79 In a submission to the current inquiry, Dr Andrew Theophanous summarised the central characteristics and key principles of Australian multiculturalism in the following way:
- Multiculturalism is a policy for managing the fact of cultural diversity in the interests of all. There are two aspects: it is a policy which guarantees rights and responsibilities.
- 1 The rights include those of cultural identity—the right to express and share individual cultural heritage, including language and religion. The right to share social justice—the right of every Australian to equality of treatment and opportunity, regardless of race, ethnicity, religion, language, gender or place of birth.
 - 2 The responsibilities might be summarised as follows: that the first loyalty of all Australians must be to Australia, to its interests and its future; that all Australians must accept the basic principles of Australian society, including the Constitution and the rule

history#:~:text=1979%20%E2%80%93%20an%20Act%20of%20Parliament,social%20cohesion%2C%20understanding%20and%20tolerance, viewed 13 February 2024.

⁷⁵ Australian Government, *The People of Australia – Australia's Multicultural Policy*, Hon Chris Bowen MP, Minister for Immigration and Citizenship and Senator Hon Kate Lundy, Parliamentary Secretary for Immigration and Multicultural Affairs, 'Message', 2011, p. [3].

⁷⁶ Joint Standing Committee on Migration, *Inquiry into Migration and Multiculturalism in Australia*, March 2013; Susan Love, 'Multicultural policy since 2010: a quick guide', Parliamentary Library, Research Paper Series, 2021-22, September 2021, p. 4.

⁷⁷ Joint Standing Committee on Migration, *Inquiry into Migration and Multiculturalism in Australia*, March 2013.

⁷⁸ Australian Government, 'Response to the Joint Standing Committee on Migration Report: *Inquiry into Migration and Multiculturalism in Australia*, December 2017.

of law, parliamentary democracy, freedom of speech and religion, English as the national language, equality of the sexes and the right of every Australian to express his or her views and values.⁷⁹

- 2.80 Dr Theophanous also pointed to the fundamental role migration and Australia's multicultural policies have played, and will continue to play, in shaping our national identity and our future nation building endeavours:

Immigration together with multiculturalism has led to the process of building a new national identity for Australia, based on important human rights and social justice values. Such a national identity is critical in future nation building.⁸⁰

- 2.81 Dr Theophanous stated the opinion that under Australia's model of multiculturalism, recognition and respect are paid to all cultures making up Australia's population. So long as individual members of any cultural community comply with the civic responsibilities of all Australian citizens, as described above by Dr Theophanous, they are free to practice and celebrate their cultural traditions. Where disagreement arises in relation to the legitimacy of any particular aspect of a cultural tradition, the legal management of this is subject to democratic debate and legislation, like other aspects of culture.⁸¹
- 2.82 On this point, Dr Theophanous informed the Committee that in a democratic society, such as Australia, 'respect for human dignity and social justice must not be overthrown by an idea that we must respect the worth of every aspect of every culture,' such as the practice of the death penalty or Female Genital Mutilation, that are abhorrent to modern Australian cultural standards.⁸² The state, through its democratic organs, therefore, plays a role in setting the universal legal framework within which our multiculturalism thrives.

COVID-19 Pandemic

- 2.83 On 20 January 2020, the World Health Organization (WHO) declared the COVID-19 outbreak that started in Wuhan, China, in late 2019 a Public Health Emergency of International Concern.⁸³ On 11 March 2020, the WHO announced that the outbreak was a pandemic.⁸⁴

⁷⁹ Dr Andrew Theophanous, *Submission 61*, p. 58.

⁸⁰ Dr Andrew Theophanous, *Submission 61*, p. 2.

⁸¹ Dr Andrew Theophanous, *Submission 61*.

⁸² Dr Andrew Theophanous, *Submission 61*, p. 47.

⁸³ World Health Organization, 'Statement on the second meeting of the International Health Regulation (2005) Emergency Committee regarding the outbreak of the novel coronavirus (2019-nCoV)', 30 January 2020, [https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-\(2005\)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-\(2019-ncov\)](https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov)), viewed 23 February 2024.

⁸⁴ World Health Organization, 'WHO Director-General's opening remarks at the media briefing on COVID-19 – 11 March 2020', 11 March 2020, <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>, viewed 23 February 2024.

- 2.84 In Australia, the first confirmed case of COVID-19 occurred on 25 January 2020. Following a range of measures by the Australian Government to contain the spread within Australia, including travel restrictions on people entering Australia from COVID-19 hotspots and the declaration of a human biosecurity emergency under the *Biosecurity Act 2015*, on 20 March 2020, Australia's borders were closed to all non-citizens and non-residents.⁸⁵
- 2.85 As anticipated, the closing of the borders led to a sharp decline in Net Overseas Migration (NOM). For the first time since World War II, NOM became negative, with more people leaving Australia than arriving.⁸⁶ In 2020-21, for example, there was a net outflow of 88,000 people from Australia. This contrasts to 2018-19, before the outbreak of the pandemic, when Australia received a net migration gain of 241,300 people.⁸⁷
- 2.86 Historically, Australia has relied on oversea migration as its key driver of population growth. The decline in arrivals during the COVID-19 period caused a slowing in population growth between 2019-20, 2020-21, and 2021-22.⁸⁸ For 2020-21, for example Australia recorded population growth of a mere 0.2 per cent.⁸⁹
- 2.87 Figure 2.3 below shows the impact of the COVID-19 pandemic on Australia's net migration intake.

⁸⁵ Senate Select Committee on COVID-19, *Final Report*, Appendix 2, p. 107.

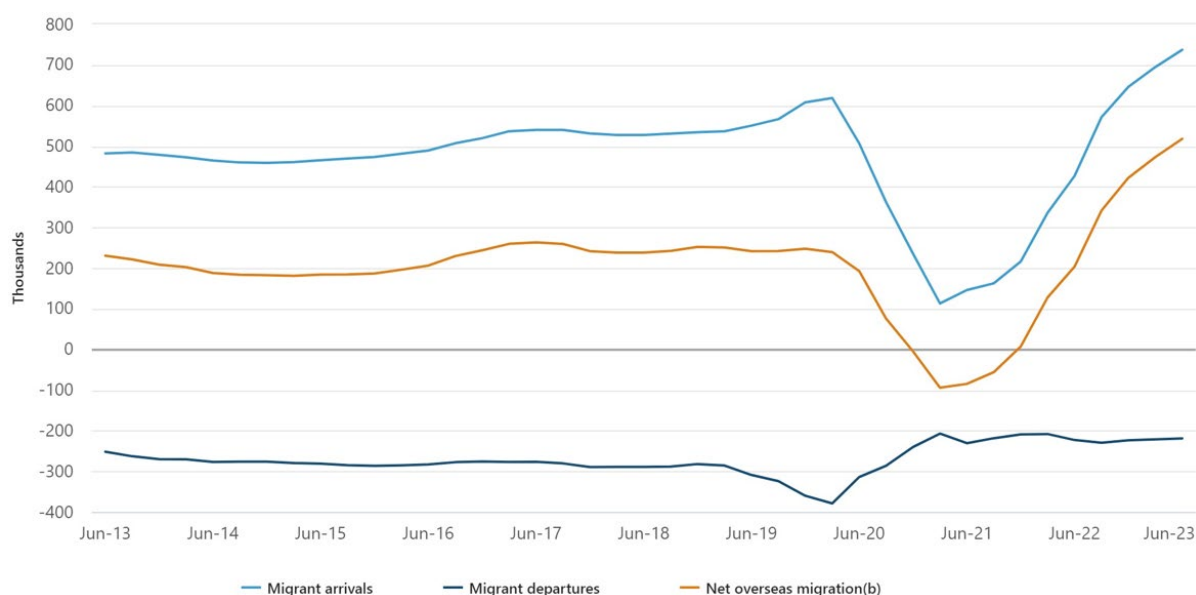
⁸⁶ Centre for Population, 'Low Overseas Migration: A Quick Guide to the Potential Impacts on Local Populations', 2021, p. 1.

⁸⁷ Australian Bureau of Statistics, 'More people emigrated from, than immigrated into, Australian in 2020-21', *Media Release*, 17 December 2021, <https://www.abs.gov.au/media-centre/media-releases/more-people-emigrated-immigrated-australia-2020-21>, viewed 23 February 2024.

⁸⁸ Centre for Population, 'Low Overseas Migration: A Quick Guide to the Potential Impacts on Local Populations', 2021, p. 1.

⁸⁹ Australian Bureau of Statistics, 'More people emigrated from, than immigrated into, Australian in 2020-21', *Media Release*, 17 December 2021, <https://www.abs.gov.au/media-centre/media-releases/more-people-emigrated-immigrated-australia-2020-21>, viewed 23 February 2024.

Figure 2.3 Overseas Migration



Source: Australian Bureau of Statistics, 'Overseas Migration', <https://www.abs.gov.au/statistics/people/population/overseas-migration/latest-release>

2.88 Since the record low levels of NOM during the COVID-19 period, Australia's NOM has continued to recover, primarily through the return of international students and other temporary migrants, such as Working Holiday visa holders. With this, Australia's population growth has also recovered, increasing from 1.3 per cent in 2021-22, 2.4 per cent in 2022-23, and 1.9 per cent in 2023-24. Australia's population is forecast to grow from 26 million as at 30 June 2022 to around 30.9 million by 30 June 2034.⁹⁰

2.89 The loss of workers during the COVID-19 period exacerbated labour force shortages in Australia. As noted by the Migrant Workers Centre:

After the exodus of migrant workers on temporary visas, the post-pandemic job market recorded a historically low unemployment rate. In July 2022, the Australian Bureau of Statistics reported a record low... 3.4%... unemployment rate with job vacancies more than double the number recorded at the beginning of the pandemic.⁹¹

2.90 As noted by the Grattan Institute, however, the impact of the COVID-19 border restrictions have not been uniform across all industries. They note:

The closure of Australia's international borders at the onset of the COVID-19 pandemic has intensified employer demand for new visa pathways for less-skilled

⁹⁰ Centre for Population, '2023 Population Statement', <https://population.gov.au/publications/statements/2023-population-statement#:~:text=Insights%20from%20the%202023%20Population%20Statement&text=Annual%20population%20growth%20is%20forecast,per%20cent%20by%202033%E2%80%9334.,> viewed 23 February 2024.

⁹¹ Migrant Workers Centre, *Submission 78*, p. 10.

workers. Employers are struggling to find workers in almost all sectors due to the strong economic recovery from COVID-19, and the lagging impact of COVID-19 border closures in particular sectors that have historically relied on temporary visa-holders.⁹²

- 2.91 The Grattan Institute emphasised, moreover, that ‘fewer migrants [resulting from COVID-19 border restrictions] largely reduced both the demand for and supply of labour in Australia, and is likely to have little impact on the employment prospects and wages of Australian workers at the aggregate.’⁹³
- 2.92 Just as the COVID-19 pandemic exposed the reliance of some sectors of the economy on temporary visa holders, according to Multicultural Australia, it also ‘highlighted the isolation and vulnerability of international students and temporary migrants in Australia, exacerbated by their exclusion from settlement supports.’⁹⁴
- 2.93 The plight of temporary visa holders during the pandemic was accentuated by their large numbers. As pointed out by the Grattan Institute, pre-COVID Australia had seen a growing number of temporary migrants, with fewer of these transitioning to permanent residency. Additionally, transitions from temporary to permanent status has been taking longer than in the past.⁹⁵
- 2.94 As noted by Rafael Azeredo, the percentage of temporary visa holders contributing to Australia’s NOM intake had grown from 55 per cent in 2004 to 75 per cent in 2019.⁹⁶ Figure 2.4 indicates the growing proportion of temporary visa holders contributing to Australia’s NOM.

⁹² Grattan Institute, *Submission 17*, p. 88.

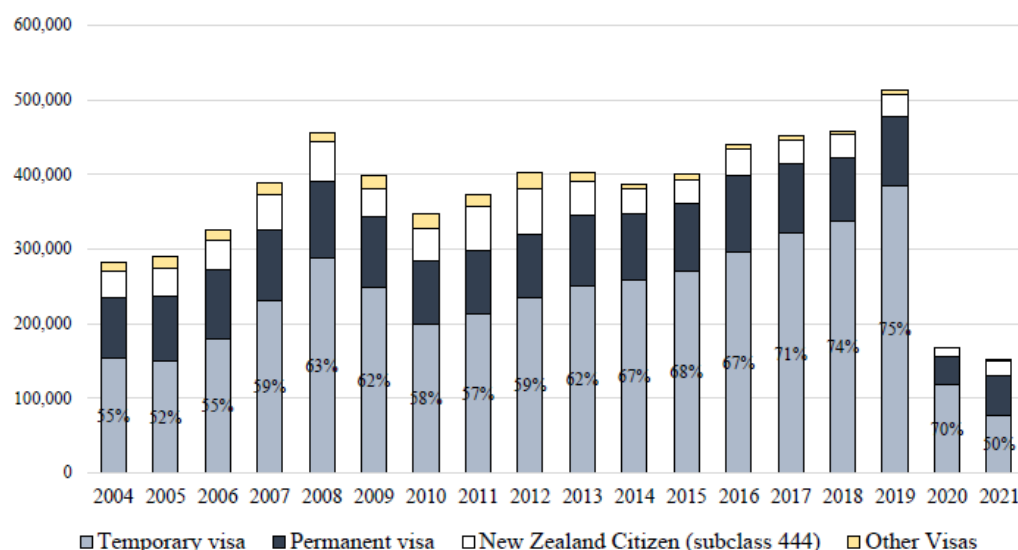
⁹³ Grattan Institute, *Submission 17*, p. 30.

⁹⁴ Multicultural Australia, *Submission 40*, p. 18.

⁹⁵ Grattan Institute, *Submission 17*, p. 36.

⁹⁶ Rafael Azeredo, *Submission 21*, p. 3.

Figure 2.4 Net Overseas Migration Arrivals of Non-citizens in Australia, 2004-2021



Source: Rafael Azeredo, *Submission 21*, p. 4.

- 2.95 According to the Australian Bureau of Statistics, the results of the most recent census indicate that in August 2021 there were 1,638,800 temporary residents in Australia, including 25,300 overseas visitors.⁹⁷ Due to the large numbers of this cohort and the tendency for many people on temporary visas to jump from one type of temporary visa to another over time, sometimes for a long as a decade, there has emerge a situation where many people are ‘permanently temporary’, or in a state of ‘protracted temporariness’.⁹⁸
- 2.96 In evidence to the Committee, Rafael Azeredo recounted a case study to illustrate this type of ‘protracted temporariness’ (Box 2.1).

Box 2.1 Case Study—Protracted Temporariness

Phillip, whose name has been changed to preserve his identity, migrated from Latin America to Australia in 2015, after finishing a university degree in his country. After one year studying in Australia, he felt like he belonged in the country, and therefore decided to apply for a new visa and remain living in Sydney. There, he has a stable job and career, rents a unit, owns a car, pays taxes, and contributes to superannuation. He has a close circle of Australian friends and has fully integrated within Australian society. Since his arrival in Australia, he went to his country only twice to visit friends and family. As happens with many immigrants, over the years he has gradually moved all his assets to Australia. Currently, he does not even have a bank account in his country

⁹⁷ Australian Bureau of Statistics, ‘Temporary visa holders in Australia: Characteristics of selected types of temporary visa holders who were present in Australia on Census Night, 10 August 2021’, 28 April 2023, <https://www.abs.gov.au/statistics/people/people-and-communities/temporary-visa-holders-australia/latest-release>, viewed 25 February 2024.

⁹⁸ Rafael Azeredo, *Submission 21*, pp. 2-3; Human Rights Law Centre, Migrant Workers Centre, Asylum Seeker Resource Centre, *Submission 120*.

anymore. He is a proud member of Australian society, fully settled and integrated. Returning to his country is out of the question.

Phillip has been residing in Australia for almost eight years. He is a lawful and documented migrant and has always complied with all visa requirements in Australia. However, despite residing in Australia for many years, Phillip was never able to acquire the legal status of Permanent Resident. He worked for several years for an employer who promised to sponsor him for a permanent visa application under the Employer Nomination Scheme (subclass 186) visa. But the promise was never fulfilled. Eventually, the business was sold, and he had to change jobs. He is currently on a Temporary Skill Shortage visa (subclass 482), the latest of a series of temporary visas he held since 2015. His visa still classifies him as a temporary entrant, and he is treated as such by state policies. He is not entitled to Medicare, Centrelink or HECS-HELP. During the Covid-19 pandemic borders closure, he lost his job and was not entitled to JobKeeper. Phillip has been living for almost a decade in Australia in a series of precarious temporary visas, in a condition of protracted temporariness.⁹⁹

2.97 This issue has been raised in the *Migration Strategy* as an area of concern:

... while Australians don't want a nation of 'permanently temporary' residents, migration settings have led to a reliance on temporary migration over our traditional emphasis on permanent migration. This is not a recipe for building stronger communities or maintaining social cohesion, and it is not a pathway to strengthening the confidence Australians have in our migration system.¹⁰⁰

Reflecting on Australia's History of Migration

2.98 Reflecting on the broad trends in the history of migration in post-war Australia in their submission to the inquiry, Professor Joy Damousi, Dr Rachel Stevens and Dr Mary Tomsic observed that:

The history of permanent migration to Australia after the Second World War provides a compelling and irrefutable case of how migration can significantly and profoundly make a...contribution to nation building, cultural diversity and social cohesion.¹⁰¹

2.99 Further, recognising the immense place migration has played in the history of Australia, Professor Damousi, Dr Stevens, and Dr Tomsic made the following recommendation to the inquiry:

Develop and deliver an education program with curriculum aligned materials for school students and teachers to learn about the significance and value of Australia's history and future.¹⁰²

⁹⁹ Rafael Azeredo, *Submission 21*, p. 3.

¹⁰⁰ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 11.

¹⁰¹ Prof Joy Damousi, Dr Rachel Stevens, Dr Mary Tomsic, *Submission 24*, p. 2.

¹⁰² Prof Joy Damousi, Dr Rachel Stevens, Dr Mary Tomsic, *Submission 24*, p. 2.

- 2.100 Further to this point, Professor Damousi asserted the ‘transformative power of education in challenging and helping to eradicate racism and racial vilifications in communities.’ Given this, she suggested that governments should undertake a ‘sustained commitment to highlighting in our schools the past and current contribution of migrants that is fully embedded within all levels of our education system,’ implemented in tandem with a ‘successful migration policy’.¹⁰³

Committee Comment

- 2.101 The Committee sees migration as one of the central elements to Australia’s national story and believes that migration will continue to be a significant factor in shaping Australia’s national character into the future. Importantly, the Committee believes that it has been permanent migration that has been the backbone of this national story, and the Committee welcomes the emphasis the *Migration Strategy* places on the permanent migration as an engine for nation building. The Committee believes that Australia’s rich migration history and our distinctive form of multiculturalism should be promoted and celebrated in the Australian Curriculum and through our national cultural institutions.
- 2.102 The Committee sees Australia’s history of migration as a central and enduring foundation of nation building efforts in Australia. The influx of migration during the Gold Rushes in the 1850s provided a basis for Australia’s world leading standards of living in the 19th and early 20th centuries. The mass migrations of Europeans in the post-war period enabled the building of crucial sovereign capacities through population growth, the importation of essential skills, and the construction of infrastructure projects like the Snowy Mountain Scheme. Our current cultural diversity embodying the multicultural policies of modern Australia provide sound foundations for national success in an age of global interconnectedness and technological innovation. The cultural richness and national strength that migration and multiculturalism have brought Australia should be celebrated, cherished, and further cultivated into the future.

Recommendation 1

- 2.103 The Committee recommends that the Australian Government works with the state and territory governments through the National Cabinet Education Ministerial Council to promote in the Australian Curriculum the significance and value of migration in Australia’s history and future.**

¹⁰³ Professor Joy Damousi, Director, Research Centre for Refugees, Migration and Humanitarian Studies, Institute for Humanities and Social Sciences, Australian Catholic University, *Committee Hansard*, Melbourne, 26 April 2023, p. 29.

Recommendation 2

2.104 The Committee recommends that the Australian Government promotes and celebrates migration and multiculturalism as central elements in Australia's national story through our national cultural institutions.



3. Migration and Nation Building

- 3.1 The term ‘nation building’ in Australia is commonly associated with grand infrastructure projects or unifying events. Yet a longer assessment of that term’s use would also acknowledge the arrival and successful settlement of migrants as a nation-building exercise. As early as 1862, a discussion of the development of the colony of Victoria recorded that:
- ...whatever other qualities the individual who crosses the ocean in search of fortune may possess or lack, the fact that he has emigrated is primâ facie evidence of energy and enterprise, the primary materials in the work of nation building—the bone and nerve by which a community progresses and becomes great.¹
- 3.2 Typically, when tied to migration, nation building has been a policy objective framed to guide, encourage, and control the flow of people. The policies have often arisen at moments of change or disruption—Federation was soon followed by the introduction of the White Australia policy intended to consolidate desired national characteristics by limiting the migration of those from a non-British background, while casualties and perceived national vulnerabilities in the wake of the Second World War saw the establishment of the Postwar Migration Program that sought to relocate displaced persons from allied nations and to entice British migrants (the so-called Ten-Pound Poms).
- 3.3 Recently, the COVID-19 pandemic, with the resulting closure of borders, brought existing failings and vulnerabilities of Australia’s migration system into sharp focus. As the then Minister for Home Affairs, Hon Clare O’Neil MP, observed ‘COVID is presenting us, on a platter, a chance to reform our immigration system that we will never get back again’²; Australia has the opportunity to review and reset migration in a nation-building framework.

Sturdy foundations

- 3.4 As outlined in Chapter 2, Australian society has long been underpinned by a diverse and multicultural population. The Government’s *Multicultural Statement: United, Strong, Successful* affirms that the nation flourished in part due to its cultural diversity:

¹ ‘Intercolonial: Victoria’, *Freeman’s Journal* (Sydney), 7 June 1862, p. 2, <http://nla.gov.au/nla.news-article115762271>, viewed 21 August 2023.

² Hon Clare O’Neil MP, Minister for Home Affairs, ‘Jobs and Skills Summit – A migration system for Australia’s future’, *Media Release*, 2 September 2022, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/transcript-jobs-skills-summit-migration-system-02092022.aspx>, viewed 21 August 2023.

We owe our accomplishments as a nation to the contributions of more than 300 different ancestries—from the First Australians to the newest arrivals.³

- 3.5 This view is shared by the wider population. In recent years there has been growing recognition of the value and contribution of migrants, and diminishing support for the view that multiculturalism undermines national identity. The 2022 *Mapping Social Cohesion* report assessed that Australians' support for diversity is 'high and growing'. They found an increasing proportion of people agreed that multiculturalism has been good for the nation (88 per cent), that immigrants make Australia stronger (78 per cent), and that immigrants are good for the economy (87 per cent).⁴ The 2023 report recorded similar proportions, reinforcing 'the impressive upward trajectory' in the face of social and economic challenges.⁵
- 3.6 The Committee heard from Dr Andrew Theophanous, former member of the House of Representatives (1980–2001) and Chair of the Joint Standing Committee on Immigration Regulations (1989–1993), who argued that multiculturalism is also consistent with social justice principles embedded in Australia's identity.⁶
- 3.7 He observed that Australia had been a 'trailblazer in the implementation of ideas of fairness and equality of opportunity' and cited as examples the early extension of the right to vote to women, the adoption of a minimum basic wage and unemployment benefits, and the universal access to health care and education.⁷ Theophanous also pointed to an observation made by former Prime Minister Paul Keating that:
- ...tolerance of cultural difference is ultimately a necessary condition for a successful new world country; and that those traditions of egalitarian democracy which emerged in the last half of the Nineteenth Century had the seeds of multiculturalism in them.⁸
- 3.8 There was widespread acknowledgement among submissions received by the Committee that migration has played a significant part in building Australia as a successful multicultural nation. For many, the positive role of migration was an unquestioned assumption whether the submitter was:

³ Australian Government, *Multicultural Australia: United, Strong, Successful*, [Canberra]: Department of Social Services, 2017, p. 7, <https://www.homeaffairs.gov.au/mca/Statements/english-multicultural-statement.pdf>, viewed 13 September 2023.

⁴ Dr James O'Donnell, *Mapping Social Cohesion: 2022*, [Vic.]: Scanlon Foundation Research Institute, 2022, pp. 58-61.

⁵ Dr James O'Donnell, *Mapping Social Cohesion: 2023*, [Vic.]: Scanlon Foundation Research Institute, 2023, pp. 9, 66-68.

⁶ Dr Andrew Theophanous, *Submission 61*, p. 57.

⁷ Dr Andrew Theophanous, *Submission 61*, p. 57.

⁸ Dr Andrew Theophanous, *Submission 61*, p. 58. For the full speech see 'Address by the Prime Minister, Hon P. J. Keating MP – Opening of the Global Cultural Diversity Conference, Sydney Convention and Exhibition Centre, Wednesday, 26 April 1995', PM Transcripts: Transcripts from the Prime Ministers of Australia, Department of the Prime Minister and Cabinet, <https://pmtranscripts.pmc.gov.au/release/transcript-9557>, viewed 30 August 2023.

- A refugee advocate—‘Migration has always played a central role in Australia’s prosperity’;⁹
- A government agency—‘Migrants are, and will always be an essential part of Australia’s economy and social fabric’;¹⁰ or
- A business peak body—‘To be clear, we believe that migration is fundamentally a positive for the nation’.¹¹

3.9 And while concrete examples, such as the crucial role of refugees and displaced migrants to the completion of major infrastructure projects like the Snowy Mountains Hydro-Electric Scheme were noted, most sought to also acknowledge the broader, less tangible, contributions made by migrants:

Australia’s creativity, dynamism, interconnectedness and stability are largely a product of its modern migration and multiculturalism policies.¹²

Who we are

3.10 Australia’s character and identity is dynamic. Among other things, it has and continues to be shaped by the environment, the people who live on that land, and external forces that impact the nation.

3.11 The 2017 *Final Report of the Referendum Council* identified three parts that made up the Australian story:

- Our ancient First Peoples’ heritage and culture;
- Our British institutions; and
- Our multicultural unity,

and called for a Declaration of Recognition to bring them together.¹³ Noel Pearson, a member of the Council, characterised it as an ‘epic story’ and, recognising the complexity of the intertwined streams, acknowledged that ‘[n]o epic is pure happiness and light’.¹⁴

3.12 The Senate Legal and Constitutional Affairs References Committee’s 2021 inquiry into *Nationhood, National Identity and Democracy*, found the idea of the Australian nation being composed from ‘three great streams’ to be compelling, offering a new model that is ‘uniquely inclusive, respectful and optimistic’. They added that:

⁹ Talent Beyond Boundaries, *Submission 82*, p. 3.

¹⁰ Department of Home Affairs, *Submission 127*, p. 4.

¹¹ Business Council of Australia, *Submission 56*, p. 1.

¹² Talent Beyond Boundaries, *Submission 82*, pp. 3, 9.

¹³ Referendum Council, *Final Report of the Referendum Council*, Canberra: The Council, 2017, pp. 1-2, https://www.referendumcouncil.org.au/sites/default/files/report_attachments/Referendum_Council_Final_Report.pdf, viewed 11 September 2023.

¹⁴ Noel Pearson, ‘Grand narrative holds epic strands: A Declaration of Australia requires three verses, but it must be one song’, *Weekend Australian*, 16 September 2017, p. 19.

As well as lifting up Australia's First Nations peoples to take their rightful place as equals in our national story, the model of three great streams provides proper acknowledgment of the nation-building role played by waves of immigrants who have settled here over the decades.¹⁵

- 3.13 As the three great streams model recognises, those who migrated to Australian shores both in the distant past and in recent times have helped to craft the nation of today.
- 3.14 '[W]e are part of the cultural furniture' asserted Mrs Di Mezza, Chief Executive Officer, Loddon Campaspe Multicultural Services, of her own ethnic heritage. The daughter of post-World War II Italian migrants, she grew up on the northern beaches of Sydney at a time 'when the only spaghetti eaten was that which came in a can' and 'pizza was a foreign concept'. Her father, a builder, although initially considered an outsider by some, was aware of the contribution he made to the nation and that he earned his right to remain. The migrant experience of her family, she observed, had much in common with recent arrivals:
- I see the newly arrived migrants and refugees going through a similar journey. They work hard like our ancestors did. They build and buy houses. They do the backbreaking work, pouring all of their funds into educating and building brighter futures for their children. Eventually, they will be understood and accepted, as happened with the Italo-Australians. This does not happen overnight; it is a long road of discovery and connection.¹⁶
- 3.15 People—be they migrants, first generation Australians, or First Australians—make up our communities and in turn build our nation. Co.as.it Community Services agreed that nation building is 'concurrently an individual and collective model'. They suggested that an individual's reasons for migration—for work, to better themselves financially, to attain personal security and make their home in a society that values their contributions—combine to create 'engaged nation builders at a micro and macro level'.¹⁷
- 3.16 As Noel Pearson acknowledged, the epic story of migration encompasses 'in fact millions of such stories'.¹⁸

Fostering a dynamic economy

- 3.17 Submissions made to the Committee rightly point out that migration is 'not just an economic issue'.¹⁹ Yet this does not diminish the significant contribution that

¹⁵ Legal and Constitutional Affairs References Committee, *Nationhood, national identity and democracy*, 2021, Sections 3.174-177, p. 76.

¹⁶ Mrs Di Mezza, Chief Executive Officer, Loddon Campaspe Multicultural Services, *Committee Hansard*, Canberra, 12 May 2023, pp. 15-16.

¹⁷ Co.as.it Community Services Ltd, *Submission 75*, p. [2].

¹⁸ Pearson, 'Grand Narrative', p. 19.

¹⁹ Migration Hub at ANU, *Submission 70*, p. 8. See also Peter Mares, *Submission 13*, pp. 5-6.

migration and migrants make in helping to advance economic aspects of the nation. As the Tech Council observed '[m]igration has played a critical role in making Australia the vibrant, dynamic and outward looking society that it is today'.²⁰ Indeed, it is that interplay between the social, cultural, and economic attributes of migrants that shapes their contribution and amplifies their impact in the economy. Or, as Talent Beyond Boundaries put it, 'Australia's economy is turbo-charged by migration'.²¹

- 3.18 Leading forward plans released in 2023 identify migration as an essential ingredient to Australia's economic growth and more broadly to the nation's long-term success. The Productivity Commission's (PC) *5-year Productivity Inquiry: Advancing Prosperity* recognised immigration as 'a key economic asset, which should be used to good effect'.²²
- 3.19 More recently the Treasurer, the Hon. Jim Chalmers, in the forward to the *Intergenerational Report 2023: Australia's future to 2063*, observed the imperative to take 'a big picture view of the forces that will shape our economy and fiscal position over the next 40 years as we work to create prosperity, expand opportunity, and build a stronger, more sustainable and more inclusive nation'.²³ Growing the workforce and building skills was one of the levers that the report identified as necessary for planning and investing in Australia's future. In this sphere, they noted that 'a well targeted migration program can help ensure Australia is well positioned for future structural changes'.²⁴
- 3.20 Successive Intergenerational Reports (IGRs) have predicted that population growth will slow as Australians live longer and bear fewer children.²⁵ The 2023 report recognises the role of migration in augmenting the demographic composition of Australia's population. It notes that as migrants are generally younger and are of working age, they can help to offset population ageing. This impact was apparent during the COVID-19 pandemic when international borders were closed to migrants (and other travellers) resulting in the 2020–21 median population age rising 0.9 years higher than had been predicted.²⁶
- 3.21 Indeed, contributors to the inquiry emphasised the crucial role migration plays in insulating Australia from the serious socio-economic impacts of an ageing population. The Migration Hub at ANU, for one, noted that the 'basic problem of population ageing is that fewer working-aged people must support more elderly people'. As highlighted by the Migration Hub, this is a long-term trend underpinned by a gradually declining fertility rate: between 1981 and 2019, Australia's 'total fertility rate declined

²⁰ Mr Thomas McMahon, Deputy Chief Executive Officer, Tech Council of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 20.

²¹ Talent Beyond Boundaries, *Submission 82*, p. 3.

²² Productivity Commission, *5-year Productivity Inquiry*, Vol. 1, Inquiry Report no. 100, February 2023, p. 18.

²³ The Treasury, *Intergenerational Report 2023: Australia's future to 2063*, Parkes, ACT: The Treasury, 2023, p. v.

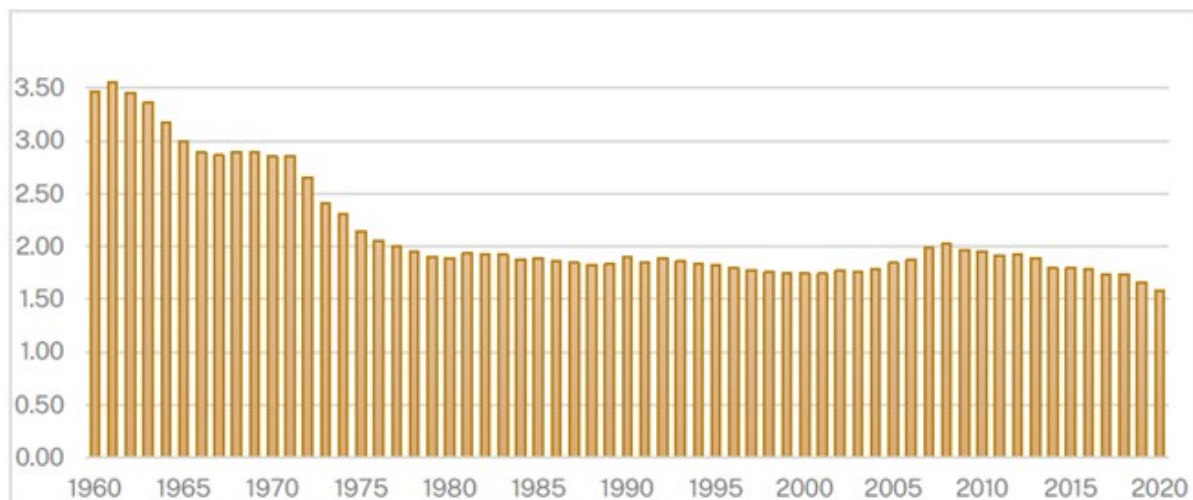
²⁴ The Treasury, *Intergenerational Report 2023: Australia's future to 2063*, Parkes, ACT: The Treasury, p. xvi.

²⁵ The Treasury, *Intergenerational Report 2023: Australia's future to 2063*, Parkes, ACT: The Treasury, p. 37.

²⁶ The Treasury, *Intergenerational Report 2023: Australia's future to 2063*, Parkes, ACT: The Treasury, p. 49–50.

from 1.90 to 1.58, far below the rate of 2.1 required for the population to remain stable'.²⁷ This trend is expressed in Figure 3.1, below.

Figure 3.1 Australia's Total Fertility Rate, 1960-2020



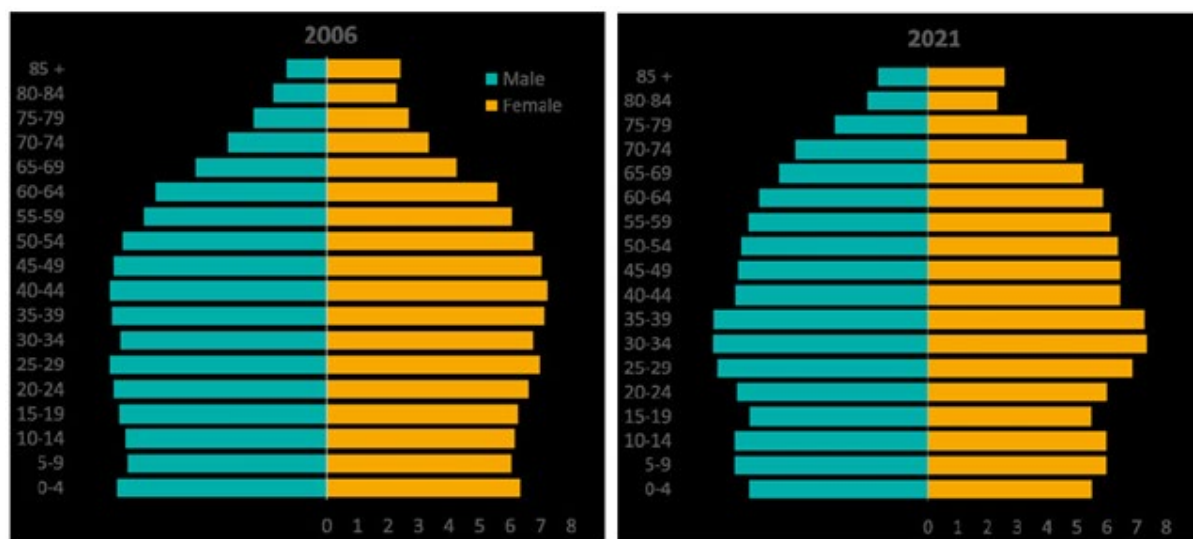
Source: Migration Hub at ANU, *Submission 70*, p. 6.

- 3.22 As noted by VETASSESS, this trend is also caused by an average increase in the life expectancy of Australians. While a welcome trend, combined with a declining fertility rate, the ageing of the population works to skewer Australia's demographic profile meaning that a smaller number of working-aged people are supporting an increasing number of retirees. VETASSESS provided population pyramid graphs indicating that in the 'space of 15 years, Australia has lost weight around the middle'—i.e., a decrease in the number of young people (Figure 3.2, below).²⁸

²⁷ Migration Hub at ANU, *Submission 70*, p. 6.

²⁸ VETASSESS, *Submission 89*, p. 3.

Figure 3.2 Australia's Demographic Profile, 2006 and 2021



Source: VETASSESS, *Submission 89*, p. 3.

- 3.23 As emphasised by the Migration Hub at ANU and VETASSESS, among other contributors, it is vital that migration be deployed to strategically counterbalance the negative demographic trends associated with the ageing of the Australian population. In this sense, migration forms an essential foundation to the country's nation building endeavours.²⁹
- 3.24 The Committee heard that in some industries Australia's ageing population had already taken a toll on their capacity to undertake and complete projects. The construction industry, for example, gave evidence that they were 'up against a demographic problem' as the nature of their work predominantly called for young workers who were in short supply.³⁰ For Mrs Alex Waldren, National Director Industry Policy, Master Builders Association, the solution was not simply increasing migrants numbers, but 'fixing the ecosystem' to make Australia 'a more attractive place for broader cohorts and for young people to move into', a destination that offers 'a safe and comfortable workplace'.³¹
- 3.25 The PC, while acknowledging the existing benefits that migration brings to the Australian economy, also highlighted the *potential* for migration to have a greater impact on productivity following targeted reforms to the skilled migration program. They recommend changes that would improve productivity and wellbeing via 'better job matching and lifetime fiscal outcomes'.³²

²⁹ Migration Hub at ANU, *Submission 70*, p. 6; VETASSESS, *Submission 89*, p. 3.

³⁰ Mr Jon Davies, Chief Executive Officer, Australian Constructors Association, *Committee Hansard*, Videoconference, 18 May 2023, pp. 21-22.

³¹ Mrs Alex Waldren, National Director Industry Policy, Master Builders Association, *Committee Hansard*, Canberra, 12 May 2023, p. 11.

³² Productivity Commission, *5-year Productivity Inquiry*, Vol. 1, Inquiry Report no. 100, February 2023, p. 56.

- 3.26 More broadly the PC called for the adoption of a ‘productivity lens’ that ‘sees the role of human capital differently’. In respect to skilled migrants it required a ‘shift of emphasis’, recognising that migrants are necessary not only to fill a particular occupational gap, but also as ‘an essential source of new ideas and information’.³³
- 3.27 The productivity uplift that migrants provide, VETASSESS remarked, is transmitted by education, entrepreneurship, innovation, and diffusion. Working aged migrants, they add, are far more likely to hold a degree- or higher-level qualification than the locally born population. They contribute to innovation in domestic businesses as they bring with them new knowledge, ideas, skills, and practices, that is transmitted in their new environment. Further, migrants are more inclined to be entrepreneurial and are overrepresented in the small business sector.³⁴ A 2018 report commissioned by CGU Insurance finding that more than 620,000 small businesses—a third of Australia’s small businesses—are owned by migrants.³⁵ Their small business spokesperson adding that:
- Our research helps challenge perceptions that our migrants are taking more than they’re giving, and we’re keen to share this story – one of successful, hardworking and innovative migrants and the positive impact they have on our business community.³⁶
- 3.28 As early as 2015 the then Department of Immigration and Border Protection’s³⁷ fact sheet on post-war migration reported research that ‘overall, migrants contribute more in taxes than they consume in benefits and government goods and services’.³⁸ More recently, the positive economic impact of permanent migrants was assessed using The Treasury’s Fiscal Impact of New Australians (FIONA) model. It found that the fiscal impact of the average migrant was \$127,000 per person more positive than the overall Australian population. They note that these migrants typically arrive at a relatively young age (between 25 to 35), spend a large amount of time in the work force, and tend to have stronger labour market outcomes. The report particularly highlighted that among migrants, it was those in the skilled stream that, on average, yielded the highest positive fiscal impact.³⁹

³³ Productivity Commission, *5-year Productivity Inquiry*, Vol. 1, Inquiry Report no. 100, February 2023, pp. 14, 18.

³⁴ VETASSESS, *Submission 89*, pp. 4-5.

³⁵ CGU Insurance, ‘Migrant Small Business Report’, [January 2018], pp. 1, 6, <https://apo.org.au/sites/default/files/resource-files/2018-01/apo-nid128756.pdf>, viewed 26 September 2023.

³⁶ CGU Insurance, ‘Innovative, ambitious and creating jobs: New CGU report highlights hard-working migrant business owners’, *Media release*, 22 January 2018, https://web.archive.org/web/20180328031855/https://www.cgu.com.au/migrantsmallbusiness/assets/Media_Release_CGU_Migrant_Business_Report.pdf, viewed 26 September 2023.

³⁷ Now Department of Home Affairs.

³⁸ Department of Immigration and Border Protection, ‘Fact Sheet – More than 65 Years of Post-war Migration’, c. 2015, <https://web.archive.org/web/20170226115457/https://www.border.gov.au/about/corporate/information/fact-sheets/04fifty>, viewed 26 September 2023.

³⁹ Peter Varela, Nicholas Husek, Thom Williams, Richard Maher and Darren Kennedy, ‘The Lifetime Fiscal Impact of the Australian Permanent Migration Program’, Treasury Paper, December 2021, pp. iii-iv, https://treasury.gov.au/sites/default/files/2021-12/p2021-220773_1.pdf, viewed 26 September 2023.

- 3.29 Migrants also help to embed regional and global connections. Census data from 2021 records the global interconnectedness of Australia's population. It reveals that almost a third (27.6 per cent) of the population was born overseas, and roughly half had at least one parent who was born overseas (48.2 per cent).
- 3.30 While most overseas born Australians continue to be drawn from England, there has been a sharp increase in the proportion of the population who were born in our region, particularly India, China, the Philippines and New Zealand.⁴⁰ VETASSESS's submission was one of several which pointed out the positive impact of migrant connections. They observe that Australia's migrant community and workforce, not only have networks back into their home and neighbouring countries, but they also have 'the cultural and linguistic skills necessary to extend them'.⁴¹
- 3.31 The Australian Chamber of Commerce and Industry, similarly, affirms that '[c]ultural diversity in the business setting fosters the development of global linkages, opening up new markets for Australian businesses'.⁴²

A Soft Landing for Success

- 3.32 The Migration Institute of Australia (MIA) maintained that '[n]ation building and social cohesion concepts are inexorably linked'. They add that 'nation building promotes the foundations of social cohesion with social cohesion in turn strengthening nation building efforts'.⁴³ The intertwined nature of these concepts, along with cultural diversity, is recognised in the inquiry's terms of reference. The Committee acknowledges that for nation building to be a success, measures need to be put in place to promote social cohesion and to ensure a respectful embrace of cultural diversity.
- 3.33 The 2023 *Sense of Belonging Among Multilingual Audiences in Australia* report observed high levels of belonging among the five language groups—Arabic, Cantonese, Italian, Mandarin, and Vietnamese—that were most spoken at home in Australia at the time of the 2016 Census (apart from English). They found 73 per cent of respondents agreed that they felt 'at home in Australia'. Delving deeper, the survey identified a positive correlation between a migrant's sense of belonging and the longevity of their time in Australia. Likewise, those with greater levels of proficiency in English were far more likely to feel at home.⁴⁴

⁴⁰ Australian Bureau of Statistics, '2021 Census: Nearly half of Australians have a parent born overseas', Media Release, 28 June 2022, <https://www.abs.gov.au/media-centre/media-releases/2021-census-nearly-half-australians-have-parent-born-overseas>, viewed 3 October 2023.

⁴¹ VETASSESS, *Submission 89*, pp. 6-7.

⁴² Australian Chamber of Commerce and Industry, *Submission 79*, p. 2.

⁴³ Migration Institute of Australia, *Submission 87*, p. 8.

⁴⁴ They found that 76 per cent of migrants who had been in Australia for more than 10 years felt at home, compared to 64 per cent for those who had been in the country for less than five years. And, 83 per cent of those with 'perfect' confidence in English felt at home compared to just 64 per cent of those with Low to Moderate confidence in English. Sora Park, Kieran McGuinness, Jee Young Lee, Rebecca Griffiths, Thu Nguyen, *Sense of Belonging Among Multilingual Audiences in Australia*, Canberra: News & Media Research Centre, University of Canberra, and Special Broadcasting Service (SBS), 2023, pp. 8-11.

- 3.34 Taking a longitudinal perspective, the 2022 *Mapping Social Cohesion* report noted that while historically their survey had recorded ‘a very strong sense of national pride and belonging’, the report warned that this had declined over time. Significantly, that the sense of belonging was markedly lower amongst migrants for whom English was not their first language. Further, the report observed that the World Values Survey recorded a similar drop in the proportion of Australians who were ‘very proud’ of their nationality from 71 per cent in 2012 to 57 per cent in 2018.⁴⁵
- 3.35 Australia has been the beneficiary of a long-standing high sense of belonging among migrants. Yet these surveys suggest that the nation faces a turning point where the sense of belonging is waning, entangled in a complex relationship between English proficiency and time spent in Australia. The Federation of Ethnic Communities’ Councils of Australia (FECCA) attributed blame on a shift to a policy focused only on the economic benefits of migration, resulting in a existing ‘convoluted’ and ‘unfair’ migration system. This shift, they argue, has had a lasting detrimental impact on ‘communities’ sense of belonging and perceptions of their value to Australian society, which are foundational to building a strong and inclusive nation’.⁴⁶ It is in this context that several settlement services providers cautioned that nation building policy and rhetoric will not yield favourable outcomes unless they are paired with appropriately funded and resourced settlement services.
- 3.36 Ms Catherine Scarth, Chief Executive Officer, AMES Australia, called for a nation building strategy that hinged on ‘settling well in Australia’. The strategy, they believed, needed a whole-of-government approach that was underpinned by good data and analysis (an aspect that will be explored further in Chapter 11).⁴⁷ Community Refugee Sponsorship Australia highlighted the importance of locally based support to securing positive settlement.⁴⁸ The MIA pointed to the need to look beyond the individual skilled migrant for positive nation building outcomes. They maintain that families are ‘fundamental to developing social cohesion’ although the benefit of their presence is difficult to quantify.⁴⁹
- 3.37 The higher education sector and advocates for humanitarian entrants called for a focus on retaining those migrants who had already established ties with the nation. The Refugee Advice and Casework Service (RACS) observed that in addition to enriching Australia culturally and socially, refugees are ‘an untapped resource of

⁴⁵ O'Donnell, *Mapping Social Cohesion: 2022*, p. 16, 19-20. See also World Values Survey Data analysis tool at <https://www.worldvaluessurvey.org/WVSONline.jsp>, viewed 12 September 2023. The 2023 report noted a further drop in the percentage of those who responded ‘to a great extent’ as to the extent they have a sense of belonging in Australia: for those foreign born with English as a first language dropping from 46 (in 2022) to 44 per cent (in 2023) and for those for whom English was not their first language, dropping from 35 to 31 per cent. O'Donnell, *Mapping Social Cohesion: 2023*, p. 28.

⁴⁶ Mr Mohammad Al-Khafaji, Chief Executive Officer, Federation of Ethnic Communities’ Councils of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 63.

⁴⁷ Ms Catherine Scarth, Chief Executive Officer, AMES Australia, *Committee Hansard*, Melbourne, 26 April 2023, p. 7.

⁴⁸ Community Refugee Sponsorship Australia, *Submission 85*, pp. 1, 4-5.

⁴⁹ Migration Institute of Australia, *Submission 87*, p. 9.

valuable skills, education, perspectives, and experiences that can drive innovation, job creation and growth of the Australian economy'.⁵⁰

- 3.38 The Sydney University Postgraduate Representative Association (SUPRA) pointed out that Australia's international students become 'embedded' in local communities and culture, developing attachments to 'people and places within Australia across the life of their degrees'. They added that postgraduate students, offer a 'group of mature, educated, and motivated people, who have already contributed substantially to Australia's economy'.⁵¹ These sentiments were echoed by the Regional Universities Network (RUN) who noted that 'regions are made more vibrant, inclusive and prosperous by the welcoming of students from all cultures'.⁵²
- 3.39 Several organisations who appeared at a public hearing or made a submission pointed out the connection between belonging, citizenship, and nation building. The Tasmanian Government urged that pathways to permanency 'must, by extension, include a focus on pathways to citizenship'. Research, they argued, demonstrated that 'achieving citizenship is a prime factor in helping migrants feel like they belong and can contribute'.⁵³
- 3.40 Citizenship, the Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT) told the Committee, 'signals welcome, inclusion and belonging in Australia, allowing full rights of political engagement in our nation'. For them the attainment of citizenship is:

...a practical manifestation of nation-building, offering protection and belonging on equal footing with others who call this nation home.⁵⁴

Committee Comment

- 3.41 Evidence heard by the Committee overwhelmingly acknowledged that a planned migration program has been, and remains, necessary for Australia to flourish. In submissions and at public hearings, witnesses called for measures that would support, streamline, and enhance Australia's nation building project. The Committee is mindful, however, that nation building is a phrase that is overused by think tanks, politicians, and the media to the point of becoming almost meaningless rhetoric and even the subject of comedy and parody, such as the ABC's *Utopia*.
- 3.42 It is the Committee's view, that a 'genuine' engagement with nation building as a strategy that moves beyond mere rhetoric and a sole focus on economics to encompass societal and environmental concerns, is necessary for a prosperous and successful Australia. Moreover, such an approach would entail a collective strategy that calls on all tiers of government to actively engage in and pursue shared goals.

⁵⁰ Refugee Advice and Casework Service, *Submission 104*, p. 3.

⁵¹ Sydney University Postgraduate Representative Association (SUPRA), *Submission 25*, p. [2].

⁵² Regional Universities Network, *Submission 94*, p. [1].

⁵³ Tasmanian Government, *Submission 115*, p. 3.

⁵⁴ Ms Stephanie Long, Systemic Advocacy and Strategic Projects Lead, Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT), *Committee Hansard*, Canberra, 18 May 2023, p. 8.

Recommendation 3

- 3.43 The Committee recommends that the Australian Government, through National Cabinet, works in collaboration with state and territory governments to devise an inter-governmental strategy that embeds nation building in forward plans, and acts to unify and guide the development of policy.**

Maintaining a sustainable society

- 3.44 A small proportion of submissions⁵⁵ voiced concerns about the environmental sustainability of an increased migration program. They argued that such a program may yield results that diminish, rather than build, the nation. In their view, Australia's population has already exceeded the carrying capacity of the country and they pointed to environmental degradation and resource shortages as evidence.⁵⁶
- 3.45 Several of those submitters drew attention to the wording of the Terms of Reference for the current inquiry. Mr Peter Martin, for instance, remarked that the wording appeared to 'assume that continuing high levels of immigration is excellent policy' and he called for them to be 'rewritten to allow us to challenge the basic assumptions of the entire immigration program'.⁵⁷ Similarly Mr Ian Penrose wrote with concern that wording included 'loaded sentiments' that 'run the risk of inhibiting critique of the migration program'. He questioned why the Terms of Reference mentioned economic and social issues 'but not the environment' and called for all government programs to be 'viewed through an environmental lens'.⁵⁸
- 3.46 Sustainable Population Australia (SPA) in their submission and their response to a question on notice called for the stabilisation of the population.⁵⁹ While acknowledging that there are economic, social, and environmental aspects to sustainability, they argue that it is the latter—ecological sustainability—that 'is the bedrock upon which the other aspects depend'. They noted that while Australia is a large landmass, the interior is largely arid or semi-arid and that the population is overwhelmingly distributed around the well-watered coastal fringe. As there are 'no technologies on the horizon' that will convert the interior into a place suitable for 'large-scale human habitation', they maintain that:

Australia's population policy must therefore learn to live in balance with Australia's fragile ecosystems as they are.⁶⁰

⁵⁵ About 10 per cent, comprising mainly concerned individuals and Sustainable Population Australia.

⁵⁶ See for example John Bentley, *Submission 14*, p. [1]; Mr Scott O'Keefe, *Submission 11*, p. [1].

⁵⁷ Mr Peter Martin, *Submission 19*, p. [1].

⁵⁸ Mr Ian Penrose, *Submission 33*, pp. [1-2].

⁵⁹ Sustainable Population Australia, *Submission 58*, pp. 12-14; Answer to a Question Taken on Notice, Public Hearing on 18 May 2023, p. 3.

⁶⁰ Sustainable Population Australia, Answer to a Question Taken on Notice, Public Hearing, 18 May 2023, p. 1.

They also pointed to the 2021 *Australia State of the Environment* report's assessment on the pressures on biodiversity that the 'impacts from population growth are extensive and increasing in many areas'.⁶¹

- 3.47 In their submission, the SPA suggested that around 80,000 permanent migrants a year might be ecologically sustainable (depending on emigration relative to the return of expatriates, and stabilisation in the number of temporary migrants).⁶²
- 3.48 Their submission cited a range of supporting research, including the 1994 recommendation of the Australian Academy of Science (AAS) Population 2040 Working Party that the population be stabilised at 23 million.⁶³
- 3.49 Yet, it is also true that views among scientists on the connection between population and ecological sustainability vary, and are not static. For example, an AAS Think Tank of sixty early-to-mid-career researchers, in their 2012 report on *Australia's Population: Shaping a vision for our future*, agreed that 'no optimal population size should be sought'. They added that:
- There is widespread recognition that no such (scientific) optimum exists and there are very few effective mechanisms that can be used to manage population size. There was also a consensus that continuous growth, either of population or the economy, will not in itself resolve the significant challenges facing Australia. Rather, growth was seen by participants as bound up with other complex and changing dynamics that need to be better understood.⁶⁴
- 3.50 When asked at a public hearing for a figure of what a sustainable population level for Australia, the SPA agreed that 'no single numeric estimate regarded as "optimal"' and pointed to the complex range of factors that need to be considered. They advocated for stabilisation below 30 million people, a figure that, in their view, was an achievable target that was likely to reduce risk. Further, they suggested that to take a 'fully precautionary approach', stabilisation could be followed by a gradual decline in the population 'at least until *State of the Environment* reports show predominantly improving trends in environmental health'.⁶⁵
- 3.51 The Committee agrees that the relationship between population and climate change is complex, and not a simple linear connection. Yet, the issues raised by both sustainability advocates and scientists, remain a timely reminder of the need for Australia to be smart about its nation building programs. The PC argues that a carefully planned and managed approach to population growth that encompasses targeted migration, will, in turn:

⁶¹ Sustainable Population Australia, Answer to a Question Taken on Notice, Public Hearing, 18 May 2023, p. 2. See also Dr Peter Cook, *Submission 60*, p. 2; and Mr Peter Martin, *Submission 19*, p. [1].

⁶² Sustainable Population Australia, *Submission 58*, p. 13.

⁶³ Sustainable Population Australia, *Submission 58*, p. 13.

⁶⁴ Theo Murphy High Flyers Think Tank, *Australia's Population: Shaping a vision for our future*, Canberra, ACT: Australian Academy of Science, 2012, p. 2.

⁶⁵ Sustainable Population Australia, Answer to a Question Taken on Notice, Public Hearing, 18 May 2023, pp. 1, 3-4.

help to deliver better outcomes on infrastructure, housing, service delivery, and the environment and can support rising living standards over time.⁶⁶

As will be explored in chapters 7 and 11, Australia's approach to migration needs to be mindful that changes to the settings are well-planned and adequately resourced.

Committee Comment

- 3.52 The Committee recognises that sustainability is a fundamental element of the Australian Government's *Migration Strategy* released in December 2023. This aspect is addressed not by simply reducing migrant numbers, but via a conviction that growth needs to be:

principally driven by quality and a strong connection with our national interest.⁶⁷

- 3.53 To that end, while the Strategy report tackles the growth in temporary migration (particularly in the higher education sector) with the aim of 'returning migration levels back to normal', it also recognises that a 'better targeted migration system will support the Government's broader climate agenda', enabling Australia to identify and attract skilled workers needed for the nation to transition towards a 'cleaner and greener economy'.⁶⁸ While in support of these sentiments, the Committee considers that the impact of these changes—both gains and losses—should be evaluated at regular intervals to ensure they are on track to match expectations.

Recommendation 4

- 3.54 The Committee recommends that the Australian Government considers the complex relationship between migration and the Australian environment and investigate measures that would help to ameliorate any negative impacts.**

In the national interest

- 3.55 The imperative to get the balance right, to address the needs of our nation at the same time as building local capacity, has also been the focus of considerable deliberation by the Committee. This inquiry recognises the skills that migrants and humanitarian entrants bring, and it values the contributions that they have made to Australia by enriching the nation and its citizens socially, culturally, and economically. It also acknowledges that the migration process is a two-way street.
- 3.56 Existing citizens benefit from exposure to new ideas, different cultures and potential access to new markets. And Australia has an obligation to allow migrants (not filling a short-term need) to realise their full potential and formally acknowledge the

⁶⁶ Productivity Commission, *5-year Productivity Inquiry*, Vol. 7, Inquiry Report no. 100, February 2023, p. 37.

⁶⁷ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 31.

⁶⁸ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, pp. 6, 24.

connection that they have forged with the nation by providing pathways to permanent residency and ultimately citizenship.



4. Australia's Migration System

Australian Government Administration of Migration

- 4.1 Responsibility for Australia's migration system is vested in the Department of Home Affairs (the Department). According to the *Annual Report 2022–23*, after a 'series of considered realignments', the Department is:

...now structured to address threats as and when they arise, seize opportunities, and deliver on the Government's extensive reform agenda...

including enhancing cyber security, fostering national resilience, and reforming the Migration Program.¹

- 4.2 At the time of that report, the Department comprised five groups: Chief Operating Officer; Executive; Cyber and Infrastructure Security; National Security and Resilience; and Immigration.² It employed 8,685 staff in 42 cities in Australia and across the world (with a further 6,537 staff in the Australian Border Force [ABF]).³

- 4.3 Between late 2022 to mid-2023, the Department restructured to integrate immigration, citizenship, and multicultural affairs, acknowledging their 'intimately related functions'.⁴ This change roughly coincided with the comprehensive review of Australia's migration system (announced in September 2022 with the report delivered in March 2023).⁵ The Committee heard from the Secretary of the Department that, with the support of his ministers and the government, he had:

...gone as far as I can, ... in effectively re-creating, if you will, a mini department of immigration within the larger Home Affairs Department.⁶

- 4.4 Under this configuration the Department would 'continue to ensure Australia's migration, citizenship and settlement services programs act as nation building

¹ Department of Home Affairs, *Annual Report 2022-23*, pp. 2, 9. Apart from the Department itself, the broader Home Affairs portfolio encompasses: the ABF, the Australian Security Intelligence Organisation (ASIO), and the National Emergency Management Agency (NEMA).

² Department of Home Affairs, *Annual Report 2022-23*, pp. 5-7.

³ Department of Home Affairs, *Annual Report 2022-23*, pp. 4, 16, 24.

⁴ Department of Home Affairs, *2023-24: Corporate Plan*, 2023, p. 2; It was reported that the citizenship and multicultural affairs function had been reintegrated within the Immigration Group of the department from 1 May 2023: Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 9.

⁵ See Department of Home Affairs 'A Migration System for Australia's Future', <https://www.homeaffairs.gov.au/reports-and-publications/reviews-and-inquiries/departmental-reviews/migration-system-for-australias-future>, viewed 9 October 2023.

⁶ Mr Michael Pezzullo AO, Secretary, Immigration, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, pp. 12-13.

functions that underpin Australia's prosperity and cohesion.' The Department's *Corporate Plan* indicating that the new structure would also assist in the Department's ability to support the development and implementation of reforms arising from the *Migration Strategy*.⁷

- 4.5 Nominally titled as 'Immigration' in the Department's Organisational Structure, this section is organised into three groups: immigration operations, immigration policy, and legal. Operations encompasses governance, integrity and assurance, the Office of the Migration Agents Registration Authority, onshore and offshore regional directors, and service design and delivery programs. Policy also incorporates integrity and assurance functions, as well as visa programs; status resolution and visa cancellation; refugee, humanitarian, and settlement operations; citizenship and multicultural affairs; and the people smuggling policy and implementation taskforce.⁸ Through these functions, Immigration is framed as contributing to Australia's prosperity and unity.⁹

What is Australia's Migration System?

- 4.6 In recent times, the Australian migration system has often been defined in terms of its failings.
- 4.7 As the focus of several Government reviews, roundtables, and summits (see Chapter 1), the system has been characterised as a 'renovator's delight'¹⁰, in desperate need of a rebuild to meet contemporary expectations. The outline of the Government's strategy, *A Migration System for a More Prosperous and Secure Australia*, circulated for discussion in April 2023 identified that:
- The system fails to prioritise the migrants we need to enhance our economic prosperity and security;
 - The system is too complex for employers and migrants;
 - The system fails to deliver the right outcomes for Australians and migrants post-arrival; and
 - The system is not aligned with the Australian values of integrity, fairness and inclusion.¹¹

⁷ Department of Home Affairs, *2023-24: Corporate Plan*, 2023, p. 2.

⁸ Department of Home Affairs, Organisational Structure, October 2023, <https://www.homeaffairs.gov.au/about-us-subsite/files/home-affairs-org-structure.pdf>, viewed 9 October 2023.

⁹ See Department of Home Affairs, *Annual Report 2022-23*, pp. 3, 11; Department of Home Affairs, *2023-24: Corporate Plan*, 2023, p. 6.

¹⁰ Hon Clare O'Neil MP, Minister for Home Affairs, 'How Australia broke its migration system, and what we can do to fix it', *Media Release*, 22 February 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/how-australia-broke-its-migration-system.aspx>, viewed 10 October 2023.

¹¹ Department of Home Affairs, *A Migration System for a More Prosperous and Secure Australia: Outline of the Government's Migration Strategy*, April 2023.

- 4.8 On the release of that outline, the then Minister for Home Affairs, Hon Clare O’Neil MP, summed up that Australia is a ‘truly great country with a fundamentally broken migration system’.¹²
- 4.9 In departmental documents, what constitutes Australia’s migration system is typically assumed, rather than defined. The scope of the existing migration system was, however, outlined in a discussion paper provided to guide submissions to the Review of the Australia’s Migration System. The paper identified the following elements that were both within and outside the consideration of the review:
- Temporary and Permanent visa programs;
 - Underpinning legislative and policy framework;
 - Systems and processes that support the administration of these programs (e.g., ICT, providers collecting biometrics, assistance provided by migration agents);
 - Settlement policies and programs;
 - Multicultural policies and programs;
 - Irregular migration and status resolution;
 - Regional processing and Operation Sovereign Borders;
 - Administered programs such as grants;
 - ABF activities connected with immigration compliance, removals, and detention; and
 - Public Interest Criteria in respect to visa approvals (e.g., character, national security and health check requirements).¹³
- 4.10 To summarise, Australia’s migration system encompasses the policies, legislature, regulations, programs, and frameworks by which potential migrants and humanitarian entrants are assessed, gain access and settle in Australia, and likewise those that deny access, detain and remove those found ineligible for entry. It is intended to support the Government’s migration targets as well as broader goals that enhance economic, social, and cultural prosperity while maintaining the security of the nation.

¹² Hon Clare O’Neil MP, Minister for Home Affairs, ‘Australia’s Migration System’, National Press Club address, 27 April 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/national-press-club-address-australias-migration-system-27042023.aspx>, viewed 10 October 2023. See also Department of Home Affairs, ‘Migration Strategy’, <https://immi.homeaffairs.gov.au/what-we-do/migration-strategy/the-migration-strategy>, viewed 10 October 2023.

¹³ Department of Home Affairs, ‘A Migration System for Australia’s Future’, Discussion Paper, November 2022, p. 6, https://www.homeaffairs.gov.au/reports-and-pubs/files/reviews-and-inquiries/discussion_paper.pdf, viewed 9 October 2023.

Foundations

Legislative Framework

- 4.11 Australia's migration system is underpinned by the *Migration Act 1958* (the Act) and *Migration Regulations 1994*.¹⁴
- 4.12 The object of the Act is 'to regulate, in the national interest, the coming into, and presence in, Australia of non-citizens' (a departmental advice sheet clarifies that this 'includes how non-citizens enter Australia, how long they stay, and when they must leave').¹⁵ It operates in conjunction with a broad range of Commonwealth acts and legislative instruments to guide departmental policies and programs in respect to aspects of migration. These include (but are not limited to) the:
- *Australian Citizenship Act 2007*;
 - *Immigration (Education) Act 1971*;
 - *Immigration (Guardianship of Children) Act 1946*;
 - *Australian Border Force Act 2015*; and
 - *Privacy Act 1988*.¹⁶

International Treaties

- 4.13 In addition, Australia is a signatory to international agreements that have an impact on migration policy and practice, such as the:
- Convention relating to the Status of Refugees (and Protocol);
 - Convention relating to the Status of Stateless Persons;
 - International Covenant on Civil and Political Rights;
 - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and
 - Convention on the Rights of the Child.
- 4.14 Aspects of these international agreements are reflected in sections of the Act. The *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014*, for instance, amended the Act to introduce 'a new

¹⁴ *Migration Act 1958*; *Migration Regulations 1994*.

¹⁵ *Migration Act 1958*; Department of Home Affairs, 'Structure of the Migration Legislation', LEGENDcom.

¹⁶ Department of Home Affairs, 'Structure of the Migration Legislation', LEGENDcom. See also Department of Home Affairs, 'Legislative developments', 1 January 2021-30 November 2021, <https://www.homeaffairs.gov.au/about-us/key-achievements/the-fourth-year/legislative-developments>, viewed 11 October 2023.

statutory framework which articulates Australia's interpretation of its protection obligations under the Refugees Convention'.¹⁷

- 4.15 Further, in respect to Australia's non-refoulement obligations, the Department observes that for those who are not determined to be refugees under the Act but remain unable to return to their home country as they are at risk of severe harm may be accorded 'complementary protection'. These obligations, they add, 'come from the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Covenant on Civil and Political Rights (ICCPR) and have been incorporated into the Act'.¹⁸

Immigration Program

- 4.16 Australia's immigration programs can be broadly divided into three areas Temporary visas, a Migration Program, and a Humanitarian Program.

Temporary Visas

- 4.17 Temporary visas allow overseas travellers to enter Australia for a variety of reasons (e.g., tourism, study, international relations, working holiday and other temporary work) that deliver economic and cultural benefits to the nation. On 31 March 2023, there were almost 2.46 million temporary visa holders in Australia, in contrast to 1.66 million on 31 December 2021 and 2.2 million on 31 December 2019.¹⁹ The numbers reflecting a resurgence following the adverse impact of the COVID-19 pandemic on international travel (especially visitor and student categories).²⁰
- 4.18 There are no caps placed on the number of temporary visas granted, and most categories are demand driven rather than planned.²¹ At present there are more than 1.8 million temporary migrants living in Australia who hold work rights, the cohort having almost doubled in size since 2007.²²
- 4.19 Australia's temporary visa system comprises several schemes, including:

¹⁷ Explanatory Memorandum to the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014, pp. 4 and 10.

¹⁸ Department of Home Affairs, 'Australia's protection obligations', Refugee and Humanitarian program, 21 August 2020, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/protection-866/australias-protection-obligations>, viewed 12 October 2023.

¹⁹ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 4th Edition, February 2020, p. 8; and 11th Edition, May 2023, p. 12; Susan Love, 'Parliamentary Library Briefing Book: Key Issues for the 47th Parliament: Immigration', June 2022, Parliamentary Library, https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/BriefingBook47p/Immigration, viewed 1 Jun 2023.

²⁰ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 9th Edition, February 2022, p. 9; and 11th Edition, May 2023, p. 12, viewed 1 Jun 2023.

²¹ Susan Love, 'Immigration'.

²² Australian Government, *Review of the Migration System*, Final Report, March 2023, pp. 2, 41-42.

- COVID-19 Pandemic Event visa (closed 1 February 2024²³);
- Visitor visa;
- Student visa;
- Working Holiday Maker;
- Temporary Skilled Work;
- Pacific Australia Labour Mobility (PALM) scheme;
- Bridging visa; and
- New Zealand citizen Special Category visa.²⁴

4.20 Out of these various categories, visitor visas usually account for most temporary visas granted—two-thirds prior to the COVID period. For example, in 2018–19, out of a total of 8.8 million temporary visas granted 5.7 million were visitor visas, compared to 406,000 student visas and 209,000 working holiday visas.²⁵ While visitor visa holders are not permitted to engage in paid work in Australia, most other types of temporary visa allow for work stipulated by the conditions of the specific visa class.

4.21 Australia's visa settings provide very few pathways for migrants to transition from a temporary to a permanent visa. Recent announcements, however, have established a direct pathway for New Zealand citizens and an expansion of pathways for holders of Temporary Skill Shortage visas to progress from temporary to permanent visas.²⁶

Migration Program

4.22 Since the commencement of the Migration Program in 1945, Australia has settled over 7 million permanent migrants. Over time, the broad focus of the program has shifted from the intake of migrants (primarily from the United Kingdom) to increase Australia's population, to attracting migrants to meet labour market demands.²⁷ Currently, the Migration Program is designed to meet Australia's demographic,

²³ Department of Home Affairs, 'Temporary Activity visa (subclass 408): Australian Government endorsed events (COVID-19 Pandemic event)', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-activity-408/australian-government-endorsed-events-covid-19>, viewed 17 October 2023.

²⁴ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, pp. 12-22.

²⁵ Australian Government, 'Australian Migration Statistics', 2021-22, <https://data.gov.au/dataset/ds-dga-dba45e7c-81f4-44aa-9d82-1b9a0a121017/details?q=>, viewed 1 Jun 2023.

²⁶ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 9th Edition, p. 21 & 11th Edition, pp. 7, 12, 19; Department of Home Affairs, 'Direct Pathway to Australian Citizenship for New Zealand Citizens from 1 July 2023', *Media Release*, 22 Apr 2023, <https://immi.homeaffairs.gov.au/news-media/archive/article?itemId=1047>, viewed 1 Jun 2023; Department of Home Affairs, 'Permanent Residence Pathway for Temporary Skill Shortage (TSS) Subclass 482 Visa Holders with an Occupation on the Regional Occupation List', *Media Release*, 13 February 2023, <https://immi.homeaffairs.gov.au/news-media/archive/article?itemId=1023>, viewed 1 June 2023.

²⁷ Harriet Spinks, 'Australia's Permanent Migration Program: a quick guide', December 2021, Parliamentary Library, p. 1, https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2122/Quick_Guides/AustraliasMigrationProgram, viewed 1 June 2023.

economic and labour market needs and, in particular, to 'address persistent and emerging skills shortages and to attract people with specialist skillsets that are difficult to find or develop in Australia'.²⁸ The program broadly consists of two main streams: Family and Skill, which are further sub-divided into various categories; and a much smaller Special Eligibility program.²⁹

4.23 The number of permanent visas allocated each year is set in the Budget, in accordance with Section 85 of the Act. For the 2023-24 Financial Year, the allocation of permanent visas is 190,000.³⁰ These visas are roughly split 70:30 between skilled and family visas, with 137,100 places allocated to the Skill stream, 52,500 to the Family stream, and 400 to the Special Eligibility stream.³¹

4.24 The Family stream comprises four categories:

- Partner;
- Parent;
- Other Family; and
- Child.

4.25 Planning levels for 2023–24 allocated 8,500 places to the Parent category and 500 to Other Family. Section 87 of the Act prevents the capping of Partner and Dependant Child visa places, unlike other categories.³² The Department notes, however, that there is 'scope in administering the program to consider planning levels and prioritise processing accordingly'.³³ An indicative planning level of 40,500 places being allocated to the Partner category and 3,000 to the Child category.³⁴

4.26 The Skill stream comprises eight visa categories:

- Employer Sponsored;
- Skilled Independent;
- Regional;

²⁸ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 23; Department of Home Affairs, *Submission 127*, pp. 4, 5; Department of Home Affairs, 'Migration Program Planning Levels: 2023-24 permanent Migration Program', <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>, viewed 1 June 2023.

²⁹ Department of Home Affairs, *Submission 127*, p. 5.

³⁰ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 23; Susan Love, 'Immigration'; Department of Home Affairs, 'Migration Program Planning Levels: 2023-24 permanent Migration Program', <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>, viewed 1 June 2023.

³¹ Department of Home Affairs, 'Migration Program Planning Levels: 2023-24 permanent Migration Program', <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>, viewed 1 June 2023; Department of Home Affairs, *Submission 127*, p. 5.

³² Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 29; Susan Love, 'Immigration'.

³³ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 29.

³⁴ Department of Home Affairs, 'Migration Program Planning Levels: 2023-24 permanent Migration Program', <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>, viewed 18 October 2023.

- State/Territory nominated;
 - Business Innovation and Investment Program;
 - Global Talent Program;
 - Distinguished Talent; and
 - Temporary Work.³⁵
- 4.27 In 2020–21 and 2021–22, over a third of the Skill stream visa allocation was accounted for by the Business Innovation and Investment program (BIIP) and the Global Talent program—to promote economic growth during the COVID-19 pandemic. The BIIP targets migrants with the ability to contribute to the economy through innovation and business investment, while the Global Talent visa program aims to ‘attract talented migrants of the highest calibre, with entrepreneurial ideas and cutting-edge skills within target industry sectors’ to encourage innovation and jobs creation.³⁶ The planning levels for 2022–23 saw a reduction in both programs, with a further reduction in the planning level for the BIIP in 2023–24.
- 4.28 The changes to the BIIP, it was noted, allowed a ‘greater focus on addressing immediate workforce shortages while still providing visa places to migrants who can best contribute to Australia’s economic growth and whose innovations can increase the productivity of Australian businesses’.³⁷
- 4.29 The Minister for Foreign Affairs announced in February 2023 the creation of a new visa category: Pacific Engagement. The Pacific Engagement visa is designed to allow citizens of eligible Pacific countries who have a job offer in Australia to apply for a permanent visa without meeting the skill requirements of the Migration Program Skill stream. A quota of 3,000 places has been announced.³⁸ This program contrasts to the PALM scheme which, while targeting unskilled workers from Pacific countries, only offers temporary residence.

Humanitarian Program

- 4.30 Since the close of the World War II, Australia has resettled more than 950,000 people in humanitarian need. The Department notes that Australia’s Humanitarian Program aims to:
- meet Australia’s international protection obligations and positions Australia as a global leader in international resettlement efforts;

³⁵ Department of Home Affairs, ‘Migration Program planning levels: 2023-24 permanent Migration Program’, <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>, viewed 18 October 2023; Department of Home Affairs, *Submission 127*, p. 6.

³⁶ Department of Home Affairs, ‘The Administration of the Immigration and Citizenship Programs’, 9th Edition, pp. 26-27; Susan Love, ‘Immigration’.

³⁷ Department of Home Affairs, ‘The Administration of the Immigration and Citizenship Programs’, 11th Edition, p. 26.

³⁸ Susan Love, ‘Immigration’; Senator Penny Wong, ‘Pacific Engagement Visa: Strengthening Ties with the Pacific Family’, *Joint Media Release*, 16 February 2023, <https://www.foreignminister.gov.au/minister/penny-wong/media-release/pacific-engagement-visa-strengthening-ties-pacific-family>, viewed 1 June 2023.

- operate flexibly to respond to evolving humanitarian situations and global resettlement needs; and
 - reunite refugees and people who are in refugee-like situations overseas with their family in Australia.³⁹
- 4.31 The Humanitarian Program is divided into offshore and onshore processing streams. For 2022–23, the annual intake ceiling was set at 17,875 for permanent settlement in Australia. By late March 2023, 11,650 visas had been granted under the program.⁴⁰
- 4.32 Asylum seekers who arrive in Australia irregularly (either by boat or air) and who are subsequently found to be owed protection are not included in the Humanitarian Program intake numbers. Such people are offered a 3-year Temporary Protection Visa (TPV) or a 5-year Safe Haven Enterprise Visa (SHEV) and need to reapply for a replacement visa at the end of this term. The SHEV offers the chance for permanent settlement to persons who work or study in a designated regional area for three-and-a-half years without accessing social security payments and who meet the eligibility requirements for a permanent Skill or Family visa.⁴¹
- 4.33 As at 30 April 2022, there were 18,959 people on TPVs or SHEVs in Australia. A part of the cohort known as the ‘asylum legacy caseload’, these people arrived prior to the commencement of Operation Sovereign Borders in 2013 and were therefore not transferred offshore for processing.⁴²
- 4.34 On 13 February 2023, the government announced a permanent pathway for existing TPV and SHEV holders so as to resolve their status while maintaining strong border protection settings.⁴³ With the exception of those who have had their visa cancelled or refused, TPV and SHEV holders are able to apply for a Resolution of Status visa that grants permanent residence.⁴⁴

³⁹ Department of Home Affairs, ‘The Administration of the Immigration and Citizenship Programs’, 11th Edition, pp. 32–33.

⁴⁰ Department of Home Affairs, ‘The Administration of the Immigration and Citizenship Programs’, 11th Edition, p. 33.

⁴¹ Harriet Spinks, ‘Parliamentary Library Briefing Book: Key Issues for the 47th Parliament: Refugees and Asylum Seekers’, June 2022, Parliamentary Library, https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/BriefingBook47p/RefugeesAsylumSeekers, viewed 1 June 2023.

⁴² Harriet Spinks, ‘Refugees and Asylum Seekers’; Suan Love, ‘Resolving the status of Temporary Protection Visa holders: a quick guide’, Research Papers 2022–2023, Parliamentary Library, 16 May 2023, https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2223/Quick_Guides/ProtectionVisaHolders, 15 January 2024.

⁴³ Department of Home Affairs, ‘The Administration of the Immigration and Citizenship Programs’, 11th Edition, p. 36; Hon Clare O’Neil MP, Minister for Home Affairs and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘Delivering a permanent pathway for Temporary Protection Visa holders’, *Joint media release*, 13 February 2023, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/permanent-pathway-for-tpv-holders.aspx>, viewed 3 January 2024.

⁴⁴ Susan Love, ‘Resolving the status of Temporary Protection visa holders: a quick guide’, Research Paper Series, 2022–23, Parliamentary Library, 16 May 2023, https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/9169435/upload_binary/9169435.pdf;fileType=application%2Fpdf#search=%22migration%22, viewed 22 May 2024.

Regulation and Enforcement

- 4.35 Regulating and enforcing who is allowed to arrive in Australia and under what circumstances has been a longstanding element of Australia's migration system (see Chapter 2). This remit overlaps with the work of other parts of the Department, such as the undertakings of the National Security and Resilience Group in respect to domestic national security and resilience. The Department also operates collaboratively with the Australian Border Force in the Home Affairs portfolio, among other agencies.⁴⁵
- 4.36 The Department frames its regulatory and enforcement roles in terms of 'managing risk and community protection'. While it acknowledges that most non-citizens arriving in Australia are 'genuine entrants who comply with their visa conditions', they note the need to be vigilant as there remain those who turn to fraud to achieve their migration goals and others who are manipulated and exploited.⁴⁶

Operation Sovereign Borders and Regional Processing

- 4.37 In September 2013 Operation Sovereign Borders (OSB), a Joint Agency Task Force, was established to:
- Implement a whole-of-government effort to combat maritime people smuggling, prevent avoidable deaths at sea, and protect the integrity of Australia's borders.⁴⁷
- 4.38 The program was instituted following a spike in the number of unauthorised maritime arrivals (UMAs), that is, migrants who arrived or attempted to arrive by boat, without the authority to do so.⁴⁸
- 4.39 Administered by the Department of Home Affairs, OSB is a military led program that brings together the Australian Federal Police, the Australian Defence Force, Australian Border Force and the Department, with additional support from a wide range of departments and agencies.⁴⁹ The program is delivered through three pillars:
- offshore deterrence and disruption;
 - detection, interception and transfers; and

⁴⁵ Department of Home Affairs, *Annual Report: 2023-24*, pp. 3, 6-7, 15.

⁴⁶ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 40.

⁴⁷ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 42.

⁴⁸ Liberal-National Coalition, *The Coalition's Operation Sovereign Borders Policy*, July 2013, p. 18; see also Appendix A: Boat arrivals since 1976 by calendar year in Janet Phillips and Harriet Spinks, 'Boat arrivals in Australia since 1976', Research paper, Parliamentary Library, July 2013, https://www.aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/pubs/rp/rp1314/boatarrivals, viewed 11 January 2024.

⁴⁹ Operation Sovereign Borders, 'Organisational chart: Joint Agency Task Force – Operation Sovereign Borders', <https://osb.homeaffairs.gov.au/Files/OSB-organisational-chart.pdf>, viewed 10 January 2024.

- regional processing and third country resettlement.⁵⁰

4.40 The latter pillar is largely delivered by the Regional Processing, Return and Resettlement Task Group led by the Department. In this role, the Department, in association with the Australian Border Force, works to:

... support regional processing and third country resettlement arrangements, and the safe return of people found not to engage the international protection obligations of regional processing countries.⁵¹

4.41 Under OSB, transitory persons (people who are taken to a regional processing country) do not have access to settlement pathways in Australia. Those without valid claims for international protection are provided with assistance through the Department's Status Resolution Support Services and/or Return and Reintegration Assistance Program (RRAP) to voluntarily return to their country of origin or another country to which they have rights of entry, or they are involuntarily returned. Those deemed refugees are encouraged to take advantage of Australia's resettlement arrangements with third countries (such as the United States and New Zealand).⁵² Almost all of those who were returned did so voluntarily, and were provided with assistance (that may include financial assistance) under the RRAP.⁵³

4.42 In June 2022, the Department advised the incoming government that 3,127 UMAs had been transferred to Nauru and Papua New Guinea for regional processing since July 2013.⁵⁴ The Refugee Council of Australia notes that the current location of those arrivals fall mainly into three groups: those who have been resettled in a third country (1,108), those who are in Australia (1,083), and those who have been returned or removed to their country of origin (770).⁵⁵ Those in Australia are considered to have been relocated for a temporary purpose (such as medical treatment) and are detained as unlawful non-citizens, requiring ministerial intervention before they can

⁵⁰ Department of Home Affairs, *Department of Home Affairs Incoming Government Brief: Minister for Immigration, Citizenship and Multicultural Affairs*, June 2022, p. 48, In Department of Home Affairs, Freedom of Information request, FA22/06/00105 Document 2.

⁵¹ Department of Home Affairs, *Department of Home Affairs Incoming Government Brief: Minister for Immigration, Citizenship and Multicultural Affairs*, June 2022, p. 49, In Department of Home Affairs, Freedom of Information request, FA22/06/00105 Document 2; Operation Sovereign Borders, 'Organisational chart'.

⁵² Department of Home Affairs, *Department of Home Affairs Incoming Government Brief: Minister for Immigration, Citizenship and Multicultural Affairs*, June 2022, p. 53, In Department of Home Affairs, Freedom of Information request, FA22/06/00105 Document 2; Department of Home Affairs, 'Addendum to the eleventh edition of the Administration of the Immigration and Citizenship Programs', 11th Edition, pp. 40-41; Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, pp. 48-49.

⁵³ Refugee Council of Australia, 'Returns from Australia and offshore processing centres', <https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/5/>, viewed 10 January 2024; Department of Home Affairs, 'Addendum to the eleventh edition of the Administration of the Immigration and Citizenship Programs', 11th Edition, p. 40.

⁵⁴ Department of Home Affairs, *Department of Home Affairs Incoming Government Brief: Minister for Immigration, Citizenship and Multicultural Affairs*, June 2022, p. 53, In Department of Home Affairs, Freedom of Information request, FA22/06/00105 Document 2.

⁵⁵ Refugee Council of Australia, 'How many people has Australia sent offshore? Where are they now?', <https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/2/>, viewed 10 January 2024.

be released into the community.⁵⁶ Almost all of this cohort have been recognised as genuine refugees and live in the community. Roughly three quarters have been granted a bridging visa E while most of the remainder are in community detention.⁵⁷

- 4.43 As at 23 October 2023, the Department reported that there were 13 transitory people on Nauru, 11 of them at the regional processing centre. The latter group had arrived in September, and were reported to be the first transfer to Nauru in nine years.⁵⁸ By 3 November, eight of those 11 had voluntarily returned, with the remaining three being held at the processing centre until the resolution of their migration status or their departure.⁵⁹
- 4.44 While the processing centre at Manus Island, Papua New Guinea, closed in 2017, Nauru remains designated as a regional processing country.⁶⁰ Regional processing is undertaken by the government of Nauru, assisted by Australia ‘through the engagement of specialist service providers, capacity building, mentoring and training’ and funding support.⁶¹ A Memorandum of Understanding establishing an enduring regional processing capability at Nauru came into effect in mid-2022.⁶²
- 4.45 In addition, the Department supports OSB through policy measures such as restrictions on the ability of UMAs to access permanent protection visas, the provision of lawful settlement pathways via the Humanitarian program, and a

⁵⁶ Department of Home Affairs, ‘Addendum to the eleventh edition of the Administration of the Immigration and Citizenship Programs’, 11th Edition, pp. 40-41; Legal and Constitutional Affairs Legislation Committee, *Estimates*, 23 October 2023, p. 50, 52.

⁵⁷ Refugee Council of Australia, ‘People transferred to Australia’, <https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/3/>, viewed 10 January 2024.

⁵⁸ Legal and Constitutional Affairs Legislation Committee, *Estimates*, 23 October 2023, p. 50, 78; see also Department of Home Affairs, ‘Statistics of Transitory Persons: Regional Processing Statistics – 31 October 2023’, <https://www.homeaffairs.gov.au/about-us-subsite/files/population-number-resettled-31-oct-2023.pdf>, viewed 10 January 2024.

⁵⁹ Paul Karp, ‘Child among asylum seekers returned to country of origin after being sent from Australia to Nauru’, *Guardian*, 22 January 2024, <https://www.theguardian.com/australia-news/2024/jan/22/australia-asylum-seekers-nauru-returned-home-country>, viewed 22 January 2024; See also OSE23-715-Nauru-Breakdown of Recent Arrival Cohort, Home Affairs Portfolio, Department of Home Affairs, Program 2.4: UMA Offshore Management, Senate Standing Committee on Legal and Constitutional Affairs, Supplementary Estimates, October 2023.

⁶⁰ Hon Peter Dutton MP, Minister for Immigration and Border Protection, ‘Interview with Peter Van Onselen and Paul Kelly’, Sky Sunday Agenda, Transcript, 9 April 2017, <https://web.archive.org/web/20171117173906/http://www.minister.border.gov.au/peterdutton/2017/Pages/sky-sunday-agenda-09042017.aspx>, viewed 10 January 2024; Department of Home Affairs, ‘Regional processing and resettlement’, <https://www.homeaffairs.gov.au/about-us/what-we-do/border-protection/regional-processing-and-resettlement>, viewed 10 January 2024.

⁶¹ Department of Home Affairs, *Department of Home Affairs Incoming Government Brief: Minister for Immigration, Citizenship and Multicultural Affairs*, June 2022, p. 52, In Department of Home Affairs, Freedom of Information request, FA22/06/00105 Document 2; OSE23-715-Nauru-Breakdown of Recent Arrival Cohort, Home Affairs Portfolio, Department of Home Affairs, Program 2.4: UMA Offshore Management, Senate Standing Committee on Legal and Constitutional Affairs, Supplementary Estimates, October 2023.

⁶² Department of Foreign Affairs and Trade, ‘Memorandum of Understanding between the Republic of Nauru and Australia on the Enduring Regional Processing Capability in Republic of Nauru’, <https://www.dfat.gov.au/geo/nauru/memorandum-understanding-between-republic-nauru-and-australia-enduring-regional-processing-capability-republic-nauru>, viewed 10 January 2024.

counter-people smuggling policy that is delivered collaboratively with the Department of Foreign Affairs and Trade.⁶³

Irregular Migration, Unlawful Non-Citizens and Status Resolution

- 4.46 Irregular migration is defined by the International Organization for Migration as the movement of people that ‘takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination’.⁶⁴ Such arrivals typically comprise non-citizens—that is, people who are not citizens. Further, the Act holds that a ‘non-citizen in the migration zone who is not a lawful non-citizen is an unlawful non-citizen’.⁶⁵ The Department adds that this definition means that unlawful non-citizens (UNCs) ‘do not hold a visa that is in effect’.⁶⁶
- 4.47 Irregular migrants who arrive by boat and are relocated to Australia for a temporary purpose, make up a small proportion of Australia’s UNC cohort. This group also includes UNCs who arrived by plane without a valid visa, as well as those who have overstayed the duration of their visa, have had their visa cancelled, or are otherwise in breach of their visa conditions. While noting that that determining the size of the UNC cohort is difficult due to the challenges of matching traveller data, the Department estimated that there were 66,800 UNCs in Australia (not including those in detention) as at 30 June 2022. They also note that this cohort is remarkably fluid as ‘most non-citizens are only unlawful for a short period and either engage with the Department’s Status Resolution Service to resolve their immigration status or depart voluntarily’.⁶⁷
- 4.48 The Department’s Status Resolution Service provides aid to non-citizens who need help to resolve their immigration status. Most non-citizens enter the service voluntarily after being located as the result of Border Force or police activities. The status resolution cohort mainly comprises those who hold a Bridging E (subclass 050) visa and a smaller population who are held in either immigration detention or in the community under a residence determination. Further, on a needs basis, eligible individuals can access targeted assistance (such as accommodation and health care) under the Status Resolution Support Services program.
- 4.49 Resolution of immigration status is achieved by:
- departure from Australia;

⁶³ Department of Home Affairs, *Department of Home Affairs Incoming Government Brief: Minister for Immigration, Citizenship and Multicultural Affairs*, June 2022, p. 48, In Department of Home Affairs, Freedom of Information request, FA22/06/00105 Document 2.

⁶⁴ International Organization for Migration, ‘Key Migration Terms’, <https://www.iom.int/key-migration-terms>, viewed 11 January 2024.

⁶⁵ *Migration Act 1958*, section 14.

⁶⁶ Department of Home Affairs, ‘The Administration of the Immigration and Citizenship Programs’, 11th Edition, p. 44.

⁶⁷ Department of Home Affairs, ‘The Administration of the Immigration and Citizenship Programs’, 11th Edition, pp. 44-45.

- grant of a substantive visa; or
 - acquisition of Australia citizenship.⁶⁸
- 4.50 As noted earlier, those who require assistance to leave Australia can access the Return and Reintegration Assistance Program. The types of help provided includes travel assistance (air tickets, travel documents etc.) and counselling. For UMAs, this might also encompass financial and other assistance to reintegrate on their return.⁶⁹

Immigration Compliance

- 4.51 In late 2022, former Victorian police commissioner Christine Nixon was commissioned by the Federal Government to investigate migrant worker exploitation and the exploitation of Australia's visa system. Nixon's *Rapid Review into the Exploitation of Australia's Visa System* made several findings including that a:
- Greater focus on investigative and enforcement capacity is required at state and federal levels to effectively deter and disrupt serious visa and migration fraud and organised crime related activity.⁷⁰
- 4.52 To that end, the review's recommendations included the continuation of funding to operation INGLENOK—a multi-agency task force with strong investigative capacity identifying, deterring, and disrupting individuals and professional facilitators exploiting Australia's visa system, particularly in the sex industry—as well as re-prioritising an immigration compliance function within the Department. In respect to the latter, the review noted that since the transfer of the immigration investigation functions from the Department to Australian Border Force in 2015, investigative and field compliance resources had diminished.⁷¹
- 4.53 In October 2023 the Government response to the Nixon report agreed with both of these recommendations and committed to establish a new Immigration Compliance Division within the Department. The response, acknowledging the effectiveness of multi-agency operations to leverage their various strengths, noted that the new division would incorporate Operation INGLENOK as a permanent function that would take a broad approach to exploitation in the migration system.⁷²
- 4.54 Supported by funding of \$50 million over four years from 2023–24, the new division is intended to 'create a whole of portfolio capability' to 'protect the integrity of the visa and migration system'. The then Minister for Home Affairs, Hon Clare O'Neil MP,

⁶⁸ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, pp. 47-48; Department of Home Affairs, 'Status Resolution Service', <https://immi.homeaffairs.gov.au/what-we-do/status-resolution-service/status-resolution-support-services>, viewed 11 January 2023.

⁶⁹ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, pp. 48-49.

⁷⁰ Christine Nixon, *Rapid Review into the Exploitation of Australia's Visa System*, 31 March 2023, p. 7.

⁷¹ Christine Nixon, *Rapid Review into the Exploitation of Australia's Visa System*, 31 March 2023, pp. 7-9.

⁷² Australian Government, 'Government Response to the Nixon Review Recommendations', pp. 1- 2, <https://www.homeaffairs.gov.au/reports-and-pubs/files/nixon-review/government-response-nixon-review.pdf>, viewed 16 January 2023; Department of Home Affairs, 'Addendum to the eleventh edition of the Administration of the Immigration and Citizenship Programs', p. 35.

adding that the division would be brought together ‘into a permanent strike force’ that will address ‘the big problems’ in the system and ensure that those who are responsible for exploitation ‘are rooted out and held accountable’.⁷³

Office of the Migration Agents Registration Authority

- 4.55 The Office of the Migration Agents Registration Authority (OMARA) regulates the activities of Australian registered migration agents (RMA) who provide immigration assistance.
- 4.56 In particular, OMARA protects those who use migration advice services by ensuring that RMAs comply with the minimum professional standards in the Code of Conduct for Registered Migration Agents. The code details the obligations of an RMA to their clients, employees, and other RMAs; alongside recordkeeping, management and financial duties and responsibilities.⁷⁴ OMARA applies this regulatory instrument to:
- protect clients of migration agents; and
 - strengthen the integrity of the immigration advice industry and Australia’s immigration system.⁷⁵
- 4.57 The history of regulation of Australia’s migration advice industry comprises five distinct periods:
- Registration with no monitoring---the *Immigration Act 1948* provided for a person to become a ‘registered agent’ after satisfying fitness and character requirements. Registration was also provided for under the *Migration Act 1958* with the addition of penalty provisions.
 - Commonwealth regulation—the Migration Agents Registration Scheme was established in 1992. Its registration board was administered by the Department of Immigration, Local Government and Ethnic Affairs. A 1997 review found that while consumer protection levels improved, it was not efficient or effective in dealing with complaints and concerns.
 - Self-regulation under the Migration Institute of Australia (MIA)—in 1998 the MIA assumed the role of the Migration Agents Registration Authority under a Deed of Arrangement with the Commonwealth, representing statutory self-regulation. Successive reviews, however, found that the industry was not ready to move to full self-regulation.

⁷³ Australian Government, ‘Government Response to the Nixon Review Recommendations’, pp. 1–2; Hon Clare O’Neil MP, Minister for Home Affairs and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘Government response to Nixon Report on Australia’s immigration system’, *Joint Press Conference*, transcript, 4 October 2023, https://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/9404597/upload_binary/9404597.pdf;fileType=aapplication%2Fpdf, viewed 16 January 2024.

⁷⁴ Department of Home Affairs, *Code of Conduct for registered migration agents*, March 2022, <https://www.mara.gov.au/tools-for-agents-subsite/Files/code-of-conduct-march-2022.pdf>, viewed 8 January 2024; OMARA, ‘Who we are and what we do’, <https://www.mara.gov.au/about-us/what-we-do>, viewed 8 January 2024.

⁷⁵ Department of Home Affairs, *Code of Conduct for Registered Migration Agents*, 1 March 2022, p.6.

- Return to Commonwealth regulation—2009 saw the establishment of the Office of Migration Agents Registration Authority as a discrete office attached to the Department of Immigration and Border Protection.
- Regulation by OMARA as part of the Department—in 2015, following the recommendation of the *2014 Independent Review of the Office of the Migration Agents Registration Authority* (the Kendall Review), OMARA was consolidated into the Department of Immigration and Border Protection.⁷⁶

- 4.58 At 30 June 2023, there were 4,883 RMAs, almost all of which operate on a commercial basis (see Figure 4.2). RMAs are required to renew their registration on an annual basis if they wish to continue to lawfully provide immigration assistance. Most RMAs have at least seven years' experience in the role (61 per cent), and 66 per cent of RMAs had never had a complaint made against them (at 30 June 2023). While the reverse statistic that 34 per cent have had a complaint made against them is acknowledged, OMARA adds that 'a large number of complaints are dismissed due to insufficient evidence, withdrawal of the complaint, or the complainant not providing consent for the complaint to be published to the RMA'.⁷⁷
- 4.59 For the half year January to June 2023, OMARA received 222 complaints about the conduct of RMAs. Most of these complaints (70 per cent) were dismissed or no breach was found. Of the remainder, most were addressed directly with the agent, or the RMA was issued with a suspected breach notice as part of an early resolution model to manage less serious conduct and educate RMAs about their obligations. In the 6 per cent of cases where breaches were found, one former agent was barred for two years and two RMAs had their registration cancelled for five years.⁷⁸

Figure 4.1 Registered Migration Agents and the basis on which they operate

Number of registered migration agents	At 30 June 2023	
Total number of registered migration agents (RMAs)	4,883	
RMAs operating on a commercial basis	4,817	99%
RMAs operating on a non-commercial basis	66	1%
RMAs with restricted legal practising certificates	138	3%
RMAs registered under the TTMRA	80	2%

Source: OMARA, *Migration Agent Activity Report, 1 January 2023 to 30 June 2023*, 2023

⁷⁶ Department of Home Affairs, 'Attachment A: Chronology of Australian migration advice industry regulation', Answers to questions on Notice, Public Hearing, 14 June 2023.

⁷⁷ OMARA, *Migration Agent Activity Report, 1 January 2023 to 30 June 2023: Half-yearly report on the provision of immigration assistance in Australia*, 2023, pp. 4-5, 7.

⁷⁸ OMARA, *Migration Agent Activity Report, 1 January 2023 to 30 June 2023*, pp. 8-11.

- 4.60 OMARA reported that in the six months to June 2023, RMAs lodged half or more than half of the applications for Temporary Skill Shortage visas, Employer Sponsored visas, Business Skills visas, and General Skilled visas; and roughly 40 per cent of Family visa and Temporary Resident visa applications (see Figure 4.3).⁷⁹
- 4.61 While OMARA records that the total number of applications lodged by RMAs is just 12 per cent, this includes the large number of less complex visa applications made by tourists visiting Australia. If the Visitor visa class is removed, the proportion of applications lodged by RMAs more than doubles to 28 per cent.⁸⁰

Figure 4.2 Breakdown of visa applications showing the number and proportion lodged by Registered Migration Agents

Visaclass	RMA used	Total applications	% lodged by an RMA
Family	21,452	51,962	41%
Employer Sponsored	13,673	24,153	57%
General Skilled	34,882	63,923	55%
Business Skills	1,289	1,891	68%
Student	61,342	349,914	18%
Visitor	46,246	1,621,934	3%
Bridging	3,958	21,777	18%
Temporary Protection	42	962	4%
Permanent Protection	1,829	24,771	7%
Returning Resident	6,380	119,322	5%
Temporary Resident	94,800	241,544	39%
Temporary Skill Shortage	27,582	48,291	57%
TOTAL (in ICSE)	313,475	2,570,444	12%

Note: percentage results may not sum exactly to 100 per cent due to rounding.

Source: OMARA, *Migration Agent Activity Report, 1 January 2023 to 30 June 2023*, 2023.

- 4.62 During 2020–21, there was a significant drop in the number of RMAs (from 6,888 at the end of December 2020 to 4,971 at the end of June 2021) registered with OMARA. The reduction arose from changes to the *Migration Act 1958* that came into effect on 22 March 2021, whereby Australian lawyers holding a practising certificate were able to provide immigration assistance in connection with legal practice without

⁷⁹ OMARA, *Migration Agent Activity Report, 1 January 2023 to 30 June 2023*, p. 7.

⁸⁰ After removing the Visitor category, the number who use an RMA drops slightly to 267,229, while the number of total applications drops significantly to 948,510. So, using these figures, 28.2% use RMAs.

being registered as a migration agent.⁸¹ This change brought Australia's practices in line with similar jurisdictions – Canada, the UK and New Zealand.⁸²

- 4.63 The 2023 Nixon review into the exploitation of Australia's visa system made several recommendations on the need to strengthen regulation of RMAs and enhance OMARA's capability to detect and respond to unlawful immigration assistance and to enforce compliance.⁸³ The Government response agreed with most of the recommendations and committed to implement changes by increasing OMARA's staffing level and strengthening existing frameworks. Among the latter, they committed to incorporating a background check component into the Fit and Proper Person and person of integrity assessment framework; and including a positive obligation for RMAs to ensure their clients understand Australian workplace rights and reporting in the Code of Conduct, then reinforcing this obligation in the Continuous Professional Development training framework.⁸⁴

Supporting Systems

- 4.64 The effective functioning of the Australia's migration system is underpinned by the people and the processes of the Department of Home Affairs. At a public hearing, the then Secretary of the Department, Mr Pezzullo observed:

...any organisation—it wouldn't matter whether we were a bank, an insurance company or an airline—needs good systems, good processes, good technology, well-trained staff and motivated passionate staff.⁸⁵

Staffing

- 4.65 Between 2015 and 2022 the overall staffing level of the Department remained fairly constant, ranging between about 13,700 and 14,400 people (including Australian Border Force personnel).⁸⁶ This relative consistency, however, was not evenly

⁸¹ OMARA, *Migration Agent Activity Report, 1 January 2023 to 30 June 2023*, p. 4. See also OMARA, 'Transitional arrangements for Australian legal practitioners previously registered as a migration agent (22 March 2021)', 15 March 2021, <https://www.mara.gov.au/news-media/archive/article?itemId=571>, viewed 8 January 2024; and Administrative Appeals Tribunal, 'Changes to the rules about lawyers giving immigration assistance in AAT cases', 22 March 2021, <https://www.aat.gov.au/news/changes-to-the-rules-about-lawyers-giving-immigrat#>, viewed 8 January 2024.

⁸² *Migration Agents Instruments Review*, Report to the Assistant Minister for Customs, Community Safety and Multicultural Affairs, the Hon Jason Wood MP, Consultation Report, May 2021, p.12.

⁸³ Christine Nixon, *Rapid Review into the Exploitation of Australia's Visa System*, 31 March 2023, pp. 6, 10-14.

⁸⁴ Australian Government, 'Government Response to the Nixon Review Recommendations', pp. 2-4, <https://www.homeaffairs.gov.au/reports-and-pubs/files/nixon-review/government-response-nixon-review.pdf>, viewed 9 January 2023; see also Department of Home Affairs, 'Addendum to the eleventh edition of the Administration of the Immigration and Citizenship Programs', p. 35.

⁸⁵ Mr Michael Pezzullo AO, Secretary, Immigration, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 2.

⁸⁶ Annual Reports record a combined Immigration and Border staff of 14,200 (2015/16), 13,758 (2016/17), 13,316 (2017/18), 14,055 (2018/19), 14,008 (2019/20), 13,775 (2020/21), 13,846 (2021/22). The number of personnel, excluding Australian Border Force, is provided in the final two of these years – 7,905 (2020/21) and 7,878 (2021/22).

distributed across working groups within the Department. In particular, the number of staff involved in visa processing declined. At the same time, the number of visas (both temporary and permanent) remaining on hand to be processed rose (see Figure 4.4).

Figure 4.3 Temporary and Permanent Visa Lodgements, Finalisations, Travel Exemptions, Onhand and Average Staffing Levels



Source: Department of Home Affairs, cited in Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 171.

- 4.66 The Community and Public Sector Union maintained that there has long been a need for more permanent staff in the Department, and particularly in visa processing, where '[y]ears of cuts and under resourcing left backlogs'.⁸⁷
- 4.67 Disruptions resulting from the COVID-19 pandemic, also transformed staff arrangements in the immigration and citizenship programs, affecting the Department's ability to deliver services and programs both domestically and overseas. Most Australian staff deployed overseas returned home, and staff priorities were refocussed from processing visas to the more than one million travel exemption requests.⁸⁸
- 4.68 In March 2022, the Senate Legal and Constitutional Affairs Reference Committee, noted that a backlog of Non-Contributory Parent, Partner and Other Family visa applications has resulted in lengthy wait times that could extend up to fifty years.

⁸⁷ Community and Public Sector Union, *Submission 6*, Attachment 1, p. [3].

⁸⁸ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 7.

They recommended that the Department develop a strategy to make the application process more efficient, simpler, quicker, and more transparent.⁸⁹

- 4.69 On 2 September 2022, the then Minister for Home Affairs, Hon Clare O’Neil MP, and the then Minister for Immigration, Citizenship and Multicultural Affairs, Hon Andrew Giles MP, announced an additional \$36.1 million ‘for visa processing, to support a surge capacity of 500 staff over the next nine months’.⁹⁰ In 2023, funding was extended for a further twelve months to support 380 visa processing officers through the provision of an additional \$48.1 million.⁹¹
- 4.70 At Senate Estimates in October 2023, the Department reported that the number of full-time equivalent staff in the immigration programs division and the immigration operations division had risen from 2,205 at 30 September 2022 to 2,709 at 31 July 2023. And, over the 12 months from June 2022 processing staff had reduced the number of permanent and temporary visa applications that were on hand by about 40 per cent, down to roughly 570,000.⁹²

Information and Communication Technology

- 4.71 The Committee heard from the then Associate Secretary of Immigration who stressed the need for the migration program to be supported by ‘a sophisticated ICT [Information and Communication Technology] system’ to enhance staff ‘efficiency, morale and motivation’. She added:

I take my hat off every time I go and sit with our visa processors, watch them use five screens, cut and paste information and do it cheerfully and with good humour.⁹³

⁸⁹ Senate Legal and Constitutional Affairs Reference Committee, *The efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions*, March 2022, p. 91.

⁹⁰ Hon Clare O’Neil MP, Minister for Home Affairs and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘Australia’s migration future’, *Joint Media Release*, 2 September 2022, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/australias-migration-future.aspx>, viewed 1 June 2023. See also Department of Home Affairs, ‘Freedom of Information Request FA 22/11/01131’, 23 Jan 2023, <https://www.homeaffairs.gov.au/foi/files/2023/fa-221101131-document-released.PDF>, viewed 1 June 2023; \$48.1 million over twelve months to support 500 visa processing officers. Hon Clare O’Neil MP, Minister for Home Affairs and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘A safer and more secure future for Australia’, *Joint Media Release*, 9 May 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/safer-secure-future-for-australia.aspx>, viewed 23 October 2023.

⁹¹ Department of Home Affairs, ‘2023-34 Migration Program FAQ’, p. 3, <https://immi.homeaffairs.gov.au/programs-subsite/files/faq-2023-24-migration-program.pdf>, viewed 23 October 2023. Note there is some overlap between sources as to number of processing officers and funding. See \$42.2 million over two years 2022-23: Budget Paper No. 2, *Budget Measures: October 2022-23*, p. 82; \$75.8 million over two years 2023-24 for both visa processing and improving processing systems: Budget Paper No. 2, *Budget Measures: October 2023-24*, p. 162.

⁹² Legal and Constitutional Affairs Legislation Committee, *Estimates*, 23 October 2023, pp. 53, 65.

⁹³ Ms Stephanie Foster, Associate Secretary, Immigration, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 14.

4.72 Australia's migration system is underpinned by several electronic systems, many of which have been in operation for decades. In a 2019 submission to a Senate inquiry, the Department noted that it managed 'visa processing through about fifty computer systems that have been developed over 30 years'. Adding that the 'two key visa application processing systems are over twenty-five years old' but remain stable and supported'. However, they cautioned that the opportunities to improve these legacy systems and processes were being 'exhausted' and the ability of these systems to facilitate the entry of genuine visa applicants while preventing access to those who would cause harm was 'diminished'.⁹⁴ Efforts to modernise during the late 2010s to a system with a single point of entry, faced criticism for using private finance and partnering with an external entity and did not proceed.⁹⁵

4.73 The two main systems used in processing visas are the:

- Integrated Client Service Environment (ICSE) system; and
- Immigration Records Information System (IRIS).⁹⁶

The latter system having been deployed in 1989 as the Department's overseas processing system.⁹⁷

4.74 When communicating with the Australian National Audit Office (ANAO) in late 2022, the Department advised that:

IT systems remain a considerable impediment to the efficient and effective delivery of migration programs, particularly for family visa programs. Current systems are not what would be considered acceptable standards for modern service delivery, noting core systems are over 30 years old and several programs still require paper-based visa lodgement.⁹⁸

4.75 The complexity and poor integration of these systems culminated in client information being dispersed and insufficient support being provided to those making decisions. Further, the Department noted that a number of the recommendations made by the ANAO were 'dependent on Information Communications Technology (ICT)/systems functionality not currently available'.⁹⁹

⁹⁴ Department of Home Affairs, *Submission 28*, pp. 4-5, to the Legal and Constitutional Affairs References Committee, Inquiry into the impact of changes to service delivery models on the administration and running of Government programs, 2019, <https://www.aph.gov.au/DocumentStore.ashx?id=1b3543be-1e9c-4f36-906d-93a4dc0ef932&subId=669717>, viewed 19 October 2023.

⁹⁵ Legal and Constitutional Affairs References Committee, *Impact of changes to service delivery models on the administration and running of Government programs*, February 2020, Chapter 3: pp. 19-38; Mr Michael Pezzullo AO, Secretary, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, pp. 14-15.

⁹⁶ Australian National Audit Office, *Management of migration to Australia – Family Migration Program: Department of Home Affairs*, Auditor General Report No. 16 2002-23, p. 18.

⁹⁷ Department of Immigration and Border Protection, *Delivering visa services for Australia, Market Consultation Paper*, June 2017, p. 27.

⁹⁸ Quoted in ANAO, *Management of migration to Australia – Family Migration Program: Department of Home Affairs*, Auditor General Report No. 16 2002-23, p. 18.

⁹⁹ ANAO, *Management of migration to Australia – Family Migration Program: Department of Home Affairs*, Auditor General Report No. 16 2002-23, p. 10.

- 4.76 In May 2023, the Government announced \$27.8 million in funding over two years to upgrade existing visa ICT systems to 'improve visa service delivery efficiency and increase Australia's attractiveness in the global race for talent, students and tourists'.¹⁰⁰

In the Public Interest

- 4.77 Visa applicants are expected to meet a range of requirements that relate to their health, character, English language proficiency, biometrics, adherence to and knowledge of Australian values, and provision of accurate information. While much of the documentation is collected and submitted by applicants (or on their behalf), other requirements, such as those noted below, are collected by external parties on behalf of the Department.

Biometric Collection

- 4.78 The Department, then the Department of Immigration and Border Protection, has been collecting biometric information for more than fifteen years. In 2006, it began collecting the facial images and fingerprints of foreign fishers. In 2010, gathering of personal identifiers expanded to encompass biometrics from selected offshore visa applicants and onshore protection claimants. The Migration Amendment (Strengthening Biometrics Integrity) Bill 2015 introduced further reforms to 'consolidate and simplify' existing provisions and to address 'gaps and shortcomings'.¹⁰¹ The procedural manual for the collection of biometrics for offshore visa processing adding that the amendments introduced a 'broad discretionary power to collect biometrics for the purposes of the *Migration Act 1958* and *Migration Regulations 1994*'.¹⁰²
- 4.79 At present, the collection of biometric information is required for many visa types, as well as for those making an application from one of 53 countries included in the biometrics program. Biometric details collected from applicants usually comprises a digital photograph of their face (visible from the chin to above the eyebrows and both ears); and a digital scan of their fingerprints.¹⁰³

¹⁰⁰ Hon Clare O'Neil MP, Minister for Home Affairs and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'A safer and more secure future for Australia', *Joint media release*, 9 May 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/safer-secure-future-for-australia.aspx>, viewed 19 October 2023. Department of Home Affairs, *Submission 127*, p. 10.

¹⁰¹ Explanatory Memorandum, Migration Amendment (Strengthening Biometrics Integrity) Bill 2015, p.1.

¹⁰² Department of Home Affairs, *Biometrics for Offshore Visa Processing: Procedural Instruction*, p. 3. In Department of Home Affairs, Freedom of Information request, FA20/02/01375, <https://www.homeaffairs.gov.au/foi/files/2020/fa-200201375-document-released.PDF>, viewed 14 November 2023.

¹⁰³ Department of Home Affairs, 'Meeting our requirements: Biometrics', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/biometrics>, viewed 31 October 2023. For the fingerprinting, some exceptions are made for those under a certain age or unable to understand the purpose of biometrics. Special arrangements can be made for a private collection of the digital photograph by someone of the same gender to accommodate those who wear a religious head covering.

4.80 The Department's website advises applicants that they collect biometrics to:

- protect you from identity fraud;
- make travel to Australia safer; and
- secure our borders.

And, that in order to do this, they may check that data with Australian and international agencies to verify an applicant's identity, criminal history and protection status. Further, on arrival in Australia an applicant's biometric data may be collected again, to compare with the stored biometric details, as part of an identity check.¹⁰⁴

4.81 Offshore applicants are required to visit an Australian Biometrics Collection Centre or an Australian Visa Application Centre for the collection of their biometric data. Service Delivery Partners (SDP) provide this service on behalf of the Department. By 1 January 2024, SDP services will be delivered by VF Worldwide Holdings Ltd in the Americas, Mekong, Middle East and North Africa, Pacific, South Asia, South East Asia, and North Asia; and by the TLS Group in Europe and Sub-Saharan Africa. Applicants are charged a fee for this service.¹⁰⁵

4.82 Of the 53 countries, 50 offer at least one collection point (typically in the capital city), with eight countries offering two, five countries offering three, and three countries offering five. For the remaining three countries—Afghanistan, Somalia and Yemen—applicants are required to visit a collection centre in a neighbouring country.¹⁰⁶ The Department notes that, where it is safe to do so, it intends to expand the biometrics collection programs to further countries.¹⁰⁷ Applicants may be required to provide biometrics each time that they apply for a visa.¹⁰⁸

4.83 Onshore applicants who need to provide biometrics are advised to contact the relevant processing office so that collection can be arranged.¹⁰⁹

4.84 The Department reports that it checks all biometrics with its own records, as well as checking all fingerprints against Australian law enforcement records and data held by Australia's Migration Five (MF) partners—the immigration authorities of Canada, New Zealand, the United Kingdom and the United States of America. For the financial

¹⁰⁴ Department of Home Affairs, 'Meeting our requirements: Biometrics', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/biometrics>, viewed 31 October 2023.

¹⁰⁵ Department of Home Affairs, 'Service Delivery Partners', <https://www.homeaffairs.gov.au/help-and-support/how-to-engage-us/industry-engagement/service-delivery-partners>, viewed 2 November 2023.

¹⁰⁶ Department of Home Affairs, 'Offices outside Australia', <https://immi.homeaffairs.gov.au/help-support/contact-us/offices-and-locations/offices-outside-australia>, viewed 2 November 2023.

¹⁰⁷ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 41.

¹⁰⁸ Department of Home Affairs, 'Meeting our requirements: Biometrics', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/biometrics>, viewed 31 October 2023.

¹⁰⁹ Department of Home Affairs, 'Meeting our requirements: Biometrics', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/biometrics>, viewed 31 October 2023.

year up to 31 March 2023, the Department had queried more than 2,300,000 fingerprint records (roughly double the amount queried the year prior).¹¹⁰

- 4.85 The 2023 Nixon Review recommended expansion of biometric collection, and enhancing its verification in key ICT systems used by the Department, at the border and with international partners. For the most part, the Government responded that these recommendations were in line with its existing work to ‘strengthen collection and reuse of biometric information’.¹¹¹

Health Assessments

- 4.86 Most visa applicants are required to prove that they meet minimum health standards. The Health Requirement provides ‘a risk based approach to health screening for visa applicants’. It is intended to protect the Australian community; control spending on services such as social security benefits, allowances and pensions; and ensures that those in Australia continue to access health services that are limited.¹¹²
- 4.87 To meet the minimum standards, applicants must be free from diseases or conditions that are likely to incur a significant cost in providing health care or community support, or would overly burden healthcare and other services that are in short supply (e.g., dialysis and organ transplants). Currently, active tuberculosis is the only health condition that automatically prevents an applicant being granted a visa.¹¹³ An applicant whose condition is assessed as likely to cost the community \$51,000 or more (over certain specified periods), is considered to incur a ‘significant cost’, and will not be granted a visa unless a health waiver is available and exercised.¹¹⁴
- 4.88 The tests undertaken by applicants are determined by the Department. They depend on several factors including:
- type of visa;
 - duration of stay and activities;
 - country of citizenship and residence during the previous five years;
 - age;

¹¹⁰ Department of Home Affairs, ‘The Administration of the Immigration and Citizenship Programs’, 11th Edition, p. 41.

¹¹¹ Australian Government, ‘Government Response to the Nixon Review Recommendations’, pp. 7-8, <https://www.homeaffairs.gov.au/reports-and-pubs/files/nixon-review/government-response-nixon-review.pdf>, viewed 9 January 2023.

¹¹² Department of Home Affairs, Sch4/4005-4007 – 01 - The health requirement, Procedural Instruction, PPN: VM-1027, 10 November 2023.

¹¹³ Department of Home Affairs, ‘Health: Meeting our requirements: Health’, <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/health>, viewed 14 November 2023; Department of Home Affairs, *Australian Panel Member Instructions: Immigration Medical Examinations*, July 2023, p. 11.

¹¹⁴ Department of Home Affairs, ‘Health: Protecting health care and community services’, <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/health/protecting-health-care-and-community-services>, viewed 21 November 2023.

- completion of an Australian Immigration Medical Examination (IME) within the last year;
 - completion of a health declaration; and
 - medical issues of special significance identified by the Australian Government.
- 4.89 The Department's guidelines also note that, in some instances, family members who are not visa applicants may also be required to undertake an IME.¹¹⁵
- 4.90 To take one example, minimum requirements are to be met by almost all permanent and provisional visa applicants. The tests for those aged fifteen or over comprise:
- Medical examination;
 - Chest x-ray;
 - Human immunodeficiency virus (HIV) test; and
 - Serum creatinine/estimated Glomerular Filtration Rate (eGFR).
- 4.91 Additional tests are required for those in this cohort who are working or studying to be a doctor, dentist, nurse or paramedic; similarly for those planning to work or train in health, aged or disability care *and* are from a higher risk country; or those who are applying for an onshore protection visa or a refugee visa. Likewise additional tests are necessary for pregnant women planning to deliver their baby in Australia and for children to be adopted. Further tests may also be required of applicants if a health condition is discovered during this process.¹¹⁶
- 4.92 The examinations and tests are made by approved physicians and chief radiologists who, mostly, submit results directly into the visa ICT system.¹¹⁷ These health experts (both offshore and onshore) are members of Australia's Panel Physicians Network and are appointed by the Department to perform IMEs at approved panel clinics.
- 4.93 Panel physicians located offshore are not contracted to the Australian Government but are paid by visa applicants on a fee-for-service basis. Under the terms of their appointment, it is required that the fees they charge are consistent with local charges

¹¹⁵ Department of Home Affairs, *Australian Panel Member Instructions: Immigration Medical Examinations*, July 2023, pp. 11-12.

¹¹⁶ Department of Home Affairs, 'Health: What health examinations you need', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/health/what-health-examinations-you-need>, viewed 15 November 2023.

¹¹⁷ Australian Government, *Review of the Migration System*, Final Report, p. 168. See also Department of Home Affairs, 'eMedical', <https://immi.homeaffairs.gov.au/help-support/tools/emedical>, viewed 16 November 2023. See also the aim that all IMEs are processed electronically: Department of Home Affairs, *Australian Panel Member Instructions: Immigration Medical Examinations*, July 2023, p. 10.

for similar services.¹¹⁸ Onshore these services are provided by the Department's contracted medical service provider—Bupa Medical Visa Services.¹¹⁹

- 4.94 To be eligible for panel membership, physicians and chief radiologists are required to have a minimum of five years' experience and be able to communicate effectively in English. Among a series of further conditions, they are required to 'personally carry out and complete' their respective examinations, and to 'impartially grade and submit them'. It is then the role of the Medical Officer of the Commonwealth—not panel members—to assess whether an applicant meets the health requirements.¹²⁰
- 4.95 The Department manages the number and location of panel clinics and panel members, and conducts quality and integrity audits of their work.¹²¹ In 2022–23, more than 1.2 million IMEs were finalised across 565 panel clinics. A third of the IMEs were subject to some form of review, with less than 3 per cent having errors identified. Over the same period, 545 panel clinics were subject to review and all were 'assessed as effective'.¹²²

Settling In

- 4.96 While Australia's migration program tends to focus on attracting suitable migrants to fill the short- and long-term employment, social, and cultural needs of the nation, there has been growing recognition of the importance of ensuring that those migrants successfully settle and make a home in their adopted land.
- 4.97 From the mid-1960s, there was awareness that migrants, especially those without English as their first language, faced barriers to settlement and were in need of assistance.¹²³ While initiatives followed, it was not until 1973 that the Department of Immigration was reorganised to incorporate a new division of citizenship and settlement that consolidated existing programs and focused on providing support and retaining migrants as settlers. Programs included expanding existing migrant education; improving community education on migrants and their cultures; and increasing the involvement of ethnic groups in integration activities. Welfare needs of migrants were addressed by a team of 48 multilingual welfare officers; the allocation of grants for social workers; and an emergency telephone interpreter service.¹²⁴

¹¹⁸ Department of Home Affairs, *Australian Panel Member Instructions: Immigration Medical Examinations*, July 2023, pp. 12, 26.

¹¹⁹ Department of Home Affairs, 'Health: Arrange your health examinations', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/health/arrange-your-health-examinations>, viewed 16 November 2023.

¹²⁰ Department of Home Affairs, *Australian Panel Member Instructions: Immigration Medical Examinations*, July 2023, pp. 12, 16–17, 19.

¹²¹ Department of Home Affairs, *Australian Panel Member Instructions: Immigration Medical Examinations*, July 2023, p. 8.

¹²² Department of Home Affairs, *Annual Report 2022–23*, p. 59.

¹²³ Department of Home Affairs, 'Our history – Multicultural affairs', <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/about-multicultural-affairs/our-policy-history>, viewed 23 November 2023.

¹²⁴ Hon. A. J. Grassby MP, Minister for Immigration, *News Release: 61/73*, 15 July 1973.

- 4.98 In 2023, the final report of the *Review of the Migration System* identified ‘Building a community of Australians’ as one of the core objectives that should drive the nation’s future migration system. Reaffirming the importance of successful migration and settlement, the reviewers observed that a key element of that objective was ‘building a cohesive, multicultural community of people participating fully in Australian life’.¹²⁵

Multiculturalism

- 4.99 The Australian Government’s approach to multiculturalism is delineated in the 2017 multicultural statement—*Multicultural Australia: United, Strong, Successful*. The statement is organised under eight key themes:

- Our shared story;
- Shared values;
- Shared rights and responsibilities;
- A safe and secure Australia;
- Shared vision for the future;
- Encouraging economic and social participation of new arrivals;
- Harnessing the advantages of our diversity and shared national interest; and
- Continuing to build harmonious and socially cohesive communities.

The statement reaffirmed the government’s ‘commitment to a multicultural Australia, in which racism and discrimination have no place’ and as being ‘the foundation on which we can further build our multicultural society’.¹²⁶

- 4.100 Multicultural affairs began in 1979 as statutory body, the Australian Institute of Multicultural Affairs; it was largely replaced by the Office of Multicultural Affairs in the Department of Prime Minister and Cabinet in 1987; before being absorbed by the then Department of Immigration and Multicultural Affairs in 1996. Since then, it has mainly been administered by that department and its successor agencies, apart from five years between 2013 and 2018 when responsibility was vested in the Department of Social Services.¹²⁷
- 4.101 In 2023, responsibility for multicultural affairs (along with citizenship) returned to the immigration group at the Department of Home Affairs, having previously been part of the group that also encompassed the ‘coordination of Australia’s counter-terrorism and counter foreign interference arrangements’.¹²⁸ Under its remit, the Department

¹²⁵ Australian Government, *Review of the Migration System*, Final Report, p. 22.

¹²⁶ Australian Government, *Multicultural Australia: United, Strong, Successful*, Australia’s multicultural statement, [2017], pp. 3-4, 7, 9, 11, 13, 15.

¹²⁷ Department of Home Affairs, ‘Our history – Multicultural affairs’, <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/about-multicultural-affairs/our-policy-history>, viewed 27 November 2023; Department of Home Affairs, *Annual Report 2017-2018*, p. iv.

¹²⁸ Department of Home Affairs, ‘The Administration of the Immigration and Citizenship Programs’, 11th Edition, p. 9; For Social Cohesion and Citizenship see previous organisational structures e.g. Department of Home

has 'lead responsibility' to coordinate the Multicultural Access and Equity Policy. It also has charge of administering the websites of initiatives such as Harmony Week and Australian Values, alongside managing grant programs.¹²⁹ It maintains a connection with diaspora communities including through the ministerial appointed Australian Multicultural Council established to provide 'independent and robust advice to Government on multicultural affairs, social cohesion and integration policy and programs'.¹³⁰

- 4.102 In respect to the Multicultural Access and Equity Policy, the Department assists federal government departments and agencies to implement the policy and meet their obligation to ensure that their programs and services address the needs of all Australians. The 2018 policy guide adds that the Department is also responsible for coordinating reporting by those departments in the form of an annual snapshot presented to the Australian Multicultural Council (AMC) and, on a triennial basis, to consult with the AMC and prepare a whole-of-government report on the progress made in implementing the policy.¹³¹ The Department did not publish a triennial report in 2020, the most recent report was prepared by the Department of Social Services (then responsible for multicultural affairs) reported on the period 2013 to 2015 and tabled in 2017. In early 2023, the Australian National Audit Office reported that there was an opportunity for the Department to improve its performance by fulfilling its reporting commitments under the Multicultural Access and Equity Policy.¹³²
- 4.103 Since 2019, the twentieth anniversary of Harmony Day, the Department has led extended national festivities across Harmony Week.¹³³ The website explaining that Harmony week is 'a time to celebrate Australian multiculturalism, and the successful integration of migrants into our community'. It facilitates the bringing together of events across the nation via a calendar; consistent branding through the provision of

Affairs, Organisational Structure, March 2021, <https://web.archive.org/web/20210305210256/https://www.homeaffairs.gov.au/about-us-subsite/files/home-affairs-org-structure.pdf>, viewed 28 November 2023; Department of Home Affairs, *Annual Report, 2021-22*, p. 6.

¹²⁹ Susan Love, 'Multicultural policy since 2010: a quick guide', *Research Paper Series, 2021-22*, Parliamentary Library, September 2021, p. 6, https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/8197355/upload_binary/8197355.pdf, viewed 14 December 2023.

¹³⁰ Department of Home Affairs, 'Australian Multicultural Council', <https://www.homeaffairs.gov.au/mca/Pages/australian-multicultural-council.aspx>, viewed 20 December 2023.

¹³¹ Department of Home Affairs, 'Access and Equity', <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/about-multicultural-affairs/access-and-equity>, viewed 28 November 2023; Australian Government, *The Multicultural Access and Equity Policy Guide: For Australian Government departments and agencies*, 2018, p. 1; Australian Government, *Multicultural Access and Equity in Australian Government Services Report, 2013-2015*, 2017, pp. 8-9.

¹³² Australian National Audit Office, *Department of Home Affairs' Management of its Public Communications and Media Activities*, Auditor-General Report No. 14 2022-23, Performance Audit, pp. 63-64; Department of Home Affairs, 'Access and Equity', <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/about-multicultural-affairs/access-and-equity>, viewed 28 November 2023; Australian Government, *Multicultural Access and Equity in Australian Government Services Report, 2013-2015*, 2017.

¹³³ Department of Home Affairs, *Annual Report, 2018-2019*, p. 21.; Department of Home Affairs, 'Celebrating 20 years of Harmony celebrations', 6 March 2019, <https://www.homeaffairs.gov.au/news-subsite/Pages/2019-Mar/celebrating%2020%20years%20of%20harmony%20celebrations.aspx>, viewed 14 December 2023.

templates—such as for posters—as well as event planning and promotion kits; and a portal for groups and individuals to upload an account of their activities.¹³⁴

4.104 The original Harmony Day (21 March) was criticised for adopting a celebratory style on the United Nations International Day for the Elimination of Racial Discrimination, which in turn marked the day that 69 peaceful apartheid protestors were killed by police at Sharpeville in South Africa.¹³⁵ In 2023 the then Minister for Immigration, Citizenship and Multicultural Affairs, The Hon Andrew Giles MP, acknowledged that Harmony Week culminated in the observance of the UN International Day for the Elimination of Racial Discrimination. He pointed to the dual purpose of the week, as an opportunity to mark Australia's multicultural achievements and to reflect on how we 'can do more to help stamp out racism in our communities'.¹³⁶

4.105 The Australian Values Program was launched in 2021. It is managed by the Department and aligned with the citizenship program. The program was intended to 'promote Australia's shared values and inclusive national identity' by focusing on '[r]eal stories' presented on digital platforms (a website and associated social media sites) to 'break down barriers and encourage Australians to embrace the nation's core values'.¹³⁷ The website for the program comprises:

- a list of the values that appear on the Australian Values Statement;
- videos interviews with successful migrants and community groups that illustrate aspects of those values, as well as features connected with related events such as Anzac Day and Harmony Week; and
- links to government webpages mainly focused on scams and misinformation.

The text is available in Chinese (simplified or traditional), Vietnamese and Arabic.¹³⁸

4.106 The Department also administers a series of multicultural grant programs, a financial investment that is intended to 'recognise and support the contributions of multicultural communities'. There are currently three grant programs:

- Community Language Schools Grants—assistance to not-for-profit community language schools to enable more Australian children to learn a second language;
- Fostering Integration Grants—a scheme for not-for-profit organisations to undertake activities and events that aid migrant integration and support the social cohesion and resilience of multicultural communities;

¹³⁴ Department of Home Affairs, 'About', <https://www.harmony.gov.au/about>, viewed 11 December 2023. See also pages on 'Stories', 'Resources' and 'Harmony Week Events'.

¹³⁵ See for example Claudianna Blanco, 'Is Harmony Day muzzling the reality of racism in Australia?', SBS, <https://www.sbs.com.au/language/english/en/article/is-harmony-day-muzzling-the-uncomfortable-discord-of-racism-in-australia/9ex6dom9t>, viewed 18 December 2023.

¹³⁶ Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'Harmony Week and International Day for the Elimination of Racial Discrimination', *Media release*, 21 March 2023, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/harmony-week-international-day-elimination-racial-discrimination-21032023.aspx>, viewed 18 December 2023.

¹³⁷ Department of Home Affairs, *Annual Report, 2021-22*, p. 116.

¹³⁸ Department of Home Affairs, 'Australian Values', <https://www.australian-values.gov.au/australian-values/>, viewed 18 December 2023.

- Local Multicultural Projects Program—under this scheme 61 multicultural infrastructure projects have received funding in 2023. The projects are intended to support the integration or capacity building of migrants and their communities via events, festivals and upgrading of community facilities.¹³⁹

4.107 The Translating and Interpreting Service (TIS National) is a further service offered by the Department to support multicultural access and equity. The service helps to ensure that migrant communities can access programs and services. Since late 2022, the TIS has been available to eligible allied health professionals, assisting in the delivery of care to their patients.¹⁴⁰ Phone interpreting is available 24 hours a day and is generally free to non-English speakers, with the organisation being contacted usually being charged for the service. Some permanent residents and temporary visa holders can also access the Free Translating service to translate up to ten personal documents.¹⁴¹

4.108 As noted in Chapter 1, the Government announced the Multicultural Framework Review in June 2023. The Department was tasked to provide the secretariat to the review panel.¹⁴² This wide-ranging review is likely to reshape the direction of multicultural policies and programs administered by the Department. Among other things, the review is intended to assess and make recommendations in respect to the existing institutional, legislative and policy framework, particularly with consideration to Australia's expanding diversity, the systemic barriers presented by racism and discrimination, learning from the pandemic about supporting and working with diverse communities in times of crisis, and reviewing whether institutional settings established almost a generation prior and the 2016 Multicultural Access and Equity Policy remain fit for purpose.¹⁴³ While the multicultural statement is not explicitly mentioned in the review's terms of reference or associated information, it may also be restyled in light of recommendations made in the final report.¹⁴⁴

¹³⁹ Department of Home Affairs, *Submission 127*, p. 9; Department of Home Affairs, 'Our programs', <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/programs>, viewed 19 December 2023; Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'Investing in NSW multicultural communities', *Media release*, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/investing-in-nsw-multicultural-communities.aspx>, viewed 19 December 2023; Department of Home Affairs, 'Fostering Integration Grants program', <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/programs/fostering-integration-grants>, viewed 19 December 2023.

¹⁴⁰ Department of Home Affairs, *Annual Report, 2022-23*, pp. 196-198.

¹⁴¹ Department of Home Affairs/Translating and Interpreting Service, 'Available Services', <https://www.tisnational.gov.au/en/Non-English-speakers/Available-services>, viewed 19 December 2023; and 'Free Interpreting Service', <https://www.tisnational.gov.au/Free-Interpreting-Service>, viewed 19 December 2023.

¹⁴² Department of Home Affairs, 'Multicultural Framework Review – Terms of Reference (draft)', <https://web.archive.org/web/20230608023732/https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/multicultural-framework-review>, viewed 7 December 2023.

¹⁴³ Department of Home Affairs, 'About the Multicultural Framework Review', <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-framework-review/about-the-multicultural-framework-review>, 7 December 2023.

¹⁴⁴ Department of Home Affairs, 'Terms of Reference', Multicultural Framework Review, <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-framework-review/terms-of-reference>, viewed 7 December 2023.

Settlement

4.109 The Department notes of its work in settlement services that it endeavours to 'improve the lifetime wellbeing of migrants and refugees settling in Australia'. 'We do this by responding to their specific needs and encouraging their independence and participation in the Australian community.'¹⁴⁵ These activities operate in concert (and often overlap) with the Department's work in connection with multiculturalism, citizenship and social cohesion that also contribute to broader settlement of migrants. In 2020, the Department reported that the government spends approximately \$500 million annually to provide settlement support via its Humanitarian Settlement, Australian Cultural Orientation (AUSCO), and Settlement Engagement and Transition Support programs.¹⁴⁶

4.110 These services are grounded by the 2016 *National Settlement Framework* which outlines nine priority areas for the three tiers of government:

- Education and training;
- Employment;
- Health and wellbeing;
- Housing;
- Language services;
- Transport;
- Civic participation;
- Family and social support; and
- Justice

The framework is intended to aid the collaborative planning and delivery of services across and amongst these tiers.¹⁴⁷

4.111 The provision of settlement services for Refugee and Special Humanitarian Program entrants (over the age of five) can begin prior to arrival in Australia. The Australian Cultural Orientation (AUSCO) program was established in 2003 and provides practical advice about the journey to Australia and what to expect after arrival with the aim of 'ensuring a successful start' to settlement. Courses are delivered on behalf of the Department by the International Organization for Migration (IOM) at permanent and mobile sites, mainly in Sub-Saharan African, South Asian, Southeast Asian,

¹⁴⁵ Department of Home Affairs, 'Settlement services', <https://www.homeaffairs.gov.au/about-us/our-portfolios/settlement-services/overview>, viewed 20 December 2023.

¹⁴⁶ Department of Home Affairs, *Submission 78*, p. 15, to the Foreign Affairs, Defence and Trade References Committee, Inquiry into the issues facing diaspora communities in Australia, <https://www.aph.gov.au/DocumentStore.ashx?id=50e9a8b7-daf7-43df-af17-4ab576af8eb8&subId=691363>, viewed 4 January 2024.

¹⁴⁷ Department of Social Services, *The National Settlement Framework*, [2016], <https://immi.homeaffairs.gov.au/settlement-services-subsite/files/the-national-settlement-framework.pdf>, viewed 21 December 2023.

Central and South American, Middle Eastern and North African regions. In the year ending June 2023, 554 sessions were delivered to 10,922 invited clients.¹⁴⁸

- 4.112 The Department's Humanitarian Settlement Program (HSP) offers 'immediate settlement support' to refugee and humanitarian entrants. It endeavours to help new arrivals to 'build the skills and knowledge they need to become self-reliant and active members of the community'. The program provides practical support through tailored case management that recognises existing skills, immediate needs, and the goals of clients. Among other things, this assistance encompasses access to essential services such as accommodation, employment, school enrolment, and English language training. Depending on individual needs, assistance is usually provided for six to eighteen months.¹⁴⁹ On referral, Specialised and Intensive Services are provided to those who have multiple and more complex needs (for example disability, domestic violence, financial hardship, mental health issues). The timeframe for accessing SIS is generally within five years of either arrival or the grant of a relevant visa. Duration of assistance is dependent on need but is typically up to six months.¹⁵⁰
- 4.113 The Department recognises the significance of English language 'as a unifying element for social cohesion' enabling migrants to better participate and settle in Australian society.¹⁵¹ Migrants and humanitarian entrants with no or low English who hold (or previously held) a permanent visa or one of several specified temporary visas, are eligible for free English classes under the Adult Migrant English Program (AMEP). Since 1948 the AMEP has provided free lessons to more than two million migrants, with a longitudinal study showing that participation in the program was likely to improve employment prospects, reducing the need for income support. Tuition is supported to enable migrants to achieve vocational English. The program is delivered at about 300 locations as well as by distance education and via AMEPOne. In 2022-23, more than 64,000 students were enrolled in the program.¹⁵² From 2025, the Government has committed to deliver a new AMEP business model that will 'provide greater flexibility and enhanced client supports to further improve English language, employment and settlement outcomes'.¹⁵³

¹⁴⁸ International Organization for Migration, 'Australian Cultural Orientation', <https://www.iom.int/australian-cultural-orientation>, viewed 3 January 2024; Department of Home Affairs, 'Australian Cultural Orientation (AUSCO) Program', <https://immi.homeaffairs.gov.au/settling-in-australia/ausco/about-the-program>, viewed 3 January 2024; Department of Home Affairs, *Annual Report: 2022-23*, p. 63.

¹⁴⁹ Department of Home Affairs, 'Humanitarian Settlement Program', <https://immi.homeaffairs.gov.au/settling-in-australia/humanitarian-settlement-program/specialised-and-intensive-services>, viewed 4 January 2024; Department of Home Affairs, *Submission 127*, p.15; Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 34.

¹⁵⁰ Department of Home Affairs, 'Humanitarian Settlement Program', <https://immi.homeaffairs.gov.au/settling-in-australia/humanitarian-settlement-program/specialised-and-intensive-services>, viewed 4 January 2024; Department of Home Affairs, *Submission 127*, p.15.

¹⁵¹ Department of Home Affairs, *Annual Report: 2022-23*, p. 12.

¹⁵² Department of Home Affairs, *Annual Report: 2022-23*, pp. 49-50, 60; Department of Home Affairs, 'Addendum to the eleventh edition of the Administration of the Immigration and Citizenship Programs', October 2023, pp. 28-29; Department of Home Affairs, 'Adult Migrant English Program (AMEP)', <https://immi.homeaffairs.gov.au/settling-in-australia/amep/about-the-program>, viewed 4 January 2024.

¹⁵³ Department of Home Affairs, *Submission 127*, p.15.

4.114 Beyond this support, the Department oversees a number of grant and pilot programs that receive funding to provide settlement assistance. These include:

- Settlement Engagement and Transition Support (SETS)—A grant program that complements the HSP and AMEP by providing programs to eligible permanent migrant and refugees to enhance their social and economic participation and connection to community. SETS focuses on two elements of client services (a needs-based service providing advice, advocacy and facilitating access) and community capacity building (to support positive collective outcomes within community organisations and groups).¹⁵⁴
- Community Refugee Integration and Settlement Pilot (CRISP)—A pilot settlement program (December 2021 to June 2025) that aims to harness community goodwill and support for refugees. Under the pilot community groups are trained to deliver assistance to refugee visa holders settling locally. It is intended that 1,500 refugees will be resettled under the pilot.¹⁵⁵
- Youth Transition Support (YTS) services—The YTS program assists young refugees and vulnerable migrants (aged 15 to 25) to continue study and transition to employment. The program is delivered by six providers in areas with high numbers in the target group. Providers partner with other complementary organisations to deliver projects and activities to foster connections between participants and employment and educational opportunities. A further \$9.1 million was announced in the 2023–24 Budget to continue the program until 30 June 2024.¹⁵⁶
- Economic Pathways to Refugee Integration—A competitive grant program to enable social enterprises to deliver projects that increase the rate of economic participation amongst refugees and humanitarian entrants. In the initial round \$17.7 million was allocated across 20 projects.¹⁵⁷

¹⁵⁴ Department of Home Affairs, *Annual Report: 2022-23*, p. 63; Department of Home Affairs, 'Settlement Engagement and Transition Support (SETS) Program', <https://immi.homeaffairs.gov.au/settling-in-australia/sets-program>, viewed 4 January 2024.

¹⁵⁵ Department of Home Affairs, 'Helping Refugees', <https://immi.homeaffairs.gov.au/settling-in-australia/helping-refugees/get-involved/community-refugee-integration-settlement>, viewed 4 January 2024; Community Refugee Sponsorship Australia, 'Community Refugee Integration and Settlement Pilot (CRISP)', <https://refugeesponsorship.org.au/what-we-do/crisp/>, viewed 8 January 2024.

¹⁵⁶ Department of Home Affairs, 'Youth Transition Support services', <https://immi.homeaffairs.gov.au/settling-in-australia/support-for-young-refugees/youth-transition-support-services>, viewed 4 January 2024; Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 34; Australian Government, Budget 2023-24, Budget Measures, Budget Paper No. 2, 9 May 2023, p. 160, https://budget.gov.au/content/bp2/download/bp2_2023-24.pdf.

¹⁵⁷ Department of Home Affairs, 'Employment pathways for refugees', <https://immi.homeaffairs.gov.au/settling-in-australia/settlement-policy-and-reform/employment-pathways-for-refugees>, viewed 4 January 2024; Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'Granting employment opportunities for refugees', *Media release*, 3 March 2023, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/granting-employment-opportunities-for-refugees.aspx>, viewed 8 January 2024.

- National Community Hubs Program—located in primary schools, the hubs focus on assisting migrant women with young families to access government services, learn English, develop skills, and find work.¹⁵⁸

Under the 2023–24 Budget the existing five-year maximum duration that migrants are eligible for services provided under the SETS, YTS and National Community Hubs programs will be removed allowing these programs to provide continued support for those with unresolved settlement needs.¹⁵⁹

- 4.115 While the main focus is the provision of settlement services to refugee and humanitarian entrants, the Department also provides general settlement advice. The Department's website, for example, includes advice on many of the settlement topics outlined in the framework (above), accompanied by links to relevant government organisations, information on free interpreting and translating services, and links to download the Migration Council Australia's MyAus App.¹⁶⁰
- 4.116 Further, settlement activities are supported and promoted through the Department's network of Community Liaison Officers. These officers create and maintain relationships with cultural, religious, and ethnic communities and organisations. The CLOs act as a conduit between government and community, informing the latter of official information and programs, and, in turn, listen to community concerns and priorities. In 2022–23 it was reported that they undertook more than 9,100 engagements with stakeholders.¹⁶¹
- 4.117 The Department also notes that it works in collaboration with other agencies and communities. Between 2018 and 2023, for example, funding was provided to the Federation of Ethnic Communities Councils of Australia to undertake projects with culturally and linguistically diverse (CALD) Australians. The Department also partnered with the Scanlon Foundation Research Institute to create the Australian Cohesion Index. Published every two years (2021 and 2023), the index draws on a range of data from the Australian Bureau of Statistics, Scanlon's *Mapping Social Cohesion* survey and other sources, to bring 'greater depth and context to the picture of social cohesion in Australia' and inform 'debate and decision-making'.¹⁶²

¹⁵⁸ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 34; Community Hubs, 'National Community Hubs Program', <https://www.communityhubs.org.au/about-community-hubs/>, viewed 8 January 2024, and 'Funding and governance', <https://www.communityhubs.org.au/funding-and-governance/>, viewed 8 January 2024.

¹⁵⁹ Australian Government, Budget 2023–24, Budget Measures, Budget Paper No. 2, 9 May 2023, p. 160, https://budget.gov.au/content/bp2/download/bp2_2023-24.pdf. See also Refugee Council of Australia, 'The Federal Budget: What it means for refugees and people seeking humanitarian protection', 24 November 2023, <https://www.refugeecouncil.org.au/federal-budget-summary/>, viewed 4 January 2024.

¹⁶⁰ Department of Home Affairs, 'Settle in Australia', <https://immi.homeaffairs.gov.au/settling-in-australia/settle-in-australia/overview>, viewed 3 January 2024. See also the subsections 'Beginning a Life in Australia', 'Language services', and 'Key settlement topics'.

¹⁶¹ Department of Home Affairs, *Annual Report: 2022–23*, pp. 70, 196; Australian National Audit Office, *Department of Home Affairs' Management of its Public Communications and Media Activities*, Auditor-General Report No. 14 2022–23, Performance Audit, pp. 40–42.

¹⁶² Department of Home Affairs, *Department of Home Affairs Incoming Government Brief: Minister for Immigration, Citizenship and Multicultural Affairs*, June 2022, pp. 160–162, In Department of Home Affairs, Freedom of Information request, FA22/06/00105 Document 2,

4.118 Since the 2019 independent Review into Integration, Employment and Settlement Outcomes for Refugees and Humanitarian Entrants (known as the Shergold Review) there have been endeavours to reform settlement services. In the wake of that review, the role of Commonwealth Coordinator-General for Migrant Services was created (the position ceased on 30 June 2022) to provide leadership and collaborative endeavours, improve settlement outcomes, and promote the positive contributions of refugees and humanitarian entrants.¹⁶³ Two years later, the Coordinator-General released a discussion paper 'Next steps to improve Australia's settlement and integration of refugees'. Some 65 submissions were received, roundtable meetings and focus groups were held with settlement organisations and former refugees and humanitarian entrants, alongside an online survey.¹⁶⁴

4.119 In May 2023, the then Minister for Immigration, Citizenship and Multicultural Affairs, Hon Andrew Giles MP announced the establishment of the Settlement Advisory Council (the Council). The Council is tasked with providing advice and recommendations to government on:

- policies, programs and services that support positive settlement and integration outcomes;
- more effective use of demographic data and relevant social policy research;
- strengthening partnerships and collaboration, and promoting positive integration outcomes across government civil society and the corporate sector; and
- strategies to actively promote a positive conversation on Australia's role in providing resettlement including the contribution of refugees and humanitarian entrants to Australia.

The core of the Council comprises seven members, the majority of whom have lived refugee experience to 'provide advice on all aspects of Australia's settlement programs'. The council performs a similar role to previous ministerially appointed bodies such as the Refugee and Migrant Services Advisory Council.¹⁶⁵

<https://www.homeaffairs.gov.au/foi/files/2022/fa-220600105-document-released-part-3.PDF>, viewed 2 January 2024; Scanlon Foundation Research Institute, 'Australian Cohesion Index', <https://scanloninstitute.org.au/research/australian-cohesion-index>, viewed 2 January 2024.

¹⁶³ Department of Home Affairs, 'Settlement Policy and Reform', <https://immi.homeaffairs.gov.au/settling-in-australia/settlement-policy-and-reform>, viewed 3 January 2024; Australian Government, *Investing in Refugees, Investing in Australia: The findings of a Review into Integration, Employment and Settlement Outcomes for Refugees and Humanitarian Entrants in Australia*, February 2019, pp. 9, 18-22.

¹⁶⁴ Department of Home Affairs, 'Next steps to improve Australia's settlement and integration of refugees', <https://www.homeaffairs.gov.au/reports-and-pubs/files/next-steps/next-steps-discussion-paper.pdf>, viewed 2 January 2024; Department of Home Affairs, 'Australia's Humanitarian Program 2023-24', Discussion Paper, pp. 7-8, <https://www.homeaffairs.gov.au/reports-and-pubs/files/australias-humanitarian-program-23-24-discussion-paper.pdf>, viewed 2 January 2024.

¹⁶⁵ Department of Home Affairs, 'Settlement Advisory Council', <https://immi.homeaffairs.gov.au/settling-in-australia/settlement-policy-and-reform/settlement-advisory-council>, viewed 3 January 2024; Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'Refugee Communities Association of Australia Conference', *Media Release*, 21 September 2023,

4.120 In October 2023, the Australian Government released the *Refugee and Humanitarian Entrant Settlement and Integration Outcomes Framework* which sets out 'Australia's vision of successful refugee settlement and integration'.¹⁶⁶ The framework is noted as a central element in the Department's 'new settlement services model'.¹⁶⁷ It is intended to act as guide for government, improve the services they offer, and enhance positive outcomes. The framework is grounded by the principles of self-agency and self-efficiency and highlights eleven interrelated areas that were considered 'critical to successful settlement and integration' organised in three areas:

- Facilitating factors
 - Economic participation;
 - Health and wellbeing;
 - Language and digital literacy;
 - Education;
 - Housing and Transport; and
 - Understanding host culture
- Social factors
 - Social connections;
 - Community; and
 - Access to institutions
- Personal factors
 - Belonging; and
 - Safety and security.

Overlaps with the broader 2016 framework are noted, as well as the added emphasis on digital literacy.¹⁶⁸

4.121 Revision and improvement of settlement services is timely. It was noted that while the Department of Home Affairs provides a vast amount of information to assist the settlement of new arrivals in Australia on its website, several linked documents and other materials date from the period in which the Department of Social Services was responsible for multicultural affairs (2013 to 2017) remain accessible (as of August 2024) and in some cases provide out-of-date information and broken links. They include a flyer (Figure 4.1) illustrating the settlement journey undertaken by refugees

<https://minister.homeaffairs.gov.au/AndrewGiles/Pages/refugee-communities-assoc-aust-conf-21092023.aspx>, viewed 3 January 2024; Foreign Affairs, Defence and Trade References Committee, *Issues facing diaspora communities in Australia*, February 2021, p. 6.

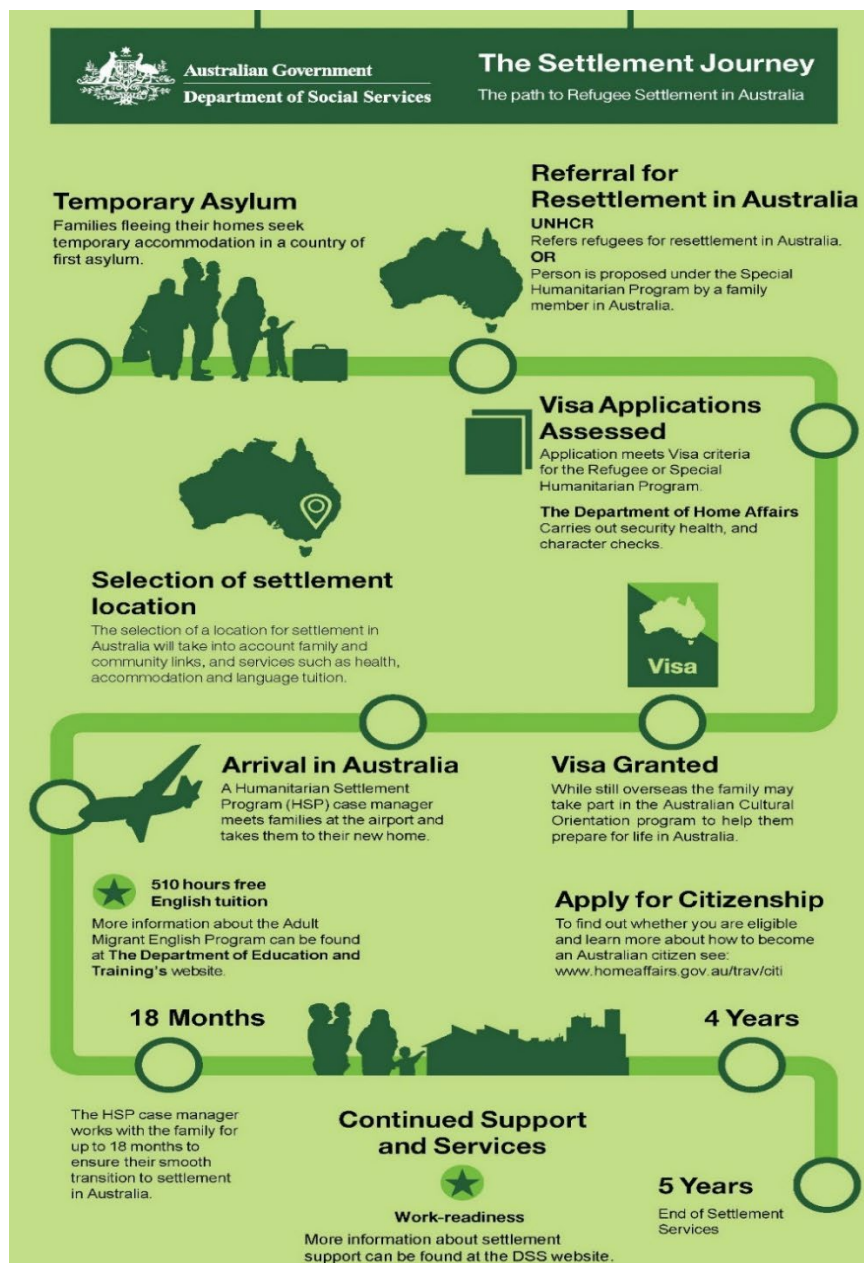
¹⁶⁶ Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'New framework to guide refugee settlement outcomes in Australia', *Media Release*, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/new-framework-guide-refugee-settlement-outcomes-australia.aspx>, viewed 21 December 2023.

¹⁶⁷ Department of Home Affairs, *Annual Report: 2022-23*, p. 49.

¹⁶⁸ Department of Home Affairs, *The Refugee and Humanitarian Entrant Settlement and Integration Outcomes Framework*, [2023], <https://immi.homeaffairs.gov.au/settlement-services-subsite/files/refugee-humanitarian-entrant-settlement-integration-outcomes-framework.pdf>, viewed 21 December 2023.

that notes limits on the Adult Migrant English Program and the provision of settlement services after five years, limits that have now been removed.¹⁶⁹

Figure 4.4 The Settlement Journey flyer



Source: Department of Home Affairs, 'Helping Refugees', <https://immi.homeaffairs.gov.au/settling-in-australia/helping-refugees/media-hub>, viewed 13 August 2024.

¹⁶⁹ Department of Social Services, 'The Settlement Journey: The path to Refugee Settlement in Australia', <https://immi.homeaffairs.gov.au/settlement-services-subsite/files/the-settlement-journey.pdf>, viewed 2 January 2024 (Note is linked to the Department of Home Affairs webpage 'Helping Refugees', <https://immi.homeaffairs.gov.au/settling-in-australia/helping-refugees/get-involved>); Department of Home Affairs, 'Adult Migrant English Program (AMEP)', <https://immi.homeaffairs.gov.au/settling-in-australia/amep/about-the-program>, viewed 2 January 2024.

- 4.122 The Committee heard that reform of settlement services is ongoing. At the public hearing held with the Department in June 2023, Ms Foster (then Associate Secretary, Immigration, now Secretary) related that there was ‘a very significant review underway at the moment on the way in which settlement services are provided in Australia’. She noted that while existing services are praised, there remained room for improvement, particularly in tailoring services to individuals, as well as better supporting their transition into study and into work at levels that match their skills. And, recognising the limitations of existing settlement services, she added that the Department was ‘very conscious that there are cohorts within our permanent and skilled programs which would also benefit from more settlement assistance’.¹⁷⁰
- 4.123 In December 2023, the *Migration Strategy* announced a new commitment to ‘plan migration over a longer-term horizon’. One of the benefits of this ‘extended outlook’, the report contends, is that it will align government investments in ‘infrastructure, service delivery and housing to support strong settlement outcomes’.¹⁷¹

¹⁷⁰ Ms Stephanie Foster, Associate Secretary, Immigration, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, pp. 8-9.

¹⁷¹ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 80.



5. Attracting and Retaining Skilled Migrants

- 5.1 As discussed in Chapter 2, Australia has a long and proud history of welcoming newcomers and is a nation founded on the enterprising spirit and community enrichment that migration imparts. Despite this, contributors to this inquiry have emphasised that Australia needs to do better to attract and retain migrants that have skills and experience vitally needed to ensure the future prosperity of the nation.
- 5.2 The Australian Chamber of Commerce and Industry, for example, stressed that ‘Australia’s attractiveness cannot be taken for granted when international competition for talent continues to intensify due to major migrant receiving countries facing similar population and labour force challenges’.¹ The Accommodation Association of Australia/Australian Hotels Association/Tourism Accommodation Australia, meanwhile, jointly submitted that ‘[i]f we fail to make further improvements, we may fall behind other comparable countries in attracting and retaining talented individuals’.² Others claimed that Australia was in a ‘global talent war’ and ‘global race for talent’.³
- 5.3 Concerningly, as pointed out by the Migration Institute of Australia (MIA), ‘[e]vidence has been mounting over the last decade that Australia may not be the primary choice of destination that it once was for skilled migrants’ and others. Now, Canada, the United States of America, the United Kingdom, and some European countries are ‘all more highly regarded destinations for skilled migrants’ than Australia.⁴
- 5.4 The causes for this relative decline in Australia’s attractiveness as a migration destination are complex and myriad and are addressed throughout this report. This report also offers recommendations for remediating some of these causes. Together with the Government’s reform agenda for the migration system, all improvements to that system recommended in this report will contribute to again making Australia a destination of choice for the world’s most talented migrants—that is, improve the country’s capacity to attract and retain these migrants.
- 5.5 This chapter deals with a more fundamental issue underpinning Australia’s migration system: the cultural and structural environment within which migration policy is set and administered.

¹ Australian Chamber of Commerce and Industry, *Submission 79*, p. 4.

² Accommodation Association of Australia/Australian Hotels Association/Tourism Accommodation Australia, *Submission 83*, p. 4.

³ Association of Heads of Independent Schools of Australia, *Submission 6*, p. 3; NSW Government, *Submission 57*, p. 6.

⁴ Migration Institute of Australia, *Submission 87*, pp. 13-14.

Fostering a Welcoming Environment

Social Cohesion and Multiculturalism

5.6 An important consideration for the country's ability to attract and retain skilled migrants is the degree to which the Australian cultural environment can foster and sustain social cohesion in the face of population intake from around the world.

5.7 Over the last few years, there has been a worrying decline in social cohesion in Australian. Settlement Services International (SSI) reported on the findings of a recent *Mapping Social Cohesion* report which points to this trend:

Mapping Social Cohesion (MSC) is an annual survey conducted by the Scanlon Foundation/Monash University charting Australian public opinion on social cohesion, immigration and population issues. The surveys have been completed since 2007 making it a definitive source of information on trends in public opinion in this area. The 2022 survey is the largest in the Mapping Social Cohesion series and was administered to almost 5,800 respondents. A key finding is that while social cohesion increased during the pandemic it is now declining. As we readjust to life after the pandemic, 'we are at a crucial tipping point where we can solidify and strengthen social cohesion or allow it to further weaken'.⁵

5.8 Indeed, the latest *Mapping Social Cohesion* report (2023) noted that while social cohesion in Australia 'has been remarkably resilient through the challenges of recent years... we continue to face difficult national and global circumstances, global conflict, economic pressures and uncertainty and division over issues such as the Voice referendum'. As a result of these factors, the report found that:

...our social cohesion is under pressure and declining on some fronts. Our sense of national pride and belonging has been declining for some years, discrimination and prejudice remain stubbornly common, while in more recent years, we are reporting greater financial stress, increased concern for economic inequality and growing pessimism for the future.

Concerningly, the report found that in 2023, the Scanlon-Monash Index of social cohesion (a measure used by the report to quantify social cohesion in the country) had declined by four points to 79, which is the 'lowest score on record', and that compared to the peak during the COVID-19 pandemic in November 2020, social cohesion has declined by 13 points. At the same time, the report also emphasised that 'there is reason for optimism that we can respond collectively to the challenges we face and restore and strengthen our social cohesion'.⁶

5.9 In evidence to the Committee, the MIA outlined the factors the Scanlon Foundation sees as essential for building social cohesion (the so-called 'five domains'):

⁵ Settlement Services International, *Submission 26*, p. 4. Emphasis in original.

⁶ Scanlon Foundation Research Institute, *Mapping Social Cohesion*, 2023, pp. 5, 6.

- Belonging—to build pride;
- Worth—to provide satisfaction;
- Social justice and equality—to provide economic opportunity;
- Participation—to encourage political engagement; and
- Acceptance, rejection and legitimacy—to set the standards against discrimination.⁷

5.10 Drawing on these ‘five domains’, the MIA defined ‘social cohesion’ as ‘the process by which a sense of belonging is created for members of that nation, the fight against marginalisation and exclusion, and an opportunity for upward mobility’. As argued by the MIA, social cohesion, so defined, is also critical to nation building efforts:

Nation building and social cohesion concepts are inexorably linked, nation building promotes the foundations of social cohesion with social cohesion in turn strengthening nation building efforts. Common to most definitions of nation building and social cohesion is the notion of government leadership and investment. A nation looks to its government to provide economic and other societal stability, and to provide the conditions by which social cohesion can be fostered. Social cohesion in turn works with economic prosperity to create a resilient and secure nation, although it should not be considered a means to economic prosperity alone.⁸

5.11 In the Australian context, the fostering of social cohesion is also inextricably linked to multiculturalism as a philosophy of national unity and national identity. The Tasmanian Government, for example, informed the Committee that while ‘social cohesion is not synonymous with multiculturalism, there are some parallels’, noting that ‘a core understanding of Australian multiculturalism is the idea of a “two-way street” for migrants and existing citizens’—that is, a process of cultivating social cohesion. It suggested that ‘Australia’s migration system must be considered in parallel to our multicultural policies to ensure that social cohesion is strengthened’.⁹

5.12 The historical background to the formation of multiculturalism in Australia and its main tenets are described in Chapter 2.

5.13 The connection between multiculturalism and social cohesion is acknowledged by the Department of Home Affairs, which contends:

Australia is a diverse society with a rich Indigenous heritage and a successful migration history. We are proud of our Indigenous cultures, which are some of the oldest continuing cultures in the world. ... The diversity of the population provides Australia with a variety of languages, beliefs, traditions and cultures....

⁷ Migration Institute of Australia, *Submission 87*, p. 8.

⁸ Migration Institute of Australia, *Submission 87*, p. 8.

⁹ Tasmanian Government, *Submission 115*, p. 3.

We celebrate this diversity and at the same time strive for a unified and harmonious nation. It is this social cohesion that underpins our prosperity.¹⁰

- 5.14 In evidence to the Committee, the Australian Bahá'í Community, meanwhile, praised Australia for achieving 'much in recent decades in building a largely peaceful and relatively harmonious multicultural society', while also questioning the potential for multiculturalism to 'create cultural silos and exclusion through the concept of the "other"'. They suggested the need to 'move beyond the necessary but limited conception of multiculturalism' to reach even higher degrees of social cohesion, and argued that a greater recognition for the 'oneness of humanity' was a necessary element in any social cohesion strategies:

Far from hindering difference or undermining a love for one's country, accepting that our primary identity consists in belonging to a single human family enhances our national and cultural identities by placing them in perspective. It also helps to disassociate our individual identities from some of the destructive implications that manifest when they are taken to extremes – racism, conceptions of 'us' and 'them,' defining oneself in opposition and competition with others, or other forms of overt and subtle discrimination.¹¹

Together with the concept of the 'oneness of humanity', they suggested that the principle of 'unity in diversity' 'invites us to move beyond mere tolerance and acceptance of one another and see cultural diversity as an asset and the means by which society can flourish'. Drawing on this diversity, they claimed, 'entails the weaving together of multiple strands into a new pattern of community life—a pattern made more beautiful by the variety of its element'.¹²

- 5.15 Others were more sceptical of the role of multiculturalism in sustaining social cohesion. Indeed, Sustainable Population Australia, for one, claimed that cultural diversity conversely undermines social cohesion, requiring considerable expenditure from government towards strategies and programs that promote social cohesion between disparate, and sometime adversarial, cultural groups.¹³ Mr Simon Cole, similarly, suggested that '[w]hile it is possible to be united and diverse, we all acknowledge that there are tensions between diversity and social cohesion that require work'.¹⁴
- 5.16 In contrast to this, Dr Andrew Theophanous tied immigration, multiculturalism, and social cohesion together as complementary-reinforcing phenomena in his evidence to the Committee. Dr Theophanous asserted that 'multiculturalism includes the concepts of social justice and human rights'¹⁵ and that it 'is a philosophy that is indispensable in a society like ours if we are to have any genuine sense of our

¹⁰ Department of Home Affairs, 'About social cohesion', <https://www.homeaffairs.gov.au/about-us/our-portfolios/social-cohesion/about-social-cohesion>, viewed 7 August 2024.

¹¹ The Australian Bahá'í Community, *Submission 116*, p. 2.

¹² The Australian Bahá'í Community, *Submission 116*, p. 2.

¹³ Sustainable Population Australia, *Submission 58*, p. 5.

¹⁴ Mr Simon Cole, *Submission 67*, p. 4.

¹⁵ Dr Andrew Theophanous, *Committee Hansard*, Videoconference, 17 May 2023, p. 39.

identity and our future'.¹⁶ Further, while some 'critics see multiculturalism as a philosophy which is in direct opposition to social solidarity and to those elements of Australian social life which contribute to our sense of nationhood and even our identity', Dr Theophanous contended, it works as a philosophy of national unity through our commonly-held commitment to cultural pluralism, social justice and human rights.¹⁷

- 5.17 Migration and multiculturalism, moreover, still enjoy enormous support from the Australian public. In an encouraging sign, despite the decline in the social cohesion index, the Scanlon Foundation reported that 'Australians have an overwhelmingly positive view' of multiculturalism, diversity, and immigrants. The Foundation reported, for example, that 89 per cent of respondents expressed a positive view of multiculturalism, 78 per cent thought migration-based diversity makes the country stronger, and 85 per cent agreed that immigrants improve Australian society. Additionally, a massive 94 per cent believed that immigrants make good citizens (see Figures 5.1 and 5.2, below).¹⁸

Figure 5.1 Attitudes to Migrant Diversity and Multiculturalism 2018 to 2023

		2018	2019	JUL 2020	NOV 2020	2021	2022	2023
		% OF RESPONDENTS						
IMMIGRANT DIVERSITY MAKES AUSTRALIA STRONGER ¹	Strongly agree	17	17	19	21	23	24	26
	Agree	46	50	53	53	53	54	53
	Total agree	63	67	71	74	76	78	78
MULTICULTURALISM GOOD FOR AUSTRALIA ¹	Strongly agree	25	25	26	27	29	30	35
	Agree	51	55	58	57	57	58	54
	Total agree	77	80	84	84	86	88	89
REJECT IMMIGRANTS BY RACE/ETHNICITY	Strongly disagree	35	36	38	41	42	46	50
	Disagree	42	41	43	40	41	40	36
	Total disagree	78	77	82	81	83	86	86
REJECT IMMIGRANTS BY RELIGION	Strongly disagree	32	30	34	37	37	41	44
	Disagree	39	40	43	39	42	41	39
	Total disagree	71	70	76	75	79	82	83

Source: Scanlon Foundation Research Institute, *Mapping Social Cohesion*, 2023, p. 67.

¹⁶ Dr Andrew Theophanous, *Submission 61*, p. 43.

¹⁷ Dr Andrew Theophanous, *Submission 61*, p. 43.

¹⁸ Scanlon Foundation Research Institute, *Mapping Social Cohesion*, 2023, p. 67

Figure 5.2 Attitudes to Immigrants, 2018 to 2023

		2018	2019	JUL 2020	NOV 2020	2021	2022	2023
		% OF RESPONDENTS						
IMMIGRANTS IMPROVE AUSTRALIAN SOCIETY	Strongly agree	17	17	22	22	23	23	22
	Agree	59	61	60	61	62	63	63
Total agree		76	78	82	83	84	86	85
IMMIGRANTS MAKE GOOD CITIZENS'	Strongly agree			40	43	43	47	51
	Agree			50	49	49	47	44
Total agree				90	91	92	94	94
IMMIGRANTS ARE GOOD FOR THE ECONOMY	Strongly agree	14	17	18	22	22	25	22
	Agree	60	60	63	61	63	62	64
Total agree		74	76	81	83	86	87	86
IMMIGRANTS TAKE JOBS AWAY	Strongly disagree	12	14	15	16	17	20	19
	Disagree	52	51	55	55	58	58	57
Total agree		64	64	70	71	75	78	75

Source: Scanlon Foundation Research Institute, *Mapping Social Cohesion*, 2023, p. 68.

- 5.18 Citing similarly positive results of a previous *Mapping Social Cohesion* report, AMES Australia submitted that the 'high and growing support for multiculturalism in Australia is a sound platform for a future migration system and can be the driver for strengthening opportunities to build social cohesion by creating a sense of belonging and trust'.¹⁹

Contemporary Review of Multiculturalism in Australia

- 5.19 On 24 July 2024, the Australian Government announced the release of the outcomes of the 'Multicultural Framework Review' (the Review), the 'first major examination of the state of our Australian multiculturalism in a generation'.²⁰ The Review report—*Towards Fairness: A multicultural Australia for all*—contained a total of 29 recommendations, ten of which were deemed 'high priority', including the following:
- Australian Government to affirm commitment to multicultural Australia;
 - Develop a national plan to celebrate Australia's cultural diversity, to synchronise existing federal, state, territory and local government initiatives such as Harmony Week to acknowledge and celebrate Australia's cultural diversity; and
 - Establish a Multicultural Affairs Commission and Commissioner, and a standalone Department of Multicultural Affairs, Immigration and Citizenship.²¹

¹⁹ AMES Australia, *Submission 35*, p. 2.

²⁰ Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'An Australia for all: the Multicultural Framework Review', *Media Release*, 24 July 2024, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/an-australia-for-all-the-multicultural-framework-review-24072024.aspx>, viewed 7 August 2024.

²¹ Australian Government, *Towards Fairness: A multicultural Australia for all*, 2024, p. 17.

- 5.20 In response, the Australian Government called the Review ‘among the most substantial reviews of Australian multiculturalism ever conducted’ while noting the following:

The Government commits to the Framework’s principles and will be guided by them, as we build on our commitment to ensure Australia’s multicultural settings are fit-for-purpose to harness the talents of all Australians.²²

- 5.21 The key to building a welcoming environment for migrants, founded on a national philosophy of multiculturalism, is the need to build a more human-centric, supportive, and welcoming migration system that nourishes social cohesion. As argued by the Tasmanian Government: ‘[a] more holistic, human-centric approach to migration policy and program design is needed to support improved longer term settlement outcomes and broader social cohesion’.²³ In a related fashion, the Centre for Policy Development (CPD) emphasised the need for a migration system that is orientated to ‘recognising the people we are welcoming into the country as future Australians’.²⁴

Committee Comment

- 5.22 As touched on in Chapter 2, the Committee is convinced that multiculturalism must form the basis of Australian society and identity. Australia is a nation of diverse origins, linguistic plurality, and a rich cultural tapestry composed of a thousand threads. Our collective commitment to this multicultural vision, built around the shared values of democracy, the rule of law, and fairness and equal opportunity for all, is the cornerstone of social cohesion and nation building in Australia. The philosophy of multiculturalism, in this sense, acts as a foundation to Australia’s unity in diversity, and crucially functions to make the country a more welcoming place for all migrants, irrespective of origin.
- 5.23 While acknowledging concerns expressed in the evidence about possible tensions between multiculturalism and the maintenance and promotion of social cohesion, the Committee is of the view that the immeasurable benefits that derive from multiculturalism outweigh any potential downsides and is confident that leadership from all levels of government and from civil society will act to buttress the continuing success of Australia’s system of multiculturalism. The Committee believes that Australians will remain unified in our commitment to multiculturalism as a philosophy of national identity.
- 5.24 The Committee, therefore, welcomes the release of the *Towards Fairness: A multicultural Australia of all* report and the Government’s in-principle support for its recommendations. The Committee encourages the Government to implement all of the Review’s recommendations, where it is practical to do so, and looks forward to

²² Australian Government, ‘Multicultural Framework Review—Australian Government Response’, no date, <https://www.homeaffairs.gov.au/multicultural-framework-review/Documents/multicultural-framework-review-government-response.pdf>, viewed 7 August 2024.

²³ Tasmanian Government, *Submission 115*, p. 4.

²⁴ Centre for Policy Development, *Submission 65*, p. 13.

monitoring the outcomes of this agenda and its impact on and interaction with Australia's migration system.

Re-establishing a Department of Immigration

- 5.25 Central to the fostering of a policy setting and policy administration environment that elevates immigration as a nation building lever of the highest order, is the structure and organisation of the machinery of government. As contended by the MIA above, leadership and investment from government is quintessential to nation building²⁵, and if migration is to form a central element of Australia's nation building efforts, as the Committee heard in evidence, it must be given an independent and exclusive space within government operations.
- 5.26 In-line with Recommendation 11 of the *Towards Fairness* report, which called for the re-establishment of a 'standalone Department of Multiculturalism, Immigration and Citizenship', the Committee heard evidence that the immigration portfolio should be re-established within a standalone department. For example, Heather Marr, Libby Hogarth and Nish K. Padiya recommended that a Department of Immigration 'in light of its nation building role, become a stand-alone department, responsible for Immigration, Citizenship and Multicultural Affairs, with a cabinet level Minister'.²⁶
- 5.27 The Committee heard that the Department of Home Affairs had been created in 2017 'as a merger of national security, counter terrorism, emergency management, immigration and citizenship and multicultural affairs'.²⁷ On this amalgamation, CPD submitted that:

This inclusion of immigration policy within broader national security architecture has subordinated immigration policy expertise to national security interests over time.²⁸

It contended that re-establishing immigration and citizenship within a standalone department would be 'an opportunity to strengthen migration's role in 'nation building, social cohesion and cultural diversity'.²⁹

- 5.28 Expanding on this, CPD submitted that:

This new department or autonomous division could become a centre of expertise in migration policy, grounding policy and program decisions in what works in helping people to settle, and be more coordinated and strategic in helping Australia to yield the maximum social and economic benefits of migration as well as providing maximum benefit to the migrants themselves.³⁰

²⁵ Migration Institute of Australia, *Submission 87*, p. 8.

²⁶ Heather Marr, Libby Hogarth, Nish K. Padiya, *Submission 88*, p. 12.

²⁷ Centre for Policy Development, *Submission 65*, p. 6.

²⁸ Centre for Policy Development, *Submission 65*, p. 6.

²⁹ Centre for Policy Development, *Submission 65*, p. 6.

³⁰ Centre for Policy Development, *Submission 65*, p. 6.

- 5.29 The Migration Hub at ANU expressed similar concerns to CPD, submitting that 'designing a migration system focused on client experience will be difficult if not impossible so long as migration remains a subset of national security and policing' within the Department of Home Affairs. Expanding, they argued:

The decision to move immigration into the Department of Home Affairs, in the historically peculiar post-9/11 context, has created an overemphasis on links between migration issues and security issues. This has led to an excessive focus on risk mitigation, worst-case scenarios, and compliance, rather than client experience. If you are a hammer, everything looks like a nail; if immigration is part of security, every migrant looks like a security risk.³¹

- 5.30 Reflecting on this decision, Professor Alan Gamlen, Migration Hub at ANU, said that while he understood why the amalgamation of immigration with security and policing happened, 'it happened in the quite peculiar context of the post 9/11 security environment, which no longer maintains'.³²

- 5.31 The Migration Hub at ANU emphasised the need to decouple the immigration portfolio from the Department of Home Affairs as a means of changing the culture of Australia's migration system:

Refreshing and re-focusing the culture and management of the migration system on wider goals and achieving better client experiences therefore requires moving the immigration portfolio out of the Department of Home Affairs. An overly securitised immigration apparatus cannot achieve jobs, skills, population growth, and nation building. Immigration requires strategic, generational thinking, rather than short term operational decision making, or which is subject to political exigency. A resilient migration system requires a dedicated public service focal point for government-wide migration issues that is not beholden to a single subset of government priorities, because it spans them all.³³

- 5.32 Foundation House – The Victorian Foundation for Survivors of Torture Inc (Foundation House) also lamented the amalgamation for immigration with security and policing functions, and contended that this had degraded the migration and multicultural affairs functions of government:

In our view, the Government's capacity to undertake these functions has been significantly reduced with the incorporation of migration and multiculturalism into the Department of Home Affairs. The Department's website describes its main areas of work as having the goal of "keeping Australia safe."

"Home Affairs brings together Australia's federal law enforcement, national and transport security, criminal justice, emergency management, multicultural affairs,

³¹ Migration Hub at ANU, *Submission 70*, p. 17.

³² Professor Alan Gamlen, Director, Migration Hub, Australian National University, *Committee Hansard*, Canberra, 12 May 2024, p. 61

³³ Migration Hub at ANU, *Submission 70*, p. 17.

settlement services and immigration and border-related functions, working together to keep Australia safe"

That is clearly an apt characterisation for functions such as law enforcement and criminal justice, but not as appropriate for multicultural affairs, settlement services and immigration and suggests that they have secondary status and may lack the attention that they require.

Foundation House recommended that 'Government consider reestablishing a Department for Immigration and related issues such as settlement, social cohesion, and multiculturalism' as a separate entity.³⁴

- 5.33 The Community and Public Sector Union (CPSU) informed the Committee that the absorption of the immigration function into the Department of Home Affairs resulted in 'an elevation of those border protection functions and the diminishing of the immigration/migration functions, and that was very problematic'. Elaborating, they said the following:

I think what we saw after integration was a bolstering of capability in border protection and a focus on border protection rather than migration or immigration facilitation. That did create some issues with culture in the workplace and with valuing the work of the immigration side of the department, and we did see that degradation of capability because of the focus of the government.³⁵

- 5.34 The CPSU emphasised that their main concern was to see 'an adequately resourced immigration system' that allowed government employees 'to fulfil their role to the best of their capability' and not be 'under intense pressure because of staffing shortfalls...'. They added that '[w]hether that's a separate department or not is up for debate, but certainly a refocus to the immigration functions is very important, and we're seeing that more recently, and we welcome that approach'.³⁶

- 5.35 Responding to questioning on the administrative arrangements currently governing the immigration portfolio and the potential for the re-establishment of a standalone Department of Immigration, Ms Stephanine Foster PSM, then Associate Secretary, Immigration, Department of Home Affairs, informed the Committee that the Department Secretary had:

... vested all the immigration functions together in one group and, essentially, given the responsibility for managing those functions under his broad guidance still within the department, but with the capacity to pull together all of those things which deliver an effective immigration function in one place.³⁷

³⁴ Foundation House – The Victorian Foundation for Survivors of Torture Inc., *Submission 80*, p. 5.

³⁵ Ms Brooke Muscat, National President, Community and Public Sector Union, *Committee Hansard*, Videoconference, 16 May 2023, p. 43-44.

³⁶ Ms Brooke Muscat, National President, Community and Public Sector Union, *Committee Hansard*, Videoconference, 16 May 2023, p. 43-44.

³⁷ Ms Stephanine Foster PSM, Associate Secretary, Immigration, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 12.

- 5.36 Mr Michael Pezzullo, the then Secretary of the Department of Home Affairs, while emphasising that '[t]hese are matters for the Prime Minister', confirmed that he had 'gone as far as the secretary of a department can go administratively in effectively recreating... a mini department of immigration within the larger Home Affairs Department, with the one proviso that under the relevant legislation... I remain the accountable authority'.³⁸

Committee Comment

- 5.37 The Committee is persuaded by evidence received for this inquiry suggesting that the amalgamation of immigration, multicultural affairs, and citizenship functions together with security and policing functions within the Department of Home Affairs has degraded the capacity of the Australian Government to deliver a migration system of world-class standing.
- 5.38 The Committee has heard convincing evidence that Australia's relative attractiveness as a migration destination has diminished in recent years. Given on-going shortages in the labour market, particularly in key sectors of the economy, and the importance of high-skill industries for the nation's future prosperity, the Committee believes that more must be done to ensure that Australia remains competitive as a destination of choice.
- 5.39 If migration is to play a central role in our nation building efforts into the future, immigration, citizenship, and multicultural affairs must be given enhanced standing within the machinery of government.
- 5.40 The Committee notes evidence from the former Secretary of the Department of Home Affairs explaining that most of the administrative changes have already been made to allow for a smooth disaggregation from Home Affairs. Given that 'a mini department of immigration' administratively exists within the Department of Home Affairs, the Committee feels taking the final step to re-establish a standalone Department of Immigration, Citizenship and Multicultural Affairs is practical and readily achievable with minimum disruption to government operations.
- 5.41 Additionally, the Committee notes that the movement of the Australian Federal Police to the Attorney-General's portfolio at the start of this current government, as well as the recent shift of the Australian Security Intelligence Organisation to the Attorney-General's Department as well, indicates that elements of the 'experiment' of the super-department vision of Home Affairs has been recognised as not fulfilling its goal.
- 5.42 The immigration and citizenship, multicultural affairs, settlement services and elements of the social cohesion functions of the current Department of Home Affairs are ready made to be consolidated and strengthened in a renewed standalone department.

³⁸ Mr Michael Pezzullo AO, Secretary, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, pp. 12-13.

- 5.43 Importantly, as a central driver of nation building, it is essential that the Minister for Immigration, Citizenship and Multicultural Affairs remains in the Cabinet.
- 5.44 The Committee suggests that such machinery of government changes would renew the focus, drive, and sense of purpose of immigration, citizenship, and multicultural affairs functions, allowing the migration system to once again be fully directed to advancing the long-term interests of the country.

Recommendation 5

- 5.45 The Committee recommends that the Australian Government considers re-establishing the Department of Immigration, Citizenship and Multicultural Affairs as a standalone department, to administer the current immigration and citizenship, multicultural affairs, settlement services, and social cohesion functions of the Department of Home Affairs.**



6. Reducing Complexities and Costs, Improving Processing Times and Transparency

6.1 In March 2023, the final report of the *Review of the Migration System* judged that the existing system was ‘neither fast nor efficient and is often perceived as unfair’. Further, the report added that those who use the system, among them migrants and businesses, ‘find the system unnecessarily complex and difficult to navigate at all levels’.

6.2 The reviewers called for the establishment of six migration principles to ‘set out how Australia will develop and implement its migration policies’. One of them, a commitment by the Australian Government that:

Australia’s migration system is transparent, easy to navigate and decisions are made quickly.

Underlying this principle was recognition that complex and difficult to navigate systems, often resulting in drawn-out wait times for decisions, could ‘fundamentally undermine the benefits of the migration system to both migrants and Australia’.¹

6.3 This evidence is not new. In August 2021, for example, the former Joint Standing Committee on Migration in the 46th Parliament commented in the *Final Report of the Inquiry into Australia’s Skilled Migration Program* that:

From the evidence received during this inquiry, it is clear to the Committee that the skilled migration program is complex and difficult to navigate.

and

The Committee received evidence outlined both here and in the Interim Report that many skilled visas are difficult to apply for, information is hard to understand for most sponsors and that once an application is made processing times both lack transparency and are lengthy.²

6.4 As outlined below, the evidence received by the Committee during the current inquiry, also, overwhelmingly echoed the findings of the migration system review. This evidence highlighted friction in the migration system—complexity, cost,

¹ Australian Government, *Review of the Migration System*, Final Report, March 2023, pp. 28-29.

² Joint Standing Committee on Migration, *Final Report of the Inquiry into Australia’s Skilled Migration Program*, August 2021, p. 67.

elongated processing times—and called for streamlining and transparency. As the Migration Hub at the Australian National University (ANU) reminded the Committee, these are typically ‘interlocking issues’.³

Barriers to entry

6.5 Part of the application process undertaken by migrants is gathering identity documents, providing biometric data, proving English language proficiency, and undergoing a medical examination and related tests (see Chapter 4 for further detail). For many migrants, accessing these services is onerous, as typically they are not located where they live.

6.6 Further, these are processes that usually entail a financial burden as it costs the applicant to travel to designated centres, in addition to the fees charged for the service. As sociologist and doctoral candidate Rafael Azeredo remarked:

Obtaining a place in the Migration program is costly and unaffordable for most people.

He pointed out that the expenses associated with the migration journey extend beyond visa application fees to include skills assessments, health exams, certified translations, English tests, lawyers, and agents.⁴

Biometric data

6.7 Applicants are required to supply biometric data for many visa types and/or for applications from countries that are part of Australia’s biometric program.⁵

6.8 The Committee heard the frustration experienced by an Australian citizen trying to organise tourist visas for his partner’s two daughters in late 2022. The young women are resident in the Philippines, a nation encompassing more than 7,000 islands, and serviced by two biometric centres (located at Cebu and Manila). Biometric processing required that they travel by land to Davao and then fly to Cebu at a cost of more than \$1,100 for travel and accommodation. Although the collection was successful, their initial application was refused. For their subsequent application they were advised that biometric information was again required to be collected, a situation that the submitter described as ‘ludicrous’. To make the system ‘fair and equitable for everyone who travels to Australia’, he called for biometric collection to be undertaken on arrival in Australia or at more accessible locations such as the local police station or government offices. And he suggested that biometrics be stored on a database, available for continued use by the applicant over a defined period.⁶

³ Migration Hub at ANU, *Submission 70*, p. 16.

⁴ Mr Rafael Azeredo, *Submission 21*, p. 5.

⁵ Department of Home Affairs, ‘Biometrics’, <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/biometrics>, viewed 31 May 2024.

⁶ Mr Michael J. Spicer, *Submission 9*, p. [1].

- 6.9 As discussed in Chapter 4, most⁷ offshore visa applicants are required to provide biometrics at an Australian Biometrics Collection centre when they apply for a visa that is part of the biometrics program or if they are from one of the 53 countries that are currently part of Australia's biometric program. Visa subclasses in the biometrics program span permanent family visas, visitor and other temporary visas, temporary family visas, student visas and may be required for refugee and humanitarian visas. For countries in the biometric program, the Department notes that applicants 'might' need to provide biometrics in relation to 'each visa application' lodged.
- 6.10 Biometrics provided as part of a visa application are checked against data held by the Department, with fingerprints also being checked against records held by Australian law enforcement and Migration Five partners—a group comprising the immigration authorities of Australia, Canada, New Zealand, the United Kingdom, and the United States of America—before being stored. Further, to confirm their identity, applicants may again have their biometrics collected on arrival in Australia, for the purpose of being compared against the stored biometric data.⁸
- 6.11 The *Rapid Review into the Exploitation of Australia's Visa System* argues that biometric collection and matching is 'critical to strengthen border security and detect persons of concern while facilitating legitimate travel'. It notes that the Department's Identity and Biometrics Strategy is still being rolled out with a view to expanding the number of countries in the program. Full implementation, the report outlines, entails the collection of facial images of all travellers prior to arrival in Australia alongside risk-based fingerprint collection. During the rollout, the review suggested increasing biometric collection on arrival and recommended increasing the capability to conduct a stratified random fingerprint verification program on entry to Australia.⁹

Committee Comment

- 6.12 The Committee acknowledges that it is not feasible that the Department of Home Affairs (the Department) provide a comprehensive network of contracted service providers and panel clinics in all nations. At the same time, it also recognises that access to these services can be costly and time consuming for applicants and, if multiple visits are required, these requirements can pose a significant barrier to applicants.
- 6.13 The Committee also notes that more latitude is afforded to the validity of health assessments than biometrics. The results of an applicant's health assessment (where tests, documentation and opinions are gathered for the purpose of assessing

⁷ Exceptions are made for those under a specified age (ie. offshore applicants under 5 years), those unable to provide fingerprints and those unable to understand the purpose of biometrics.

⁸ Department of Home Affairs, 'Meeting our requirements: Biometrics', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/biometrics>, viewed 31 October 2023; Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, p. 41.

⁹ Christine Nixon, *Rapid Review into the Exploitation of Australia's Visa System*, 31 March 2023, pp. 22-23.

whether applicants meet Australia's health requirement) remain valid for 12 months from the time the applicant completed their examinations.¹⁰

6.14 The Committee notes that Australia already collects and matches biometric data for some arrivals upon entry and that this process may be enhanced as part of the Australian Government's consideration of the increases proposed by the Rapid Review. These processes, the Committee believes, may provide the additional layer of security and identity safeguards that might permit biometric data to remain valid for a limited period and not be tied to a specific visa application.

6.15 The Committee also is reassured by the Government Response in relation to the biometric program that:

Strengthened collection and reuse of biometric information is a critical underpinning for anchoring applicant identity early in the visa process, and contributes to streamlined collection of client information (i.e. the 'tell us once' principle).¹¹

The recommendation below is in line with that 'tell us once' principle.

Recommendation 6

6.16 The Committee recommends that the Australian Government allows biometric data collected for visa application purposes be stored and remain valid for 12 months following the date of collection and be useable for multiple visa applications within that period.

6.17 The Committee is conscious that it did not receive any direct evidence regarding alternative methods of capturing initial biometric information from applicants, in order to counter some of the issues identified with geographic restrictions on attendance at biometric collection centres. However, the Committee is also conscious of the fact that smart devices and their prevalence in communities across the globe present a potentially untapped source of initial biometric data capture.

6.18 Most smart phones and tablets have inbuilt biometric security features for facial recognition, as well as some devices extending to fingerprint capture. Whilst there would be a requirement for verification of supplied data at further stages of the application process, the Committee considers there is merit in the Department of Home Affairs investigating technology and biometrics platform options available for visa applicants to provide initial biometric data via authenticated smart device technology. This could be in the form of an app developed in partnership with hardware providers or software solutions that could be integrated into web-based portal applications.

¹⁰ Department of Home Affairs, 'After your health examinations', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/health/after-your-health-examinations>, viewed 20 February 2024.

¹¹ Australian Government, *Government Response to the Nixon Review Recommendations*, [2023], p. 8.

- 6.19 The Committee is however conscious of the evidence received during this inquiry regarding the disjointed and aged nature of migration ICT systems, so any consideration and development of such an option would need to be considered in the context of any overall ICT upgrade or uplift. More commentary on this is made later in this chapter.

Recommendation 7

- 6.20 The Committee recommends that as part of any upgrade to information technology upgrades to migration and visa processing systems that the Australian Government considers investigating options for the initial capture and provision of biometric data for visa applicants through utilisation of smart technology biometric capture. This data could then be further verified at Australian Biometrics Collection centres if warranted in country of origin, or verified upon arrival in Australia.**

Health examinations

- 6.21 As outlined in Chapter 4, most visa applicants are required to meet minimum health standards. Typically, the health requirements are administered under Public Interest Criteria (PIC) 4005 and 4007. The difference between the two criteria is explained in Department's *Procedures Advice Manual* (2015), which notes that PIC 4005 'prescribes the "standard" health requirement', while 4007 comprises the standard and also makes provision for a health waiver.¹²
- 6.22 The Migration Institute of Australia (MIA) maintained that the criterion allocated to a visa subclass, is applied 'without apparent logic or equity'. They point to the Skilled Independent visa classes where the PIC applied, varied across the streams of that class.¹³
- 6.23 A joint submission from the Immigration Advice and Rights Centre (IARC) and Unions NSW voiced their concern that, without access to a waiver, PIC 4005 ... does not allow for consideration to be given to the contribution the visa applicant would make to social, cultural and economic life in Australia or the contribution the person would make to meeting the costs associated with their disability (or whether they would actually access any services).¹⁴
- 6.24 This concern was echoed by Estrin Saul Migration Specialists and by Welcoming Disability who, in their joint submission, drew on Department of Home Affairs figures to point out that only half of those who failed to meet the health requirements were eligible to apply for a waiver. Of those who were eligible and did apply for a waiver, more than 90 per cent were granted one in both 2020–21 and 2021–22. The high

¹² Department of Home Affairs, *PAM3-Migration Regulations Schedules*, Sch4/4005-4007 – The health requirement, 2015, section 3.

¹³ Migration Institute of Australia, *Submission 87*, pp. 22-23.

¹⁴ Immigration Advice and Rights Centre and Unions NSW, *Submission 32*, pp. [27-28].

success rate, they considered, was indicative of the large number who, when given the opportunity, were able to demonstrate that ‘the benefits they bring to the community outweigh their notional health costs.’¹⁵

- 6.25 Those applicants subject to PIC 4005 who are without access to a waiver and have their visa refused after failing to meet the health requirements, may be able to access a merits review of that decision at the Administrative Appeals Tribunal (AAT) (or the tribunal that succeeds it).¹⁶ However, as the Committee heard, the decision is unlikely to be overturned as the AAT ‘is required to accept the opinion of the MOC [Medical Officer of the Commonwealth] as correct’.¹⁷ And, while this process is costly and time-consuming, it is only after this avenue of appeal is exhausted that applicants are eligible to apply for ministerial intervention.¹⁸
- 6.26 In the view of registered migration agents Heather Marr, Libby Hogarth, and Nish K Padiya, the merits review process is particularly difficult for skilled migrant families with disabled children, where they note there have been many examples of families facing removal ‘until publicity results in last minute Ministerial decisions’.¹⁹ They highlighted the case of the Kollikara family in Western Australia. The couple arrived on a student visa with their two children, one of whom has Down syndrome and an intellectual disability. The couple began working in high skilled sectors where there was a shortage of workers. They applied for permanent residency but faced deportation after their son failed the health requirements. They garnered media attention, and an online petition secured more than 27,000 signatures supporting their case to remain, before the Minister for Immigration, Citizenship and Multicultural Affairs intervened and exercised his public interest power to grant their visa application.²⁰
- 6.27 Submitters also drew the attention of the Committee to the Significant Cost Threshold (SCT) that underpins decisions on whether an application meets the health requirements. The SCT was established in 1995 as a policy to ‘contain public expenditure on health care and community services’. The threshold is reviewed on a biennial basis and is calculated using Australian Institute of Health and Welfare reports into health and welfare expenditure. For temporary visa applicants, the period of assessment is the term of the visa granted to them; for provisional and permanent

¹⁵ Estrin Saul Migration Specialists and Welcoming Disability, *Submission 68*, p. 4.

¹⁶ Access to such a review is less likely for applicants located offshore. See Estrin Saul Migration Specialists and Welcoming Disability, *Submission 68*, p. 6.

¹⁷ Estrin Saul Migration Specialists and Welcoming Disability, *Submission 68*, pp. 5-6

¹⁸ Jan Gothard, ‘A migration review could close some disability discrimination loopholes – but not for people already waiting or refused visas’, *The Conversation*, 24 October 2024, <https://theconversation.com/a-migration-review-could-close-some-disability-discrimination-loopholes-but-not-for-people-already-waiting-or-refused-visas-215894> viewed 21 February 2024.

¹⁹ Heather Marr, Libby Hogarth, Nish K Padiya, *Submission 88*, p. 9.

²⁰ See for example Mikala Theocharous, ‘“I burst into tears”: Perth family facing deportation over son’s disability allowed to stay’, *Nine News*, 8 March 2023, <https://www.9news.com.au/national/kollikara-family-facing-deportation-son-down-syndrome-permanent-residency-intervention-immigration-minister-andrew-giles/d67b6e2d-6931-4645-99d9-2a0f8f264b87>, viewed 26 February 2024; Finn McHugh, ‘The Greens want to end the “unconscionable” deportation of migrants with disability’, *SBS News*, 9 August 2023, <https://www.sbs.com.au/news/article/unconscionable-greens-push-to-end-deportations-of-migrants-with-disability/wuapkmg2h>, 26 February 2024.

visas the period assessed is ten years. Currently \$51,000 or more (across the relevant period of assessment) is deemed to be significant.²¹

- 6.28 Estrin Saul Migration Specialists and Welcoming Disability highlighted the complexity of the health requirement provisions for applicants and families with a disability. They noted the costs associated with the special education of a child with disabilities mean that, if that child is school age and their parents are applying for a visa with a term of more than two years, the application is ‘almost guaranteed to fail the health requirement’, irrespective of whether the child would require special education. The current approach to assessment, they indicated, takes a blanket approach to the education needs of children with disabilities, rather than being sensitive to their individual circumstances.²²
- 6.29 While the Department does not provide a breakdown of the conditions that trigger refusal of an application on health grounds, the experience of migration lawyers, according to Estrin Saul Migration Specialists and Welcoming Disability, suggests that ‘children with disabilities are the most frequently affected category’. Further, they point out there is inconsistency in how education is treated—that while special education is costed under the health requirements, ‘regular’ education is not deemed a community cost under the requirements.²³
- 6.30 It was also drawn to the Committee’s attention that the corresponding thresholds in comparable countries such as Canada and New Zealand are much higher than Australia’s SCT. In 2022, New Zealand increased its threshold to the equivalent of A\$75,500 over five years. While as of 1 January 2024, Canada increased its threshold to the equivalent of A\$29,600 over one year (equating to A\$148,000 over five years).²⁴

²¹ Department of Home Affairs, Discussion Paper: Review of Australia’s visa Significant Cost Threshold (SCT), pp. 3–4. See also Department of Home Affairs, ‘Protecting health care and community services’, <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/health/protecting-health-care-and-community-services>, viewed 22 February 2024.

²² Estrin Saul Migration Specialists and Welcoming Disability, *Submission 68*, pp. 6–7.

²³ Estrin Saul Migration Specialists and Welcoming Disability, *Submission 68*, pp. 6–7.

²⁴ Estrin Saul Migration Specialists and Welcoming Disability, *Submission 68*, p. 5; and Migration Institute of Australia, *Submission 87*, pp. 23–24. See Government of Canada, ‘Excessive demand on health services and on social services’, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/standard-requirements/medical-requirements/refusals-inadmissibility/excessive-demand-on-health-social-services.html>, viewed 26 February 2024; and New Zealand Immigration, ‘Significant-cost health threshold increased’, <https://www.immigration.govt.nz/about-us/media-centre/news-notifications/significant-cost-health-threshold-increased>, viewed 26 February 2024.

Figure 6.1 Comparison of the Significant Cost Threshold of Australia, New Zealand, and Canada



Source: Finn McHugh, 'The Greens want an end to the "unconscionable" deportation of migrants with disability', SBS News, 9 August 2023

6.31 The Committee acknowledges that the Australian Government is currently undertaking a review of Australia's visa Significant Cost Threshold.²⁵ It notes that there is overlap between submissions to that review and the concerns raised by submitters to the Migration, Pathway to Nation Building inquiry.

Committee Comment

6.32 The Committee notes the objectives of the Australian Government's *Migration Strategy* (the Strategy) to both:

- build a targeted temporary skilled migration system and
- help secure Australia's long-term prosperity by reshaping the permanent skilled migration system.²⁶

6.33 The Committee also observes that visa categories likely to bring in migrants to assist in these objectives are subject to PIC 4005 and are not eligible to apply for a health waiver. It follows from the evidence heard by the Committee that, given the opportunity, a proportion of applicants currently denied access to apply for a waiver,

²⁵ Department of Home Affairs, 'Review of Australia's visa Significant Cost Threshold', <https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/review-of-australias-visa-significant-cost-threshold>, viewed 19 February 2024.

²⁶ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 14.

might also be able to demonstrate that they too bring benefits to Australia's social, cultural, and economic life that outweighs their potential healthcare costs.

- 6.34 The Committee is of the view that allowing all visa applicants the opportunity to apply for a waiver of the health requirement, along with an increase to the Significant Cost Threshold will streamline the existing process. It will establish a more holistic approach to the assessment of the merits of visa applications, reduce the burden on the Administrative Appeals Tribunal (and its successor tribunal) and, in turn, applications for ministerial intervention. It would also help to ensure that families with disabled children are not disproportionately disadvantaged, and that Australia does not 'miss out' on migrants who could have the potential to make an overwhelmingly valuable contribution to our nation.

Recommendation 8

- 6.35 The Committee recommends that the Australian Government explores simplifying the health requirements to a single Public Interest Criterion that incorporates an entitlement to apply for a waiver of the health requirements.**

Recommendation 9

- 6.36 The Committee recommends that the Australian Government removes specialised education services from the description of 'community service costs' in the policy settings for the Australian visa Significant Cost Threshold, with appropriate considerations to Budget impacts.**

Recommendation 10

- 6.37 The Committee recommends that the Australian Government increases the Significant Cost Threshold to an amount that will enable Australia to remain competitive with comparable countries, with appropriate consideration to Budget impacts.**

English language proficiency

- 6.38 The Department of Home Affairs outlines that English language requirements are a means by which immigration risk is managed and the capacity of visa holders to fully participate in Australian society is confirmed.²⁷
- 6.39 Proof of English language proficiency is required for most visa applicants intending to work or undertake study in Australia. The standard of proficiency required varies

²⁷ Department of Home Affairs, 'Request for Expression of Interest (REOI) for the selection of English language tests for Australian visas', <https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/request-for-eoi-selection-of-english-language-tests>, viewed 5 March 2024.

according to visa subclass, and typically ranges from functional through to superior English.²⁸

- 6.40 For some proficiency levels there is more than one means by which a visa applicant can satisfy the English requirement. For functional, vocational, and competent English this includes being a citizen and holder of a valid passport issued by the United Kingdom, the United States of America, Canada, New Zealand, or the Republic of Ireland. Proof of functional English might also comprise having completed a specific number of years of study (at a particular level or location), where the instruction was provided in English. For all proficiency levels, proof can be supplied by achieving a designated score in an approved test.²⁹
- 6.41 Scores from one of the following four tests are accepted by the Department when taken at a secure test centre:
- International English Language Testing System (including One Skill Retake);
 - Pearson Test of English;
 - Cambridge English; and
 - Occupational English Test (for health professionals).
- 6.42 For Australian migration purposes, the Department *does not* accept scores achieved in tests that you can take at home or online.³⁰
- 6.43 The duration of the validity of the score achieved on an English proficiency test varies by level. Applicants for visas requiring functional English, must have tested successfully at that standard in the 12 months prior to making their application.³¹ For visas requiring a higher standard of English, applicants typically need to be able to demonstrate that they achieved the required score relevant to the standard of proficiency specified for their visa class in the three years prior to either the date of their application or their invitation to apply (depending on the visa subclass).³²
- 6.44 In March 2024, the English language proficiency requirements for Student and Temporary Graduate visas tightened. For Temporary Graduate Visas (TGV) the minimum proficiency score required increased, while the duration of the validity of

²⁸ Department of Home Affairs, 'English language visa requirements', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/english-language>, 29 February 2024.

²⁹ See Department of Home Affairs webpages for the various levels of English proficiency, for example—Vocational English, <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/english-language/vocational-english>, viewed 29 February 2024.

³⁰ Department of Home Affairs, 'English language visa requirements', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/english-language>, 29 February 2024.

³¹ Department of Home Affairs, 'Functional English', <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/english-language/functional-english>, viewed 19 February 2024.

³² See Department of Home Affairs webpages for Vocational English, Competent English, Proficient English, and Superior English.

that test decreased from three to one year. Likewise, the minimum score increased for most student visas.³³

Student visas

6.45 The Committee heard from Mr James Holden, the Australian and New Zealand Country Director for Duolingo, a global company specialising in the use of technology to deliver language services and products. He maintained that Australia's reliance on physical language centres for testing English is

...some of the most outdated, some of the most arduous and, now, some of the most uncompetitive aspects of our [Australia's] migration policy.³⁴

6.46 The requirement that visa applicants undertake paper-based English language proficiency tests, Duolingo submitted, creates three 'massive' barriers:

- Accessibility—not all countries have test centres, or they are limited in number. Further, those needing to take a test, are required to plan ahead to secure an appointment slot, have the time and funds available to travel to the location, and may have to undertake the process again (for example if they are unsuccessful or if there is an unforeseen cancellation).
- Reliability—the requirement for testing in secure centres has been found to lack resilience in the event of a pandemic, conflict, environmental disasters, or even criminal fraud. (Duolingo noted one case in Vietnam that led to the closure of a centre.)
- Affordability—the cost of a test is more than double the average monthly salary for workers in many countries. In addition, applicants may incur further expenses if they need to travel to the test or undertake multiple tests.³⁵

6.47 Many countries, Duolingo stated, have adopted 'modern secure digital tests' to reduce the costs to applicants and enhance access. In the education sector, they noted that those seeking a student visa to commence university studies in the United States, Great Britain, Canada, and New Zealand, are no longer required to sit a paper-based test.

6.48 Instead, higher education student visa applicants to these nations must have received an offer to commence study at a relevant university, the offer serving as an indication that they have met the admission requirements of that institution (which may include a digital language test to demonstrate English language proficiency).

³³ Department of Home Affairs, 'New English Language Requirements', 20 March 2024, viewed 28 March 2024, <https://www.homeaffairs.gov.au/news-media/archive/article?itemId=1188>; See also Department of Home Affairs, Temporary Graduate visa, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-graduate-485>, and Student visa, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/student-500#Eligibility>, viewed 28 March 2024.

³⁴ Mr James Holden, Australian and New Zealand Country Director, Duolingo, *Committee Hansard*, Videoconference, 17 May 2023, p. 1.

³⁵ Duolingo, *Submission* 22, pp. 2-3.

- 6.49 The adoption of digital testing, Duolingo argued, allows countries to be more competitive, enabling them to ‘attract a substantially broader, more diverse group of students and migrants’. Further, they argued that Australia will be left behind if it does not transition to digital testing.³⁶
- 6.50 Their submission proposed that an Australian student visa digital testing pilot be undertaken. For it to proceed, the Department of Home Affairs would be required to accept the outcome of a digital test (without the need for an additional paper-based test in a secure centre) if an international student has secured acceptance to an Australian university relying on that result. As a safeguard, they noted the proviso that the student’s status and academic progress continues to be monitored.
- 6.51 Duolingo maintained that the pilot is low risk, as only those who are academically talented and meet university entry requirements would be eligible. Further, they considered that the pilot would help make Australian universities more competitive and requires no significant policy changes.
- 6.52 The Committee also heard evidence from Ms Kim Dienhoff, Head, Government Relations, IDP Education, and the commercial director for the International English Language Testing System (IELTS) at that firm. IELTS includes one of the tests accepted by the Department of Home Affairs for use by those seeking to migrate to Australia.
- 6.53 Dienhoff argued against Duolingo’s construction of the issue as digital versus paper-based testing. She asserted that, so long as the test takes place in a secure testing centre, not online and not at home, the Department accepts both paper-based and computer-based tests. Tests taken at home, she stated are ‘not accepted for visa purposes by the Australian Government, nor by most other governments of English-speaking countries’.³⁷
- 6.54 Further, Dienhoff maintained that digital testing taking place outside of a testing centre makes up a small proportion of the overall industry and it is still in the ‘early adopter phase’. She regarded the approach taken by the Department to testing as prudent as it allows them to maintain high standards and integrity in the process. She added that:
- IDP believes it is too important to the integrity of the education system and the accreditation of temporary and permanent migrants to Australia to leave English language tests to the trends and whims of new tech.³⁸
- 6.55 Dienhoff pointed out that the ‘controlled and standardised environment’ of secure test centres, mitigates the ‘risk of potential fraud and malpractice attempts’. To illustrate this point, she drew the Committee’s attention to the UK where, during the pandemic, a number of higher education institutions relaxed their requirements to allow online

³⁶ Duolingo, *Submission* 22, pp. 3-4.

³⁷ Ms Kim Dienhoff, Head, Government Relations, IDP Education, *Committee Hansard*, Videoconference, 27 September 2023, pp. 28-29.

³⁸ Ms Kim Dienhoff, Head, Government Relations, IDP Education, *Committee Hansard*, Videoconference, 27 September 2023, p. 28.

English testing only to withdraw some student placement offers after cheating concerns.³⁹

- 6.56 Drawing on IDP Education's more than twenty years' experience in testing for the Australian migration system, she observed that many test takers prefer the familiar paper-based format. The secure test centre, she argued, offers an inclusive space for applicants who otherwise might face accessibility or technology barriers that prevent them from undertaking an online test.
- 6.57 With more than 4,000 secure test locations worldwide for IELTS, she asserted that IDP Education can
- ... ensure that all prospective migrants have equal opportunities to demonstrate their language skills without hindrance, promoting a fair and equitable assessment process.⁴⁰
- 6.58 Dienhoff also drew attention to IDP Education's new product—'One Skill Retake'—that aims to minimise the cost to applicants who fail one of the four skills (Listening, Reading, Writing and Speaking) assessed by the IELTS test. Accepted by the Department for most visa subclasses⁴¹, the One Skill Retake provides visa applicants with a single opportunity to undertake re-examination of one skill, rather than the entire test.⁴²
- 6.59 The new *Migration Strategy* affirmed the Australian Government's intention to continue to strengthen the integrity and quality of international education. In line with the findings of the Nixon review, the Strategy endeavours to reduce exploitation of the student visa system. To achieve this, the Action Plan introduces a range of new measures including increasing English language requirements, strengthening requirements for international education providers, greater scrutiny of student visa applications from high-risk providers, and introducing a Genuine Student Test.⁴³

Work Visas

- 6.60 When talking more generally about English language acquisition, testing, and the barriers faced by migrants, Ms Stephanie Long, Systemic Advocacy and Strategic Projects Lead, Queensland Program of Assistance to Survivors of Torture and Trauma, reminded the Committee that:

³⁹ IDP Education, Answers to Questions on Notice, Public Hearing, 27 September 2023, QON1, Attachments 1 and 2.

⁴⁰ Ms Kim Dienhoff, Head, Government Relations, IDP Education, *Committee Hansard*, Videoconference, 27 September 2023, p. 29.

⁴¹ The Department notes that visa subclasses 476, 482 and 485 are not eligible as the English language scores need to be achieved in a single sitting. See Department of Home Affairs English language visa requirements, <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/english-language>, 6 March 2024.

⁴² Ms Kim Dienhoff, Head, Government Relations, IDP Education, *Committee Hansard*, Videoconference, 27 September 2023, p. 30.

⁴³ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, pp. 60-69; Australian Government, *Migration Strategy – Action Plan*, [December 2023], p. 2.

English proficiency is not a measure of functional language acquisition that enables people to manage their daily lives, work, pay taxes and contribute to the community.⁴⁴

- 6.61 Certainly, several witnesses considered that there is a mismatch between the English language requirements specified for a visa applicant and the language requirements necessary for people to perform their work in a safe manner.
- 6.62 Mrs Alex Waldren, National Directory Industry Policy, Master Builders Australia, for one, argued that the level of English proficiency required for construction workers was 'probably too high' and called for language testing to 'reflect the work that's needed'.⁴⁵
- 6.63 The Committee also heard the frustration of Mr Gaethan Cutri, Managing Director, Cutri Fruit, and the challenges he faced in his efforts to secure horticultural workers. Of the English language testing he remarked '[w]ho cares' if they 'have a score of five or 5.5 or six'. He only wanted 'great workers' in his employment and hired those intellectually and verbally equipped to do the job.⁴⁶
- 6.64 Testing also proves to be a barrier for some of those already in Australia who endeavour to progress from a temporary visa to a permanent residency pathway.⁴⁷ Mrs Julie Williams, National President, MIA, pointed out that as English language tests only remain valid for three years, many are required to redo and pass this test to satisfy the permanent visa requirements. For Ms Williams it was 'ludicrous' that a temporary visa holder who had been working in Australia with a level of English sufficient to undertake the tasks required of their employment, was required to undertake yet another English language test that was mentally draining and costly.⁴⁸
- 6.65 Drawing on its research into the disruptive effects of the COVID-19 pandemic, VETASSESS's submission was similarly critical of the requirement that visa applicants, who had been stranded onshore, had to retake English language proficiency tests due to the expiry of their previous examinations.⁴⁹
- 6.66 When asked about access to tests, Ms Dienhoff, of IDP Education, highlighted recent initiatives to improve access to English language tests including trials of mobile testing on a bus, and demand driven off-site testing where the examination was taken to a local community. And, while these were currently options utilised

⁴⁴ Ms Stephanie Long, Systemic Advocacy and Strategic Projects Lead, Queensland Program of Assistance to Survivors of Torture and Trauma, *Committee Hansard*, Videoconference, 18 May 2023, p. 8.

⁴⁵ Mrs Alex Waldren, National Directory Industry Policy, Master Builders Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 14

⁴⁶ Mr Gaethan Cutri, Managing Director, Cutri Fruit, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 18

⁴⁷ Referred to as the 'two-step visas pathways to permanent residency' in the Migration Institute of Australia, *Submission 87*, p. 15.

⁴⁸ Mrs Julie Williams, National President, Migration Institute of Australia, *Committee Hansard*, Videoconference, 14 August 2023, p. 32.

⁴⁹ VETASSESS, *Submission 89*, p. 10. See VETASSESS, *Submission 89*, Attachment 1, p. 35, for recommendation made on this point to the Migration System for Australia's Future review.

overseas, she noted that these had the potential to be applied in Australia in the future.⁵⁰

Committee Comment

- 6.67 At a time when ICT systems used by the Department of Home Affairs are under review, it is timely that the Department explores the potential of digital processes that could feed into any new or upgraded system.
- 6.68 In the English language testing sector, the Committee recognises that there is tension between the opportunity to enhance access and the imperative to maintain integrity in the system by minimising the chance of fraud. Consequently, it is essential that any digital system is rigorously tested to examine whether it will be fit for the purposes of the migration system.
- 6.69 The Committee recommends that the Government undertakes a digital English language test pilot and suggests that the higher education space, particularly given the integrity measures outlined in the *Migration Strategy* Action Plan, offers a low-risk testing environment that should be harnessed for such a purpose. As such, a digital English language test pilot would be safeguarded by the new Genuine Student Test⁵¹, alignment of the English language admission requirements with recent increases to the test scores⁵², and complemented by ongoing academic assessment at higher education institutions.
- 6.70 As IDP Education pointed out, however, there is also benefit in maintaining a nimble system that offers a variety of testing options, be they digital or paper based. The Committee views initiatives such as mobile testing and the One Skill Retake offering as good examples that provide flexibility and reduce the burdens on visa applicants.
- 6.71 The Committee was also of the view that the Australian Government should ensure that the 'bar' in respect to English language proficiency, is not set too high for the work that visa holders are expected to perform. Moreover, the Committee believes that a commonsense approach should be adopted in relation to whether it is necessary to retest visa applicants who are located and living in Australia. Such an approach would appropriately recognise that an applicant had passed the English language requirement necessary for admission to Australia and, since then, had been an active member of the Australian community. It would also acknowledge that for some applicants the expiry of their initial test was beyond their control due to delays in processing and the COVID-19 pandemic.

⁵⁰ Ms Kim Dienhoff, Head, Government Relations, IDP Education, *Committee Hansard*, Videoconference, 27 September 2023, p. 30

⁵¹ Department of Home Affairs, 'New Genuine Student Requirement', Media Release, 20 March 2024, <https://immi.homeaffairs.gov.au/news-media/archive/article?itemId=1187>, viewed 15 May 2024.

⁵² Department of Home Affairs, 'New English Language Requirements', Media Release, 20 March 2024, <https://immi.homeaffairs.gov.au/news-media/archive/article?itemId=1188>, viewed 15 May 2024.

Recommendation 11

- 6.72** The Committee recommends that the Australian Government undertakes a digital English language testing pilot in the higher education sector, to examine the robustness of a digital system to withstand or detect fraud, and consider the feasibility of a broader roll out.

Recommendation 12

- 6.73** The Committee recommends that the Australian Government empowers Jobs and Skills Australia to review the English language requirements for a range of occupational roles to ensure that they align with the work and safety requirements of the position.

Recommendation 13

- 6.74** The Committee recommends that the Australian Government removes the requirement to retest the English language proficiency of visa applicants already in Australia, where the level of proficiency required is the same or lower than the English language requirement that the applicant had previously satisfied.

Following the rules

- 6.75** The work undertaken by Department of Home Affairs staff in relation to its migration settlement and citizenship programs is regulated by legislation and regulation—most notably the *Migration Act 1958* (the Act) and the *Migration Regulations 1994* (the Regulations)—aided by an array of policy documents. As Mr Michael Pezzullo, then Secretary of the Department, succinctly explained to the Committee:

We just apply the law as it is written. If you change the law, we'll apply it differently.⁵³

The clarity of the then Secretary's statement, however, belies the complexity of the regulatory framework which confronts applicants, migration lawyers, and registered migration agents, among others.

- 6.76** Ms Maria Jockel, Global and National Immigration Leader, Accredited Immigration Law Specialist, Legal Principal and Managing Director, BDO Migration Services, expressed her frustration that

... through the nearly four decades I've worked in this jurisdiction, simplification has only resulted in more of the same. We've collapsed the visas from 153, if I recall correctly, to 99. We still have 3,000 pages of highly codified legislation and

⁵³ Mr Michael Pezzullo AO, Secretary, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 9

multiple schedules in the legislation underpinned by over 50,000 pages of internal policy guidelines to which I and my legal team work.⁵⁴

To Jockel, complexity in Australia's migration system is longstanding and embedded in the legislation.

Legislation

6.77 The final report of the *Review of the Migration System* assessed that

... [c]reating a fit for purpose system will require major reform, it cannot be achieved by further tinkering and incrementalism.⁵⁵

6.78 While recognising that their proposals for reform would entail 'substantial legislative change', the reviewers considered that the existing legislative framework underpinning the migration system remained 'broadly fit for purpose'. In their view, the Act did not need to be replaced, but 'phased' reform of the legislation was required, focussing on opportunities for simplification or modernisation.⁵⁶

6.79 The reviewers' reluctance to propose repealing and replacing the Act, in part, stems from their assessment that the current Act provides 'a relatively high degree of certainty', having been tried and tested in the courts. A new legislative framework, they warn, would not provide the benefit of such certainty.⁵⁷

6.80 Further, they maintain that '[a]rguably, the migration legislation is not unusual in its complexity' and that the 'legislative framework necessarily reflects the complexity of migration policy settings'. Drawing on a 2022 blog post by University of New South Wales academics on legislative complexity, the reviewers remarked that the Act, despite having risen from 15,614 to 222,519 words (an increase of 1,325 per cent), had a comparatively low word count. They also observed that the rate of change to the Act was below average at roughly once every two months (amended 55 times, comprising 1,056 individual amendments).⁵⁸

6.81 Yet, as the Migration Hub at ANU pointed out, the current migration system was established at a time when Australia was 'less diverse than it is today'. Adding, while this diversity presents opportunities, it also brings challenges that, in their view, required 'innovative regulatory and governance responses'.⁵⁹

⁵⁴ Ms Maria Jockel, Global and National Immigration Leader, Accredited Immigration Law Specialist, Legal Principal and Managing Director, BDO Migration Services, *Committee Hansard*, Videoconference, 27 September 2023, p. 7.

⁵⁵ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 31.

⁵⁶ Australian Government, *Review of the Migration System*, Final Report, March 2023, p.181.

⁵⁷ Australian Government, *Review of the Migration System*, Final Report, March 2023, p.180.

⁵⁸ Australian Government, *Review of the Migration System*, Final Report, March 2023, pp. 177-78; Lisa Burton Crawford, Elma Akand, Steefan Contractor and Scott Sisson, 'Legislative complexity: what is it, how do we measure it, and why does it matter?', *AUSPUBLAW*, 23 November 2022, <https://auspublaw.org/blog/2022/11/legislative-complexity-what-is-it-how-do-we-measure-it-and-why-does-it-matter/>, viewed 18 March 2023.

⁵⁹ Migration Hub at ANU, *Submission 70*, p. 11.

- 6.82 Certainly, the Committee became concerned about the enduring effects of legislation created in 1958, a period in which notions of a male primary bread winner was prevalent. Its attention was drawn to the issue of secondary applicants and how the process by which they are dealt with under the Act could be considered out of touch with current community expectations.
- 6.83 As the Women's Legal Services Australia submission pointed out, that we know most about primary applicants—who are overwhelmingly male—and gather little information about secondary applicants, 'reinforces' the gendered nature of Australia's migration system.⁶⁰
- 6.84 For Vialto Partners, the lack of recognition given to the family members of employer sponsored visa applicants is a missed opportunity. As partners of successful applicants have full working rights, they argue that Australia should have a mechanism whereby applicants' partners who also meet the skills criteria are given priority visa processing.⁶¹
- 6.85 While broader issues associated with maximising the contribution of secondary applicants after arrival will be considered in more detail in Chapter 8, the Committee was interested in understanding how secondary applicants are processed under the Act and whether greater recognition of their skills might improve the chance of their visa application being successful.
- 6.86 In particular, members of the Committee sought answers from senior staff at the Department as to why the skills and qualifications of secondary applicants were not appropriately assessed and valued.
- 6.87 Ms Tara Cavanagh, Group Manager, Immigration Policy, at the Department acknowledged that the Act was 'quite old now' and the current process for dealing with family members of the primary applicant was a 'legacy of how the [A]ct was first drafted'. She explained:
- It's really been designed in a way where what we call the primary applicant has to meet the criteria around age, language, skill and qualifications et cetera. Family members just need to demonstrate that they are, in fact, a family member of that primary applicant.⁶²
- 6.88 Departmental witnesses stressed that this process could be altered, with Ms Cavanagh remarking '[o]f course, that can be legislated differently in a future system'. When asked directly by the Committee, what changes were necessary, Mr Pezzullo responded that Departmental delegates needed to have the option to assign value to

⁶⁰ Women's Legal Services Australia, *Submission 98*, p. [4].

⁶¹ Vialto Partners, *Submission 28*, p. [3].

⁶² Ms Tara Cavanagh, Group Manager, Immigration Policy, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 9.

the skills and qualifications held by a person who is not the visa applicant and that this provision needed to be reflected in the Act.⁶³

Committee Comment

- 6.89 The Committee takes the point made by the reviewers of the migration system that there is value in an established legislative framework. The Committee, however, does remain concerned that, despite the number and rate of amendments since 1958, legacy issues continue to arise from the Act having been born of a societal past that bears little resemblance to today.
- 6.90 In particular, the evidence heard by the Committee highlighted that the Act is out of step with community expectations in only assigning value to the skills and qualifications of the primary applicant. This approach means that the Australian Government has little information about those who accompany primary applicants, limiting its ability to address their needs, foster their potential, or harness the contribution they can make to the nation.

Recommendation 14

- 6.91 The Committee recommends that the Australian Government conducts a comprehensive review to guide the staged reform of the *Migration Act 1958* to ensure that the Act remains fit for purpose as the legislative framework supporting the new migration strategy.**

Recommendation 15

- 6.92 The Committee recommends that the Australian Government amends the *Migration Act 1958*, and any other relevant subordinate legislation, to enable recognition of the skills, and qualifications of secondary applicants when considering the primary applicant's visa suitability.**

Visa Categories

- 6.93 The Committee heard from a number of witnesses who called for streamlining of visa categories and/or a reduction in their number. The submission from VETASSESS, for example, pointed out that Australia's migration system comprised 12 visa categories that are accessed by more than 90 visa pathways. Characterising the system as 'complex and time-intensive' and in need of simplification, VETASSESS believed the solution was fewer visas, each with a 'well-defined purpose and easy to understand criteria and eligibility'.⁶⁴

⁶³ Ms Tara Cavanagh, Group Manager, Immigration Policy, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 9-10.

⁶⁴ VETASSESS, *Submission 89*, p. 16.

- 6.94 For the Australian College of Nursing (ACN), complexity embedded in the visa system had several causes. They drew attention to the system being ‘notoriously difficult to navigate, with multiple visa categories’ and that these challenges were intensified by elongated wait times.⁶⁵ The Swan Hill Rural City Council echoed the ACN’s concerns and proposed that a review of visa categories be undertaken with a view to reducing their number and making the process more straightforward.⁶⁶
- 6.95 Multicultural Australia drew attention to the benefits that were likely to flow from the simplification of visa categories. They noted that the Department might face a reduction in administrative and compliance costs and resources. Moreover, in their view, a simplified system would also be ‘instrumental in promoting social cohesion’.⁶⁷
- 6.96 Some witnesses pointed out that in the past, changes to the migration system sometimes had the effect of compounding its complexity. Fragomen (Australia) Pty Ltd, for example, raised the issue of short-term concessions. While, on the one hand, they welcomed the concessions that were introduced for Temporary Skill Shortage (TSS) visa holders who were onshore during the pandemic, on the flipside, they recognised that short-term concessions added ‘further complexity to the patchwork of eligibility criteria for employer sponsored permanent residence’.⁶⁸
- 6.97 The Community and Public Sector Union (CPSU) was similarly critical of the introduction of visa arrangements by other agencies such as the Pacific Australia Labour Mobility scheme (PALM scheme) managed by the departments of Employment and Workplace Relations, and Foreign Affairs and Trade. They argue that the introduction of such arrangements only added to the complexities by creating additional visa streams linked to new policy initiatives. They told the Committee that their members were of the view that ‘rules were needed to prevent the further expansion of visa categories’.⁶⁹
- 6.98 Several submissions noted that simplification had been tried before without success. As noted earlier, Maria Jockel complained ‘simplification has only resulted in more of the same’.⁷⁰
- 6.99 The CPSU attributed the failures of previous attempts to a reluctance to do things like ‘reducing requirements and removing restrictions on work rights’. Further, they claimed that efforts intended to reduce the number of visa streams ‘became a rebranding exercise’ that had the effect of disadvantaging some applicants and visa holders.⁷¹

⁶⁵ Australian College of Nursing, *Submission 90*, p. 5.

⁶⁶ Swan Hill Rural City Council, *Submission 31*, p. [6].

⁶⁷ Multicultural Australia, *Submission 40*, p. 17.

⁶⁸ Fragomen (Australia) Pty Ltd, *Submission 54*, p. 10.

⁶⁹ CPSU, *Submission 62*, Attachment 1, p. [2].

⁷⁰ Ms Maria Jockel, Global and National Immigration Leader, Accredited Immigration Law Specialist, Legal Principal and Managing Director, BDO Migration Services, *Committee Hansard*, Videoconference, 27 September 2023, p. 7

⁷¹ CPSU, *Submission 62*, Attachment 1, pp. [2-3].

6.100 Moreover, as Dr Andrew Theophanous, a former Chair of the Joint Standing Committee on Migration, pointed out, recommendations to improve the visa processing system had been made previously by the Committee. He particularly identified the need to implement recommendation 12 made by the Committee for its 2021 Inquiry into Australia's Skilled Migration Program that the Department of Home Affairs 'update their visa processing system to ensure a more streamlined application process for applicants and employers'.⁷²

6.101 Ms Bronwyn Markey, Senior Manager, Professional Services, at the MIA, recalled that while a prior attempt at visa simplification did reduce the number of visas, it resulted in an increase in the number of visa streams. As Ms Markey put it, 'we ended up having one visa class with 21 streams'. Consequently, the MIA suggested that the emphasis should shift from the number of visas, towards simplification so that the processing would be faster.⁷³

6.102 Reflecting on their own migration system, Mr Richard Owen, General Manager of Immigration Risk and Border at Immigration New Zealand, noted that like Australia they had a 'long list of visa types'. Simplification, he believed was desirable, reasoning that:

The broader the range and the broader the different policy intent, the more complex it becomes in terms of designing new systems and processes; therefore, as a consequence, it's more complicated for your customers, or their representatives, like immigration advisers and the like.⁷⁴

6.103 The Australian Government's *Migration Strategy* acknowledged that, while '[g]enuine simplification is more than a reduction in the number of visas', the 'proliferation' of visas made the system challenging for applicants to navigate and for departmental staff to administer.⁷⁵

6.104 In their final report, the reviewers of the Migration System commented that concerns about the number of visa types partly resulted from diagrams of visa subclasses and streams (see Figure 7.2), that were somewhat misleading about the scale and degree of complexity of the visa system. Such diagrams, they pointed out, include many legacy visa classes (encircled by a dotted line) that are no longer available. While the reviewers did note that there might be scope to remove inactive and duplicate visa products, they argued that a streamlined system was more likely to be achieved through policy simplification and a reduction in the complexity of visa requirements, rather than a decrease in the number of visas. Moreover, they pointed out that if the number of visas is reduced too much, the migration system is unlikely to meet the needs of government. In the view of the reviewers, an enhanced

⁷² Dr Andrew Theophanous, *Submission 61*, p. 12. See also Joint Standing Committee on Migration, *Final Report of the Inquiry into Australia's Skilled Migration Program*, Canberra, August 2021, xii.

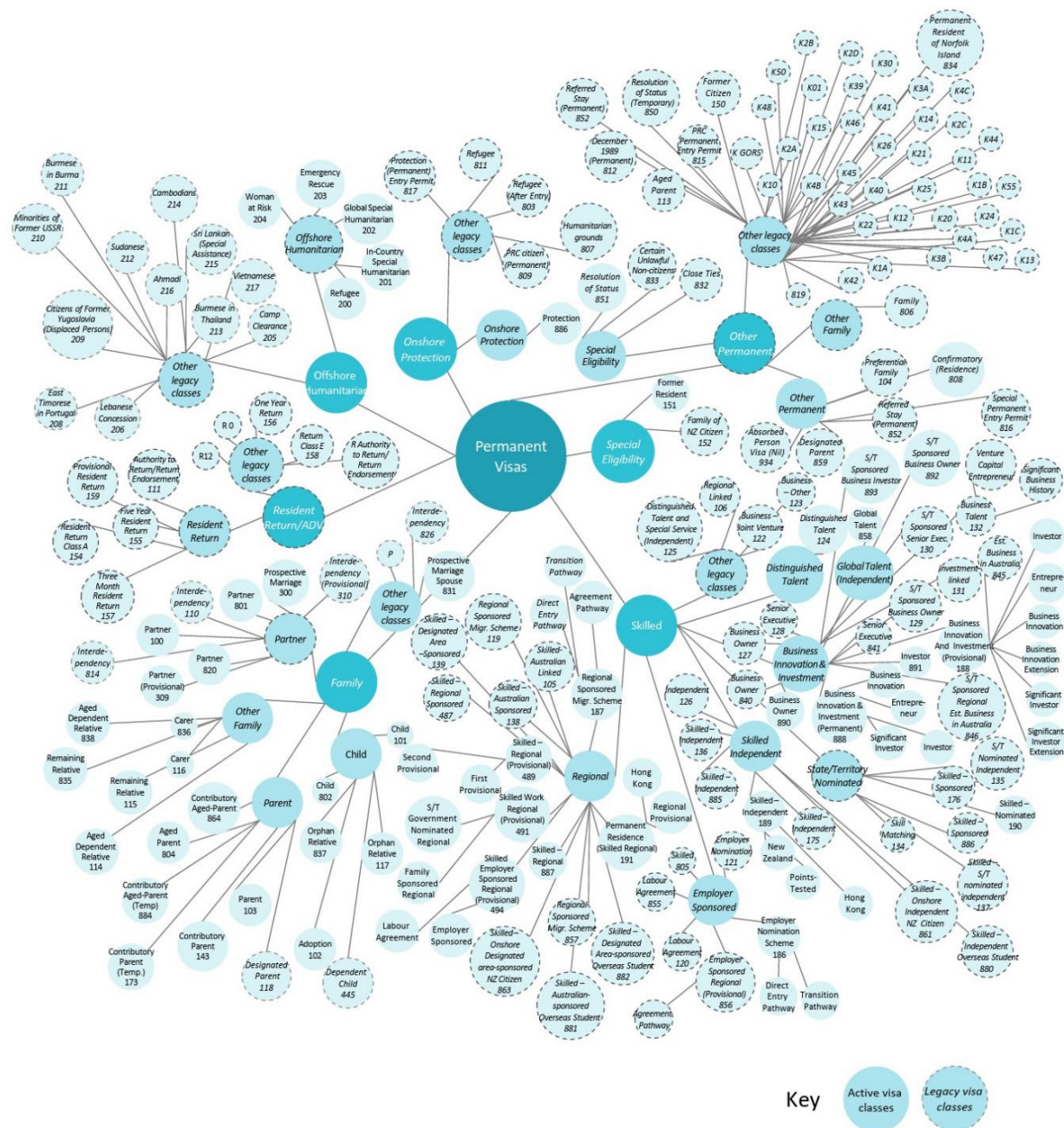
⁷³ Ms Bronwyn Markey, Senior Manager, Professional Services, Migration Institute of Australia, *Committee Hansard*, Videoconference, 17 May 2023, p. 48.

⁷⁴ Mr Richard Owen, General Manager of Immigration Risk and Border, Immigration New Zealand, Ministry of Business, Innovation and Employment, New Zealand Government, *Committee Hansard*, Canberra, 9 August 2023, p. 5

⁷⁵ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 96.

engagement with the migration system could be achieved through 'improved client interfaces and service delivery'.⁷⁶

Figure 6.2 Permanent Visas, Australia, 31 October 2022, visa subclass and stream



Source: Australian Government, *Review of the Migration System*, Final Report, p. 179.

6.105 The Grattan Institute advocated for a 'less prescriptive visa system'. In their view a system that is too granular, seeking to target specific skills or capabilities, was 'likely to prove counterproductive'. In considering the consequences of such a system, they

⁷⁶ Australian Government, *Review of the Migration System*, Final Report, March 2023, pp. 178-80.

pointed to problems including lags between the identification of an occupation being in demand to when it is added on the skilled migration occupation list. Even once an identified migrant arrives, they added, there is no guarantee that they will remain in that field or be working at their skill level. Instead, the Institute argued for a simpler more flexible approach that focused on skilled workers capable of earning high wages, regardless of the occupation (Chapter 7 discusses this issue in more detail).⁷⁷

6.106 The Law Council of Australia (Law Council), likewise, called for the removal of ‘overly prescriptive aspects of the visa processing framework which impede dynamic and responsive visa processing’. In particular, the Law Council highlighted inflexibility and opacity in the employer sponsored visa program that impedes the ability of businesses to attract and retain workers to service their needs. While recognising recent government efforts to reduce the visa processing backlog, they (and particularly the Queensland Legal Service) called for better communication and assistance to sponsoring employers to help navigate the complexity, ensure the lodging of ‘decision ready applications’, and ultimately contribute to a more streamlined process.⁷⁸

6.107 The importance of communication was echoed by the NSW Government’s submission. In their view, immediate action was required to:

Develop whole-of-government strategic communications to promote understanding and use of visa products and increase the ease of navigating the migration system.

While their longer-term recommendation was to:

Simplify the Commonwealth Government’s core visa products and settings to improve transparency, simplicity, processing times, affordability and increase the attractiveness of migrating to Australia.⁷⁹

6.108 Some witnesses highlighted how the complexity of the visa system, with multiple visas and streams, facilitated permanent or protracted temporariness. Sociologist Rafael Azeredo drew on his doctoral research that found hundreds of thousands of migrants struggle to move from temporary visas to a permanent visa. He pointed out that, by and large, this cohort are lawful and documented, they are active members in Australian society, they pay taxes, work, and study.

6.109 Azeredo described these migrants as ‘trapped’, unable to secure a pathway to the permanency they desire, they consequently lack entitlements to services and are vulnerable to exploitation. Many, he noted, have valuable skills and qualifications, but these do not appear on the shortage list. He recommended that measures be implemented to enable protracted temporary migrants to transition to permanent residency. Among them, he suggested the continuation of the July 2022 COVID-19

⁷⁷ Grattan Institute, *Submission 17*, pp. 31-32.

⁷⁸ Law Council of Australia, *Submission 117*, pp. 7, 14, 36.

⁷⁹ NSW Government, *Submission 57*, pp. 4-5.

pandemic measures expanding the eligibility of TSS (subclass 482) visa holders to the Temporary Residence Transition stream.⁸⁰

6.110 The Committee notes that in April 2023 the then Minister for Home Affairs, Hon Clare O’Neil MP, spoke on the need to end permanent temporariness by avoiding policies and conditions that create this situation, the provision of permanent resident pathways to those with desirable skills, and providing greater clarity to other workers about their prospect of becoming a permanent resident.⁸¹ In November 2023 the Australian Government introduced measures to ‘provide a simpler and clearer pathway to permanent residence for TSS visa holders’, including expansion of the eligibility of all TSS visa streams to access the Employer Nomination Scheme (subclass 186) Temporary Residence Transition Stream.⁸²

6.111 The Australian Government also highlighted ‘visa hopping’ (moving between different temporary visas when already in-country) as an issue in the *Migration Strategy*. The Government has committed to implementing measures during early to mid-2024 to:

Restrict onshore visa hopping that undermines system integrity and drives ‘permanent temporariness’.

While the Government particularly focused on students and graduates who were endeavouring to prolong their stay. The report foreshadowed that it was also considering additional measures to limit onshore visa hopping ‘where it circumvents offshore processes’.⁸³

Committee Comment

6.112 In its submission, the Department of Home Affairs recognised that, alongside outreach and engagement, ‘visa processing times are also critical in ensuring that Australia remains an attractive destination to travel, work and live’. The submission indicated that this recognition translated into action, and told the Committee that, ‘[i]n key visa programs, the Department is now finalising more visas than before the pandemic’.⁸⁴ Although encouraged by these developments, the Committee remains concerned about the effect that shifting priorities has on wait times for processing applications that sit outside ‘key’ programs.

⁸⁰ Rafael Azeredo, *Submission 21*, pp. 1-5, 7. See also Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, Explanatory Statement, Migration Amendment (Expanding Access to Temporary Residence Transition Stream) Regulations 2023, <https://www.legislation.gov.au/F2023L01543/asmade/2023-11-24/es/original/pdf>, viewed 17 April 2024.

⁸¹ Hon Clare O’Neil MP, Minister for Home Affairs, ‘Australia’s Migration System’, National Press Club address, 27 April 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/national-press-club-address-australias-migration-system-27042023.aspx>, viewed 17 April 2024.

⁸² Department of Home Affairs, ‘Expanding pathways to PR for temporary skilled sponsored workers’, Media Release, 3 November 2023, <https://immi.homeaffairs.gov.au/news-media/archive/article?itemId=1136>, viewed 17 April 2024.

⁸³ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, pp. 66-67; Australian Government, *Migration Strategy – Action Plan*, [December 2023], p. 2.

⁸⁴ Department of Home Affairs, *Submission 127*, p. 10.

6.113 The Committee also acknowledges that the Government's *Migration Strategy* has made a new commitment to 'abolish unnecessary and duplicative visas to simplify the visa system'. Alongside this, there will be 'ongoing' measures to modernise the system, reduce the visa processing backlog, and embed simplification as a 'key objective' into all of its actions.⁸⁵ While these objectives are to be applauded, the Committee agrees with the CPSU that the *Migration Strategy*'s progress towards these commitments should be regularly reported.⁸⁶ Moreover, the Committee believes that the success of these measures should be subject to recurrent review both internally by the Department (ideally via the Department's Performance Framework) and periodically by an independent body such as the Australian National Audit Office.

Recommendation 16

6.114 The Committee recommends that the Australian Government develops internal mechanisms to assess, and report publicly in relevant Annual Reports, the effectiveness of the measures introduced to:

- **reduce the visa backlog;**
- **modernise the visa system; and**
- **embed simplification as a key objective of all actions in the Migration Strategy.**

Recommendation 17

6.115 The Committee recommends that, in due course, the Auditor-General and Australian National Audit Office considers conducting a performance audit into the effectiveness of the measures outlined in Recommendation 16.

Garnering trust

6.116 The Committee heard that complexity in the migration system was compounded by a lack of transparency, accountability, and integrity, that further eroded the confidence of applicants, businesses, migration advice agents, and other users.

6.117 Mr Peter Barns, Chair of the Rural Workforce Agencies, described the migration system as being 'like a field of flaming hoops that people have to jump through'. He explained further that:

There could be a hundred hoops they've got to jump through. Each hoop has a little website attached to it that has information that is confusing and is not even connected to the next hoop. I don't know which order you're supposed to jump through these hoops, and they're very costly. So you can get through hoop 2 and

⁸⁵ Australian Government, *Migration Strategy – Action Plan*, [2023], p. 5

⁸⁶ Community and Public Sector Union, *Submission 62*, p. [6].

then discover you've got to go back through hoop 1 because you didn't do it the right way. And it just goes on and on and on. It can take between 12 to 24 months for people to jump through all the hoops. Sometimes they have to go back and redo a hoop, getting burned in the process and costing a lot of money.

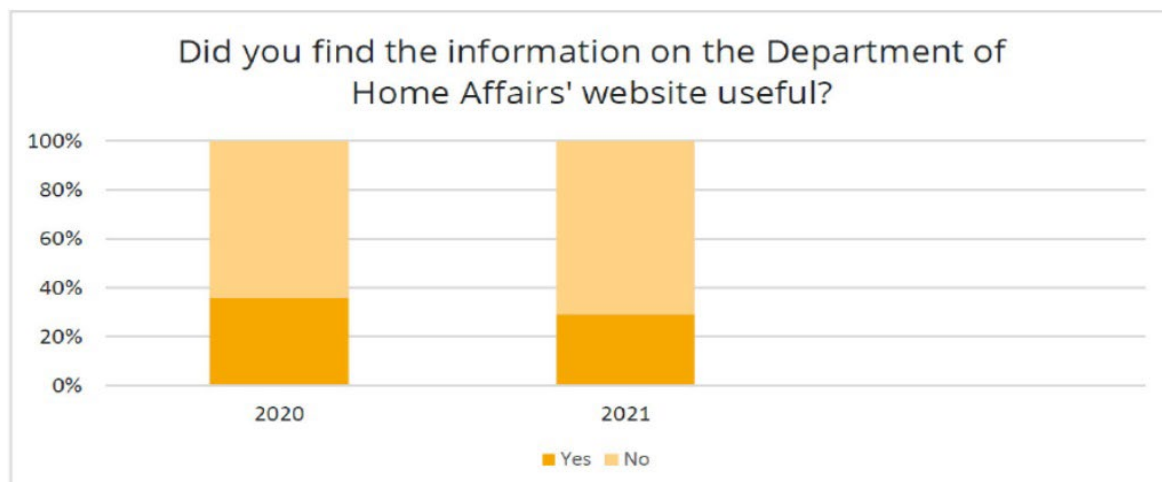
This experience, he summed up, was negative, time consuming, and sent mixed messages to potential applicants.⁸⁷

- 6.118 The MIA told the Committee that frequent policy changes served to 'reduce confidence in the longer-term stability of Australia's migration programs'. They quoted one member who claimed that it was 'practically impossible to give advice that is not immediately compromised by policy change or exercise of hidden discretion and delay at just about every level of decision making'.
- 6.119 The MIA noted also instances of contradictions between legislative changes and Departmental policy interpretations. They wrote with concern that long-standing policies are changed 'without warning or notification'. Adding that the haste in making these changes, has had 'unintended consequences' that are, in turn, addressed by 'further legislative amendment or policy "workaround"'. Additionally, the MIA claimed that these ad hoc changes are 'frequently at odds with the migration legislation' and they contended that they 'would not be upheld in tribunal or judicial proceedings'.⁸⁸
- 6.120 The challenges and opacity faced by applicants and other users of Australia's migration system, the Committee heard, is not confined to the intricacies of legislation and regulations. Many experienced difficulties in being able to navigate the Department's website to find information essential to their application. In 2020 and 2021, VETASSESS surveyed more than 1,400 successful visa applicants who had undertaken a skills assessment. As part of that survey, they asked whether the information provided on the Department of Home Affairs' website was 'useful'. Tellingly the answer was overwhelmingly negative (see Figure 6.3) with some 60 to 70 per cent disagreeing with the statement.

⁸⁷ Mr Peter Barns, Chair, Rural Workforce Agencies, *Committee Hansard*, Videoconference, 14 August 2023, p. 13.

⁸⁸ Migration Institute of Australia, *Submission 87*, p. 15.

Figure 6.3 VETASSESS survey results on addressing the ease of navigating the Department of Home Affairs' website



Source: VETASSESS, *Submission 89*, p. 15

- 6.121 Science & Technology Australia informed the Committee of the challenges faced by universities navigating the migration system in their efforts to recruit the best postgraduate students and researchers. They highlighted inefficient visa processing and a lack of transparency as the key issues faced by applicants and their supporting tertiary institutions. As an example, they related the case of a university which endeavoured to recruit two doctoral students. The students had much in common: they applied to undertake the same course, had the same country of origin, and made their visa application within two weeks of each other. Yet, the experience of these applicants was widely divergent, with one of the students receiving their visa in the following fortnight, while the application of the other candidate languished for more than a year. They conveyed their frustration at the lack of explanation for such delays and concern at the effect of inconsistent visa processing on their ability to recruit top graduates.⁸⁹
- 6.122 The MIA also argued that accountability and transparency in the migration system should not be confined to the operations of government departments. In their view, the same set of standards should extend to those external bodies that ‘provide input on which the Department of Home Affairs relies as part of the legal process for both temporary and permanent residence visa processes’.⁹⁰
- 6.123 Certainly, the Committee heard criticism of the cumulative amount of time taken by the Department along with external bodies. Ms Rebecca Baggiano, Special Counsel at Fragomen (Australia) Pty Ltd, detailed the many conditions that needed to be satisfied for the Skilled Employer Sponsored Regional (Provisional) visa (subclass 494). Taking the example of a human resource advisor, they note that in addition to the applicant requiring three years post qualification employment experience, they would need to achieve a positive skills assessment (a process conducted by

⁸⁹ Science & Technology Australia, *Submission 106*, p. 4.

⁹⁰ Migration Institute of Australia, *Submission 87*, p. 29.

VETASSESS taking 12 to 20 weeks), alongside the nominating employer undertaking four weeks of labour market testing, and endorsement by a regional certifying body. All up, they estimate a visa processing time frame of 10 to 16 months.⁹¹

- 6.124 The Committee also received a submission from three Registered Migration Agents (RMAs), representing an informal group of RMAs and migration lawyers, who referred to the last five years in the industry as a ‘very dark and distressing period’. Drawing on the group’s collective 160 years of experience, they argued that the migration system had become less transparent and more punitive in its operation.
- 6.125 Their submission pointed out the challenges of interacting with the Department. They noted that it had become progressively difficult to make direct contact with decision makers, that increasingly Departmental officers were identified only by a position number and contact is funnelled through online portals. They recorded with frustration the poor treatment that RMA’s experienced when dealing with Departmental officers.⁹²
- 6.126 They recalled an earlier period when the motto of the former Department was “People—our business” (2005–2014⁹³) and officers of the relevant department worked together with RMAs to ‘ensure informed, fair and timely decisions’. That joint mission, they indicated, had ended some time ago and quoted the 2021 submission of Ms Marion Le to the Legal and Constitutional Affairs References Committee’, that, in their view, continued to reflect the current situation:

Migration Agents are seldom recognised for the important role they can play in assessing the veracity of the claims of applicants and communication between Migration Agents and assessing officers is now almost non-existent.⁹⁴

- 6.127 Mr Gabriel Dain, Operations Manager at the Migrant Workers Centre Inc., also reminded the Committee of the effect that an inefficient and convoluted migration system can have on individuals and their trust in that system:

This complex and uncertain migration system has profound implications for migrants' lives and their ability to be full members of the community. Safe, secure, fair jobs are essential for dignity and to be full members of the community for those who are able to work. You cannot feel at home where you are exploited.

⁹¹ Ms Rebecca Baggiano, Special Counsel at Fragomen (Australia) Pty Ltd, *Committee Hansard*, Videoconference, 16 May 2023, p. 38

⁹² Heather Marr, Libby Hogarth and Nish K. Padiya, *Submission 88*, pp. 1, 10-11.

⁹³ See Annual Reports, especially: Department of Immigration and Multicultural and Indigenous Affairs, *Annual Report*, 2004-05; and Department of Immigration and Border Protection, *Annual Report*, 2013-14.

⁹⁴ Heather Marr, Libby Hogarth and Nish K. Padiya, *Submission 88*, p. 11. See also Marion Lê Consultancy, *Submission 110*, pp. 2-3, to the Legal and Constitutional Affairs References Committee, Inquiry into the efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions.

You cannot feel at home where you are discriminated against. You cannot feel at home where you're uncertain about your future or your family's future.⁹⁵

- 6.128 The Committee notes that many of these issues have been considered by previous inquiries. Perhaps most notably the 2022 Legal and Constitutional Affairs References Committee inquiry into *The efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions*. The resulting report contained just two recommendations⁹⁶:

The committee recommends that, as a matter of urgency, the Department of Home Affairs develops a long-term strategy to update its system for the processing of visas; to improve its efficiency, to reduce its complexities, reduce waiting times substantially, and to provide greater transparency for applicants.

and

The committee recommends that the Australian government appropriately resources the Department of Home Affairs to undertake, urgently, the development of the strategy and its timely implementation, as outlined in Recommendation 1.

While the *Migration Strategy* addresses aspects of these recommendations, the Government formally responded to both recommendations with the following:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.⁹⁷

An Expensive Exercise

- 6.129 The Federation of Ethnic Communities' Councils of Australia (FECCA) were one of several witnesses who pointed out that the complexity associated with finding information and making applications results in potential migrants who are more likely to submit an invalid application, be frustrated by their inability to satisfy the requirements, or have their application rejected. Few, they noted, have the capacity to pay for the assistance of an RMA or a lawyer to navigate the system as to do so would incur additional costs of \$4000-5000 on top of the visa fee.⁹⁸

⁹⁵ Mr Gabriel Dain, Operations Manager, Migrant Workers Centre Inc., *Committee Hansard*, Melbourne, 26 April 2023, p. 39.

⁹⁶ Note the 'Additional comments from the Australian Greens' comprised a further 11 recommendations. Legal and Constitutional Affairs References Committee, *Inquiry into the efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions*, March 2022, p. ix, 93-101.

⁹⁷ Australian Government, 'Australian Government response to the Senate Legal and Constitutional Affairs Reference Committee report—The efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions', April 2024, p. [2]. Emphasis in original.

⁹⁸ Federation of Ethnic Communities' Councils of Australia, *Submission 52*, p. 5.

6.130 As Rafael Azeredo told the Committee, there is a lack of equity in the migration system that has the result of placing those with funds in a more advantageous position. He noted, for example, that applicants with greater financial resources might take several English proficiency tests until they gain a better language skill ranking and, by so doing, improve their points score. More generally, he observed the range of expenses potential visa applicants might incur:

In addition to application fees, there are several other costs involved in the application for permanent visas, such as paying for skills assessments, health exams, certified translations, English tests, lawyers and agents, among others.⁹⁹

6.131 The Migrant Workers Centre pointed out that many migrants are vulnerable to unscrupulous actors in the migration service industry. They called for improvements in the quality and integrity of the industry to help prevent unethical businesses from manipulatively profiting from their client's unfamiliarity with the Australian system, or insecure migration status.¹⁰⁰

6.132 Some witnesses regarded the fees imposed on applicants as a moneymaking exercise. In respect to English language tests, Duolingo quoted research recording that Australian migrants found the costs 'intolerably exorbitant' and that these costs, along with the frequent need to retake tests, was 'a reflection of private companies' profit-seeking from migrants without alternatives'.¹⁰¹

6.133 The Grattan Institute, meanwhile, pointed out that Australia's visa fees are higher than comparable countries and 'go far beyond' the amount needed to recoup the costs of administering the system.¹⁰² A joint submission from peak bodies representing the licenced hospitality and accommodation industry also noted the high cost of Australia's fees when compared to those of rival countries but instead called for 'benchmarking' of visa prices to enhance the nation's competitiveness in attracting international talent.¹⁰³

6.134 Drawing on the Productivity Commission's 2016 *Migrant Intake into Australia* inquiry, FECCA noted significant increases in visa charges such that the revenue generated was more than triple the cost of processing the applications. They called on the Australian Government to reduce the cost to 'better reflect the actual cost of visa processing'.¹⁰⁴

6.135 Several submissions made the point that expenses related to visa applications could be minimised if Australia put in place a simpler, easier to navigate migration system. For example, the Australian College of Nursing argued that strategies to attract and retain Internationally Qualified Nurses and Midwives (IQNMs) should begin with

⁹⁹ Mr Rafael Azeredo, *Submission 21*, p. 5-6.

¹⁰⁰ Migrant Workers Centre, *Submission 78*, p. 2.

¹⁰¹ Duolingo, *Submission 22*, p. 3.

¹⁰² Grattan Institute, *Submission 17*, p. 17.

¹⁰³ Australian Hotel Association, Tourism Accommodation Australia, and the Accommodation Association of Australia, *Submission 83*, p. 4.

¹⁰⁴ FECCA, *Submission 52*, p. 5. See also Productivity Commission, *Migrant Intake into Australia*, Inquiry Report, No. 77, 13 April 2016, p. 21.

streamlining application and registration processes and in reducing the associated costs. They noted that the cost of the permanent visa and the expenses associated with registration, alongside the delays associated with these processes, has pushed applicants to relocate to other countries.¹⁰⁵

- 6.136 Likewise, the National Farmers' Federation drew attention to the 'significant costs' associated with skills shortage visas, encompassing visa fees, assistance from migration agents or other experts, and the requirement for sponsoring employers to contribute to the Skilling Australians Fund. While acknowledging some of the costs were 'understandable', others, they believed, could be minimised through simplification and streamlining and, in so doing, reduce visa processing cost and the need to engage migration experts.¹⁰⁶
- 6.137 The joint submission from the Human Rights Law Centre, Migrant Workers Centre and Asylum Seeker Resource Centre noted a dramatic increase in the costs associated with applications in the Family Stream making them inaccessible to applicants on low incomes. Over the ten years from July 2012 to 2022, the visa application fee had risen almost fourfold from \$2,060 to \$8,082. This is additional to the fees for dependent children (\$2,025 for those under 18 and \$4,045 for those over that age) and the 'hidden costs' for required tests and checks, or payment for migration or translation assistance. They hold the position that, '[g]iven the essential nature of family reunion, visas must be accessible to all people regardless of economic circumstances'.¹⁰⁷
- 6.138 The Committee heard that the impact of these costs was not confined to individuals. Consult Australia gave the example of one of their members, a small business called Gamcorp, who noted that the costs associated with hiring a migration agent or lawyer to provide advice on skilled migration was 'not justifiable'. The member noted:
- It can cost up to \$6,000 or more for an initial conversation. This coupled with the visa costs and resources required to attend to the visa process is a lot to ask when I am trying to retain my existing staff and need to obtain staff immediately to meet pipeline demands.¹⁰⁸
- 6.139 Similarly, the Australian Automotive Aftermarket Association recorded the experience of one of their members who runs a specialist mechanical workshop about the financial barriers they face in engaging appropriately skilled technicians. They reported that the more than \$14,000 investment required to bring out potential applicants from the United Kingdom was 'too large for either party with personal and business cash flows tightening'.¹⁰⁹

¹⁰⁵ Australian College of Nursing, *Submission 90*, p. 5.

¹⁰⁶ National Farmers' Federation, *Submission 81*, Attachment 1, p. 14.

¹⁰⁷ Human Rights Law Centre, Migrant Workers Centre and Asylum Seeker Resource Centre, *Submission 120*, p. 27.

¹⁰⁸ Consult Australia, *Submission 27*, p. 2.

¹⁰⁹ Australian Automotive Aftermarket Association, *Submission 101*, p. 8.

Shifting Goalposts

- 6.140 For some contributors, it was stated that the certainty associated with legislation is undermined by policy changes and ministerial decisions that reset direction and processing priorities.
- 6.141 The Human Rights Law Centre, Migrant Workers Centre, and Asylum Seeker Resource Centre drew attention to what they referred to as “dead end” pathways’. Such pathways, they argued, have arisen due to constantly changing visa rules whereby an applicant who may have initially met the requirements for permanent residency, no longer does so following changes during their time in the country. They added that:
- Across visa subclasses – from students, employer sponsored visa holders, refugees and people seeking asylum – visa holders are subjected to an open-ended period of uncertainty as they navigate everchanging requirements that evolve without regard to their future or the lives that they have built in Australia.¹¹⁰
- 6.142 Rafael Azeredo told the Committee that, as part of his research, he met migrants who were working to obtain a qualification or relevant experience that would make them eligible for a skilled visa place, only to find that the occupation was later removed from the list of eligible occupations. Azeredo’s research also revealed that ‘protracted temporariness is imposed on migrants, and not desired by them’. Migrants are willing to invest what money they have, change careers, or work in undesirable jobs in their pursuit of permanent residence status. Yet, too often those he interviewed cited ‘luck’ as playing a role in successfully obtaining permanent residency.
- 6.143 In an environment where ‘[v]isa policies and requirements are constantly changing’, Azeredo pointed out that migrants are at a disadvantage: they ‘have trouble keeping up with all changes and how they open/close pathways for a permanent visa.’ For some migrants the move from a temporary to a permanent visa is dependent on an employer or spouse—a precarious situation in which promises may not be kept, or a business might be sold, damaging the migrant’s chance of success. Further, he added that the longevity of the process for migrants seeking to move from a temporary to permanent status can result in some falling outside the most desirable age brackets, thus losing points, and perhaps becoming ineligible for a place.¹¹¹
- 6.144 The Human Rights Law Centre, Migrant Workers Centre, and Asylum Seeker Resource Centre submission pointed out that ‘in some cases’ the processing time exceeds the period of the visa sought’. Among them they note the Prospective Marriage Subclass 300 visas entitle the holder to stay from 9 to 15 months but, at the time of their submission, took 37 months for 90 per cent of applications to be processed (unchanged for new applications as of May 2024). They also pointed to

¹¹⁰ Human Rights Law Centre, Migrant Workers Centre, and Asylum Seeker Resource Centre, *Submission 120*, pp. 12-13, 32.

¹¹¹ Rafael Azeredo, *Submission 21*, pp. 5-6.

the almost sixfold increase to the time taken to process 90 per cent of Skilled Regional (Subclass 887) visas ranging from 83 to 146 days in 2010-11 up to 542 to 692 days in 2019-20 (a timeframe that has continued to escalate).

- 6.145 Their submission argued that increases in processing times do not relate to visa requirements becoming more onerous, observing that they have remained largely unchanged. Instead, they call for the introduction of standard processing times to help end visa uncertainty, reduce the precarious situation of visa applicants, and minimise damage to Australia's reputation as a migrant destination.¹¹² The National Farmers Federation, similarly, called for 'key performance targets' in relation to visa processing, but went further in suggesting that they be 'pegged' to funding and that the Department be more transparent by 'publishing clearance rates against those targets'.¹¹³

Committee Comment

- 6.146 The Committee welcomes the recent commitment by the Australian Government to establish a best practice service level agreement for processing times as part of its Migration Strategy. It is a vital step in helping to end the visa uncertainty that is faced by many migrants onshore and offshore hoping to make Australia their home.
- 6.147 Under the current system, where elongated processing times have been prevalent and more recently as ministerial directives on priorities push the processing of some visas to the bottom of the pile, the Committee feels that a standardised framework needs to be introduced to allow more transparency and give certainty to migrants.
- 6.148 It is also the Committee's view that, where possible, third-party providers contracted to deliver visa application assessment services should face scrutiny and be held accountable if they too do not abide by a best practice service level agreement.
- 6.149 Further, the principles of best practice, fairness, and equity, should not be limited to visa processing times. The Committee believes that a more transparent and thus accountable system is one that acknowledges visa applicants, be they onshore or offshore, as humans rather than numbers, and allows them to make informed decisions about their future.

Recommendation 18

- 6.150 The Committee recommends that the Australian Government provides greater transparency to applicants, agents, and sponsors regarding the progress of visa applications.**

¹¹² Human Rights Law Centre, Migrant Workers Centre, and Asylum Seeker Resource Centre, *Submission 120*, pp. 7-9.

¹¹³ National Farmers Federation, *Submission 81*, Attachment 1, p. 15.

Recommendation 19

- 6.151 The Committee recommends that the Australian Government requires external agencies contracted to perform assessment services for visa applications to abide by a best practice service level agreement for processing times.**

Department fundamentals

Staff

- 6.152 As discussed in Chapter 4, since late 2022 there have been a series of Government announcements allocating funding to address visa processing backlog issues. Initially, the funding was to provide surge capacity and then extended to provide support into 2024. The Department's own submission noted that it was 'now finalising more visas than before the pandemic' and that this funding for visa processing officers was a measure to 'continue efforts to manage the number of visa application on hand'.¹¹⁴
- 6.153 Yet, as the CPSU's answer to a question on notice indicated to the Committee, visa backlog issues might more appropriately be described as a symptom of long standing under staffing of the Department. The CPSU provided the Committee with evidence that between 2013 and 2024 average staffing levels had either decreased or stagnated 'irrespective of increased functions or service delivery volumes' (see Table 6.1).

Table 6.1 Department of Home Affairs average Staffing Levels, 2013-14 to 2023-24

Financial Year	Department of Home Affairs, ASL
2013-14*	14,304
2014-15	13,730
2015-16	13,750
2016-17	14,000
2017-18	13,950
2018-19	14,120
2019-20	13,751
2020-21	14,072
2021-22 (March)	13,612
2021-22 (October)	13,199

¹¹⁴ Department of Home Affairs, *Submission 127*, p. 10.

2022-23	14,179
2023-24	14,430

Source: Australian Government Budget Papers cited in Community and Public Sector Union, Answer to Question on Notice, Public Hearing, 16 May 2023, p. 2.

- 6.154 They also drew on the findings of a February 2022 independent review into the Department's budget outcomes conducted by Proximity consultants. The report found that funding had not kept up with operational needs, with the result that some of the Department's activities were 'underfunded and under resourced'.¹¹⁵
- 6.155 The Committee notes that the Department, responding to questioning on the report by the Joint Committee of Public Accounts and Audit, acknowledged that it
- ... manages the ongoing resourcing challenges, including ASL [Average Staffing Levels], through ongoing trade-offs across operational delivery systems and processes, and people – which have come at a cost.¹¹⁶
- 6.156 The final report of the *Review of the Migration System* made it clear that a combination of factors— 'outdated ICT architecture, cumbersome processes and legislative complexity' —had diminished the capacity of staff to perform at a high level and had a corrosive effect on staff morale. Further, they cautioned that reforms stemming from their review would 'place further strain on ICT systems and resources that are struggling'.¹¹⁷
- 6.157 The CPSU, too, pointed out that there has been a significant 'cost' to staff morale. Citing the results of the 2022 Home Affairs APS Census they noted:
- Only half (49%) would recommend Home Affairs as a good place to work and only two in five (43%) say Home Affairs really inspires them to do their best work every day. Less than two in five (37%) believe they are fairly remunerated for the work they do. Only two in five (44%) believe internal communication within their agency is effective and less than a third (31%) believe change is managed well in Home Affairs.¹¹⁸
- 6.158 While recognising that policy changes had been flagged to make the migration system 'quicker and easier', Ms Brooke Muscat, National President of the CPSU, stated that currently the Department did not have the 'capability or capacity' to implement these changes. She implored that addressing these resourcing issues 'has to be central to fixing the migration system'.¹¹⁹

¹¹⁵ Community and Public Sector Union, Answer to Question on Notice, Public Hearing, 16 May 2023, pp. 1-2.

¹¹⁶ Department of Home Affairs, *Submission 14*, p. [3]; Joint Committee of Public Accounts and Audit, Inquiry into Commonwealth Financial Statements, 2021-22.

¹¹⁷ Australian Government, *Review of the Migration System*, Final Report, pp. 35, 172.

¹¹⁸ Community and Public Sector Union, *Submission 62*, pp. [5-6].

¹¹⁹ Ms Brooke Muscat, National President, Community and Public Sector Union, *Committee Hansard*, Videoconference, 16 May 2023, p. 42.

- 6.159 The Committee received multiple submissions that called for better resourcing and staffing of the Department of Home Affairs. Most made the connection between under resourcing and decreased staffing with the elongation of processing times. For example, the joint submission made by the Human Rights Law Centre, Migrant Workers Centre, and the Asylum Seeker Resource Centre, drew attention to the progressive worsening of processing delays, even when requirements remained unchanged. In their view, this suggested that delays resulted from ‘under-resourcing and de-prioritisation of visa processing functions’.¹²⁰
- 6.160 Submissions from VETASSESS; the National Farmers’ Federation; the Australian Chamber of Commerce and Industry; and jointly from the Australian Hotels Association, Tourism Accommodation Australia, and Accommodation Association of Australia; were among several that made the point that funding and/or resourcing must be maintained at appropriate levels, not just be a one-off boost.¹²¹ The range of industries—in this instance, an assessing authority, and peak bodies representing the disparate sectors of farming, business associations, and of hospitality and accommodation providers—indicative of broad-ranging concern and the impact of slow processing on their ability to attract and secure migrant workers across an array of industries.
- 6.161 The Asylum Seeker Resource Centre (ASRC) drew the Committee’s attention to delays in the processing of protection and humanitarian visas which, unlike some other visa categories, had not seen improvement. They cautioned, however, that speeding up processing of these visas should not be at the expense of Departmental interviews with applicants. These interviews, the ASRC maintained, remain essential to procedural fairness as applicants are given appropriate time to explain their claims for protection. They urged the reintroduction of the ‘90 day rule’ into the Migration Act¹²², ensuring that all protection visa applications are determined within 90 days. Reintroduction of this principle, that they noted has been endorsed by successive Australian Labor Party National Platforms, would assist in appropriately directing funding so as to reduce delays in processing.¹²³
- 6.162 The submission from the CPSU also acknowledged the damaging effect of understaffing that:

¹²⁰ Human Rights Law Centre, Migrant Workers Centre, and Asylum Seeker Resource Centre, *Submission 120*, p. 8.

¹²¹ VETASSESS, *Submission 89*, Attachment 1, p. iii, 28; National Farmers Federation, *Submission 81*, Attachment 1, p. 15; Australian Chamber of Commerce and Industry, *Submission 79*, pp. 4-5; and Australian Hotel Association, Tourism Accommodation Australia, and the Accommodation Association of Australia, *Submission 83*, p. 4.

¹²² The 90-day principle for resolving protection visas had been introduced under the *Migration and Ombudsman Legislation Amendment Act 2005* and was repealed by the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014*.

¹²³ Asylum Seeker Resource Centre, *Submission 86*, p. 4. Australian Labor Party National Platform, 49th National Conference, 17-19 August 2023, <https://www.alp.org.au/media/3569/2023-alp-national-platform.pdf>, viewed 22/04/2024.

... [y]ears of cuts and under resourcing left backlogs' and that '[m]ore complex work ... [was] put aside to clear other backlogs, creating bigger backlogs for more complex visas.¹²⁴

- 6.163 The CPSU also pointed to the need for a culture shift in the Department. They noted that staff were working in 'an incredibly challenging and resource constrained environment' and hinted that this pressure was not conducive to delivering the best outcomes. They suggested that in recent times, staff processing visas had focused on 'identifying reasons to deny visas' rather than having 'a clear understanding of how to process visas efficiently' and called for training to reverse this trend. Alongside this they called for a change management process to support the implementation of visa regulatory changes.¹²⁵
- 6.164 They also noted that their members believed that migration regulations had been used to 'target and "punish" specific cohorts'. While concerned generally about the deprioritisation of family visas, the CPSU particularly drew attention to Ministerial Direction 80 under which sponsors holding a permanent visa who had originally arrived by boat as an Unauthorised Maritime Arrival (UMA), were accorded the lowest processing priority.¹²⁶ The Committee notes that in February 2023, the Australian Government took action revoking Ministerial Direction 80 and replacing it with Ministerial Direction 102, whereby family migration application that had been subject to ministerial intervention are now accorded the highest processing priority.¹²⁷
- 6.165 Apparent in the evidence gathered was that visa processing challenges extended beyond understaffing. Some submitters drew the Committee's attention to the need for training to better equip Department of Home Affairs staff to appropriately deal with complex cases. The evidence from both Women's Legal Services Australia (WLSA) and the joint response from the Immigration Advice and Rights Centre and Unions NSW pointed to the need for enhanced resourcing and training of Departmental staff in relation to family violence and the effects of trauma.¹²⁸

Systems

We are obviously seeing pressures in regard to our data and systems, knowing that we're dealing with aged systems today.

¹²⁴ CPSU, *Submission 62*, p. [4].

¹²⁵ CPSU, *Submission 62*, pp. [2, 4-5].

¹²⁶ CPSU, *Submission 62*, pp. [4-5].

¹²⁷ Department of Home Affairs, 'Family visa processing priorities', Department of Home Affairs webpage, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/family-visa-processing-priorities>, viewed 23 May 2024.

¹²⁸ Immigration Advice and Rights Centre and Unions NSW, Answer to Question on Notice, Public Hearing, 16 May 2023; Women's Legal Services Australia, Answer to Question on Notice, Public Hearing, 12 May 2023.

6.166 The above remark on the state of the Department of Home Affairs ICT infrastructure was made in March 2023 by Ms Justine Saunders APM, then Chief Operating Officer at the Department, to a Joint Committee of Public Accounts and Audit inquiry.¹²⁹

6.167 As noted in Chapter 4, the ageing ICT programs supporting the current migration system have faced criticism in the past, and previous wide-ranging attempts at overhauling them have stalled. The Global Digital Platform project, for example, was cancelled more than two years into the procurement process to allow the Australian Government to pursue a new policy direction.¹³⁰ As Mr Michael Pezzullo, then Secretary of the Department of Home Affairs, told the Committee:

You asked about whether such technology is around [for an integrated digital platform]. Yes. Have we trialled it? Yes. We actually had a red team and a blue team playing with the technology. The staff productivity, staff engagement and staff effectiveness just went through the roof, because, instead of manually moving bits of data around and cutting and pasting, your day got more efficient. The machine worked with you to help to triage your cases. Higher risk was assigned to more problematic applications, where the system was picking up potentially fraudulent or perhaps concerning documents attached to the application. They would be streamed off to deeper investigative areas. The officers were able to tier their work.

As with any modern industry, you have tools that are actually helping, from a customer engagement point of view, the officer to work more efficiently. Does the technology exist? Absolutely. In fact, it's in most large private enterprises; it is just not in government, which is a shame.¹³¹

6.168 The Committee heard that the Department of Home Affairs has again secured funding to upgrade its existing visa system. The Department's submission noted that \$27.8 million over two years had been allocated in the 2023-24 Budget for the upgrade, with the aim of making visa service delivery more efficient and to enhance Australia's attractiveness as a destination for global talent.¹³²

6.169 The funding followed the final report of the *Review of the Migration System*, which judged that:

High performing ICT systems and the use of data and digital technologies are key to the migration system's success.¹³³

6.170 Ms Stephanie Foster, then Associate Secretary of Immigration at the Department of Home Affairs, told the Committee that a 'core part' of the reform package arising from

¹²⁹ Joint Committee of Public Accounts and Audit, Inquiry into Commonwealth Financial Statements 2021-22, *Committee Hansard*, Canberra, 31 March 2023, p. 17.

¹³⁰ Australian National Audit Office, *Procurement of the Permissions Capability: Department of Home Affairs*, Auditor-General Report No. 34, 2022-23, Performance Audit, pp. 6-7.

¹³¹ Mr Michael Pezzullo AO, Secretary, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 15.

¹³² Department of Home Affairs, *Submission 127*, p. 10.

¹³³ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 167.

the review would be ‘new, underpinning ICT’. She indicated that there were three primary drivers for the reform: ease of user experience, reinforcing the attractiveness of Australia; improving staff efficiency, morale, and motivation; and enhancing the integrity of the system.¹³⁴

- 6.171 The CPSU provided a different perspective on past attempts at upgrading the visa processing system. Their submission indicated that previous ventures failed as they did not make use of the knowledge and skills of those within the Department. The CPSU outlined several of these costly attempts, including the outsourced Generic Visa Portal that they described as ‘not fit for purpose and was decommissioned costing hundreds of millions of dollars’. So, while the CPSU agrees that there is an urgent need for investment to replace of the almost thirty-year-old legacy visa processing platform, they called for this to be ‘[a]n in-house upgrade, involving APS staff, who know about the system currently in place’.¹³⁵
- 6.172 The Committee heard about recent changes to New Zealand’s approach to improving their visa processing. From the end of January 2022, Immigration NZ began phasing in paperless visa processing technology to make applying for a visa easier and to improve processing. The new system advises applicants of the information they need to provide based on their visa type, nationality and the location they are travelling from, and uses smart forms to help individually tailor the process. Where possible, the system makes use of information applicants have previously provided to Immigration NZ, such as medical certificates, so as to reduce processing times and complexity. Applicants receive email notifications and have access to real time status updates to provide a more transparent process with clarity about any actions required.¹³⁶
- 6.173 Mr Richard Owen, General Manager of Immigration Risk and Border at Immigration New Zealand, told the Committee that their processing system was one of three key aspects—alongside risk and their staff—that were integral to improving processing speed and decision making. The system, he noted, provided an opportunity to incorporate more automation into the front end of the process, including much of their identity requirements. Further, the enhancements enabled ‘direct system-to-system engagement’ with other agencies to speed up processes including police and national security checks. He indicated that the aim was for the systems to ‘do the heavy lifting’ at the same time as retaining ‘the human intelligence to work on those more difficult cases’.¹³⁷

¹³⁴ Ms Stephanie Foster, Associate Secretary, Immigration, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 14.

¹³⁵ CPSU, *Submission 62*, pp. [1-2].

¹³⁶ Immigration New Zealand, ‘Enhancements to Immigration Online’, INZ website, <https://www.immigration.govt.nz/about-us/our-online-systems/enhancements-to-immigration-online>, viewed 8 August 2023; Immigration New Zealand, *Enhancements to Immigration Online: A guide for external users*, April 2024, p. 8.

¹³⁷ Mr Richard Owen, General Manager of Immigration Risk and Border, Immigration New Zealand, Ministry of Business, Innovation and Employment, New Zealand Government, *Committee Hansard*, Canberra, 9 August 2023, pp. 5-6.

- 6.174 Yet, other evidence heard by the Committee on the potential use of automation in visa processing was mixed. For instance, VETASSESS recommended that the Australian Government ‘invest in digital solutions to automate those parts of visa processing that lend themselves to automation.’¹³⁸ The Law Council of Australia (Law Council), however, called for automation to be subject to ‘broader parliamentary and government scrutiny’. The Law Council, while recognising that ‘automated decision-making can be beneficial to administrative law outcomes when properly employed’, cautioned that automation needed to be authorised in the empowering legislation. They also urged that its use be in line with ‘principles of lawfulness, fairness, rationality, and transparency’.¹³⁹
- 6.175 The Australian National Audit Office (ANAO) drew the Committee’s attention to their recent report on the Family Migration Program. This report made it clear that the Department’s ageing ICT system hindered its ability to provide transparency via digital updates on the progress of applications. The Department told the ANAO that it, was ‘limited by its systems’ and moreover that ‘the nature of visa processing makes it difficult to breakdown information that would be meaningful and helpful’.¹⁴⁰
- 6.176 Having heard the frustration of some witnesses regarding the need to submit (and sometimes resubmit) the same documentation to different assessing bodies, the Committee asked the Department of Home Affairs about the viability of developing a secure single portal. Ms Foster indicated that while they had not looked specifically at the possibility of a portal, the capacity to provide ‘a means by which the supply and demand can connect as quickly as possible’ was part of their thinking. Mr Pezzullo added some words of caution. In line with the Law Council, he suggested that while such a portal might offer benefit, the sharing of information would be subject to information sharing protocols and need to be authorised in the legislation. And, while the Department didn’t have any interest in locking up data, it was a matter of balancing privacy and security with ‘appropriate sharing, where it’s of benefit’.¹⁴¹

Committee Comment

- 6.177 The Committee acknowledges that the Australian Government has made considerable investment in funding and resourcing many aspects of the migration functions of the Department of Home Affairs. It is also heartened by many of the new directions set out in the *Migration Strategy*. The Committee particularly notes the final action of the *Migration Strategy*’s action plan to ‘[s]implify the migration system to improve the experience for migrants and employers’. And while, of course, the Committee endorses this objective, it also suggests that this action be directed at improving the experience for Departmental staff as well (rather than perhaps being a byproduct of that process).

¹³⁸ VETASSESS, *Submission 89*, Attachment 1, p. 35.

¹³⁹ Law Council of Australia, *Submission 117*, p. 37.

¹⁴⁰ Australian National Audit Office, *Management of Migration to Australia – Family Migration Program*, Auditor-General Report No. 16, 2022-23, p. 41

¹⁴¹ Mr Michael Pezzullo AO, Secretary, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, pp. 6-7.

- 6.178 The Committee also recognises that the Australian Government has allocated \$54 million to establish real-time priority processing of Protection visa applications to help disrupt those abusing the system and ensure faster processing. The Committee notes the statement by the then Minister for Immigration, Citizenship and Multicultural Affairs that Australia's 'protection system and the backlogs will take time to fix'.¹⁴² As these new measures take effect, the Committee views that it would be appropriate to reintroduce the '90-day rule' for the processing of protection visas. Reintroducing this provision into the Migration Act would provide certainty to applicants (and the organisations that support them) that determinations on their refugee status are finalised in a timely manner.
- 6.179 Further, the Committee welcomes the Government's commitment to provide \$27.8 million over two years to fund an upgrade to the visa processing system. To help ensure that this new system is fit-for-purpose and has the full support of the staff who will use the system on a daily basis, it is imperative that Departmental staff with the relevant knowledge and skills are a vital part of the team who plan, design and implement any new system.
- 6.180 Departmental staff are an asset that the Committee believes require ongoing support. As indicated by the Committee's comments above, staff should be meaningfully involved in reforms underway in the Department. Investment in staffing should not just be in staffing levels, but investing to ensure that there is a positive change in workplace culture and that staff feel that their work is adequately resourced.

Recommendation 20

- 6.181 The Committee recommends that the Australian Government considers reintroducing the '90-day rule' into the *Migration Act 1958* to ensure that refugee status determinations are concluded within 90 days.**

Recommendation 21

- 6.182 Recognising that reform of the migration system will place further pressure on Departmental systems and staff, the Committee recommends that the Department of Home Affairs reintroduces a change management process to better support staff, guide implementation of reforms, and monitor the effect of this process.**

¹⁴² Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'Restoring integrity to our protection system', *Joint Media Release*, 5 October 2023, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/restoring-integrity-protection-system.aspx>, viewed 22 May 2024.

Recommendation 22

- 6.183** The Committee recommends that the Australian Government makes use of the existing skills and knowledge of Department of Home Affairs staff during all stages of the work to upgrade the existing legacy visa processing systems.

Recommendation 23

- 6.184** The Committee recommends that the Australian Government's commitment to 'modernise the visa system experience for migrant and employers' includes:
- automation of low-risk processes, and
 - a real time tracker for applicants to chart the progress of their application.

Recommendation 24

- 6.185** The Committee recommends that the Department of Home Affairs conducts a feasibility study into the creation of a secure digital portal for visa application documentation and investigate legislative changes that would enable sharing of this information with trusted partners.

The Cost of Time

- 6.186** The lack of timeliness of the current migration system has faced considerable criticism.
- 6.187** The Australian Government acknowledges that the current system is regarded as 'lacking in efficiency and fairness'. Moreover, they add that this 'refrain' was common across most elements of the system, be it occupation lists, skills assessments, or the visa application process.¹⁴³
- 6.188** Evidence gathered during this inquiry reveals that very real human costs are incurred by excessive passage of time. And, in turn, the cumulative impact can be felt locally, state-wide, and nationally. As the Tasmanian Government told the Committee, ongoing delays in the processing of provisional and permanent visas
- ... is not only affecting the growth of business, but also the wellbeing of the individuals involved who are eager to start work, or progress their careers, and contribute fully to the Tasmanian community.¹⁴⁴

¹⁴³ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 36.

¹⁴⁴ The Tasmanian Government, *Submission 115*, p. 5.

Individuals, couples, and families

- 6.189 AMES Australia was one of several submitters who highlighted the effect of lengthy separation in the family migration program. They note that prolonged separation of family members has negative impacts on the physical and mental wellbeing of migrants and applicants and, in turn, this can be the cause of social as well as financial stress. They particularly drew attention to the way in which prolonged family separation can have a detrimental effect on settlement success. Among their clients they noted many are struggling to arrange for their partners and children to join them, while others are left worrying about the welfare of parents left overseas.¹⁴⁵
- 6.190 The joint submission by the Immigration Advice and Rights Centre and Unions NSW, likewise, pointed to the lengthy wait times and excessive cost of partner visas as placing ‘undue strain’ on couples. At the same time, they noted that capping and queueing arrangements for parent visas resulted in processing times that were so long that few ‘have any prospect of seeing a Parent visa granted’.¹⁴⁶
- 6.191 Currently, the Committee notes that applications by a parent, aged parent, remaining relative or aged dependent relative make up the lowest category on the family visa processing priority list. In respect to permanent visas, the estimated processing time frame for contributory parent visas is more than a decade while for parent and aged parent visas the wait extends to almost three decades. (The contributory visa offers a *somewhat* expedited process with an allocation of more places but requires the payment of a much higher fee.)¹⁴⁷
- 6.192 Commenting on parent visas, the Final report of the *Review of the Migration System* remarked that ‘[p]roviding an opportunity for people to apply for a visa that will probably never come seems both cruel and unnecessary’. They suggested that the Australian Government make improvements to the temporary parent visa and consider following the lead of Canada and New Zealand and adopt a lottery approach to manage demand and avoid backlogs.¹⁴⁸
- 6.193 Peter Mares, writing for the Scanlon Foundation Research Institute in the report, *The Parent Conundrum: Considering Australia’s troubled approach to parent migration*, explores the dilemma that while there is a social desire for migrants to bring out their parents, economically these older migrants do not fit the desired profile of those most likely to make the biggest fiscal contribution over their lifespan. While conceding that the lottery approach to parent visas offers a fairer system, Mares likens it to another queue in which families face the same ‘mixture of hope, anxiety and uncertainty,

¹⁴⁵ AMES Australia, Answer to Question on Notice, Public Hearing, 16 May 2023, p. [3].

¹⁴⁶ Immigration Advice and Rights Centre and Unions NSW, *Submission 32*, paras. 51-52, 77-81.

¹⁴⁷ Department of Home Affairs, ‘Family visa processing priorities’, Department of Home Affairs website, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/family-visa-processing-priorities>, viewed 29 May 2024; and Department of Home Affairs, ‘Capping and Queueing of Parent visa applications’, Department of Home Affairs website, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/family-visa-processing-priorities/parent-visas-queue-release-dates>, viewed 29 May 2024.

¹⁴⁸ Australian Government, *Review of the Migration System*, Final Report, March 2023, pp. 137, 140-42.

unable to plan for the future'. In his view, the alternative of scrapping permanent parent migration altogether would at least provide certainty rather than false hopes.¹⁴⁹

Box 6.1 Case Study—The parent visa waiting game

The Home Affairs website now advises that any new applicants applying for the contributory parent visa will face a processing time of twelve years.

"When I saw this first time, I didn't sleep for few days, constantly worried about my dad," says "Nam".

Nam migrated to Australia in the early 2000s. Ten years ago, his mother and brother were killed in an accident in their homeland in Southeast Asia, leaving his father alone on their small family farm. His father is in good health, but he is now 78, and Nam is concerned for his dad's future. They were considering selling up everything they own to pull together the \$47,955 for a parent visa, but he realises his father would be at least 90 before he was able to come to Australia. "Now I feel that I may lose my dad as well in this process," he tells me by email. "Sometimes I get panic attacks and anxiety because of the visa processing time."

Nam considered going back to his homeland to care for his father. But he needs to keep working in Australia to pay child support for his two children, and besides, he says, "I don't want to leave my kids either."

"I never took a single \$ from Centrelink and always worked hard and paid my taxes," Nam writes. "I feel that the processing time for paid parental visa is ridiculously high, there may be many parents who won't survive that long." Nam says he feels "lost and hopeless".¹⁵⁰

6.194 The 2023 *Rapid Review into the Exploitation of Australia's Visa System* found that:

Protracted processing times for some visa subclasses and merits review processes are motivating abuse of Australia's visa system.

Discussion of this finding in the review focused on abuse of the visa system by applicants. Yet, the evidence heard by this Committee illustrates that migrants holding temporary visas were also vulnerable to exploitation due to the instability of their migration status.¹⁵¹

6.195 The ASRC, for instance, drew attention to the precarious situation of those placed on bridging visas, a visa that was designed as a short-term measure. Those seeking asylum, they noted, were likely to experience processing delays across several stages of review—the Department, merits review, and judicial review. During this process, applicants can spend a decade on a series of temporary bridging visas,

¹⁴⁹ Peter Mares, *The Parent Conundrum: Considering Australia's troubled approach to parent migration*, Scanlon Foundation Research Institute, Narrative 11, July 2023, pp. 5-8, 30, 67.

¹⁵⁰ Peter Mares, *The Parent Conundrum: Considering Australia's troubled approach to parent migration*, Scanlon Foundation Research Institute, Narrative 11, July 2023, pp. 5-6.

¹⁵¹ Christine Nixon, *Rapid Review into the Exploitation of Australia's Visa System*, 31 March 2023, pp. 24-28.

unable to take up long-term employment. The uncertainty of their future undermines ‘their rights their health and their ability to effectively contribute to our society’ and places individuals at risk. Employers, they noted, are reluctant to engage people who regularly lose their right to work. In this environment those on bridging visas are more likely to take up illegal employment under exploitative and sometimes dangerous conditions.¹⁵²

- 6.196 A report submitted by the Migrant Workers Centre titled *Insecure by Design* drew on a survey of more than 1,000 migrant workers and a further 65 in depth interviews focusing on their engagement with the workplace and with the migration system. They observed that many migrant workers get caught in a loop:

You need a permanent visa to get a decent job, and you need a decent job from which to earn migration points to get a permanent visa.

Further, their survey demonstrated that those on temporary visas were more likely to report feeling unsafe at work with interviews revealing that some experienced discrimination and bullying.¹⁵³

Box 6.2 Case Study—Temporary visa facilitating labour exploitation

I studied accounting in Australia. After graduation, I got a provisional visa and found a job in my industry, too. But my boss took advantage of my migration status and underpaid me.

To apply for jobs in Australia, you need to disclose what visa you have. The boss understood that I had to stay in the area at least two years to meet my regional visa requirements and apply for permanent residency. There were not many accounting job opportunities in the area, and my boss knew it very well.

He forced me to open an ABN and work for him as a contractor even though I was clearly his employee with regular hours of work. He didn't have to pay me superannuation, penalty rates, nor overtime because technically I was not his employee.

Besides, he took 10% off my pay to claim GST on my behalf. I had to stay on standby 24/7 for him, and I wasn't even covered by Workers Compensation insurance. My visa exposed me to exploitation and workplace safety risks.¹⁵⁴

- 6.197 Drawing on case studies such as that above, the FECCA pointed out that the cost of Australia's visa process varies in its impact on applicants and their families. Beyond the actual visa application charge, there is the cost of time be it spent trying to find suitable employment, satisfying visa residency conditions, waiting to be eligible for government services, continuing delays in visa processing, or the mental impact of

¹⁵² Asylum Seeker Resource Centre, *Submission 86*, p. 3.

¹⁵³ Migrant Workers Centre, *Insecure by Design: Australia's migration system and migrant worker's job market experience*, Migrant Workers Centre Inc, Melbourne, 2023, pp. 6-8, 40-45.

¹⁵⁴ 'Interviewee No. 2072701', Migrant Workers Centre, *Insecure by Design: Australia's migration system and migrant worker's job market experience*, Migrant Workers Centre Inc, Melbourne, 2023, p. 45

this experience. Underscoring the longevity of this experience, one member told FECCA that they had been ‘navigating the process from temporary visa holder to Permanent Residency to citizen for so long their children were now adults wanting to go to university’, a prospect that was unaffordable as they would be charged international student fees.¹⁵⁵

- 6.198 Applicants experiencing lengthy delays span visa types, including those whose strong financial positions had enabled their eligibility. The Committee heard of the challenge faced by a family who arrived on a Business Innovation and Investment (Provisional) visa (Subclass 188) in the Significant Investor stream. They then applied for the permanent visa (Subclass 888) before spending months on a bridging visa awaiting processing of their substantive application. The submitter highlighted the uncertainty and lack of transparency associated with this process; months passed by without any communication from the department at the same time as their visa processing time continued to blow out (beyond double the time that they were initially advised). In addition, their long-term temporary status had a personal, professional, and financial impacts including being excluded from employment opportunities and being required to pay stamp duty surcharge, alongside the uncertainty arising from their vulnerable residential status.¹⁵⁶
- 6.199 While a review of the Department of Home Affairs’ Family Migration Program by the ANAO found that the design and delivery of the program were ‘largely effective’, they outlined ‘shortcomings in implementation’ that impacted ‘the department’s effectiveness and efficiency in delivering visa services’. Among them they noted that the Department lacked a ‘clear policy’ to determine when a case was ‘excessively delayed’ Their recommendations drew attention to the need to establish processes to ‘identify, analyse and remediate potential processing inactivity’ and for ‘detecting and remediating aged cases’.¹⁵⁷

Box 6.3 Case Study—Rifat and family, the long road to a permanent visa

Rifat, his wife Ajda and young son are Syrian. When the situation became unsafe in Syria, Rifat moved with his family to Saudi Arabia and later applied for a visa to come to Australia. Rifat entered Australia on a Skilled Regional (Provisional) visa (subclass 489) with the intention to make Australia their home. The application cost for himself, his wife and child exceeded 7 thousand Australian dollars. Their visa was nominated by the Northern Territory (NT) government based on Rifat’s expertise as a mechanical engineer allowing them to work and live only within the specified region for a minimum of 2 years.

Upon acceptance, Rifat assumed that if the NT has listed his skill on the relevant skilled occupation list, he would quickly find a suitable job in his field. Unfortunately, this was not the case and he referred [to] their time in Australia ... [as] ‘the most difficult year in our life’. Prepared to exhaust their savings, it took Rifat 10 months to find a job as a

¹⁵⁵ Federation of Ethnic Communities’ Councils of Australia, *Submission 52*, pp. 5, 10.

¹⁵⁶ Name Withheld, *Submission 29*, pp. [1-2].

¹⁵⁷ Australian National Audit Office, *Submission 121*, pp. 3, 5; ANAO, *Management of Migration to Australia – Family Migration Program*, Auditor-General Report No. 16, 2022-23, pp. 74-76, 81.

mechanical engineer working as a casual taxi driver after 3 months until this time to afford to live.

...

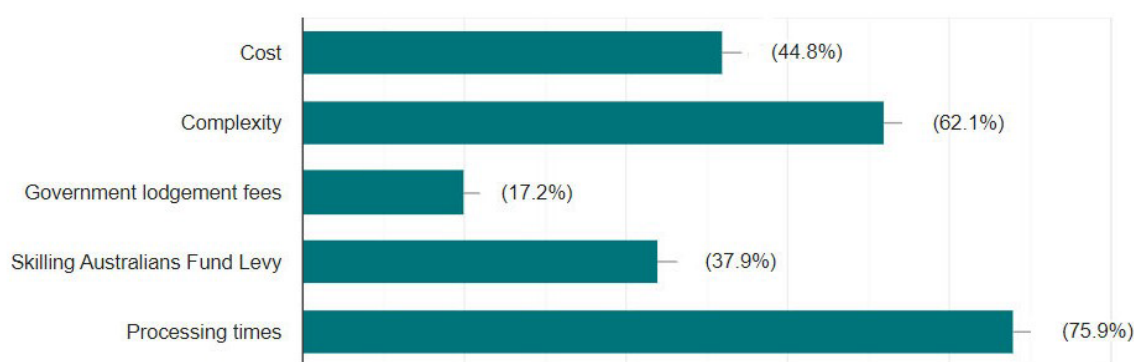
Now, Rifat has fulfilled the obligations of his visa (2 years in NT) and applied for a permanent visa allowing him and his family to have stability. When he originally entered Australia, the wait time for processing applications for permanency for Skilled Regional visa Subclass 887 was 7-8 months. At time of interview, the wait time had increased to 18 months, and at July 2020, 21 months. The decision to come to Australia was made assuming processing times would not increase by 162 per cent within 2 years. Whilst they wait for their application to be processed, Rifat said 'I can't move with this visa. It's like we are in a big jail'. When interviewed their visa was due to expire in 5 months. Rifat said 'this processing time will make us struggling here and depressed'.¹⁵⁸

Businesses and industries

6.200 A survey conducted by Vialto Partners of their clients and industry stakeholders found that the primary barrier to use of the Australian visa program was processing times (See figure 6.5).¹⁵⁹ This finding reflects the evidence presented to the Committee revealing that delays in visa processing have a very real impact on businesses across the spectrum of sectors. Further, delays associated with the complexity of navigating the migration system, are particularly apparent among smaller businesses who do not regularly employ migrant workers and lack the resources and skills to effectively engage with the process.

Figure 6.4 Vialto Partners' client and industry stakeholder survey on barriers to using the Australian visa program

What are the barriers to using the Australian visa program



Source: Vialto Partners, *Submission 28*, p. [3].

¹⁵⁸ Federation of Ethnic Communities' Councils of Australia, *Submission 52*, p. 10.

¹⁵⁹ Vialto Partners, *Submission 28*, p. [3].

- 6.201 Consult Australia's submission drew on the example of one of their members, a regional small consultancy business, who was frustrated with the lack of information available to them as a potential employer of migrant workers. The time that they devoted to understanding and complying with the visa requirements including their own reporting obligations, they pointed out, was 'a cost to us, because we spend time looking this up and trying to seek assistance'.¹⁶⁰
- 6.202 As the Master Builders Association submission illustrated, delays and complexity in the migration system go hand in hand. The association quoted feedback from a construction sector employer revealing the exasperation of those trying to navigate the system:
- It's easier and quicker to go to other countries. I have just lost a guy from Chile as he can go to Canada much easier than here. I can't blame him as the hoops we have had to jump through here are painful.¹⁶¹
- 6.203 The Australian Small Business and Family Enterprise Ombudsman (the Ombudsman) drew the Committee's attention to a recent case of a small business owner who decided to sponsor the employment of an overseas applicant but, unfamiliar with the process, and without Departmental guidance, inadvertently failed to fulfil the job advertising requirements. He then mistakenly believed he had already supplied additional information requested by the Department before his application was declined. To appeal the decision, however, was costly and involved a process that may take up to three years, so the business owner chose to restart the application process from the beginning.
- 6.204 More generally, the Ombudsman noted that local businesses were at a disadvantage due to elongated wait times and expensive application processes. To speed up the process they called for Department staff to conduct an early review of applications to ensure that the required paperwork was present and to notify applicants of any omissions to ensure that the application process is not delayed. They also advocated for the introduction of a 'small employer concierge' service within the Department of Home Affairs to aid Small and Medium-sized Enterprises (SMEs) in navigating the complexities of the migration system to avoid wasting time and money.¹⁶²
- 6.205 The Association of Mining and Exploration Companies went so far as to say that delays in processing times, alongside increasing fees, was 'a business risk' for junior companies. They indicated that the inability of these companies to access migrant workers in a timely manner threatened the capacity of these companies to operate.¹⁶³
- 6.206 Australian Pork Limited was one of several peak bodies that provided evidence of the immediate cost of processing delays to their industry. They noted that elongated processing times placed pressure on business which was left operating on minimal resources. Existing staff were, in turn, affected by this pressure as they are left

¹⁶⁰ Consult Australia, *Submission 27*, p. 2.

¹⁶¹ Master Builders Association, *Submission 38*, p. 5.

¹⁶² Australian Small Business and Family Enterprise Ombudsman, *Submission 113*, pp. [2-3].

¹⁶³ Association of Mining and Exploration Companies, *Submission 111*, p. 3.

‘fatigued and stressed’. They also noted that delays impeded the ability of their members to undertake strategic workforce planning. Among these impacts they noted:

- Business confidence is affected. Some can see growth opportunities they want to pursue but are holding back.
- Expanded operations are constrained e.g. businesses with new production sites requiring additional skilled staff have undertaken workforce planning well in advance but due to ongoing delays with visa processing, new sites may still be significantly under resourced.¹⁶⁴

6.207 Similarly, Elmtree Migration Lawyers, referred to their experience working with horticulture growers to engage migrant workers. Elmtree characterised the effect of elongated waiting times spanning from the identification of a suitable employee to the day they started work as being ‘simply too long’. They judged that the operation of the migration system ‘does not meet most business’s operation needs’.¹⁶⁵

6.208 The Tech Council of Australia highlighted that in their sector there was a major disparity between the time taken to process an Australian tech visa compared to the time taken by countries competing for the same talent. Processing of an Australian visa in the tech sector, they noted took a minimum of about a month, up to a year, while competitor countries like Canada and Israel processed similar visas within ten days. The difference of the processing timing, alongside the absence of a fast pathway to permanency, they argued, placed Australia at a disadvantage in the global marketplace for tech talent. To remedy this, they called for the Australian Government to deliver a service standard of visa processing that was in line with competitor countries.¹⁶⁶

6.209 Submitters noted there were opportunities for the Department of Home Affairs to take a less risk adverse approach to visa processing. That a ‘light touch’ be applied to those migrants who meet certain criteria such as they will be paid above a certain threshold, possess desired post graduate qualifications or skills that are in high demand. Rewarding applicants in these categories with accelerated processing, in recognition that they have been ‘vetted’ to some degree by their extensive work or educational background. The Tech Council, for example, noted its 2022 agreement with the Australian Council of Trade Unions that included:

... explicit endorsement of expedited consideration of highly skilled, highly paid skilled migration places where there are clear shortages, and where these roles can provide valuable coaching and expertise to the local workforce.¹⁶⁷

¹⁶⁴ Australian Pork Limited, *Submission 114*, p. 11.

¹⁶⁵ Lamattina Holdings Pty Ltd/Elmtree Migration Lawyers, *Submission 123*, p. [2].

¹⁶⁶ Tech Council of Australia, *Submission 39*, pp. 9, 11.

¹⁶⁷ Tech Council of Australia, *Submission 39*, p. 4; Tech Council of Australia, ‘The ACTU And The TCA Agree On Future Industry Priorities Ahead Of The Jobs And Skills Summit’, Media Release, August 2022, <https://techcouncil.com.au/newsroom/actu-tca-priorities/>, viewed 30 May 2024.

- 6.210 Vialto Partners, along with the Business Council of Australia and the Grattan Institute, were among several submitters that recommended that the Government introduce a form of accreditation for businesses who in return receive certain benefits. Vialto Partners, for example recommended a streamlined system that incorporated ‘visa autogrant for approved sponsors with accredited status’.¹⁶⁸
- 6.211 As discussed further in Chapter 7, the Business Council of Australia proposes a ‘Trusted Trainer’ sponsor category where businesses meeting a specified criteria are rewarded with benefits such as expedited processing and shortened Labour Market Testing requirements.¹⁶⁹ While the Grattan Institute suggested that streamlined processing be offered to accredited employers sponsoring high wage workers.¹⁷⁰

Committee Comment

- 6.212 The *Migration Strategy* acknowledges that more than half of all Australians have a parent born overseas, although the strategy itself is largely silent on the family migration program. The report affirms that the current system is ‘not working for many Australian families, including for the partners, parents and children of Australian citizens’, and states that work on appropriate visa settings in the family program is ‘being progressed separately’.¹⁷¹
- 6.213 The Committee strongly agrees that a shift in the Australian Government’s approach to family migration is necessary, particularly in respect to parent visas. Family, in all of its diversity and across generations, plays a significant part in the building of our nation. While recognising that a solution that meets the demographic and economic needs of the country, as well as the social needs of its people is unlikely, the Committee urges that equity and fairness be the underpinning principles of any new programs put in place. To this end, fees should be affordable and not encompass options that offer a faster track.
- 6.214 The Committee also welcomes the commitment in the *Migration Strategy* to launch an ‘enhanced outreach program’ as a point of contact for stakeholder groups, including small businesses and unions.¹⁷² As indicated in the evidence received, there is demand, especially among small businesses, for greater assistance in navigating the migration system.
- 6.215 More commentary on the impact of the migration system on businesses is covered in Chapter 7.

¹⁶⁸ Vialto Partners, *Submission 28*, p. [4].

¹⁶⁹ Business Council of Australia, *Submission 56*, Attachment 1, pp. 23-25.

¹⁷⁰ Grattan Institute, *Submission 17*, p. 5

¹⁷¹ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, pp. 8, 16.

¹⁷² Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 82.

Recommendation 25

6.216 The Committee recommends that the Australian Government, recognising that the current permanent parent visas fail to offer realistic completion time frames, considers whether to:

- cease to offer permanent parent visas to new applicants, and
- expedite the development of appropriate visa settings for the family migration stream.

Recommendation 26

6.217 The Committee recommends that the Department of Home Affairs' 'enhanced outreach program' incorporates feedback and periodic review processes to ensure that its operation is fit for purpose.



7. Skilled Migration

- 7.1 A key role of nation building is delivering a robust, dynamic, innovative, and productive economic foundation to the nation that provides wellbeing and prosperity and ensures that Australia has the human capital to proactively adapt to future needs. Central to this is the supply of necessary skills, knowledge, and experience to support and grow the economy in pioneering ways. Migration has a vital role to play in supplying skilled workers that cannot be sourced domestically.
- 7.2 In this context, migration is a powerful policy lever for infusing skilled workers that can innovate and drive economic adaptation and change and assist in future-proofing the economy for the coming decades. When used strategically, migration can be a central enabler of nation building by supercharging national economic capacity.
- 7.3 Added to this, the nation currently faces large-scale workforce shortages that cannot be filled through domestic supply alone. As the then Minister for Skills and Training has recently noted in an address to the Committee for Economic Development of Australia (CEDA):
- Widespread skill shortages in almost every industry sector pose one of our greatest economic challenges in decades.¹
- It is essential that skilled migration is a key feature in the policy response to help alleviate these workforce shortages.
- 7.4 From the perspective of nation building, moreover, it is vital that Australia maintains viable pathways to permanent residency and citizenship for those skilled migrants who will most help promote the prosperity of the nation into the future.

The Benefits of Skilled Migration

- 7.5 Skilled migration provides a range of benefits to the nation. Centrally, skilled migration is a key driver of productivity growth and rising living standards, positive fiscal outcomes for government, and the supply of skilled workers to supplement Australia's domestic workforce. Skilled migrants, and migrants more generally, also enrich Australian society and culture.

¹ Hon Brendan O'Connor MP, Minister for Skills and Training, 'Address—CEDA', 13 December 2022, <https://ministers.dewr.gov.au/oconnor/address-ceda>, viewed 16 April 2024.

Productivity Growth, Rising Living Standards and Fiscal Gains

- 7.6 The supply of in-demand skills to the labour market in sufficient quantities is vital for productivity growth. Businesses need to be able to access skilled workers to drive innovation and ingenuity and to quickly respond to commercial opportunities as these arise. Appropriately skilled workers also allow firms to better adopt new technologies and improve asset use. Crucially, as highlighted by the Productivity Commission (PC), the productivity of labour has been a central factor in Australia's rising living standards over the last 60 years and continues to be so.²
- 7.7 According to the Reserve Bank of Australia (RBA), 'productivity' is defined as 'the amount of real production (GDP) per labour hour worked', which is determined by, among other things, 'the amount of capital available to each worker, the rate of technological progress and how efficiently resources (like labour and capital) are used to produce goods and services.' Essentially, productivity is a measure of how efficiently businesses use resources. Crucially, as the RBA points out, increasing productivity, rising real wages, and improvements in living standards tend to align.³
- 7.8 Concerningly, in Australia, as in other similar advanced economies internationally, productivity has been declining over the last couple of decades. From an average labour productivity growth of 2.1 per cent from the 1990s to the mid-2000s, average labour productivity over the 2010s has been just 1.2 per cent.⁴ Indeed, as noted by the PC, in 2020, average annual labour productivity growth was the slowest it has been in 60 years.⁵
- 7.9 The impact of this slowdown in productivity growth is that the 'economic pie' available to Australians will be smaller than it otherwise would have been and that, as a result, Australians will have to work relatively more hours to afford fewer goods and services than would otherwise be the case.⁶
- 7.10 One of the key challenges for boosting the productivity of the Australian economy is ensuring a supply of appropriately skilled workers and matching those skills with jobs in the labour market. The ability of the economy to meet the present and future demand for skills is dependent on a range of factors, including, our education and vocational training systems, the delivery of on-the-job training, the level of workforce participation, and the migration system.
- 7.11 While education and training are vital for ensuring Australians are equipped to maximise opportunities in the economy and anticipate future labour market demands,

² Productivity Commission, *5-year Productivity Inquiry*, Vol. 7, Inquiry Report no. 100, February 2023, pp. 1-2.

³ Angelina Bruno, Jessica Dunphy and Fiona Georgiakakis, 'Recent Trends in Australian Productivity', Reserve Bank of Australia, *Bulletin*, September 2023, p. 1.

⁴ Angelina Bruno, Jessica Dunphy and Fiona Georgiakakis, 'Recent Trends in Australian Productivity', Reserve Bank of Australia, *Bulletin*, September 2023, pp. 2-3.

⁵ Productivity Commission, *5-year Productivity Inquiry*, Vol. 1, Inquiry Report no. 100, February 2023, p. 1.

⁶ Productivity Commission, *5-year Productivity Inquiry*, Vol. 1, Inquiry Report no. 100, February 2023, p. 1.

migration offers an important source of *existing* skills that can be tapped to meet strategic requirements as these emerge and change.⁷

- 7.12 Migration has particular significance for Australia within the context of declining productivity. As highlighted by the PC, skilled migration can act as a key driver of productivity gains:

Skilled migration makes a strong contribution to productivity through an inflow of skills, ideas, and innovation into the labour market.⁸

- 7.13 The World Bank has recently highlighted ‘the aggregate economic gains’ of migration when the skills and experience of the migrant matches the labour demands of the destination country. They note:

The more migrants’ skills match the needs of the destination labour market, the larger are the gains for the destination economies and the migrants themselves—and often the origin countries as well (through remittances and knowledge transfer).⁹

- 7.14 Related to this point, the Government of South Australia submitted that migrants, in particular skilled migrants, tend to be of working age and have skills and qualifications that are highly sought after in the Australian labour market. This means that such migrants have higher participation rates than the population more generally and play a significant role in driving improvements in productivity.¹⁰

- 7.15 Together with productivity improvements, skilled migrants also produce fiscal benefits. As highlighted by the World Bank, ‘on average, the net fiscal contributions of migrants and naturalized citizens in Organisation for Economic Co-operation and Development (OECD) countries are higher than those of native-born citizens’ (Figure 7.1).

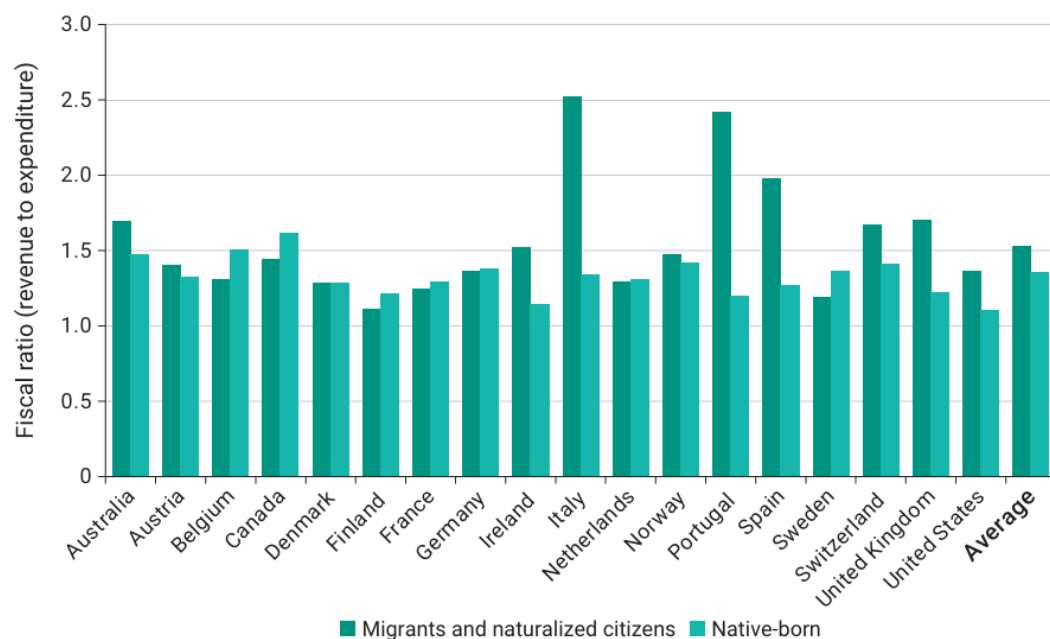
⁷ Productivity Commission, *5-year Productivity Inquiry*, Vol. 7, Inquiry Report no. 100, February 2023, pp. v, 1-2.

⁸ Productivity Commission, *5-year Productivity Inquiry*, Vol. 7, Inquiry Report no. 100, February 2023, p. v. Also see: KPMG, *Submission 47*, p. 2.

⁹ The World Bank, *Migrants, Refugees, and Societies*, World Development Report 2023, pp. 4; 161.

¹⁰ Government of South Australia, *Submission 84*, p. 3.

Figure 7.1 Fiscal Contribution of Migrants in Select OECD Countries

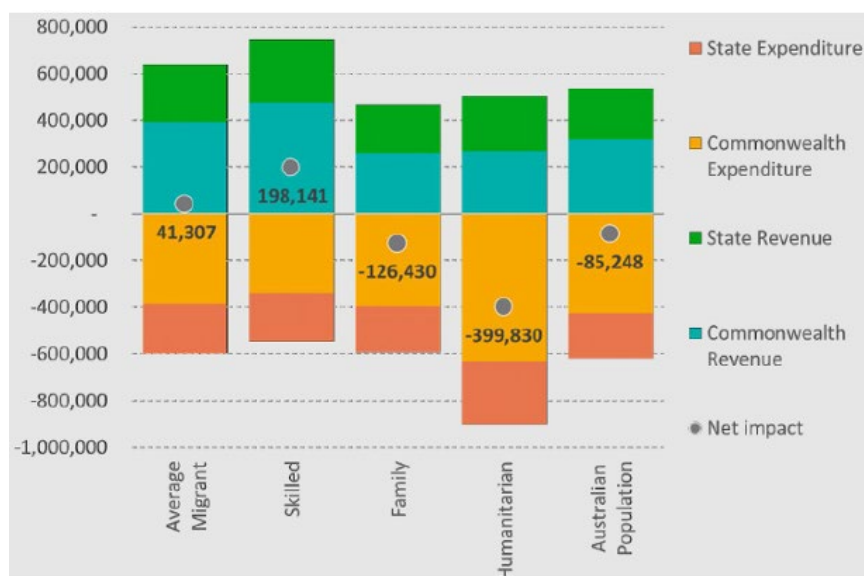


Source: World Bank, *Migrants, Refugees, and Societies*, World Development Report 2023, p. 166.

- 7.16 In the Australian context, the proportion of migrants coming into the country that are skilled (roughly 70 per cent of the total intake) is higher than in most other OECD countries, which may have a higher proportion of family and/or humanitarian migrants. This means that while some OECD countries may experience a negative fiscal impact due to migration, in Australia the aggregate fiscal impact is positive.¹¹
- 7.17 As submitted by VETASSESS, the Commonwealth Treasury analysed the combined Commonwealth and State fiscal impact of the 2018-19 migrant intake—broken into Skill, Family, and Humanitarian cohorts—over their remaining lifetime and contrasted this to the wider Australian population. As shown in Figure 7.2, while skilled migrants had an aggregate positive fiscal impact of \$198,141, the wider Australian population had an aggregate negative fiscal impact of \$85,248. Across all categories of migrant, the average aggregate fiscal impact was positive, at \$41,307.

¹¹ Government of South Australia, *Submission 84*, p. 3.

Figure 7.2 Fiscal Impact of Migrants and Wider Australian Population, 2018-19



Source: VETASSESS, *Submission 89*, p. 6.

Supplementing Australia's Domestic Workforce

7.18 While there have been concerns raised about the potential negative impact of migration on the wages and conditions of local workers, evidence received by the Committee indicates that such concerns are largely without merit. The Grattan Institute, for instance, submitted that the Australian case finds 'no evidence that migration harmed the aggregated labour market outcomes of incumbents', while international evidence 'examining the aggregate impact of migration on the labour market generally supports this story.'¹²

7.19 Similarly, the Business Council of Australia highlighted that 'evidence shows that migrant workers do not suppress local wages or take jobs from Australians' and in fact have positive impacts in some cases. VETASSESS also supported this assertion, citing research that indicates 'in some cases, an increase in migrant concentrations in certain levels of qualification and experience is associated with a positive impact on wages and employment'.¹³

7.20 Continuing, VETASSESS argued that:

By extension, the implication is that if migrants a high quality, through their contributions to the productive capacity of the nation, they will create more jobs than they take.¹⁴

¹² Grattan Institute, *Submission 17*, p. 29.

¹³ Business Council of Australia, *Submission 56*, Attachment 1, p. 14; VETASSESS, *Submission 89*, Attachment 1, p. 13.

¹⁴ VETASSESS, *Submission 89*, Attachment 1, p. 13.

- 7.21 Further to this, in a previous inquiry, this Committee found that where possible, Australian businesses will consistently choose to employ local workers rather than going through the costly and time-consuming process of bringing in skilled migrants.¹⁵
- 7.22 Despite the preference of Australian businesses to hire locals, as touched on above and dealt with in more detail below, the Committee heard evidence of endemic skills shortages in key sectors of the economy that cannot be overcome through domestic supply alone. In this context, skilled migration must play an important role in supplementing Australia's domestic workforce.

Enriching Australian Society and Culture

- 7.23 While this chapter is primarily concerned with the economic contribution skilled migrants make and how this buttresses nation building efforts, skilled migrants are also valuable for the contribution they make to enriching Australia society and culture.
- 7.24 Related to this, in its submission to the inquiry, the Migration Hub at ANU recounted what Swiss novelist and playwright Max Risch had said about guestworkers to Europe in the 1950s and 1960s: 'We wanted workers, we got people instead'.¹⁶ While this reflects a truism about the migration process—that it involves the movement of people—it is important to recognise that the value of migration for nation building is not limited to the economic utility that migrants bring, it is their contribution to making and shaping societies that is most vital.
- 7.25 Indeed, on this point. Professor Joy Damousi, Dr Rachel Stevens, and Dr Mary Tomsic informed the Committee that '[r]ecent studies have indicated how significantly immigration has empowered and enabled the development of sustainable economic and social communities in both cities and regional areas'.¹⁷
- 7.26 Speaking to the societal impact of migration on the Local Government Areas of South East Melbourne, including Greater Dandenong, SEMMA (South East Melbourne Manufacturers Alliance) submitted the following:

Not only do these immigrants work and live—paying rates and spending money—in the municipality but they bring a vibrancy to the area which is renowned, with eateries and markets which draw people from well outside the Dandenong area.

....

The social life of the community is enhanced by the contribution of people bringing their positive cultural models and traditions to the community.¹⁸

¹⁵ Joint Standing Committee on Migration, *Interim Report of the Inquiry into Australia's Skilled Migration Program*, Canberra: Parliament of the Commonwealth of Australia, March 2021, pp. 17-20.

¹⁶ The Migration Hub at ANU, *Submission 70*, p. 8.

¹⁷ Prof Joy Damousi, Dr Rachel Stevens, Dr Mary Tomsic, *Submission 24*, p. 3.

¹⁸ SEMMA, *Submission 12*, p. 4.

- 7.27 As one other concrete example of the societal contribution that migrants make to Australia, the Australian Academy of Technological Sciences and Engineering highlighted the ‘enormous’ contribution migrants make to Australian science and technology research and noted that ‘approximately one-third of the Prime Minister’s Prize for Science winners since 2000 [were] born overseas’. They, further, emphasised the ‘diversity of experience, cultural background and approaches to problem-solving’ that migrants have improved the nation’s ability to ‘respond to emerging challenges’.¹⁹
- 7.28 The Australian Chamber of Commerce and Industry emphasised the benefit skilled migration brings to the culture of Australian businesses by ‘providing a diversity of thinking and positive network of connections to the rest of the world’. Continuing, they submitted the following:
- Cultural diversity in the business setting fosters the development of global linkages, opening up new markets for Australian businesses. These businesses have also benefitted from diversity in their workforce as it encourages critical and alternative thinking stemming from contrasting experiences and cultural contexts, often leading to innovation.²⁰
- 7.29 The Accommodation Association of Australia, the Australian Hotels Association, and Tourism Accommodation Australia, also addressed the positive benefits accruing from the diversity brought by migration. They pointed to the ‘unique cultural experiences, traditions, and languages’ brought by migrants and how these ‘enrich the country’s social fabric’. This, moreover, ‘promotes social harmony and understanding between different communities, making Australia an attractive destination for tourists’.²¹

The Impact of Skills Shortages

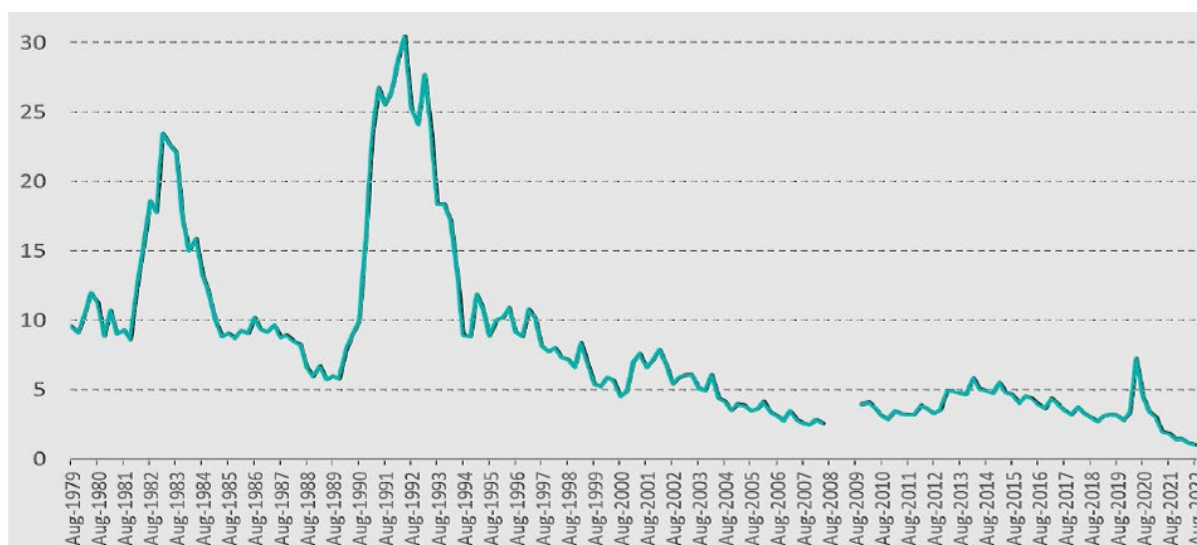
- 7.30 Australia faces unprecedented workforce shortages across a wide array of industries. As highlighted by VETASSESS, the number of unemployed persons for every job vacancy is at an all-time low (Figure 7.3), meaning that businesses are struggling to find appropriately skilled workers to fill roles. The Committee heard evidence from a range of witnesses on the negative impacts these skills shortages are having on Australian businesses, industries, and wider society.

¹⁹ Australian Academy of Technological Sciences and Engineering, *Submission 45*, p. 1.

²⁰ Australian Chamber of Commerce and Industry, *Submission 79*, p. 2.

²¹ Accommodation Association of Australia/Australian Hotels Association/Tourism Accommodation Australia, *Submission 83*, p. 3.

Figure 7.3 Number of Unemployed per Job Vacancy



Source: VETASSESS, *Submission 89*, p. 1 (Note: the break in the chart reflects a suspension on the ABS's job vacancy survey between May 2008 and November 2009).

- 7.31 The NSW Government, for example, noted that Australia is currently facing significant workforce shortages in critical government services, such as health, aged and disability care, and education. They also noted the importance of ensuring a supply of skilled workers to fill roles in ICT, engineering, international education, tourism, agriculture, defence and aerospace industries, and clean energy.²²
- 7.32 The Australian Small Business and Family Enterprise Ombudsman informed the Committee that one-third of all Small and Medium-sized Enterprises (SMEs) anticipate experiencing a 'very significant' impact on their business over the next 12-months due to labour shortages. This impact was being felt most acutely in the construction sector, where one-half of all SMEs reported significant difficulty in hiring labour.²³
- 7.33 In the education sector, Independent Schools Australia cautioned the Committee that workforce shortages within the industry 'will directly impact the capacity of Australia's education system and have flow on impacts for student achievement, and ultimately, for Australian productivity'.²⁴
- 7.34 SEMMA) submitted that skills shortages have led manufacturing companies 'having to turn away profitable orders'.²⁵
- 7.35 The Chamber of Minerals & Energy of Western Australia noted that labour market shortages, while delivering a benefit in terms of improved local workforce participation, constrained local business. For the resource sector, 'the unprecedented

²² NSW Government, *Submission 57*, p. 6.

²³ Australian Small Business and Family Enterprise Ombudsman, *Submission 113*, p. [1].

²⁴ Independent Schools Australia, *Submission 93*, p. 1.

²⁵ SEMMA, *Submission 12*, pp. 2-3.

demand for skilled workers has exacerbated long-standing skill shortages in a number of critical areas (for example, experienced and specialised skills) and placed new stresses in the local labour market.²⁶

- 7.36 The Australian Automotive Aftermarket Association highlighted the ‘real economic impacts’ skills shortfalls are having on many local businesses and reported that businesses are paying 30-50 per cent ‘above the award rate but are still unable to find workers’. The effect of this, they contend, is that it is no longer economically viable for businesses to ‘scale up to meet demand’ and that the shortages will result in decreased consumer choice for servicing and increased wait times and costs across the nation.²⁷
- 7.37 The Smart Energy Council (the Council), meanwhile, noted that Australian Government policy to transition to 82 per cent renewable energy by 2030 required 600,000 direct and indirect workers by 2030. The Council expressed concern that without ‘significant intervention and investment the total workforce deficit will cripple effort to transform the energy network’. They noted reports of current shortages of up to 15,000 electricians and potentially 41,000 engineers and argued that migration is ‘an important policy lever’ to assist with meeting these shortages.²⁸
- 7.38 The impact of skills shortages on health and aged care, education, the tech sector, and building and construction are examined in more detail in the final section of this chapter.

Addressing Australia’s Skill Requirements

- 7.39 Australia’s migration system aids in alleviating skills shortages and contributing to the skills base within the economy by providing working visas to overseas nationals, either on a permanent basis, through the Skilled Migration Program, or temporarily, through a number of different temporary visa offerings.

Skilled Migration Program

- 7.40 As noted in relation to skilled migration more generally, Australia’s Skilled Migration Program is designed to infuse vitally needed skills into the labour market to meet workforce and skills shortages that cannot be met through domestic supply. It provides visas for foreign workers with specialised skills earning above average wages to enter and work in Australia permanently. These workers add resilience to the economy by providing crucial skills, knowledge, experience, and innovative practices to Australian businesses, adding to capacity, providing interpersonal connections to the global economy, and allowing businesses to take advantage of new technologies. Most crucially, as noted above, these workers aid in boosting

²⁶ The Chamber of Minerals & Energy of Western Australia, *Submission 69*, p. [2].

²⁷ Australian Automotive Aftermarket Association, *Submission 101*, p. 6.

²⁸ Smart Energy Council, *Submission 5*, p. 1.

productivity and increasing Australia's per capita GDP—that is, improving our standard of living.²⁹

- 7.41 Skilled foreign workers entering via the migration program are younger than the Australian average, are at an age more likely to have children, and contribute more to government revenue than they take via government services and benefits. This plays a significant role in counterbalancing the impacts of Australia's ageing population.³⁰
- 7.42 The Department of Home Affairs emphasises that the skilled migration program is designed to safeguard the jobs and working conditions of Australians by ensuring that visas are only granted to highly skilled people in roles that cannot yet be filled by appropriately skilled Australian workers and by requiring that wages paid to skilled visa grantees be above the Australian average.³¹
- 7.43 In total, there are seven categories under the skilled migration stream: 1) Employer Nomination Scheme; 2) Skilled Independent; 3) Regional, 4) State and Territory Nominated; 5) Business Innovation and Investment Program; 6) Global Talent Program; and 7) Distinguished Talent.
- 7.44 These categories can be summarised under the following four program types:
- 1 General skilled migration: for skilled workers who do not have an employer sponsoring them, but possess desirable skills, attributes and social capital, and who are able to pass the points test. This category includes the skilled independent and State and Territory nominated visas.
 - 1 Employer sponsored migration: for applicants are sponsored by an employer. This category includes regional sponsored visas and visas granted under a Labour Agreement.
 - 2 Business and investment migration: which encourages successful entrepreneurs and business people to settle in Australia, develop new business opportunities and support the innovation ecosystem.
 - 3 Global and Distinguished Talent: for exceptional individuals who are internationally recognised as outstanding in their field.³²
- 7.45 Alternatively, the various streams can be separated according to basic eligibility requirements:
- 1 Independent streams (incorporating Skilled Independent, Regional, and State/Territory Nominated visas): requiring applicants to be assessed and

²⁹ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 25; Department of Home Affairs, *Submission 127*, p. 6.

³⁰ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 25.

³¹ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 25; Department of Home Affairs, *Submission 127*, p. 6.

³² Department of Home Affairs, *Submission 127*, p. 6.

selected through a points test, but not requiring sponsorship for employment, and submit an Expression of Interest (EOI);

- 2 The employer sponsored stream (Employer Nomination Scheme visas): requiring applicants to be nominated by a company willing to employ them; and
- 3 Other talent and innovation streams (Global Talent, Business Innovation and Investment, and Distinguished Talent visas): requiring applicants to submit an EOI and be nominated by an eligible party.

7.46 For 2024-25, the skilled migration stream has been set at 132,200 places, which accounts for approximately 70 per cent of the overall migration program, at 185,000.³³ Table 7.1 shows the planning levels for the Skill stream of the Migration Program for 2022-23, 2023-24, and 2024-25.

Table 7.1 Migration Program Planning Levels (Skill stream) 2022-23, 2023-24 and 2024-25

Visa Category	2022-23	2023-24	2024-25
Employer Nomination	35,000	36,825	44,000
Skilled Independent	32,100	30,375	16,900
Regional	34,000	32,300	33,000
State/Territory Nominated	31,000	30,400	33,000
Business Innovation and Investment	5,000	1,900	1,000
Global Talent	5,000	5,000	4,000
Distinguished Talent	300	300	300
Skill Total	142,400	137,100	132,200

Source: Department of Home Affairs, Migration Program planning levels, <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>

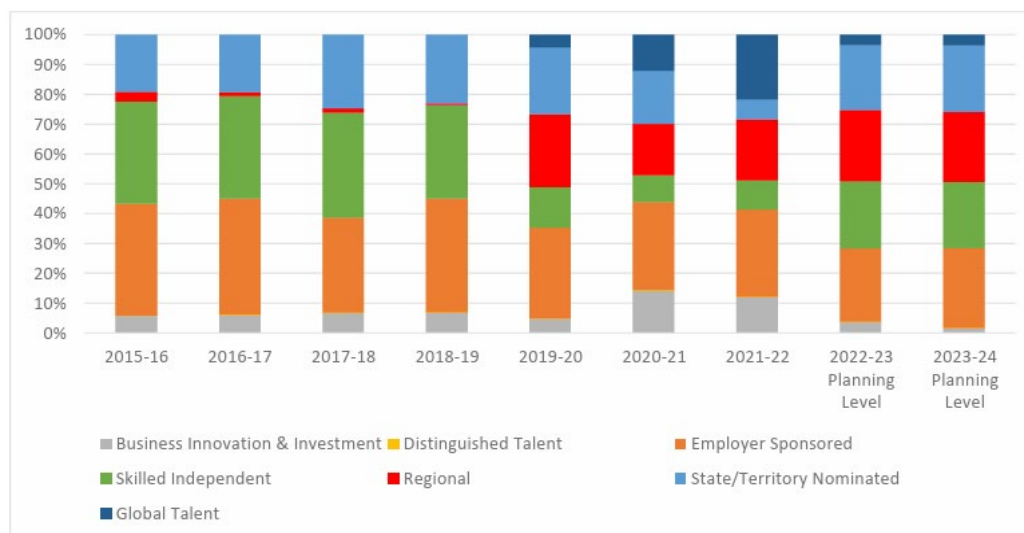
7.47 Of note, the Australian Government announced in the 2024-25 federal budget that the Business Innovation and Investment visa will be discontinued. According to the Department of Home Affairs, the Migration Review ‘concluded that the BIIP is delivering poor economic outcomes for Australia’, a finding supported by research by Treasury, the PC, and the Grattan Institute. Additionally, the Government also announced that the Global Talent visa will transition to new arrangements under a new National Innovation visa. The Global Talent visa is discussed in greater detail below.

7.48 A breakdown of the percentage allocation/planned allocation (to 2023-24) of the Skill stream by category is included below at Figure 7.4. According to the Department of

³³ Department of Home Affairs, ‘Migration Program planning levels’, <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>, viewed 17 May 2024.

Home Affairs, the composition of the Skill stream is intended to address structural deficits in the labour market, add sought-after skills and innovative thinking into the economy, and drive productivity growth.³⁴

Figure 7.4 Composition of the Skilled Migration Program outcomes, 2015-16 to 2021-22 and planning levels (2022-23 and 2023-24)



Source: Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 26.

7.49 The PC has highlighted the economic benefits of Australia's skilled migration program. It notes:

Overall, Australia's skilled migration program accounts for the vast majority of permanent migration and has substantially higher net fiscal impacts than incumbent Australians as estimated over the lifetime.³⁵

7.50 While acknowledging this benefit, the Australian Government's *Migration Strategy* seeks 'to maximise Australia's long-term prosperity' through the migration program. In contrast to temporary skilled migration, according to the *Migration Strategy*, which should function to fill genuine and critical labour shortages in the economy, the permanent program should 'focus on the factors that best contribute to lifting Australia's long-term economic productivity and workforce participation.' The *Migration Strategy* highlights scope to further sharpen the focus of the program 'to boost prosperity and remain competitive.'³⁶

7.51 The *Migration Strategy* commits to new measures to reshape skilled migration, including:

³⁴ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 25.

³⁵ Productivity Commission, *5-year Productivity Inquiry*, Vol. 7, Inquiry Report no. 100, February 2023, p. 18.

³⁶ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, pp. 54, 56.

- 1 Exploring a reformed points test to better identify migrants who will drive Australia's long-term prosperity;
 - 2 Considering development of a new Talent and Innovation visa to drive growth in sectors of national importance;
 - 3 Planning migration over a longer-term horizon to better manage the migration intake, with greater state and territory collaboration; and
 - 4 Bringing an evidence-based, tripartite approach to evaluation and monitoring.³⁷
- 7.52 Related to this point, in evidence to the Committee the Migration Institute of Australia (MIA) cautioned about an overreliance on employer sponsored migration over other skilled migrations streams, such as those in the independent streams. While acknowledging the clear economic and fiscal benefits derived from employer sponsored migration, the MIA warned that a focus on employer sponsored migration can potentially...
- ... skew skilled migration towards the "importation" of currently required skills in a narrow band of occupations and negatively impact the investment in Australia's human capital afforded by skilled migration.³⁸
- 7.53 Continuing, they noted that the 'quality of a country's human capital reserves underpins the quality of its future' and asserted the migration program must aim to 'build the country's bank of human capital'. As such,
- A balance in allocation of places must be maintained within the program of employer sponsored, skilled independent and 'high talent' type visas.³⁹
- 7.54 As discussed in further detail below, they argued against the use of skilled migration occupation lists in demarcating eligible occupations for migration purposes. Such lists, they claimed...
- ...provide a significant barrier to Australian industries and businesses where occupations are not included on these lists, impacting their ability to source sufficient labour to operate or increase their productivity and in turn grow the economy.⁴⁰

Employer Nomination Scheme

- 7.55 The Employer Nomination Scheme visa (subclass 186) allows Australian businesses to nominate skilled overseas workers to live and work permanently in Australia. Additionally, this subclass allows sponsored workers to transition from a Temporary

³⁷ Australian Government, 'Migration Strategy – Action Plan', pp. 2,4, <https://immi.homeaffairs.gov.au/programs-subsite/migration-strategy/Documents/migration-strategy-action-plan.pdf>, viewed 28 March 2024.

³⁸ Migration Institute of Australia, *Submission 87*, p. 17.

³⁹ Migration Institute of Australia, *Submission 87*, p. 17.

⁴⁰ Migration Institute of Australia, *Submission 87*, pp. 17, 25.

Skill Shortage (TSS) visa (subclass 482) to a permanent visa via the Temporary Residence Transition stream of the Employer Nomination Scheme visa.

7.56 The Employer Nominated Scheme consists of the following three streams:

- 1 Temporary Residence Transition (TRT) stream, for TSS visa holders wishing to transition to a permanent visa;
- 2 Direct Entry stream, for persons who have not held a TSS visa; and
- 3 Labour Agreement stream.⁴¹

7.57 Businesses wishing to employ an overseas worker via an Employer Nomination Scheme visa are required to go through a number of steps, including:

- Ensuring that the occupation they are sponsoring an overseas worker for is on the list of eligible skilled occupations, or otherwise enter into a labour industry agreement that covers the occupation;
- Demonstrating that there is a need for a migrant worker, as opposed to a local, which may involve Labour Market Testing (LMT);
- Ensuring that the salary for the nominated position is no less than the applicable market salary for the occupation;
- Applying to become an approved sponsor or an accredited sponsor (the latter category of sponsor receives priority processing of applications); and
- Committing to sponsor the visa applicant for three years and employ them for at least two years.⁴²

7.58 Nominating employers are required to pay a nomination fee and the Skilling Australians Fund levy. Exact costs depend on 1) visa stream and location of the business for the nomination fee, and 2) the business size for the Skilling Australians Fund levy. The Skilling Australians Fund is discussed in more detail below.⁴³

7.59 Applicants applying for an Employer Nomination Scheme visa are required to undertake a number of steps for the application process, including:

- Be nominated by an approved sponsor;
- Undertake English, skills, qualifications, work experience, health, and character assessments;
- Be under 45 years of age, or otherwise provide documentation showing that they are exempt from the age eligibility criteria (for example, for academics; scientists, researchers, or technical specialists; and Special Category visa holders who have

⁴¹ Law Council of Australia, *Submission 117*, p. 8.

⁴² Department of Home Affairs, 'How to sponsor a worker', <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/learn-about-sponsoring/how-to-sponsor-a-worker>, viewed 22 February 2024.

⁴³ Department of Home Affairs, 'Cost of Sponsoring', <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/learn-about-sponsoring/cost-of-sponsoring>, viewed 17 April 2024.

worked for the nominating employer for at least two years in the last three before applying).⁴⁴

- 7.60 Visa grantees are expected to work for their nominating employer for at least two years.⁴⁵
- 7.61 On 27 April 2023, the then Ministers for Home Affairs, and Immigration, Citizenship and Multicultural Affairs announced that by the end of 2023, holders of TSS visas in the short-term stream would have a path to permanent residency via a TRT visa.⁴⁶ Previously, this pathway was only available for TSS visa holders in the medium-term stream.
- 7.62 As noted by the Business Council of Australia, Treasury modelling shows that this category of visa holders 'have the most positive lifetime fiscal impact for the nation, as compared with other visa categories and classes.' They elaborated:
- These workers are brought into the country to do a specific job, when a suitable local worker cannot be found. This means they arrive in Australia fully employed, selected by their employer based on their specific expertise and skill set for the specific job necessary, immediately contributing to our economy.⁴⁷
- 7.63 This point was confirmed by the Grattan Institute, citing Treasury research, which highlights that Employer Nominated Scheme visa recipients have a net positive fiscal outcome of \$560,000. This contrasts, for example, to Independent stream visa holders who have a net positive fiscal impact of \$390,000 and Business Innovation and Investment (Provisional) (subclass 188) visa holders who have a net negative fiscal impact of \$120,000 (Figure 7.5).

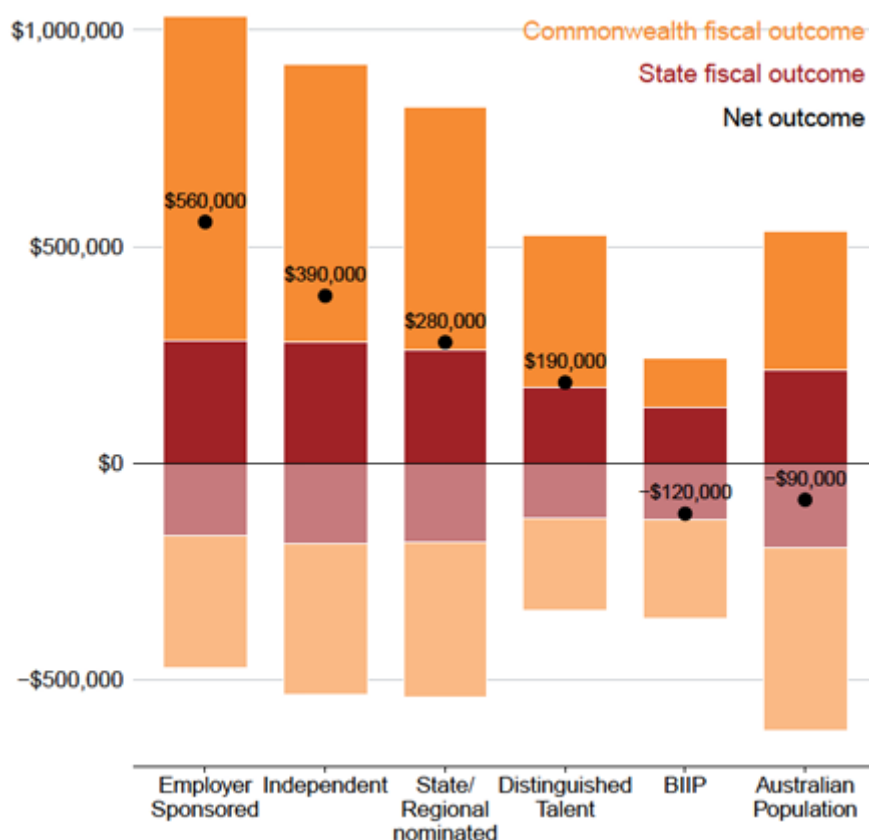
⁴⁴ Department of Home Affairs, 'Employer Nomination Scheme visa (subclass 186) – Direct Entry stream', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/employer-nomination-scheme-186/direct-entry-stream#HowTo>, viewed 22 February 2024.

⁴⁵ Department of Home Affairs, 'Employer Nominated Scheme visa (subclass 186)—Direct Entry stream—About this visa', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/employer-nomination-scheme-186/direct-entry-stream#About>, viewed 17 April 2024.

⁴⁶ Hon Clare O'Neil MP, Minister for Home Affairs and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, 'Temporary Skilled Migration Income Threshold Raised to \$70,000', *Joint Media Release*, 27 April 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/temporary-skilled-migration-income-threshold-raised.aspx>, viewed 14 September 2023.

⁴⁷ Business Council of Australia, *Submission 56*, Attachment 2, p. 6. Also see: Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 57.

Figure 7.5 Net Fiscal Impact of Skilled Visa Holders



Source: Grattan Institution, *Submission 17*, p. 50.

7.64 The Grattan Institute criticised the current employer sponsored visa system as ‘both more complex and less certain’ than it was before and called for the permanent stream to be radically simplified and its purpose overhauled. They suggested that the permanent skilled program should not be ‘about skill shortages at all’, but rather aim to attract younger skilled workers, ‘whatever those skills may be’ for permanent residence in Australia. Noting the long-term fiscal benefits that younger skilled migrants bring to the nation, they suggested that the permanent skilled migration program should target ‘younger skilled talent to stay in Australia in the long term, not address skill shortages’.⁴⁸

7.65 On the idea of de-tethering permanent skilled migration from reactively addressing skills shortages in the economy, the Grattan Institute noted that:

It’s trying to predict those jobs of the future, what the critical jobs of the future are. It’s very hard to do. It’s hard to see why a government agency would know better than a growing business about what the most critical jobs are.⁴⁹

⁴⁸ Mr Trent Wiltshire, Migration and Labour Markets Deputy Program Director, Grattan Institute, *Committee Hansard*, Melbourne, 26 April 2023, pp. 16-15.

⁴⁹ Mr Trent Wiltshire, Migration and Labour Markets Deputy Program Director, Grattan Institute, *Committee Hansard*, Melbourne, 26 April 2023, p. 17.

- 7.66 To fundamentally simplify the system, they suggested that employer sponsorship for permanent migration should be available for overseas workers in any occupation earning more than \$85,000 per annum. They explained the rationale for this suggestion in the following way:

This would better target migrants with valuable skills; simplify and speed up the sponsorship process; offer clearer pathways to permanent residency for temporary sponsored workers and recent graduates; and boost Australian government budgets by \$125 billion over the next 30 years.⁵⁰

- 7.67 Acknowledging that a \$85,000 salary threshold may be too high for some businesses to be able to sponsor skilled workers for permanency, the Grattan Institute suggested that the threshold may be flexibly adjusted according to the age of the applicant. Recognising that the 'fiscal dividend' is 'substantially higher' for younger skilled migrants, they suggested that an applicant between the age 25-29, for example, could attract a salary threshold of \$75,000.⁵¹
- 7.68 In a similar vein, the Business Council of Australia called for open eligibility for skilled visas for any overseas worker moving into a job in Australia with a salary above \$92,000, 'the full-time adult average weekly earnings'.⁵²
- 7.69 Several submitters called for greater portability for employer sponsored visas. Acknowledging that there is an increased risk of worker exploitation if visa conditions tie a person to a single employer, submitters suggested that sponsorship be shifted from individual employers to the industry.⁵³
- 7.70 The Business Council of Australia, by contrast, was sceptical about this idea, calling it 'an untested, unproven, and undefined concept'. While noting that they were open to considering the concept they called for a 'workable model' to be developed. This issue is discussed in more detail below, under the section on the Skilling Australians Fund levy.
- 7.71 As noted above, in most cases, currently employer nominated visas require applicants to be under 45 years of age. This limitation was criticised by some submitters. Vialto Partners, for one, suggested that given increases in the working lifespan of people generally the current age restriction of 45 years should be lifted to 55 years.⁵⁴

⁵⁰ Mr Trent Wiltshire, Migration and Labour Markets Deputy Program Director, Grattan Institute, *Committee Hansard*, Melbourne, 26 April 2023, p. 15.

⁵¹ Mr Trent Wiltshire, Migration and Labour Markets Deputy Program Director, Grattan Institute, *Committee Hansard*, Melbourne, 26 April 2023, p. 21.

⁵² Business Council of Australia, *Submission 56*, Attachment 1, pp. 4, 16.

⁵³ Settlement Services International, *Submission 26*, p. 14; Immigration Advice and Rights Centre and Unions NSW, *Submission 32*, p. [3]; Federation of Ethnic Communities' Councils of Australia, *Submission 52*, p. 7; Migrant Workers Centre, *Submission 78*, p. 2.

⁵⁴ Vialto Partners, *Submission 28*, p. [3]. Aso see: Aged and Community Care Providers Association, *Submission 131*, p. [3].

- 7.72 On this issue, Fragomen pointed out that some exceptions to the age limit already exist, such as temporary skilled visa holders over the age of 45 being able to apply for permanency via the Temporary Residence Transition visa, where they earn over the Fair Work High Income Threshold (currently \$167,500) for the three years before lodgement. They suggested that this unfairly impacts workers employed under enterprise agreements or awards, who are unable to negotiate pay increases to meet this condition. For fairness, they recommended that the age limit be lifted to 50 years of age for all skilled permanent visas.⁵⁵
- 7.73 Echoing this, the MIA also called for the age limit to be lifted to 50, what it had previously been until 2017. They cited increases in the retirement age, longer worker lifespans, and acute skills and labour shortages to support this suggestion. They further argued that age limits should be removed entirely for ‘defined “exempt occupations/persons”’.⁵⁶
- 7.74 The Law Council of Australia (the Law Council) shared many on these concerns around the age limit for Employer Nominated Scheme visa eligibility. They recommended that the Department of Treasury and Finance undertake ‘modelling to inform a specific figure, potentially between 50—60, drawing on the tax, fiscal, pension and relevant ageing population consideration’, but suggested that the limit should be raised to at least 50.⁵⁷
- 7.75 On top of this, the Law Council expressed support for ‘a standing exemption’ to the age limit eligibility criterion for senior management roles, which often correlate with lengthy work experience and older age cohorts.⁵⁸ Additionally, they proposed the following three other exemptions:
- Applicants who worked in Australia over the COVID period and held their temporary visa before 18 April 2017;
 - Applicants who have been working in Australia for a considerable period, before seeking to settle in Australia; and
 - Applicants whose permanent presence in Australia is of inherent benefit regardless of their age.⁵⁹
- 7.76 In relation to dot point two above, the Law Council suggests that ‘a standing exemption for migrants who have been working in Australia for three years before they reach the applicable age limit’. While acknowledging that the basis of the age limit is that older migrants will not pay sufficient tax during the remainder of their working lives to cover costs that they will incur through social security, the Law Council notes the following:

A person who has been working full time for a considerable period
before that point has already been paying tax, and thus, it is proposed, should be

⁵⁵ Fragomen, *Submission 54*, p. 8.

⁵⁶ Migration Institute of Australia, *Submission 87*, p. 22.

⁵⁷ Law Council of Australia, *Submission 117*, pp. 13-14.

⁵⁸ Law Council of Australia, *Submission 117*, p. 13.

⁵⁹ Law Council of Australia, *Submission 117*, p. 14.

provided with a pathway to permanent residency.⁶⁰

- 7.77 In relation to dot point three above, while the Law Council did not expand on what constitutes ‘inherent benefit’, it did refer to a 2018 submission that it made on the matter for the Senate Standing Committee on Legal and Constitutional Affairs’ inquiry into the skilled visa system. In evidence to the latter committee, the Law Council called for an exemption to the age limit for people who were an ‘exceptional benefit’ to Australia, with the merits of each application determined on a case-by-case basis for all occupation in the Employer Sponsored Scheme.⁶¹

Committee Comment

- 7.78 The Committee sees merit in adjustments to the current age limits for the Employer Nominated Scheme visa. Recognising that people have longer working lives than before, that often the most highly experienced and skilled workers are older, and that older workers are often in leadership roles, the Committee see scope for the current age limit to be raised.
- 7.79 Acknowledging that such an action will have fiscal implications, the Committee agrees with the Law Council that the Departments of Treasury and Finance should model these impacts before arriving at an ideal age limit that maximises the benefits that older workers bring while minimising the fiscal impost of such a step.
- 7.80 Additionally, the Committee agrees with the categories of exemptions put forward by the Law Council for standing exemption of any age limit for those in senior management roles and who have worked in Australia for the periods identified above.

Recommendation 27

- 7.81 The Committee recommends that the Australian Government undertakes modelling to identify a new age limit for Employer Nominated Scheme visas, between 50 and 60, that considers tax, fiscal, pension, and relevant ageing population factors.**

Recommendation 28

- 7.82 The Committee recommends that the Australian Government considers introducing standing exemptions on the age limit for Employer Nominated Scheme visas for the following applicants:**
- **Applicants who will be employed in a senior management role;**

⁶⁰ Law Council of Australia, *Submission 117*, p. 13.

⁶¹ Senate Standing Committee on Legal and Constitutional Affairs, Inquiry into the effectiveness of the current temporary skilled visa system in targeting genuine skills shortages, Law Council of Australia, *Submission 36*, p. 19.

- **Applicants who worked in Australia over the COVID period and held their temporary visa before 18 April 2017;**
- **Applicants who have been working in Australia for a considerable period, before seeking to settle in Australia; and**
- **Applicants whose permanent presence in Australia is of inherent benefit regardless of their age.**

Independent Streams

7.83 The independent streams of the permanent skilled migration program consist of the following visa types:

- Skilled Independent (subclass 189); and
- Skilled Nominated (subclass 190).

7.84 Would-be applicants for the independent streams of the permanent migration program must undertake the following application steps:

- Score a certain number of points set by the Minister (currently at least 65);
- Make an EOI, and if seeking state or territory nomination, potentially also lodge a registration of interest and/or state or territory nomination application; and
- Lodge a visa application after having received an invitation to do so by the Minister.⁶²

7.85 The allocation of points is based in the following considerations:

- Age;
- English language competency;
- Overseas employment experience;
- Australian employment experience;
- Australian professional year qualification;
- Education, including Australian study and study in regional areas;
- Credentialed community language qualification;
- Partner qualifications;
- State or Territory nomination; and
- Designated regional area nomination.⁶³

7.86 In evidence to the Committee, the Government of South Australia called for greater decentralisation of Australia's skilled migration program to 'enable state and territory

⁶² Law Council of Australia, *Submission 117*, p. 29.

⁶³ *Migration Regulations 1994*, Schedule 6D—General points test for General Skilled Migration visas mentioned in subregulation 2.26AC(1); *Law Council of Australia, Submission 117*, p. 29.

nominated visas to fully realise their objectives linked to each jurisdiction's development strategies'. For this, there needed to be closer cooperation between the Commonwealth and state and territory governments in designing and administering the state-territory sponsored skilled migration scheme to ensure that states and territories are receiving skilled workers appropriate to their requirements.⁶⁴

- 7.87 The NSW Government shared similar concerns. For one, they submitted that while state and territory governments have 'greater proximity to and understanding of the needs of local communities and industries', they have limited input into decision making and processes within the migration system. They called for 1) greater flexibility in how states and territories use their allocation of nomination positions, and 2) a greater allocation of skilled independent visas from Commonwealth nominated places towards state and territory nominated places.⁶⁵
- 7.88 The Committee notes that the Australian Government, through the *Migration Strategy*, has committed to 'better manage the migration intake, with greater state and territory collaboration' and to 'work with states and territories to ensure population planning is based on the best available population data and forecasts'.⁶⁶
- 7.89 On the application process for independent skilled visas, the Law Council called for law reform and procedural changes to improve the EOI process, while expressing support for the EOI requirement, more generally.⁶⁷
- 7.90 The Law Council submitted that the EOI process is 'not authorised by law', noting that the *Migration Regulations 1994* (Migration Regulations) only pick the process up at the time an applicant is invited to apply for a visa. They submitted that the...
- ... broad discretion to issue an invitation—unbound or unguided by express statutory criteria—raises ostensible issues with respect to the rule of law principles that the law must be both readily known and available and certain and clear, and any action undertaken by the Executive should be authorised by law.⁶⁸
- 7.91 The lack of statutory guidelines governing the issuance of invitations to apply, according to the Law Council, 'reduces the ability for independent review and scrutiny of the Department's process for determining both the occupations generally allocated places and the individual applicants to whom' invitations are issued. This, the Law Council contended, 'can also reduce confidence in the system'.⁶⁹
- 7.92 The Law Council recommended that the EOI process be prescribed under law. Such a statutory foundation would increase transparency in the Department of Home Affairs' processes and ensure that invitations are issued in a reasonable and non-discriminatory way.

⁶⁴ Government of South Australia, *Submission 84*, p. 2.

⁶⁵ NSW Government, *Submission 57*, Attachment 1, pp. 4, 7.

⁶⁶ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 78.

⁶⁷ Law Council of Australia, *Submission 117*, p. 29.

⁶⁸ Law Council of Australia, *Submission 117*, p. 29.

⁶⁹ Law Council of Australia, *Submission 117*, p. 29.

- 7.93 The Law Council suggested the following to provide a statutory basis to the EOI process:

This would be done, for example, by amending the Migration Act [*Migration Act 1958*] to provide general rules or guidance in relation to the factors generally underpinning EOIs and express discretion to the Minister or Secretary to determine occupation or visa profile priorities, with these published from time to time.⁷⁰

- 7.94 The Law Council also suggested that better information about priorities and processing times be provided to potential applicants, thus allowing them to make better-informed decisions and increasing Australia's attractiveness for skilled overseas workers.
- 7.95 While the Department of Home Affairs' website contains information on the number of invitations issued according to occupation over the last invitation round, 'it does not contain any information to assist to determine the likelihood that invitations in relation to a particular occupation are likely to be issued in a future round'. The Law Council suggests that the Department provides more granular information that includes 'positions by state, numbers per occupation, and cut-off scores for applications to be issued'.⁷¹
- 7.96 Of note, the Australian Government has committed to a new 'analysis-based points test to identify more effectively the independent migrants who will make the greatest contribution to the country'. The new points test will also ensure clear and fair pathways to permanent residence.⁷²

Committee Comment

- 7.97 The Committee notes with approval recent announcements by the Australian Government to 1) commit to greater cooperation with the states and territories in determining priorities for state and territory nominated independent skilled visa places, and 2) reform the points test to make it more fit-for-purpose. The Committee will watch these developments closely and with interest.
- 7.98 The Committee shares the Law Council's view that the Expression of Interest process for independent skilled visa applicants should be governed by statute. Such a measure aligns with the principle of the rule of law and would increase clarity and fairness in the system.
- 7.99 The Committee, further, supports the Law Council's proposal that better information be provided to potential applicants on the likelihood that their Expression of Interest

⁷⁰ Law Council of Australia, *Submission 117*, p. 30.

⁷¹ Law Council of Australia, *Submission 117*, p. 30.

⁷² Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 58; Minister for Home Affairs, The Hon Clare O'Neil MP, 'A reformed points test to drive Australia's long-term prosperity', *Media Release*, 23 April 2024, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/reformed-points-test.aspx>, viewed 24 April 2024. .

will meet with success or not. Such a step would reduce administrative burdens by decreasing the number of expressions of interest received by the Department and better target those potential applicants that are most needed in Australia.

Recommendation 29

7.100 The Committee recommends that the Australian Government considers amending the *Migration Act 1958* and the *Migration Regulations 1994* to include provisions to deliver measures to ensure that the process by which the Minister, or their delegate, determines which persons who have submitted an Expression of Interest to apply for a skilled independent visa are invited to apply is authorised by law.

Recommendation 30

7.101 The Committee recommends that the Australian Government publishes more granular information, in a timely manner, about the profile of forthcoming invitation rounds, to better enable potential applicants to make informed decisions around their applications for skilled independent visas.

Global Talent Program

- 7.102 According to the Department of Home Affairs, the Global Talent Program is a permanent visa program (subclass 858) for 'exceptionally talented and prominent individuals who can raise Australia's standing in their field'. The visa caters for 'individuals with outstanding achievements, particularly high-earning individuals in future-focused sectors'.⁷³
- 7.103 Overseas workers seeking to apply for this visa type are required to submit an EOI to the Department of Home Affairs that outlines that they are highly skilled in one of the 'Minister's defined sectors' and are currently, or likely, to earn at or above the Fair Work High Income Threshold (currently \$167,500).⁷⁴
- 7.104 The benefits of the visa for the Australian community include skills transfer, promotion of innovation, and job creation. 5,000 places within the permanent Migration Program for 2022-23 and 2023-24 have been allocated to Global Talent

⁷³ Department of Home Affairs, 'Visas for innovation – Global Talent Program', <https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program>, viewed 19 February 2024.

⁷⁴ Department of Home Affairs, 'Visas for innovation', <https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program/eligibility>, viewed 5 March 2024; Fair work Commission, 'High income threshold', <https://www.fwc.gov.au/high-income-threshold>, viewed 5 March 2024.

visas.⁷⁵ This is down from 15,000 allocations in 2020-21 and 2021-22, with outcomes of 9,584 and 8,776, respectively.⁷⁶

- 7.105 Key priority areas for the program, as outlined in the 'Minister's defined sectors', include health industries; energy; financial services and fintech; defence, advanced manufacturing, and space; the circular economy; and infrastructure and tourism.⁷⁷ As pointed out by the AOYE Group and Sapien Group, each of these sectors have substantial potential for transformation and growth but 'face constraints through lack of skills'.⁷⁸
- 7.106 AOYE Group and Sapien Group highlighted China as a currently underutilised source of talent, particularly 'high-level technical and commercial talent'. They suggested that a greater recognition of China as a source of talent 'across government and industry would boost Australia's ability to achieve growth and transformation in key sectors'.⁷⁹
- 7.107 The Law Council argued that the listing of 'pathway priority sectors' for the Global Talent visa, like reliance on Skilled Migration Occupation lists more generally, 'can effectively omit applicants with unique skill sets that do not fit within the occupation list'.⁸⁰
- 7.108 The Law Council, further, highlighted that under current processing priorities set by Ministerial Direction (currently Ministerial Direction No. 105), the Global Talent visa has low priority. According to the Department of Home Affairs, Ministerial Direction No. 105 'continues to priorities healthcare and teaching occupations in the Skill Stream, as well as regional applications in employer sponsored programs'.⁸¹ Current processing priorities mean, according to the Law Council, that that Global Talent visa is on the 'lowest priority rung for skilled visas and processing times have increased'.⁸²
- 7.109 The current processing time guideline for the Global Talent visa indicates that 50 per cent of visas are processed within 9 months and 90 per cent in 12 months.⁸³

⁷⁵ Department of Home Affairs, 'Migration Program planning levels', <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>, viewed 19 February 2024.

⁷⁶ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 24.

⁷⁷ Department of Home Affairs, 'Visas for innovation', <https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program/eligibility>, viewed 5 March 2024.

⁷⁸ The AOYE Group and Sapiens Group, *Submission 30*, Attachment 1, p. 4.

⁷⁹ The AOYE Group and Sapiens Group, *Submission 30*, Attachment 1, p. 4.

⁸⁰ Law Council of Australia, *Submission 117*, p. 35.

⁸¹ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', Second Addendum to the 11th Edition, February 2024, p. 23.

⁸² Law Council of Australia, *Submission 117*, p. 35.

⁸³ Department of Home Affairs, 'Visa processing times – Global Talent visa', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/global-visa-processing-times>, viewed 20 February 2024.

- 7.110 As noted by the Law Council, such low processing priority applied to the Global Talent visa appears to be inconsistent with ‘its objective of being a streamlined visa pathway for highly skilled individuals’.⁸⁴
- 7.111 The current wait times for the Global Talent visa are particularly concerning given the level of global competition for highly skilled workers. As AOYE Group and Sapien Group highlight, ‘major immigrant countries have created special immigration policies for highly skilled individuals’. At present, the United States attracts around 40 to 50 per cent of the inflow of highly skilled migrants to the OECD, followed by the United Kingdom, Canada, and then Australia. This is particularly the case ‘for those at the highest levels of the talent ladder’, with the USA accounting for more than 50 per cent of migrating inventors and Nobel Prize recipients.⁸⁵
- 7.112 While the USA, the UK, and Canada all have visa programs directed at attracting and facilitating the entry of high skilled individuals similar to Australia’s Global Talent visa, Australia’s program has a key difference. As noted by Fragomen, ‘Australia is the only country to offer a fast-tracked pathway to permanent residency for top talent, whilst the above jurisdictions instead offer temporary or provisional visas.’⁸⁶
- 7.113 Fragomen argued that certain measures can be taken to cut back the application times associated with the Global Talent visa, while maintaining the integrity of the program. For one, they suggested that the salary threshold for the program be increased to \$250,000 in the professional stream, while maintaining salary flexibility for candidates in the PhD stream and ‘offshore applicants where [an] international record of achievement can be demonstrated’. This would reduce the number of EOIs that are unlikely to result in the issuance of a visa that the Department is required to assess.⁸⁷
- 7.114 Secondly, Fragomen suggested that the assessment criteria at the visa application stage be streamlined, ‘noting that the applicant’s international reputation and record of achievement is pre-assessed at the EOI stage.’⁸⁸ These changes, Fragomen proposed, would help ensure that the program ‘remains a truly fast-tracked pathway to permanent residence, while ensuring the integrity of the program as a means of attracting exceptional talent to Australia.’⁸⁹
- 7.115 Science and Technology Australia praised the Global Talent visa program for ‘the hugely important role’ it has played in securing ‘great, world-leading talent for our country’s universities and research system and for industry.’ In contrast to other

⁸⁴ Law Council of Australia, *Submission 117*, p. 35.

⁸⁵ The AOYE Group and Sapiens Group, *Submission 30*, p. [8].

⁸⁶ Fragomen, *Submission 54*, p. 6.

⁸⁷ Fragomen, *Submission 54*, p. 7.

⁸⁸ Fragomen, *Submission 54*, p. 7.

⁸⁹ Mr Charles Johanes, Special Counsel, Fragomen (Australia) Pty Ltd, *Committee Hansard*, Videoconference, 16 May 2023, p. 37.

evidence received by the Committee, they pointed to the 'swift processing times and clear pathway to permanent residency' as the key attractiveness of the visa category.⁹⁰

Committee Comment

- 7.116 The Committee shares the Law Council's and Fragomen's concerns that the Global Talent visa is not currently functioning as effectively as it could as a conduit for exceptionally talented people to migrate permanently to Australia.
- 7.117 Australia is in global competition with countries such as the USA, Canada, and the United Kingdom for skilled workers in cutting-edge fields. Unless Australia can offer an efficient entry pathway for such distinguished individuals, we are likely to miss out on the substantial societal and economic benefits that such people bring. Australia is well-placed to leverage the prospect of permanent residency for talented individuals as a key attraction strategy, so long as the process is streamlined and targeted.
- 7.118 In the context of nation building in the 21st century, the skills and experience that the world's most highly skilled people have are absolutely crucial for 'future proofing' our economy and society. It is vital that Australia remains an attractive destination for such people and that our visa system does not detract from our attractiveness.
- 7.119 The Committee notes that under the *Migration Strategy*, the Australian Government announced that it was considering 'developing a new Talent and Innovation visa to drive growth in sectors of national importance'.⁹¹
- 7.120 Indeed, following on from this, the Australian Government announced in the 2024-25 Budget that it 'will implement a new National Innovation visa, replacing the current Global Talent visa (subclass 858) from late 2024, to target exceptionally talented migrants who will drive growth in sectors of national importance'.⁹²
- 7.121 The Committee welcomes this announcement and hopes that the new National Innovation visa addresses the evidence that the Committee received in relation to the Global Talent visa.
- 7.122 Given the announcement of this change, the Committee does not consider there to be a need to make a recommendation regarding the current Global Talent visa program. The Committee looks forward to the introduction of the legislative instrument enacting this change and encourages the Government to ensure changes to the Migration Regulations on the scope and nature of the new visa offering accurately addresses the concerns of stakeholders as expressed in evidence to the Committee.

⁹⁰ Ms Misha Schubert, Chief Executive Officer, Science and Technology Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 34.

⁹¹ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 59.

⁹² Australian Government, *Budget 2024-25*, Budget Measures, Budget Paper No. 2, p. 136.

Temporary Visa Program

Temporary Skill Shortage Visa

7.123 The primary visa used to facilitate temporary skilled migration is the TSS visa (subclass 482). The TSS visa was introduced in 2018 to replace the Temporary Work (Skilled) visa (subclass 475). This visa type has the following three streams:

- Short-term stream
 - Primarily a 2-year visa for occupations on the short-term skilled occupation list.
- Medium-term stream
 - Primarily a 4-year visa for occupations on the Medium and Long-term Strategic Skills list or the Regional Occupation List.
- Labour Agreement stream
 - For employers and workers who do not meet standard visa rules.⁹³

7.124 On 27 April 2023, the then Ministers for Home Affairs, and Immigration, Citizenship and Multicultural Affairs announced that by the end of 2023, TSS short-term stream visa holders would gain access to a pathway to permanent residency within the existing capped permanent program.⁹⁴ With this announcement, the TRT stream of the Employer Nomination Scheme (subclass 186) visa is available for 'all TSS visa holders whose employer wishes to sponsor them.'⁹⁵

7.125 Visa applicants in the Short and Medium-term streams are required to be paid above the Temporary Skilled Migration Income Threshold (TSMIT) of \$70,000 per annum.

7.126 In evidence to the Committee, the Grattan Institute emphasised the economic need for temporary skilled migration, but cautioned that even temporary visas should target high-skilled workers:

Temporary skilled migration helps fill genuine skills shortages, which helps the labour market adjust to shocks such as the recent mining boom. But, since it also provides much of the applicant pool for permanent skilled migration, it too should target high-skilled migrants.⁹⁶

7.127 Fragomen emphasised the fiscal benefits derived from temporary migrant workers. They noted that because temporary skilled migrants are not entitled to government supports such as Medicare and subsidies for childcare and education, they tend to

⁹³ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 43.

⁹⁴ Hon Clare O'Neil MP, Minister for Home Affairs and Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, *Joint Media Release*, 'Temporary Skilled Migration Income Threshold Raised to \$70,000', 27 April 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/temporary-skilled-migration-income-threshold-raised.aspx>, viewed 21 February 2024.

⁹⁵ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 19.

⁹⁶ Mr Trent Wiltshire, Migration and Labour Markets Deputy Program Director, The Grattan Institute, *Committee Hansard*, Melbourne, 26 April 2023, p. 15.

have an even more positive fiscal benefit than other categories of migrant. Moreover, in cases where TSS visa holders subsequently go on to transition to a permanent visa, these workers typically earn more than other permanent visa holders.⁹⁷

- 7.128 In evidence to the Committee, several submitters raised the need by some industries for low-skilled or semi-skilled workers that are not easily facilitated through existing visa channels, for example because industry pay rates are below the TSMIT or they are not captured on a skilled migration occupation list. Unions NSW, for one, noted their support for greater low-skilled and semi-skilled migration given there 'are some labour shortages in those areas'. They continued:

We, however, believe that any form of unskilled or low-skilled migration that involves working visas should have pathways to permanency... We believe this is the time to have a conversation about how we can bring unskilled and low-skilled migrants into the country on appropriate visas that allow them to work and live in Australia but also give them a clear pathway to permanency, to become residents and citizens of our country."⁹⁸

- 7.129 The Government of South Australia echoed the need for some low and semi-skilled migration, through the continuation of Designated Area Migration Agreements and Industry Labour Agreements, 'where government agencies can closely monitor the activities of participating businesses and the legitimacy of the demands for the positions requested to be filled by overseas workers'.⁹⁹

- 7.130 Citing the research of the Committee of Economic Development of Australia, BDO Migration Services (BDO) argued for a 'Specific Essential Skills' visa to be made available for aged care workers, such as Personal Care Assistants. Such workers are currently classified as Australian and New Zealand Standard Classification of Occupations (ANZSCO) Level 4 in the skill hierarchy, the second lowest category. Workers in these occupations are not currently included on a skilled migration occupation list and are, therefore, not eligible for the skilled migration program. They noted, further, that even if these workers were to be added to a skilled migration occupation list, most roles would fall short of the TSMIT. As a solution they suggested the creation of a Special Essential Skills visa category to capture such workers.¹⁰⁰ The Aged Care Industry Agreement, which enables the migration of such workers, is discussed in more detail in the final section of this chapter.

- 7.131 The issue of semi or low-skilled labour migration will be discussed in further details as it relates to regional, rural, and remote areas in Chapter 10.

⁹⁷ Fragomen, *Submission 54*, p. 3.

⁹⁸ Mr Thomas Costa, Assistant Secretary, Unions NSW, *Committee Hansard*, Videoconference, 16 May 2023, p. 15.

⁹⁹ NSW Government, *Submission 57*, p. 4.

¹⁰⁰ BDO Migration Services, *Submission 129*, p. 6.

7.132 The *Migration Strategy* announced that the TSS visa will be replaced by a 4-year temporary skilled worker visa—the Skills in Demand visa, with ‘full mobility and clear pathways to permanent residence’.¹⁰¹ According to the *Migration Strategy*:

This new visa will give workers more opportunity to move employers and will provide clear pathways to permanent residence for those who want to pursue them.¹⁰²

7.133 The *Migration Strategy* goes on to explain that a key feature of this visa is ‘an alternative approach to mobility’. This new approach will include:

...new visa settings, streamlined applications and considerations of trailing employer fees that remove many onerous conditions that tie a migrant to a single employer. These components will help design out elements that contribute to worker exploitation and reduce barriers to job switching in the labour market, which will lead to a more productive workforce.¹⁰³

7.134 The *Migration Strategy* claims that this approach is superior to an industry sponsorship model, as it allows for worker movement to other industries where their skills and experience have relevance.¹⁰⁴ This approach as it relates to the requirement of sponsors to pay the Skilling Australians Fund levy is discussed further below.

7.135 According to the *Migration Strategy*, the Skills in Demand visa will consist of three pathways:

- Specialist Skills Pathway;
- Core Skills Pathway; and
- Essential Skills Pathway.

7.136 The Specialist Skills Pathway will cater to certain high-paid workers earning over \$135,000, or no less than Australian workers in the same occupation. The Core Skills Pathway will cater for workers in occupations on a Core Skills Occupation list earning above the TSMIT. Essential Skills Pathway will be a ‘more regulated pathway for lower paid workers with essential skills’¹⁰⁵.

Committee Comment

7.137 The Committee notes with interest the announcement in the *Migration Strategy* of the replacement of the TSS visa with a new four-year Skills in Demand visa that includes three streams. The Committee is hopeful that this change addresses much of the

¹⁰¹ Australian Government, ‘Migration Strategy – Action Plan’, <https://immi.homeaffairs.gov.au/programs-subsite/migration-strategy/Documents/migration-strategy-action-plan.pdf>, viewed 17 April 2024.

¹⁰² Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 46.

¹⁰³ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 47.

¹⁰⁴ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 47.

¹⁰⁵ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, pp. 49–52.

evidence received by the Committee on how temporary visa offerings can be improved. This is a policy area in significant flux and the Committee will continue to monitor these developments closely.

- 7.138 The Committee is particularly interested to see how the Essential Skills Pathway will provide access to lower-paid low-skilled or semi-skilled workers to service industries vital to our national interests, while maintaining the integrity of Australia's labour standards and conditions.
- 7.139 The Committee is mindful that a larger proportion of Australia's permanent migrant intake transition to permanency through various temporary skilled visas. Given this, it is essential that Australia attracts high-quality temporary workers with good prospects of becoming permanent residents and citizens.

Recommendation 31

- 7.140 The Committee recommends that the Australian Government continues to prioritise the development and implementation of the Skills in Demand visa, informed by widescale stakeholder consultation, and ensures that the three streams: Specialist Skill Pathway, Core Skills Pathway, and Essential Skills Pathway address the full gamut of demand for labour in the economy.**

International Students

- 7.141 The primary purpose for international students coming to Australia is to engage in education. At the same time, international students can also potentially contribute to the Australian economy as a temporary workforce (working up to 48 hours per fortnight¹⁰⁶) and as potential longer-term, or permanent, skilled migrants.
- 7.142 The important contribution that international students make to the Australian economy and society was highlighted by SUPRA (the Sydney University Postgraduate Representative Association), who submitted that 'international students are a major highway for Australia to access and retain highly skilled, educated and motivated new migrants'.¹⁰⁷
- 7.143 Indeed, as noted in the *Migration Strategy*, International students comprise the largest component of Australia's temporary migration program and are the biggest feeder into the permanent migration program.¹⁰⁸
- 7.144 Similarly, Independent Higher Education Australia (IHEA) noted that international education is a \$40 billion export industry for Australia that 'creates jobs for

¹⁰⁶ Department of Home Affairs, 'Work restrictions for student visa holders', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/student-500/temporary-relaxation-of-working-hours-for-student-visa-holders>, viewed 19 April 2024.

¹⁰⁷ SUPRA, *Submission 25*, p. [2].

¹⁰⁸ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 61. Also see: Department of Home Affairs, *Submission 127*, p. 11.

Australians and provides workers that fill demand at all levels of employment across a myriad of sectors'.¹⁰⁹

7.145 The Committee heard calls for increased pathways to permanent residency for international students. IHEA, for example, recommended the introduction of a “International Student Migration Program” that would provide clear pathways to permanent residency and citizenship for international students studying in areas of national priority.¹¹⁰

7.146 Echoing this call, VETASSESS submitted the following:

Australia needs to openly acknowledge the intrinsic link of international education to visa pathways and have a well-defined roadmap connecting the dots for this cohort before they arrive. This will increase the interest of young learners in coming to Australia as not only a safe study destination and allay anxieties about their options when they complete their studies.

They recommended increased supports for international students seeking pathways to permanent residency.¹¹¹

7.147 The NSW Government made a similar recommendation, calling for pathways to permanent residency for international students ‘who complete vocational education and training and higher education qualifications in Australia in critical or high demand skills and sectors’.¹¹²

Committee Comment

7.148 The Committee notes that the *Migration Strategy* has outlined a new points test for independent migrants, as is discussed earlier in this chapter. The new points test is set to include faster pathways to permanent residence for ‘international student graduates who are working in skilled jobs in the labour market, but fewer pathways for graduates not working in skilled jobs’.¹¹³

7.149 Additionally, the *Migration Strategy* recognises that international students comprise the largest share of ‘permanently temporary’ migrants. In relation to the international education migration sector, the *Migration Strategy* commits to the following actions, among others:

- Improving the integrity of the international education sector and supporting genuine students;
- Increasing English language requirements;

¹⁰⁹ Independent Higher Education Australia, *Submission 37*, p. [2]. Also, see: Australian Technology Network of Universities, *Submission 91*, p. 1.

¹¹⁰ Independent Higher Education Australia, *Submission 37*, p. [3]. Also see: NSW Government, *Submission 57*, Attachment 1, p. 5.

¹¹¹ VETASSESS, *Submission 89*, p. 19.

¹¹² NSW Government, *Submission 57*, p. 4.

¹¹³ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 58.

- Increasing scrutiny of student visa applications;
- Strengthening requirements for international education providers; and
- Supporting international students and graduates to realise their potential.¹¹⁴

7.150 The Committee notes that on 27 August 2024, the Minister for Education, Hon Jason Clare MP, the Minister for Home Affairs and Minister for Immigration and Multicultural Affairs, Hon Tony Burke MP, and the Acting Minister for Skills and Training, Senator Hon Murray Watt, jointly announced measures aimed at 'strengthening the integrity and sustainability of the international education sector'. Towards this end, the Government announced that it will 'set a National Planning Level (NPL) for new international student commencements of 270,000 for the calendar year 2025'. The Government explained that the NPL is divided between the higher education and the vocational education and training (VET) sectors, and that it would bring the number of international students across these sectors back to pre-pandemic levels.¹¹⁵

7.151 The announcement noted the following exceptions:

- School students;
- Higher degree by research students;
- Students undertaking standalone English language courses;
- Non-award students;
- Students that are part of an Australian transnational education arrangement of training arrangement;
- Key partner foreign government scholarship holders; and
- Students from the Pacific and Timor-Leste.¹¹⁶

7.152 The new NPL means that for publicly funded universities, around 145,000 new international students will commence in 2025, similar to 2023 levels; 30,000 will start in other universities and non-university higher education institutions, and 95,000 will commence in the VET sector. Individual education and training providers will be provided with an International Student Profile (ISP) which stipulates their international student in-take limitations.¹¹⁷

¹¹⁴ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 60.

¹¹⁵ Hon Jason Clare MP, Minister for Education, Hon Tony Burke MP, Minister for Home Affairs and Minister for Immigration and Multicultural Affairs, Senator Hon Murray Watt, Minister for Skills and Training, *Joint Media Release*, 'Improving the sustainability of international education', 27 August 2024, <https://ministers.education.gov.au/clare/improving-sustainability-international-education>, viewed 9 September 2024.

¹¹⁶ Hon Jason Clare MP, Minister for Education, Hon Tony Burke MP, Minister for Home Affairs and Minister for Immigration and Multicultural Affairs, Senator Hon Murray Watt, Minister for Skills and Training, *Joint Media Release*, 'Improving the sustainability of international education', 27 August 2024, <https://ministers.education.gov.au/clare/improving-sustainability-international-education>, viewed 9 September 2024.

¹¹⁷ Hon Jason Clare MP, Minister for Education, Hon Tony Burke MP, Minister for Home Affairs and Minister for Immigration and Multicultural Affairs, Senator Hon Murray Watt, Minister for Skills and Training, *Joint Media Release*, 'Improving the sustainability of international education', 27 August 2024,

- 7.153 The Committee recognises the important role that international students play in adding vitally-needed skills into the Australian economy. The Committee hopes that international students continue to be a significant source of Australia's permanent migrant program and that the reforms announced by the Australia Government for international education help to ensure that Australia is able to retain those international students who can potentially make the best contributions to Australia's economy and society as permanent residents and citizens.

Identifying Skills Shortages

- 7.154 It is important that the migration system is agile enough to respond to demands within the economy to enable business to tap into international labour markets smoothly and rapidly when appropriately skilled workers are not available.
- 7.155 The current migration system employs two main mechanisms to ensure that Australians are given priority in the job market and skilled working visas go to genuinely needed overseas workers: Labour Market Testing (LMT) and Skilled Migration Occupation lists. As discussed below, the Committee heard evidence that these mechanisms are potentially problematic for a range of reasons.

Labour Market Testing

- 7.156 Employers wishing to sponsor a foreign worker through a short-term or medium-term TSS visa (subclass 482) and Skilled Employer Sponsored Regional (Provisional) visa (subclass 494) are required to conduct LMT to demonstrate that a role cannot be filled by an appropriately skilled Australian citizen or permanent resident or 'eligible temporary visa holder'.¹¹⁸ LMT consists of a business publishing two advertisements with 'national reach' for a position in Australia for at least four weeks within a four-month period immediately prior to nominating a foreign worker for visa sponsorship.¹¹⁹
- 7.157 As pointed out by the Law Council, LMT is based on the principle that 'temporary skilled visas are utilised only where suitably qualified Australian residents and citizens are not available and cannot be trained in a reasonable time' to fill needed roles in the economy.¹²⁰
- 7.158 Under the *Migration Strategy*, the Government has streamlined LMT requirements, by removing the condition that positions be advertised through Workforce Australia (yet, still requiring two advertisements) and by increasing the validity period from four to six months. The Government is further considering moving away from LMT

<https://ministers.education.gov.au/clare/improving-sustainability-international-education>, viewed 9 September 2024.

¹¹⁸ *Migration Act 1958*, paragraph 140GBA(1)(a).

¹¹⁹ Department of Home Affairs, 'Nominating a position', <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing>, viewed 3 January 2024.

¹²⁰ Law Council of Australia, *Submission 117*, p. 23.

towards a mechanism 'for robust and genuine independent verification of labour market need' through Jobs and Skills Australia.¹²¹

7.159 The requirement to conduct LMT was criticised in submissions for a variety of reasons, including:

- cost and burden for businesses
- ineffectiveness as a means of:
 - guaranteeing appropriately skilled Australians are employed and
 - preventing the exploitation of foreign workers
- detriment for Australian communities that miss out on skilled workers for essential services, such as healthcare.¹²²

7.160 While noting that LMT should be retained in some form for many jobs, the Law Council called for reform to LMT requirements to make it more flexible, 'dynamic and responsive to business need, while still serving the LMT principle'.¹²³

7.161 Submitters to the inquiry highlighted costs associated with LMT and suggested in some cases the requirement should be waived. The Royal Australian College of General Practitioners (Rural) suggested the need for LMT for rural general practitioners be removed, while the Australian Private Hospitals Association recommended a 12-month moratorium on LMT requirements for clinical professions in acute shortage at both the regional and national levels.¹²⁴

7.162 The Primary Care Business Council noted that LMT is particularly unnecessary for International Medical Graduates (IMGs) who are required to work in regional areas that have been classified as Distribution Priority Areas (DPA), as DPAs already have established workforce shortages.¹²⁵

7.163 The Immigration Advice and Rights Centre and Unions NSW suggested that provided a job paid above 30 per cent of the median annual wage paid to employees within a given industry that the requirement for LMT could be removed.¹²⁶ Others suggested exemption from LMT be tied to a specific salary, with the Law Council proposing roles paying over \$100,000 be exempted from LMT, while the Grattan Institute suggested \$70,000 (the current TSMIT).¹²⁷

¹²¹ Australian Government, *Migration Strategy: Getting migration working for the nation*, December 2023, p. 53.

¹²² See, for example: Grattan Institute, *Submission 17*; Vialto Partners, *Submission 28*; Immigration Advice and Rights Centre and Unions NSW, *Submission 32*; Business Council of Australia, *Submission 56*; Australian Private Hospitals Association, *Submission 100*; Primary Care Business Council, *Submission 110*; Law Council of Australia, *Submission 117*; Lamattina Holdings Pty Ltd/Elmtree Migration Lawyers, *Submission 123*.

¹²³ Law Council of Australia, *Submission 117*, pp. 6, 24.

¹²⁴ Royal Australian College of General Practitioners, *Submission 73*, p. [2]; Australian Private Hospitals Association, *Submission 100*, p. 1.

¹²⁵ Primary Care Business Council, *Submission 110*, p. [4].

¹²⁶ Immigration Advice and Rights Centre and Unions NSW, *Submission 32*, para. 21.

¹²⁷ Law Council of Australia, *Submission 117*, p. 26; Grattan Institute, *Submission 17*, pp. 2-3.

- 7.164 Other submitters suggested that LMT not be required when a role has been identified as in shortage by Jobs and Skills Australia. The Law Council, for instance, noted that in these circumstances, ‘advertising the position to Australian workers is not necessary to satisfy the LMT principle and unnecessary delays’ businesses recruiting required workers.¹²⁸ The Australian Private Hospitals Association, similarly, submitted that ‘costly’ LMT should not be required ‘where acute shortages have already been demonstrated at either regional or national levels.’¹²⁹
- 7.165 KPMG, meanwhile, called for ‘a more data driven approach to determining whether [LMT] is even required’, suggesting that Jobs and Skills Australia may appropriately administer such an approach.¹³⁰
- 7.166 Echoing these points, the Aged and Community Care Providers Association (ACCPA) called for a move away ‘from individual [LMT] to an economy-wide approach, potentially led by Jobs and Skills Australia collaborating with the AIHW [Australian Institute of Health and Welfare]’.¹³¹
- 7.167 Lamattina Holdings Pty Ltd/Elmtree Migration Lawyers suggested two potential alternatives to LMT requirements:
- A declaration by a local council, valid for two years, that there is a local shortage of workers in a given industry.
 - Where the unemployment rate in a given region is under a certain percentage (for example, 6 per cent), then businesses in that area are exempt from LMT requirements.¹³²
- 7.168 Others echoed the suggestion that the requirement for LMT be pegged to the unemployment rate. Clubs Australia, for example, pointed out that ‘certainly as the unemployment rate drops, the need to demonstrate [LMT] diminishes.’¹³³
- 7.169 The Law Council also proposed that LMT not be required when a role is offered by an accredited sponsor. Instead, the sponsor would be obliged to declare that they have a genuine commitment to recruiting from the local labour market and that they have been unable to find an Australian resident for the role. The Law Council suggests that such a declaration should be taken at face value unless the case officer holds ‘broader concerns about the genuine need for the position’.¹³⁴
- 7.170 In a similar vein, the Business Council of Australia argued that ‘Trusted Trainers’—accredited sponsors with a demonstrated track record for training and hiring locally—

¹²⁸ Law Council of Australia, *Submission 117*, pp. 6, 26.

¹²⁹ Australian Private Hospitals Association, *Submission 100*, p. 3.

¹³⁰ Mr Mark Wright, National Leader, Immigration Services, KPMG Australia, *Committee Hansard*, Canberra, 16 May 2023, p. 30.

¹³¹ Mr Tom Symondson, Chief Executive Officer, Age and Community Care Providers Association, *Committee Hansard*, Canberra, 27 September 2023, p. 35.

¹³² Lamattina Holdings Pty Ltd/Elmtree Migration Lawyers, *Submission 123*, p. [2].

¹³³ Mr Simon Sawday, Executive Manager, Policy and Government, Clubs Australia, *Committee Hansard*, Canberra, 16 May 2023, p. 23.

¹³⁴ Law Council of Australia, *Submission 117*, p. 26.

should be able to advertise positions for shorter periods than the four-week requirement. They further suggested that the Department of Home Affairs should have the flexibility to waive the technical requirements of LMT for such trusted employers.¹³⁵

7.171 Vialto Partners proposed that LMT be abolished completely. In lieu of this, they suggested that the advertising period be reduced from 28 days to 14 days; that the requirement for salary to be advertised be removed; that LMT be allowed to occur up to 12 months before lodging a nomination application; that LMT only be required for initial applications, not subsequent applications for the same employee; and that a business case be accepted instead of LMT, particularly for approved sponsors with accredited status.¹³⁶

7.172 Clubs Australia noted that LMT lacked policy rationale in relation to the hospitality industry as 'clubs do not have any commercial interest in overlooking local workers to engage overseas workers' and argued that it was counterproductive to impose additional costs and time lags on businesses through LMT requirements when it was clear that there were shortages of qualified staff to fill roles. They recommended the removal of LMT requirements for sponsors of TSS visa holders.¹³⁷

7.173 Others suggested that LMT requirements be redesigned from 'top-down' approaches. On this, the MIA informed the Committee that:

The economy is very complex. Economists can't get their predictions right. So we need to have a system that allows an employer to say, 'Hey, I can't find anyone in this location, in this occupation, with this profile.' There's no way you can do that at a national level, a top-down approach with some broad number. That would cause all sorts of issues for individual employers, and that would have meaningful impacts on industry and regions.¹³⁸

7.174 In contrast, the MIA suggested a flexible, bottom-up approach that can account for regional conditions, and the specific circumstances of industries and occupational categories: '[a]s long as the employer can demonstrate that there is a shortage of that particular occupation, position, in that location then that's the test, whatever that demonstration is and the form that it takes.'¹³⁹

Skilled Migration Occupation Lists

7.175 The Department of Home Affairs maintains the following three skilled migration occupation lists for the purposes of assessing eligibility for skilled permanent and temporary visas, based on purported shortages in the economy:

¹³⁵ Business Council of Australia, *Submission 56*, Attachment 1, p. 4.

¹³⁶ Vialto Partners, *Submission 28*, p. [5].

¹³⁷ Clubs Australia, *Submission 74*, pp. 2-3.

¹³⁸ Mr Constantine Paxinos, Vice President, Migration Institute of Australian, *Committee Hansard*, Canberra, 17 May 2023, p. 47.

¹³⁹ Mr Constantine Paxinos, Vice President, Migration Institute of Australian, *Committee Hansard*, Canberra, 17 May 2023, p. 47.

- 1 Short-term Skilled Occupation List
- 2 Medium and Long-term Strategic Skills List
- 3 Regional Occupation List

These lists are tabled in Parliament through ‘a complex set of legislative instruments’¹⁴⁰ under the Migration Regulations and available on the Department’s website. The lists are designed to capture occupations that are currently in shortage in the economy. The last update of the Skilled Migration Occupation List was on 11 March 2019, which was based on ‘consultation and labour market analysis by the then National Skills Commission’ (which has since been absorbed into Jobs and Skills Australia).¹⁴¹

- 7.176 The PC has criticised the use of skilled migration occupation lists as being ‘difficult to accurately construct and update, with doubtful value as a criterion for permanent migration’.¹⁴² Similarly, the *Migration Strategy* acknowledged problems around the use of skilled occupation lists for visa purposes. It noted:

The multiple occupation lists that form the basis of decision-making in the granting of temporary skilled visas are out of date and inflexible. They are a poor instrument for responding to a dynamic global economy in which technological change in areas such as artificial intelligence and robotics is rapidly generating demand for workers with skills for which there is strong global competition.¹⁴³

- 7.177 Closely echoing the PC and the *Migration Strategy*, the Committee heard evidence that the current skilled migration occupation lists used by the Department of Home Affairs may not accurately reflect the true needs of some businesses and industries. The disconnect between the fluctuating labour needs of business, the changing nature of some jobs that are not easily captured under static occupation lists and the Department’s reliance on these lists for visa eligibility means that businesses are often hindered in obtaining required skilled workers to grow their business and take up opportunities as these arise.

- 7.178 The Law Council, for example, submitted the following on the usefulness of the lists:

...these lists are not sufficiently dynamic to capture areas of genuine shortages in real time, and actually contribute to longer processing times, backlogs, and frustration for applicants.¹⁴⁴

¹⁴⁰ Law Council of Australia, *Submission 117*, p. 15.

¹⁴¹ Department of Home Affairs, ‘The Administration of the Immigration and Citizenship Programs’, 11th Edition, May 2023, p. 18.

¹⁴² Productivity Commission, *5-year Productivity Inquiry: A more productive labour market*, Vol. 7, Inquiry Report no. 100, February 2023, p. 13.

¹⁴³ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 31.

¹⁴⁴ Law Council of Australia, *Submission 117*, p. 15.

- 7.179 The Australian Constructors Association, similarly, noted that the occupation lists do ‘not comprehensively address the breadth of contemporary occupations in the construction industry’.¹⁴⁵
- 7.180 The Tasmanian Government, meanwhile, pointed to the lists being ‘complex and not flexible or sensitive enough to accommodate changing labour market needs across different geographical regions’ as problems with the current approach. They called for an approach which is better informed by real-time data from a range of sources.¹⁴⁶
- 7.181 The Immigration Advice and Rights Centre and Unions NSW highlighted that the skilled occupation lists tend to be ‘subject to change without notice and are out of step with roles that exist in many industries’.¹⁴⁷ Similar to their recommendation around removing the need for LMT, they suggested that the need for a skills list could be replaced by a requirement that a role pay 30 per cent above the industry medium salary.
- 7.182 The MIA noted how the skilled occupation lists ‘very often do not cater to the specific labour needs of Australian industries and businesses’ and cited the recent proliferation of industry and company-specific “workaround” labour agreements as evidence ‘that the occupational skills lists are not fit for purpose and are a barrier to Australian industry and businesses in their attempts to access skilled overseas labour’. They recommended that the TSS occupation lists and the Regional Occupation List be consolidated ‘to provide all visa holders in these visa classes the opportunity to attain permanent residency in Australia’.¹⁴⁸
- 7.183 The Government of South Australia suggested that skilled occupation lists could be abolished for ‘employer sponsored visas at high skills levels’ that meet certain criteria. They suggest the following model to deliver this:
- Employer:
 - Demonstrates a genuine need to fill a position commensurate to any ANZSCO Skill Level 1, 2 or 3 occupations, and
 - Pays for the associated cost of sponsoring a skilled migrant.
 - Skilled migrants demonstrate that they:
 - Have an AQF (Australian Qualifications Framework) Qualification and/or experience that meet the Skill Level as defined by ANZSCO and have at least one-year relevant work experience.
 - Have an overseas qualification or experience that satisfies the relevant Skill Level as defined by ANZSCO and have at least two-years relevant work experience.
 - Meets minimum English language competency.¹⁴⁹

¹⁴⁵ Australian Constructors Association, *Submission 10*, p. 7.

¹⁴⁶ Tasmanian Government, *Submission 115*, p. 8.

¹⁴⁷ Immigration Advice and Rights Centre and Unions NSW, *Submission 32*, para. 20.

¹⁴⁸ Migration Institute of Australia, *Submission 87*, pp. 25-26.

¹⁴⁹ Government of South Australia, *Submission 84*, p. 4.

7.184 The Law Council recommended similar changes and highlighted the following examples of AZNSCO skill level 1—3 jobs currently not included in the skilled migration lists:

- 221212 Corporate Treasury
- 312412 Electronic Engineering Technician
- 139917 Regulatory Affairs Manager
- 224115 Data Scientist
- 262114 Cyber Governance and Compliance Specialist.

These positions are excluded from the skilled migration occupation lists despite being examples of senior oversight roles critical to business functions; highly skilled specialist occupations incorporating roles such as Aircraft Electronics Technician and Combat System Technician; and highly skilled occupations in emerging areas of vital importance for the economy and society, such as cyber security vigilance roles.¹⁵⁰

7.185 The Australian Small Business and Family Enterprise Ombudsman, meanwhile, questioned the suitability of the current ANZSCO for skilled visa purposes. The ANZSCO is a skill-based classification of jobs used to describe all occupations in the Australian and New Zealand labour markets. The Ombudsman noted that the current list largely dates to 2006, based on information related to the jobs market in 2001. While noting that the Australian Bureau of Statistics (ABS) is currently undertaking a comprehensive review of the list to better reflect current occupations in the labour market, which is earmarked for release in December 2024, they suggested the Australian government consider the immediate suitability of ANZSCO classifications for visa purposes and identify more appropriate alternatives.¹⁵¹

7.186 The Law Council also raised the ANZSCO as problematic, as it is not updated frequently and does not ‘reflect roles and occupations within emerging technologies’. The reliance of the skilled occupation lists on occupations listed in the AZNSCO, they contended, ‘further exacerbates the [skilled occupation] lists’ inflexibility’. The end results of this inflexibility, according to the Law Council, are:

...instances where migrants with appropriate skills, experience and training are prevented from making an application because their occupation is not on the list.¹⁵²

7.187 The Law Council submitted that assessment of skills shortages in the economy should ‘be performed by an independent agency, with a statutory responsibility for regulating the assessment based on clear, publicly available criteria’. They contrasted this to the current situation, which they oppose, which is based on

¹⁵⁰ Law Council of Australia, *Submission 117*, p. 16.

¹⁵¹ Australia Small Business and Family Enterprise Ombudsman, *Submission 113*, pp. [3-4].

¹⁵² Law Council of Australia, *Submission 117*, p. 15.

'discretionary, permissive Ministerial power to determine occupations which is not informed by any specific criteria'.¹⁵³

7.188 They suggested that such a role could be performed by Jobs and Skills Australia.

Jobs and Skills Australia

7.189 Jobs and Skills Australia is a secondary statutory authority under the Department of Employment and Workplace Relations which was established in November 2022. Jobs and Skills Australia replaced the National Skills Commission, but has a broader remit than the latter, including workforce planning and working closely with the states and territories, industry, unions, and education providers.¹⁵⁴ Its mission is 'to be a catalyst in activating the potential of Australia's human capital to meet present and future skills needs'.¹⁵⁵ Its Commissioner is directly accountable to the Minister for Skills and Training.¹⁵⁶

7.190 The role of Jobs and Skills Australia is as follows:

...to engage, advise and assist the Australian Government and other stakeholders in decision-making on the current, emerging and future skills and workforce needs of the Australian economy. This includes in regional, rural and remote Australia, and on the development of new industries and new technologies.¹⁵⁷

7.191 Jobs and Skills Australia does this through the provision of high-quality data, analysis, and insights on skills shortages across the economy and advice on the effectiveness of Australia's vocational education and training, higher education, and migration systems in meeting labour demands.¹⁵⁸

7.192 In April 2023, the then Minister for Home Affairs emphasised the role of Jobs and Skills Australia in pinpointing labour market shortages and helping to integrate the jobs market, the training and education systems, and the migration system in addressing these shortages. She stated that with clear guidance from business and

¹⁵³ Law Council of Australia, *Submission 117*, pp. 16-17.

¹⁵⁴ Department of Employment and Workplace Relations, 'Establishing Jobs and Skills Australia', 27 July 2022, <https://www.dewr.gov.au/newsroom/articles/establishing-jobs-and-skills-australia>, viewed 5 February 2024.

¹⁵⁵ Jobs and Skills Australia, 'The role of Jobs and Skills Australia', <https://www.jobsandskills.gov.au/publications/towards-national-jobs-and-skills-roadmap-summary/context#:~:text=In%20response%20to%20this%20challenge,present%20and%20future%20skills%20needs>, viewed 11 January 2024.

¹⁵⁶ Jobs and Skills Australia, 'Our Commissioner', <https://www.jobsandskills.gov.au/engage/about/our-commissioner>, viewed 3 January 2024.

¹⁵⁷ Jobs and Skills Australia, 'Our role', <https://www.jobsandskills.gov.au/engage/about/our-role>, viewed 3 January 2024.

¹⁵⁸ Jobs and Skills Australia, 'Our role', <https://www.jobsandskills.gov.au/engage/about/our-role>, viewed 3 January 2024.

unions, ‘Jobs and Skills Australia will use facts and data to prove where skills shortages exist.’¹⁵⁹

- 7.193 As noted, the Law Council expressed the opinion that Jobs and Skills Australia has the potential to act as the independent statutory body tasked to assess skills shortages in the economy under the *Jobs and Skills Australia Act 2022* (Jobs and Skills Act). They submitted:

Subsection 9(1) of the Jobs and Skills Act sets out its various functions including to provide advice to the Minister of Employment and Workplace Relations or the Secretary in relation to, amongst other things, Australia’s current, emerging and future skills and training needs and priorities.¹⁶⁰

- 7.194 Subsection 9(cb) of the Jobs and Skills Act expressly confers on Jobs and Skills Australia the role ‘to analyse skills needs and workforce needs, including in regional, rural and remote Australia, and in relation to migration’.¹⁶¹

- 7.195 The Law Council suggested that the Migration Act or Migration Regulations ‘could be amended to expressly confer on Jobs and Skills Australia the function of periodically performing a bespoke assessment of skills and workforce shortages for the purposes of migration law’.¹⁶²

Committee Comment

- 7.196 The Committee believes that the *principle* of LMT is sound—where possible and appropriate local residents should be afforded priority to fill job vacancies. It is vital that the migration system is not used by unscrupulous employers to undercut the wages and conditions of local workers.

- 7.197 Despite this, the Committee believes the LMT principle can be achieved in the current migration system through a more dynamic and data-driven approach by Jobs and Skills Australia, that accounts for industry and geography-specific circumstances, such as prevailing unemployment rates, workforce needs, average wages for occupational categories, and the capacity of locals to fill demands.

- 7.198 As touched on above, the Committee notes that the *Migration Strategy* has outlined a larger role for Jobs and Skills Australia in determining skills shortages in the economy. To this end, according to the *Migration Strategy*, the Government will

...enhance coordination of the education, training and migration systems with Jobs and Skills Australia acting as the key advisory body. This will formalise an

¹⁵⁹ Hon Clare O’Neil MP, Minister for Home Affairs, ‘Australia’s Migration System’, National Press Club address, 27 April 2023, <https://minister.homeaffairs.gov.au/ClareONeil/Pages/national-press-club-address-australias-migration-system-27042023.aspx>, viewed 20 February 2024.

¹⁶⁰ Law Council of Australia, *Submission 117*, p. 17.

¹⁶¹ *Jobs and Skills Australia Act 2022*, S. 9(cb).

¹⁶² Law Council of Australia, *Submission 117*, p. 17.

evidence-based approach to identifying labour market need, including through advice from tripartite mechanisms.¹⁶³

7.199 Under this approach, the *Migration Strategy* further states that Jobs and Skills Australia will:

...advise on labour shortages as inputs into the design and delivery of a targeted temporary skilled migration system, through:

- Labour market analysis relevant to the Specialist Skills Pathway
- Defining a new Core Skills Occupation List for the Core Skills Pathway
- Advice on appropriate sectors and occupations in the Essential Skills Pathway.¹⁶⁴

7.200 The Committee approves of steps to replace the current LMT regime with skills and workforce shortage determinations by Jobs and Skills Australia, based on real-time evidence and tailored to geographic and sector-specific circumstances.

7.201 The Committee endorses the suggestion by the Law Council that the Migration Act or the Migration Regulations be amended to expressly confer on Jobs and Skills Australia the statutory function of making such determinations for the purposes of skilled migration visa application eligibility, thus removing ministerial discretion in determining what occupations are included or excluded from these lists.

7.202 Under such an approach, therefore, the skilled migration occupation lists currently employed for visa applications should eventually be replaced by lists determined by Jobs and Skills Australia.

7.203 In the interests of consistency and fairness across occupations, the Committee believes that the ANZSCO must form the basis for such analysis. At the same time, there must also be flexibility that allows for Jobs and Skills Australia to account for emerging occupational categories that may be vital for driving future sectors of the economy but are not easily captured under the ANZSCO, even if this is on a case-by-case or by-exception basis.

7.204 Further, the Committee is concerned with the long periods that elapse between updates of the ANZSCO. Given the rapidly changing nature of modern work practices and associated occupational categories, the Committee believes that a five-year gap between updates is excessive. The Committee recommends that more regular updates of the ANZSCO occur, as well as ensuring that Jobs and Skills Australia maintains a level of flexibility to adapt to real time changes in the job market between ANZSCO updates, as per the above.

¹⁶³ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 81.

¹⁶⁴ Australian Government, *Migration Strategy – Getting migration working for the nation*, December 2023, p. 81.

Recommendation 32

- 7.205** The Committee recommends that the Australian Government considers the phasing out of Labour Market Testing requirements in favour of a data-driven approach by Jobs and Skills Australia, especially for the agriculture sector, which is tailored to specific geographic and industry conditions.

Recommendation 33

- 7.206** The Committee recommends that the Australian Government amends the *Migration Act 1958* or the *Migration Regulations 1994* to expressly confer on Jobs and Skills Australia the statutory responsibility of determining skills and workforce shortages for the purposes of migration law.

Recommendation 34

- 7.207** The Committee recommends that the Australian Government replaces the current skilled migration occupation lists with lists produced by Jobs and Skills Australia, based on the Australian and New Zealand Standard Classification of Occupations but flexible enough to account for newly emerging occupations in the economy.

Recommendation 35

- 7.208** The Committee recommends that the Australian Government conducts more regular updates of the Australian New Zealand Standard Classification of Occupations.

Skills Assessment and Recognition of Overseas Qualifications

- 7.209** Many temporary and permanent skilled visa applicants must undertake a skills assessment by a skills assessing authority as part of their visa application. The skills assessing authority is an organisation that checks that applicants' skills meet the standards they set to work in a relevant occupation. The Department of Home Affairs currently lists 43 assessing authorities¹⁶⁵ covering relevant occupations on the skilled occupation lists. Each skills assessing authority has its own assessment procedures, timeframes, and charges. It is the responsibility of the applicant to contact the relevant skills assessing authority to gain skills recognition prior to applying for their

¹⁶⁵ Department of Home Affairs, 'Assessing authorities', <https://immi.homeaffairs.gov.au/visas/working-in-australia/skills-assessment/assessing-authorities>, viewed 9 May 2024.

visa. Applicants who fail to gain a positive assessment cannot apply for a skilled migration visa.¹⁶⁶

7.210 For Australia to compete globally in the race to attract highly skilled foreign workers it is essential that the nation's skills assessment and recognition framework is fit for purpose. That is, it must ensure that foreign workers hold the skills and qualifications they claim they have and assess that these skills and qualifications are at, or higher than, Australian standards to ensure quality and safety for the Australian community. At the same time, it is imperative that the skills assessment framework is agile enough that it does not unduly inhibit the ability of Australian businesses to access the skilled workers they need to function in a timely manner.

7.211 Australia's skills assessment framework for migrant workers was raised in evidence to the Committee as problematic for a number of reasons. Submitters described the process as, among other things, 'difficult', 'slow', 'lengthy', 'cumbersome', 'inflexible', 'opaque', 'confusing', 'costly', 'complicated', and 'over-bureaucratised'. Multiple contributors called the process 'inconsistent' and warned that the process potentially impedes the ability of Australian businesses to bring in the migrant workers they require. There were also widescale calls for reform of the current framework and associated processes.¹⁶⁷

7.212 Policy settings that appropriately recognise migrant worker skills and qualifications are important for maximising the contribution migrant workers can make to Australia, thus benefiting both the migrant and Australian society. Related to this point, the World Bank has recently noted the following:

Some migrants face occupational or professional downgrading—that is, they cannot work in occupations commensurate with the diplomas or credentials they received outside of the destination country. This inability typically weakens the match between their skills and attributes and the needs of the destination economy. The extent of such “brain waste” depends on the quality of the education migrants received and on the transferability of the credentials they obtained.¹⁶⁸

7.213 Given this, the World Bank points out the importance of policies designed to aid the successful integration of migrants into the labour market. As part of this, '[r]ecognition and certification of migrants' skills and experience influence how quickly they find a job and the extent of skill downgrading they experience'.¹⁶⁹

¹⁶⁶ Department of Home Affairs, 'Skills assessment', <https://immi.homeaffairs.gov.au/visas/working-in-australia/skills-assessment>, viewed 9 May 2024.

¹⁶⁷ Fragomen Australia, *Submission 54*, p. 15; Business Council of Australia, *Submission 56*, Attachment 1, p. 20; NSW Government, *Submission 57*, Attachment 10, p. 10; CORE Community Services, *Submission 71*, p. 4; Australian Chamber of Commerce and Industry, *Submission 79*, p. 5; National Farmers' Federation, *Submission 81*, Attachment 1, p. 14; Tasmanian Government, *Submission 115*, p. 8; Law Council of Australia, *Submission 117*, p. 34; BDO Migration Services, *Submission 129*, p. 4; Mrs Valerie Pereira, Chair, Migration Law Committee, Federal Dispute Resolution Section, Law Council of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 1.

¹⁶⁸ The World Bank, *Migrants, Refugees, and Societies*, World Development Report 2023, p. 99.

¹⁶⁹ The World Bank, *Migrants, Refugees, and Societies*, World Development Report 2023, p. 99.

- 7.214 Related to this matter, the Settlement Council of Australia submitted that the skills recognition mechanism ‘hinders many migrants and refugees from gaining meaningful employment with career progression, severely impacting Australia’s future prospects’.¹⁷⁰
- 7.215 In a similar vein, the NSW Government submitted that issues surrounding the recognition of overseas qualifications can pose a significant barrier for some migrants in securing jobs that match their skill level. They suggest that Australia’s governments work together to ensure that ‘skilled migrants can achieve recognition of their skills and qualifications consistently across jurisdictions, without compromising quality or safety’.¹⁷¹
- 7.216 Recognising that governments alone cannot solve this issue, the NSW Government also called on Australia’s governments to work with ‘industry, professional bodies and unions to identify opportunities to streamline and accelerate skills and qualification recognition’.¹⁷²
- 7.217 Speaking to this issue, the Community and Public Sector Union (CPSU) cited the ‘reluctance’ of professional organisations ‘to readily recognise overseas skills and qualifications’ and suggested that the Department of Home Affairs take the lead in a national approach to ensure ‘professional organisations encourage, rather than prevent, the accreditation required by recent entrants to practice and apply their skills in Australia’.¹⁷³
- 7.218 In relation to the credentialing of overseas-trained doctors, the Department of Home Affairs pointed out to the Committee that the Department does not set the requirements for practicing in Australia, that being the responsibility of the Department of Health, the Australian Health Practitioners Regulation Agency (AHPRA) and the various medical colleges. Despite this, the Department acknowledged that it plays a role in working ‘with those bodies to try and find a way to accommodate their requirements and still deliver the kind of system we are trying to deliver’.¹⁷⁴
- 7.219 Internationally, the NSW Government recommended that the Australian Government works closely with foreign governments to promote greater mutual recognition of skills. They recommended the following:

Investigate and implement greater mutual recognition of overseas qualifications, licensing and registration procedures with major migrant source countries

¹⁷⁰ Settlement Council of Australia, *Submission 34*, p. 9.

¹⁷¹ NSW Government, *Submission 57*, p. 10.

¹⁷² NSW Government, *Submission 57*; Attachment 2, p. 9. Also see: Settlement Services International, *Submission 26*, p. 2.

¹⁷³ CPSU, *Submission 62*, Attachment 1, p. [4]. Also see: Migration Youth and Children Platform, *Submission 99*, pp. 9-10.

¹⁷⁴ Ms Stephanie Foster PSM, Associate Secretary, Immigration, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 6.

including supporting migrants to update their qualifications prior to arrival in Australia to expedite their ability to enter the workforce.¹⁷⁵

As an example, the NSW Government raised the potential of greater mutual recognition of skills between Australia and New Zealand ‘given the Trans-Tasman Mutual Recognition Agreement is already in place’.¹⁷⁶

- 7.220 The Law Council echoed this recommendation, calling for ‘more effort for governments to mutually recognise, with other countries, skills and qualifications’. As an example, they highlighted the ‘the engineering Washington Accord’, which was a ‘simple process of having engineers mutually recognised’.¹⁷⁷
- 7.221 On the Washington Accord, the Australian Constructors Association argued that the agreement was outdated and suggested that the relevant accrediting body—Engineering Australia—could ‘analyse a wider range of overseas qualifications and identify gap training requirements’ that could ‘unlock a larger pool of overseas-trained graduates’.¹⁷⁸
- 7.222 Master Builders Australia suggested that recognition of international qualifications and experience for trade and licensed occupations needed to be ‘strengthened and streamlined’. In particular, they noted that for international qualifications that are comparable to, or exceeded, Australian requirements there should be automatic recognition for the purposes of visas applications. Under the current system, a visa applicant is obligated to pass through trade or skills assessments prior to recognition. Master Builders Australia cited as an example of qualifications that are of a higher standard than that required in Australia ‘some trade apprenticeships in the United Kingdom’. Allowing the holders of such high-standard qualifications automatic recognition, they suggested, would speed up application processes, reduce costs and red tape and make Australia a more appealing destination for potential skilled migrants.¹⁷⁹
- 7.223 In relation to the skills assessment framework, the Law Council highlighted that skills assessment processes, while being ‘a very important part of the migration program’, ‘sits outside the program’. They noted that each assessment authority has its own requirements ‘which are rigid and potentially, in certain circumstances, narrower than the migration law provides’. Continuing, they said the following:

But from a Law Council perspective, if it touches migration law and the migration program, there needs to be a mechanism where it is entrenched in migration law

¹⁷⁵ NSW Government, *Submission 57*, p. 5.

¹⁷⁶ NSW Government, *Submission 57*, Attachment 1, p. 14

¹⁷⁷ Mr Chris Spentzaris, Deputy Chair, Migration Law Committee, Federal Dispute Resolution Section, Law Council of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 4. Also see: National Farmers’ Federation, *Submission 81*, Attachment 1, p. 14.

¹⁷⁸ Australian Constructors Association, *Submission 10*, p. 7.

¹⁷⁹ Master Builders Australia, *Submission 38*, p. 5. See also: Australian Small Business and Family Enterprise Ombudsman, *Submission 113*, p. [3].

and there is accountability and responsibility for those bodies to make decisions in certain ways, if it impacts a migration decision.¹⁸⁰

- 7.224 While acknowledging that there is still a role for skills assessments for certain visas, and that many of the standards applied by skills assessing authorities may be justified, the Law Council argued that ‘these processes should align with visa criteria and a migration statutory framework and that the Department and Minister should have oversight of the standards they impose’.¹⁸¹
- 7.225 Registered migration agents Heather Marr, Libby Hogarth, and Nish K. Padiya related to the Committee a case where a permanent visa applicant, who otherwise meets criteria for the grant of the visa and Australian Government requirements to work in a given field, had had their application rejected on the basis of a negative skills assessment. This case study is included in Box 7.1, below.

Box 7.1 Case Study—Skills Recognition

We know of one such applicant who appears to meet all of the criteria for grant of a permanent visa but who has faced not one but three rejections by her professional accrediting body. Her Australian educational qualifications clearly meet the requirements for the occupations for which she has applied but she continues to be rejected by the skills assessment body, without clear explanation of the grounds on which she has been rejected. This is in spite of her meeting the stringent requirements of an Australian government agency regulating her field of work. She is the proprietor of a company working in the social care sector which employs 10 people.¹⁸²

- 7.226 Relating to this issue of the skills assessment process being outside the remit of migration law is the lack of independent appeals mechanisms for decisions made by assessing authorities. While some skills assessing authorities have internal review processes, these can be ‘time-consuming, unpredictable and costly’. Moreover, skills assessment decisions ‘are not subject to independent review by the AAT’ (Administrative Appeals Tribunal). As the Law Council explained:

That means that, if the applicant’s skills are not assessed as suitable by an authority applying standards that it has set out outside of the legislative framework, there is no means by which that person may independently challenge the merit of that assessment.¹⁸³

¹⁸⁰ Mr Chris Spentzaris, Deputy Chair, Migration Law Committee, Federal Dispute Resolution Section, Law Council of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 4.

¹⁸¹ Law Council of Australia, Answers to Questions Taken on Notice, Public Hearing, 27 September 2023, p. 20. Also see: Fragomen, *Submission 54*, p. 15.

¹⁸² Heather Marr, Libby Hogarth, Nish K. Padiya, *Submission 88*, p. 8.

¹⁸³ Law Council of Australia, Answers to Questions Taken on Notice, Public Hearing, 27 September 2023, p. 16. Also see: BDO Migration Services, *Submission 129*, p. 4.

7.227 The Law Council recommended that the skills assessment process be fundamentally reformed to ensure that, where required, it is performed pursuant to statutory criteria, consistent with ANZSCO, and subject to merits review.¹⁸⁴

7.228 On the related, but wider, issue of government oversight of and accountability for the skills assessing authorities, the Federation of Ethnic Communities' Councils of Australia (FECCA) noted that there is currently 'little consistency, transparency, or accountability across the various industry bodies who implement skills qualification recognition'. They made the following recommendation regarding this situation:

Develop government oversight of the skills assessment bodies in Australia to expand transparency and opportunities for internal review; improve the fairness, consistency, and equity of service; and retain centralised accountability within a broad market system.¹⁸⁵

7.229 Addressing this issue, the Settlement Council of Australia raised the idea of 'an ombudsman for skills recognition processes, that can have some oversight over the process'.¹⁸⁶ As an alternative to an ombudsman, they recommended the establishment of an independent oversight body for skills assessment processes and raised the example of the Office of Fairness Commissioner in Ontario, Canada, as a potential model for such a body. Settlement Services International, similarly, recommended that an external oversight body be established based on the Office of Fairness Commission.¹⁸⁷

7.230 The Office of Fairness Commissioner 'is responsible for dismantling barriers to recognition by streamlining processes, improving information and providing support'. The establishment of the Office had 'resulted in increased accessibility, fairness and equal treatment of overseas trained migrants and refugees in regulated professions and trades in Ontario'.¹⁸⁸

7.231 According to the Office of Fairness Commissioner's website, the mandate of the Office is to 'oversee the registration practices adopted by regulated professions, regulated health colleges and skilled trades'. The Office works with the various occupation regulation bodies 'to help establish registration processes that are transparent, objective, impartial and fair, and that comply with the specific legal obligations identified in the legislation'.¹⁸⁹

7.232 The legislation establishing the Office of Fairness Commissioner grants those seeking skills recognition the following:

¹⁸⁴ Law Council of Australia, *Submission 117*, p. 35.

¹⁸⁵ Federation of Ethnic Communities' Councils of Australia, *Submission 52*, p. 6.

¹⁸⁶ Ms Sandra Elhelw Wright, Chief Executive Officer, Settlement Council of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 30.

¹⁸⁷ Dr Mairead MacKinnon, Policy Lead, Settlement Council of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 31; Settlement Services International, *Submission 26*, p. 2. Also see: Multicultural Australia, *Submission 40*, p. 15; Refugee Council of Australia, *Submission 105*, p. 17..

¹⁸⁸ Settlement Council of Australia, Responses of to Questions of Notice, Public Hearing, 12 May 2023, p. 2.

¹⁸⁹ Office of the Fairness Commissioner, 'About', <https://www.fairnesscommissioner.ca/en/About/Pages/Mandate.aspx>, viewed 10 May 2024.

- The right to obtain clear information about the requirements, assessment criteria, processes, and timelines;
- The right to timely decisions;
- The right to an explanation of the reasons driving the results of the assessment;
- The right to request a review or appeal;
- The right to a transparent, objective, impartial and fair assessment of their qualification by adequately trained assessors; and
- The right to access application records.¹⁹⁰

7.233 According to the Settlement Council of Australia, 10 years following its establishment, the Office of the Fairness Commissioner had resulted in a 59 per cent increase in ‘foreign trained licensed professionals’, including lawyers, teachers, physiotherapists, dentists, social workers, physicians, engineers, nurses, and engineering technicians.¹⁹¹

7.234 The Committee heard evidence that skills and qualifications assessment and recognition processes could be accelerated through better information and a rationalisation of online tools to aid in the process. SSI, for example, highlighted that ‘there is limited information for newcomers on the process and criteria used to assess qualifications and skills’. They cited the example of Germany which ‘has established an online portal which provides a one-stop shop for all information on skills recognition’ and ‘a step-by-step guide to the qualification recognition procedure in 11 languages’.¹⁹²

7.235 On other matters, Vialto Partners criticised the requirement for applicants of Skilled Employer Sponsored Regional (Provisional) visas (subclass 494) to undertake skills assessment by a ‘relevant assessing authority’ prior to lodging an application. They note that for standard temporary skilled work visas (TSS [subclass 482] visas) ‘skills assessments are rarely required’ and note that it is ‘counterintuitive that the pathway designed to incentivise settlement in regional Australia has a higher barrier to entry than the standard work visa pathway’.¹⁹³

7.236 The Law Council, meanwhile, criticised the requirement for international graduates who have obtained an Australia qualification and who are applying for an employer sponsored visa to undertake a skills assessment. They suggested that this requirement be reviewed.¹⁹⁴

¹⁹⁰ Settlement Council of Australia, Responses of to Questions of Notice, Public Hearing, 12 May 2023, p. 2.

¹⁹¹ Settlement Council of Australia, Responses of to Questions of Notice, Public Hearing, 12 May 2023, p. 2.

¹⁹² Settlement Services International, *Submission 26*, p. 10. Also see: Australia Migrant Resource Centre, *Submission 102*, p. [2].

¹⁹³ Vialto Partners, *Submission 28*, p. [4].

¹⁹⁴ Law Council of Australia, *Submission 117*, p. 34.

Committee Comment

- 7.237 The Committee notes that on 12 September 2023, the then Ministers for Skills and Training; Home Affairs; and Immigration, Citizenship and Multicultural Affairs jointly announced the release of a discussion paper seeking feedback from stakeholders on ‘the new standards for skilled migration assessing authorities’. The announcement noted that the current skills assessment process ‘is complex, costly and lengthy’ and noted the need for ‘actions to improve and streamline the recognition of overseas skills to help migrants enter the labour force market at a level commensurate with their qualifications’.¹⁹⁵
- 7.238 While the Committee looks forward to the outcomes of this review of the standards of skills assessment authorities, it believes that the Government should undertake more fundamental steps to improve the integrity, consistency, fairness, and timeliness of skills assessment processes. One possible approach could be through the empowerment of Jobs and Skills Australia to oversee the work of Australia’s skills assessing authorities. Importantly, as argued by the Law Council, it is important that these processes be embedded within and aligned to migration law and subject to independent review mechanisms.
- 7.239 Recognising that skills assessment, qualifications recognition, and occupational licensing requirements in Australia are a matter for both the Commonwealth and state/territory governments and the various professional bodies, the Committee recommends that the Australian Government takes the lead in a nationally coordinated approach to promoting a more effective framework to manage these processes, including pursuing harmonisation of any relevant legislation or regulation governing these processes.
- 7.240 Related to this, the Committee sees merit in Settlement Services International’s suggestion that a consolidated and fit-for-purpose online tool could be developed to improve skills and qualifications assessment and recognition processes. This could be modelled on similar online systems used in Germany, which are available in multiple languages. Such an online ‘one-stop-shop’ could be developed as part of a wider effort by the Commonwealth and the state and territory governments to harmonise skills assessments, qualifications recognition and occupational licensing requirements, to ensure a seamless process across all levels of government.
- 7.241 Internationally, the Committee sees scope for greater mutual recognition of skills and qualifications between Australia and countries with similar standards to our own. Mutual recognition would significantly reduce administrative burdens and costs and make visa application processes much smoother for skilled workers with qualifications equal to Australian standards, or higher.

¹⁹⁵ Hon Brendan O’Connor MP, Minister for Skills and Training; Hon Clare O’Neil MP, Minister for Home Affairs; Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘Skills assessment reform for migrants and local businesses’, *Joint Media Release*, 12 September 2023, <https://ministers.dewr.gov.au/oconnor/skills-assessment-reform-migrants-and-local-businesses>, viewed 9 May 2024.

7.242 In lieu of mutual recognition, in situations where foreign workers have skill levels or qualifications that are equal to or higher than the standards required for equivalent occupations in Australia, the Committee recommends that the Australian Government, through a competent authority, provide such workers automatic recognition. Not only would this reduce burdens for such workers applying for Australian skilled visas but would also result in raising the standard of such occupations in Australia.

Recommendation 36

7.243 The Committee recommends that the Australian Government considers providing Jobs and Skills Australia the statutory power to oversee the work of Australia's skills assessment authorities and also provides an appeal mechanism for skills assessment decisions.

Recommendation 37

7.244 The Committee recommends that the Australian Government takes the lead in a nationally coordinated approach to harmonising the regulation of skills assessment, qualification recognition, and occupational licensing requirements in partnership with state and territory governments and professional bodies to ensure more effective and efficient processes.

Recommendation 38

7.245 The Committee recommends that the Australian Government, as part of a wider nationally coordinated approach to harmonising the regulation of skills assessment, qualification recognition, and occupational licensing requirements, establishes an online portal as a one-stop-shop for navigating these processes, available in multiple languages.

Recommendation 39

7.246 The Committee recommends that the Australian Government works to establish mutual recognition of skills and qualifications with partner governments and accreditation authorities of countries with similar standards to Australia.

Recommendation 40

7.247 The Committee recommends that the Australian Government, through a competent body, provides for automatic skill and qualification recognition and, including where possible, occupational licensing of foreign workers coming from countries where standards for a given occupation are equivalent to or higher than that of Australia.

Skilling Australians Fund

- 7.248 Employers seeking to sponsor an overseas worker for a skilled work visa are required to pay the Skilling Australians Fund (SAF) levy. The levy applies to the following visa schemes:
- 186 – Employer Nominated Scheme
 - 187 – Regional Sponsored Migration Scheme
 - 494 – Skilled Employer Sponsored Regional (Provisional)
 - 482 – Temporary Skill Shortage.
- 7.249 The amount businesses pay into the Fund differs according to the turnover of the sponsoring business, the type of visa, and the length of stay of TSS visa recipients, up to \$7,200.¹⁹⁶
- 7.250 The Fund is designed to ensure that businesses that benefit from skilled migration also contribute to the skilling of Australian citizens and residents. While the levy is collected by the Department of Home Affairs, it is managed by the Department of Employment and Workplace Relations.¹⁹⁷
- 7.251 Between 1 July 2018 and 30 June 2022, the Fund supported the National Partnership on the Skilling Australians Fund, which was an agreement between the Commonwealth Government and six state and territory governments for the delivery of skills, training, and apprenticeships projects.¹⁹⁸
- 7.252 In late 2022, the Commonwealth Government entered into the 12-Month Skills Agreement with all state and territory governments to provide \$1 billion in funding to make 180,000 free TAFE and vocational education places available in 2023, with a focus on technology and digital, hospitality and tourism, construction, agriculture, and sovereign capability.¹⁹⁹
- 7.253 In October 2023, the Government agreed to further boost investment in vocational education and training through the National Skills Agreement, in partnership with the state and territory governments. Through the Agreement, the Commonwealth Government will provide up to \$12.6 billion over 5 years. While the funding earmarked for the Agreement far exceeds revenue collected through the SAF levy,

¹⁹⁶ Department of Home Affairs, 'Cost of Sponsoring', <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/learn-about-sponsoring/cost-of-sponsoring>, viewed 8 February 2024; Australian Government, *Migration Strategy*, December 2023, p. 49.

¹⁹⁷ Department of Employment and Workplace Relations, 'Skilling Australians Fund levy', <https://www.dewr.gov.au/skilling-australians-fund-levy>, viewed 9 February 2024.

¹⁹⁸ Department of Employment and Workplace Relations, 'Skilling Australians Fund levy', <https://www.dewr.gov.au/skilling-australians-fund-levy>, viewed 9 February 2024.

¹⁹⁹ Department of Employment and Workplace Relations, 'Skilling Australians Fund levy', <https://www.dewr.gov.au/skilling-australians-fund-levy>, viewed 9 February 2024.

the levy will continue to contribute to the Government's investments in vocational education and training through the Agreement.²⁰⁰

7.254 As discussed in the section on temporary skilled visas, under the *Migration Strategy*, the Commonwealth Government has indicated that it will explore 'a model for employers to pay trailing charges and fees, rather than upfront fees, to facilitate mobility and improve small business access to the migration system', including the SAF levy. Under the proposed model, businesses would pay monthly or quarterly fees associated with certain temporary visa applications.²⁰¹

7.255 Submitters to the inquiry criticised the SAF on a range of factors, including:

- Cost burden on business, particularly upfront costs; and
- Ineffectiveness in aiding to alleviate skills shortages in specific sectors.

7.256 Vialto Partners recommended that the Government conducts a broad review of the SAF levy against competing economies to ensure that it remains fit-for-purpose. They suggested that businesses should be able to make payment of the levy at the time of visa approval, rather than at lodgement, that the levy be easily refundable in cases where a visa is not granted and there is no evidence of fraud committed by the sponsor or the applicant. They further suggested that startups and small business be exempt from the levy if they can provide a business case for growth and job creation.²⁰²

7.257 The Australian Private Hospitals Association (APHA) criticised the requirement for private health providers to pay the SAF levy on the basis that the Fund does not contribute to skilling Australians to take up roles in health. APHA explained: '...the Levy is directed toward VET programs, not towards programs that would reduce the health sectors [sic] dependency on skilled migration'.²⁰³

7.258 In a similar vein, the Business Council of Australia recommended that the levy be directly linked to the staffing needs of the paying business and that businesses should ideally be able to direct the funds to industry-specific training. They argued the following:

Due to the focus on VET-level training, many businesses like professional services and technology firms that pay the levy have no confidence that they will see any benefit in terms of an increased supply of skilled local workers in their industry or region.²⁰⁴

²⁰⁰ Department of Employment and Workplace Relations, 'Skilling Australians Fund levy', <https://www.dewr.gov.au/skilling-australians-fund-levy>, viewed 9 February 2024.

²⁰¹ Australian Government, *Migration Strategy*, December 2023, pp. 48-9.

²⁰² Vialto Partners, *Submission 28*, p. [6].

²⁰³ Australian Private Hospitals Association, *Submission 100*, p. 4.

²⁰⁴ Business Council of Australia, *Submission 56*, Attachment 1, p. 23.

By contrast, the Business Council of Australia suggested that the levy currently functions as ‘an additional tax on skilled labour that diverts funds that could have been used by companies to train their own staff’.²⁰⁵

- 7.259 The Business Council of Australia proposed that a new category of Accredited Sponsor be created for the purposes of skilled visa applications. Under the Council’s proposal, a category of ‘Trusted Trainer’ be applied to businesses that can demonstrate a significant commitment to training local staff and high-quality working conditions for local and migrant workers. These businesses would then benefit from SAF exemption, lower LMT requirements, and prioritised visa processing for sponsored overseas workers.²⁰⁶
- 7.260 Clubs Australia suggested that businesses should be able to choose whether they pay the levy or use the money to train their own staff.²⁰⁷ Australian Pork Limited, similarly, argued that the levy must ‘benefit the agricultural industries who contribute to it via effective upskilling initiatives, supported by transparent monitoring and evaluation reporting’.²⁰⁸

Committee Comment

- 7.261 The Committee recognises that the Skilling Australians Fund plays an important role in offsetting benefits derived by businesses in their employment of skilled overseas workers back into the training and upskilling of locals. At the same time, the Committee also acknowledges that this is a cost burden on employers in industries that may derive little benefit from the skilling that the levy facilitates. If the rationale for the levy is to skill workers in industries that rely on the importation of skilled workers, the Committee sees room for the broadening of the use of the levy to serve the needs of a wider array of industries.
- 7.262 The Committee notes evidence received concerning the need for greater portability for sponsored visas. This not only reduces instances of worker exploitation but also promotes a more dynamic, and therefore better, labour market. The Committee acknowledges that employers will be reluctant to commit to the payment of visa application fees and the Skilling Australians Fund levy, if there is a risk that sponsored foreign workers leave the employment of their nominator soon after arrival in Australia. To reduce the risk associated with the cost impost of the Skilling Australians Fund levy, the Committee sees scope for the general applicability of trailing employer fees for all classes of employer sponsored visas.
- 7.263 Such a measure would reduce the risk of worker exploitation and the risk of loss of return on investment for sponsoring employers, and promote a more mobile workforce and a more dynamic labour market.

²⁰⁵ Business Council of Australia, *Submission 56*, Attachment 1, p. 23.

²⁰⁶ Business Council of Australia, *Submission 56*, Attachment 1, p. 24.

²⁰⁷ Clubs Australia, *Submission 74*, pp. 1, 3.

²⁰⁸ Australian Pork Limited, *Submission 114*, p. 4.

Recommendation 41

- 7.264** The Committee recommends that the Australian Government redesigns the Skilling Australians Fund levy so that it more directly contributes to the skilling of locals to meet the needs of industries that rely on foreign workers and pay the levy.

Recommendation 42

- 7.265** The Committee recommends that the Australian Government trials the application of trailing employer fees to all classes of employer sponsored visa.

Sector-Specific Issues

Health and Aged Care

- 7.266** The Committee heard evidence of significant workforce shortages across the health and aged care sector.
- 7.267** In evidence to the Committee, HealthWISE reported that '[a]ll professional roles within health are in shortage.'²⁰⁹ Co.As.It. Community Services Ltd, likewise, pointed to a shortage of 'aged care workers, nurses, and other community care personnel', noting that these shortages have been 'persistent' and are not 'a direct result of the [COVID-19] pandemic.'²¹⁰
- 7.268** Related to this, the APHA, submitted that 'the health care sector is facing a workforce shortage crisis' that predated the COVID-19 pandemic. The pandemic had not only exacerbated these shortages, but had resulted in increased demand, also. These workforce shortages extended 'across all clinical professions – medical, nursing, midwifery, allied health and mental health.'²¹¹
- 7.269** More specifically, APHA identified that the private hospital sector needed more than 8,000 nurses to meet immediate demands and that at the start of 2022, 'operators were seeking more than 1,000 skilled migrants to assist in meeting this shortfall in skilled and experienced nurses', particularly in mentoring roles to support new graduates.²¹²
- 7.270** This evidence of widespread shortages in nursing, midwifery, and medicine has been confirmed by the findings of the *Independent Review of Australia's Regulatory Settings Relating to Overseas Health Practitioners* (The Kruk Review), which reported the following to the Australian Government in August 2023:

²⁰⁹ HealthWISE, *Submission 36*, p. [2].

²¹⁰ Co.As.It Community Services Ltd., *Submission 75*, p. [2].

²¹¹ Australian Private Hospitals Association, *Submission 100*, p. 1.

²¹² Australian Private Hospitals Association, *Submission 100*, p. 1.

Shortages are widespread across medicine, nursing, midwifery, and allied health professions, including dentistry, occupational therapy, physiotherapy, psychology, and radiation therapy.

The Kruk Review also affirmed the vital role International Medical Graduates (IMGs) play in helping to alleviate workforce shortages in healthcare and the need to ensure regulatory settings are fit-for-purpose and do not act as a barrier for IMGs coming to Australia.²¹³

- 7.271 At present, Australia heavily relies on IMGs to fill roles as General Practitioners (GPs). Around 45 per cent of GPs in Australia are IMGs, and around 50 per cent of all GPs attained their degree overseas.²¹⁴ This reliance is expected to increase, as there is a 'declining rate of [Australian] graduates choosing General Practice as a career'.²¹⁵
- 7.272 The Primary Care Business Council (PCBC) pointed to research by the Australian Medical Association that predicts there will be a shortage of more than 10,600 GPs by 2031-32, 'with the supply of new graduates not keeping pace with growing community demands'.²¹⁶ Additionally, as pointed out by the Royal Australian College of General Practitioners Rural (RACGP Rural), this shortage will be compounded by an increase in demand for GPs of 38 per cent (47 per cent in cities) by 2032.²¹⁷
- 7.273 The PCBC suggests that while efforts must be made to encourage more local graduates to pursue careers as GPs, 'increasing the supply of IMGs in Australia must form part of the short to medium-term policy response'.²¹⁸
- 7.274 The PCBC cited the expensive and slow visa application process for IMG as a significant barrier to attracting skilled healthcare workers to Australia:
- The current time it takes to process an IMG application in Australia is anywhere from 14 to 18 months, at a cost of \$25,000 plus to the individual. By comparison, in New Zealand, it takes three months to process and costs \$5,000.²¹⁹
- 7.275 Reflecting the cost and time difference in the visa application process for IMGs between Australia and New Zealand, the PCBC informed the Committee that 'NZ is recruiting 7.5× more IMG GP's per capita than Australia is post COVID'.²²⁰

²¹³ Department of Finance, 'Health Practitioner Regulatory Settings Review', <https://www.regulatoryreform.gov.au/priorities/health-practitioner-regulatory-settings-review>, viewed 11 April 2024; Australian Government, *Independent Review of Australia's Regulatory Settings Relating to Overseas Health Practitioners*, Final Report, 2023, p.1.

²¹⁴ The Royal Australian College of General Practitioners, *Submission 73*, p. [1].

²¹⁵ Primary Care Business Council, *Submission 110*, p. [1].

²¹⁶ Primary Care Business Council, *Submission 110*, p. [1].

²¹⁷ The Royal Australian College of General Practitioners, *Submission 73*, p. [3].

²¹⁸ Primary Care Business Council, *Submission 110*, p. [1].

²¹⁹ Dr Gerald Foley, Chair, Primary Care Business Council, *Committee Hansard*, Videoconference, 17 May 2023, p. 56.

²²⁰ Primary Care Business Council, Answer to Questions on Notice, Public Hearing on 17 May 2023, p. 1.

- 7.276 Moreover, given the international competition for doctors, PCBC informed the Committee that countries such as Canada and the United Kingdom have put measures in place to streamline their processes in a similar fashion to New Zealand to better attract IMGs by cutting down application time and costs.²²¹
- 7.277 Given the necessity to improve the IMG applicant experience when trying to relocate to Australia, the Kruk Review has recommended that the system be significantly streamlined to reduce time and cost for applicants.²²²
- 7.278 The Royal Australian college of General Practitioners (RACGP) Rural noted that since 2020, all IMG GPs coming to work in Australia are required to practice in 'rural designated areas of (medical) workforce shortage' for a minimum of ten years, the so-called '10-year moratorium', to access Medicare benefits. This means that IMG are estimated to constitute a large proportion of GPs living and working in regional, rural, and remote areas.²²³
- 7.279 The RACGP Rural submitted that the RACGP has never supported or endorsed the 10-year moratorium and called for it to be reviewed. They noted that measures 'which compel doctors to work rurally are often unsustainable' because at the end of the 10-year period 'the GPs move away from the rural areas'. They suggested that the policy focus shift towards 'mechanisms which would ensure registrars have a positive rural placement', which could include 'setting requirements for high-quality rural experience for example, duration, location, and breadth of exposure to rural medicine'.²²⁴
- 7.280 Noting shortages of nurses, particularly in regional and rural areas, the Australian College of Nursing (ACN) called for streamlined visa processing and fast-track pathways to permanent residency as key mechanisms to attract more Internationally Qualified Nurses and Midwives (IQNMs). Pathways to permanency, ACN contends, should also be extended to the families of IQNMs coming to Australia.²²⁵
- 7.281 The issue of shortages of medical professionals in regional, rural, and remote locations will be discussed in greater detail in chapter 10.
- 7.282 In relation to aged care, Co.As.It Community Services Ltd submitted that:
- ...Australia is lagging behind in meeting the human challenges of caring for an increasingly older population. The chasm between the need and the demand can only be met by a large well-trained and competent workforce... Hence the attraction of skilled migrant workers is critical.²²⁶

²²¹ Mr Jeremy Stone, Executive Director, Primary Care Business Council, *Committee Hansard*, Videoconference, 17 May 2023, p. 59.

²²² Australian Government, *Independent Review of Australia's Regulatory Settings Relating to Overseas Health Practitioners*, Final Report, 2023, p. 8.

²²³ The Royal Australian College of General Practitioners, *Submission 73*, p. [1].

²²⁴ The Royal Australian College of General Practitioners, *Submission 73*, p. [5].

²²⁵ Australian College of Nursing, *Submission 90*, p. 5.

²²⁶ Co.As.It Community Services Ltd, *Submission 75*, pp. [2-3].

- 7.283 Speaking to this widening labour force chasm between supply and demand, the ACCPA informed the Committee that the industry is going to 'have a shortfall over the next decade of something like 110,000 workers, and by 2050 that would be 400,000 workers'.²²⁷
- 7.284 Noting the requirement from 1 July 2023 for aged care providers to have at least one Registered Nurse on-site and on duty 24 hours a days 7 days a week at each residential facility²²⁸, the ACCPA called for the introduction of a UK-style 'health and care workforce visa' for Registered Nurses as a streamlined option to help meet this demand.²²⁹
- 7.285 Currently, Ministerial Direction 105 sets visa applications in relation to healthcare (together with teaching) as second on the order of priority after sponsored visa applications in relation to an occupation to be carried out in a designated regional area.²³⁰

Aged Care Industry Labour Agreement

- 7.286 The Aged Care Industry Labour Agreement (the Agreement) was announced on 5 May 2023 as a 'tripartite approach to address workforce shortages in aged care'. For employers to be able to access migrant workers through this pathway, they must first enter into an MOU with the relevant industry union and the agreement is then 'negotiated directly between unions and employers, promoting transparency and collaboration across the sector'.²³¹ Employers using this pathway must also demonstrate that they have 'made recent and genuine attempts to recruit workers from the domestic workforce pool', but the Department of Home Affairs notes that they will consider labour testing requirements to have been met once the employer enters into an MOU with the relevant union.²³²
- 7.287 The Agreement is designed to provide streamlined recruitment of qualified direct care workers from overseas and is intended to 'create positive incentives for aged care providers to improve workforce conditions and deliver additional support to overseas workers'.²³³
- 7.288 The Agreement can be used to access the following ANZSCO occupations:

²²⁷ Mr Tom Symondson, Chief Executive Officer, Aged and Community Care Providers Association, *Committee Hansard*, Videoconference, 27 September 2023, p. 35.

²²⁸ Aged Care Quality and Safety Commission, 'National aged care reforms', <https://www.agedcarequality.gov.au/national-aged-care-reforms>, viewed 16 May 2024.

²²⁹ Aged and Community Care Providers Association, *Submission 131*, p. [2].

²³⁰ Department of Home Affairs, 'Visa processing times – Skilled visa processing priorities', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/skilled-visa-processing-priorities>, viewed 23 February 2024.

²³¹ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 20.

²³² Department of Home Affairs, 'Skilled migration program—Aged Care Industry Labour Agreement', <https://immi.homeaffairs.gov.au/what-we-do/skilled-migration-program/recent-changes/new-aged-care-industry-labour-agreement>, viewed 16 May 2024.

²³³ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 20.

- Nursing Support Worker;
- Personal Care Assistant; and
- Aged or Disabled Carer.

7.289 Applications through this pathway can be either for a TSS (subclass 482) visa or an Employer Nominated Scheme (subclass 186) visa. Under the Agreement, the following concessions to the standard skilled visa apply:

- Two year pathway to permanent residence through the Employer Nominated Scheme;
- Streamlined visa nomination and priority visa application processing;
- No post qualification work experience requirement;
- English language concessions for workers with relevant community language skills; and
- Annual salary of at least \$51,222 or the Australian Market Salary Rate, where it is higher.²³⁴

7.290 Applicants for a skilled visa through the Agreement have the following requirements:

- Hold a relevant Australian Qualifications Framework (AQF) Certificate III or equivalent, or higher qualification. Applicants can also have 12 months of relevant work experience or part time equivalence in lieu of the qualification;
- Obtain a positive skills assessment from the Australian Nursing and Midwifery Accreditation Council or the Australian Community Workers Association if applicants obtained their qualifications overseas. This also applies if applicants claim work experience in lieu of the formal qualifications;
- Have an English language proficiency level of at least International English Language Testing System (IELTS) 5.0 or equivalent. Workers with target community language skills employed by culturally and linguistically diverse aged care providers need at least IELTS 4.5 or equivalent. An IELTS of 5.5 or equivalent is required for the Employer Nomination Scheme (subclass 186) visa; and
- For workers sponsored under the Employer Nomination Scheme (subclass 186) visa, have at least two years of relevant work experience in Australia in a direct care occupation. The two years of work experience is not tied to a particular employer or visa subclass.²³⁵

7.291 BDO criticised the process leading to the announcement of the Agreement, particularly the lack of consultation with industry concerning the requirement for aged

²³⁴ Department of Home Affairs, 'Skilled migration program—Aged Care Industry Labour Agreement', <https://immi.homeaffairs.gov.au/what-we-do/skilled-migration-program/recent-changes/new-aged-care-industry-labour-agreement>, viewed 16 May 2024.

²³⁵ Department of Home Affairs, 'Skilled migration program—Aged Care Industry Labour Agreement', <https://immi.homeaffairs.gov.au/what-we-do/skilled-migration-program/recent-changes/new-aged-care-industry-labour-agreement>, viewed 16 May 2024.

care providers to enter into an MOU with the relevant union to be eligible to join the Agreement. They suggested that if aged care providers are unwilling to enter into an MOU with the relevant union it may undermine the Government's aim of boosting the aged care workforce.²³⁶

- 7.292 BDO argued that the MOU requirement is 'misconceived' and emphasised that it is 'inconsistent with standard Labour Agreement requirements'. Given this, they submitted that the Agreement 'is not the solution' to addressing 'the significant and growing aged care workforce shortages'.²³⁷
- 7.293 The peak body for the aged care industry, the ACCPA, reported 'varying experiences' of ACCPA members with the Agreement and suggested that it should be subject to a 'rolling cycle' of monitoring and reviews, in consultation with industry, to ensure that any issues identified with it are addressed in a timely fashion. More specifically, they recommended that the Government reviews the MOU requirement under the Agreement in consultation with the sector and noted that the model MOU 'for some providers includes things that are challenging to actually achieve'. Difficulties in providers being able to meet the requirements of the MOU, the ACCPA argued, has meant that the sector has not seen 'the benefit of the industry labour agreement that we would like to see'.²³⁸
- 7.294 BDO asserted that labour agreements are 'clunky, highly bureaucratic and inconsistent with the Government's focus on reforming the migration program to better meet Australia's needs now and into the future', and suggested an alternative approach to the Agreement in the form of an 'Essential Skills Visa'. As discussed briefly above, such a visa would be targeted at semi and lower-skilled labour. BDO submitted that the visa should capture overseas aged care workers and include the concession to the standard skilled migrant pathway currently operational under the Agreement. Such a visa, they argued:
- ...will best meet the needs of the aged care sector and is consistent with a better-targeted migration system, which includes improved skills recognition.
-
- The Essential Skills Visa should be implemented and allow for concessions, including for permanent more effective residency contained in the Aged Care Industry Labour Agreement. This reform would more effectively address middle and lower skilled workforce needs, and provide the opportunity for permanent residency.²³⁹

²³⁶ BDO Migration Services, *Submission 129*, pp. 8-9.

²³⁷ BDO Migration Services, *Submission 129*, pp. 14, 18.

²³⁸ Aged and Community Care Providers Association, *Submission 131*, p. [2]; Mr Tom Symondson, Chief Executive Officer, Aged and Community Care Providers Association, *Committee Hansard*, Videoconference, 27 September 2023, pp. 35-36.

²³⁹ BDO Migration Services, *Submission 129*, pp. 9, 16.

7.295 The Department of Home Affairs currently lists 56 Aged Care Industry Labour Agreements in place.²⁴⁰ For context, while it can be difficult to determine the exact number of aged care providers, as many offer more than one service (for example, aged care, independent living, home care, and other forms of flexible care), and some operate in more than one state/territory. According to the Australian Institute of Health and Welfare (AIHW), as at 30 June 2023, there were almost 3,200 aged care providers in Australia.²⁴¹

7.296 The AIHW breaks this figure down in the following way:

- 1,334 providers delivering home support through 3,744 outlets;
- 923 providers delivering home care through 2,448 outlets;
- 764 providers delivering residential care through 2,639 services;
- 73 providers delivering transition care and short term restorative care; and
- 66 providers delivering other types of flexible care.²⁴²

Education

7.297 The Association of Heads of Independent Schools of Australia (AHISA) emphasised the reliance of the sector on the hiring of overseas workers on temporary visas for leadership positions and specialised teacher roles, and particularly to meet workforce shortages in boarding schools in regional, rural, and remote locations. AHISA described ‘a global “talent war” for teachers’, and cautioned that:

If Australia is to brace for a war for teaching talent with nations whose teaching training systems are similar to our own, schools must be supported, not penalised by visa arrangements.²⁴³

7.298 Echoing the above point, Independent Schools Australia submitted that access to overseas recruiting allows ‘Australian schools to increase the range of expertise available and hire teachers in high priority learning areas such as science, technology, engineering and mathematics (STEM)’.²⁴⁴

7.299 Given the workforce shortages across the board in the education sector, the AHISA called for ‘all school-related occupations’ to be included on the migration occupation lists ‘by default’.²⁴⁵

²⁴⁰ Department of Home Affairs, ‘List of current labour agreements’ <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-agreements/list-of-current-labour-agreements#>, viewed 16 May 2024.

²⁴¹ Australian Institute of Health and Welfare, ‘Providers, services and places in aged care’, <https://www.gen-agedcaredata.gov.au/Topics/Providers,-services-and-places-in-aged-care>, accessed 20 May 2024.

²⁴² Australian Institute of Health and Welfare, ‘Providers, services and places in aged care’, <https://www.gen-agedcaredata.gov.au/Topics/Providers,-services-and-places-in-aged-care>, accessed 20 May 2024.

²⁴³ Association of Heads of Independent Schools of Australia, *Submission 6*, p. 8. Also see: Independent Schools Australia, *Submission 93*, p. 1.

²⁴⁴ Independent Schools Australia, *Submission 93*, p. 2.

²⁴⁵ Association of Heads of Independent Schools of Australia, *Submission 6*, p. 11.

- 7.300 Ministerial Direction No. 105 currently lists visa applications in relation to a ‘teaching position’, together with healthcare, as second on the list of visa application processing priorities.²⁴⁶

Tech

- 7.301 According to the Tech Council of Australia (the Tech Council), the tech sector contributes \$167 billion to Australia’s GDP and employs over 860,000 people, making it the country’s third largest industry after mining and banking, and Australia’s seventh largest employing sector.²⁴⁷
- 7.302 In August 2022, the Australian Government committed to working with the tech industry to increase the sector’s workforce to 1.2 million people by 2030. Allowing for the creation of new roles and the loss of workers through retirements and transfers to different fields, this means 650,000 tech workers will need to be employed, or 186,000 additional workers above business-as-usual hiring figures (an increase of 40 per cent).²⁴⁸ While increasing the number of people studying Information and Communications Technology (ICT) and reskilling and upskilling existing workers will be the major avenues through which this increase is intended to be achieved, targeted migration of skilled workers, too, will factor into this.²⁴⁹
- 7.303 The Tech Council highlighted a significant problem with a reliance on education alone to meet this goal: ‘We have the same number of people doing IT-related degrees in Australia, in terms of domestic students, as we did in 2002... despite the tech sector growing massively over that period’.²⁵⁰ And while government and the tech sector will work to better promote career opportunities within the industry to potential students to boost the number of domestic workers moving into tech jobs, there remains a danger of shortfalls if more young Australians are not attracted into ICT training and education. The Government has committed to ‘targeting skilled migration to areas of high need and greatest shortages’ to help meet the 1.2 million target.²⁵¹
- 7.304 The Tech Council suggested that an additional 43,000 skilled migrants above the business-as-usual hiring levels (estimated to be around 119,000) will be needed to

²⁴⁶ Department of Home Affairs, ‘Visa processing times – Skilled visa processing priorities’, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/skilled-visa-processing-priorities>, viewed 18 April 2024.

²⁴⁷ Tech Council of Australia, *Submission 39*, p. 1.

²⁴⁸ Tech Council of Australia, *Submission 39*, p. 3.

²⁴⁹ Hon Ed Husic MP, Minister for Industry and Science, ‘Mapping out Australia’s path to tech jobs future’, Media Release, 2 August 2022, <https://www.minister.industry.gov.au/ministers/husic/media-releases/mapping-out-australias-path-tech-jobs-future>, viewed 6 February 2024.

²⁵⁰ Mr Thomas McMahon, Deputy Chief Executive Officer, Tech Council of Australia, *Committee Hansard*, Videoconference, 12 May 2023, p. 21.

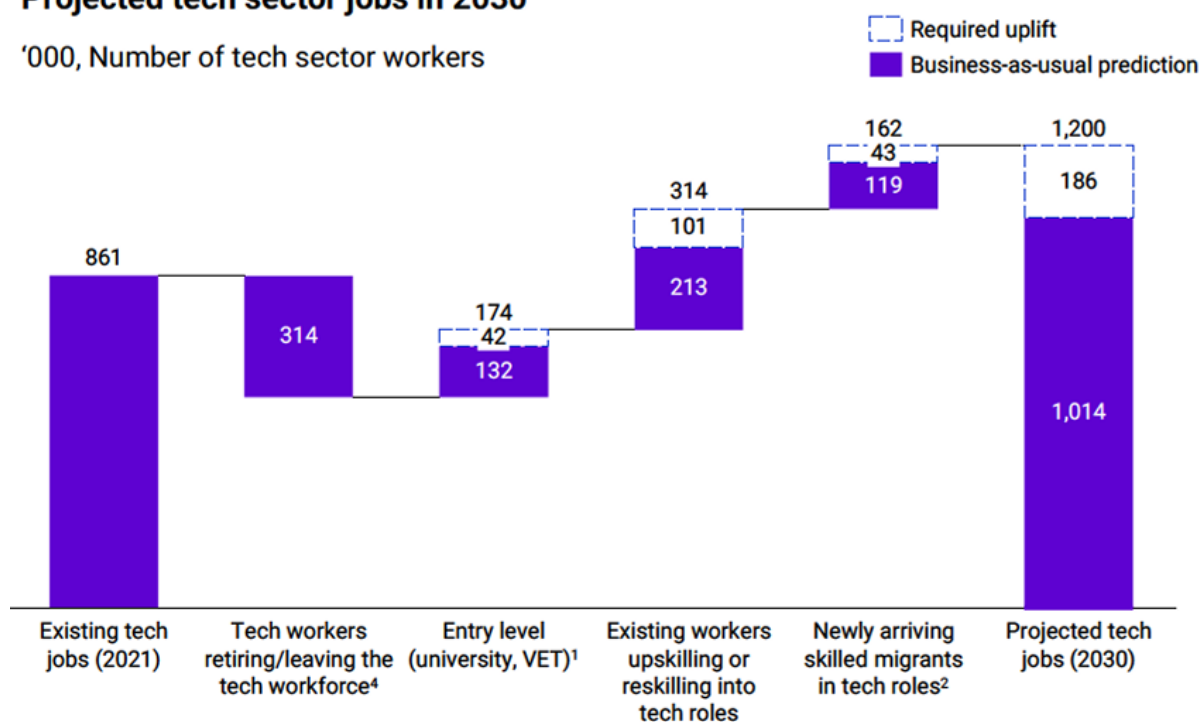
²⁵¹ Hon Ed Husic MP, Minister for Industry and Science, ‘Mapping out Australia’s path to tech jobs future’, *Media Release*, 2 August 2022, <https://www.minister.industry.gov.au/ministers/husic/media-releases/mapping-out-australias-path-tech-jobs-future>, viewed 6 February 2024.

meet the target before 2030.²⁵² A breakdown of how the 1.2 million tech jobs target will be achieved is at Figure 7.6.

Figure 7.6 Projected Tech Sector Jobs in 2030

Projected tech sector jobs in 2030

'000, Number of tech sector workers



Source: Tech Council of Australia, *Submission 39*, p. 6.

7.305 In relation to Figure 7.6, the Tech Council explained that to reach the 1.2 million job target, it will require an additional 186,000 tech workers above 2030 business as usual predictions. Further, an expected 314,000 tech workers will either retire or change jobs over the next ten years, pushing up demand for workers more. Finally, the Tech Council noted that for the sector to meet the job target over the next ten years it will need to employ the following:

- An additional 42,000 graduates will be required, above and beyond the expected 132,000 graduates from VET and tertiary institutions;
- An additional 101,000 Australians will need to move into tech roles, through reskilling and upskilling; and, as noted above,
- An additional 43,000 skilled migrants will be required, above the typical intake.²⁵³

7.306 Beyond contributing to the aggregate numbers required to meet industry demand for ICT workers, overseas tech workers also bring qualitative benefits to Australian tech firms. The Tech Council pointed out that 'skilled migrants play an important role in training entry level and reskilling or upskilling workers'. Because of this, such skilled

²⁵² Tech Council of Australia, *Submission 39*, p. 3.

²⁵³ Tech Council of Australia, *Submission 39*, p. 6.

migrants were ‘a crucial, complementary component to the local tech workforce as we grow towards this job goal’.²⁵⁴

- 7.307 To help ensure that the industry can meet labour market demands and government jobs targets, the Tech Council suggested that employer-sponsored migrants within the sector attract prioritised visa processing, and that LMT requirements and skills assessment be waived for skilled visas for tech jobs earning above the average Australian fulltime salary.²⁵⁵
- 7.308 Similarly, Vialto Partners suggested that ICT-specific visa pathways be developed to enable Australian business to access skilled workers in this sector. They noted that existing TSS visas are often not fit-for-purpose for ICT.²⁵⁶
- 7.309 The Australian Technology Network of Universities recommended international students studying in ICT fields be given more opportunities ‘to participate in work-based and work-integrated learning, internships and graduate programs’.²⁵⁷
- 7.310 Vialto Partners recommended that approved sponsors with accredited status have access to a dedicated ICT visa pathway that attracts priority processing. They suggest that such a visa could be free from LMT requirements, skilled occupation list adherence, and English language requirements. This visa, they further suggest, could be limited in number and required to comply with a salary threshold as a quality control measure, with requests for an increased number of workers considered under a Labour Markets Benefits Plan model.²⁵⁸

Building and Construction

- 7.311 The residential, commercial, and civil building and construction sector employs around 1.3 million workers and one in six Australian businesses are in the industry, the majority of which are small businesses.²⁵⁹
- 7.312 The Housing Industry Association (HIA) noted ‘a systemic shortage of trades workers’ in the residential building industry.²⁶⁰ Master Builders Australia (MBA), similarly, pointed out an ‘acute and systemic shortage’ of construction trades workers.²⁶¹
- 7.313 Directly related to this point, the Chamber of Minerals & Energy of Western Australia noted that across mining, infrastructure, civil and residential construction there were reports of ‘a shortage of experienced concrete workers, steel fixers, structural steel erectors, riggers, scaffolders and crane operators’. It further noted the low proportion

²⁵⁴ Tech Council of Australia, *Submission 39*, p. 3.

²⁵⁵ Tech Council of Australia, *Submission 39*, p. 8.

²⁵⁶ Vialto Partners, *Submission 28*, p. [7].

²⁵⁷ Australian Technology Network of Universities, *Submission 91*, p. [1].

²⁵⁸ Vialto Partners, *Submission 28*, p. [7].

²⁵⁹ Mrs Alex Waldren, National Director Industry Policy, Master Builders Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 8.

²⁶⁰ Housing Industry Association, *Submission 43*, p. 2.

²⁶¹ Master Builders Australia, *Submission 38*, p. 5.

of vacancies being filled 'within the broad group of occupations encompassing construction workers', with Construction Trades Workers, for example, down from 45 per cent in 2021 to 32 per cent in 2022.²⁶²

- 7.314 In addition to trades roles, the Australian Constructors Association (ACA) emphasised the skills shortages of 'white collar' roles within the construction industry. Drawing on research by Infrastructure Australia, ACA noted that 'two-thirds of occupations relevant to public infrastructure are likely or potentially in shortage' and that 'half of these are engineers, scientists and architects'. In terms of figures, there is expected to be a shortfall of 89,000 project managers, engineers, scientists, architects, compared to 29,000 tradespeople and labourers.²⁶³
- 7.315 According to MBA, the workforce needs of the industry are around half a million workers by 2026, without which the industry will not 'be able to build the housing and community infrastructure needed to support the growing population'. While the industry is confident that it can keep pace with demand based on Australia's migration intake alone, combined with other sources of population increase, MBA foresees 'total new home building activity falling short of underlying demand over the years ahead'.²⁶⁴
- 7.316 On this point, the HIA, too, acknowledged the 'mismatch between supply and demand for housing'. They noted, however, that while part of this was due to migration, 'the shortage of housing was still evident when Australia's borders were closed'. A situation, they argued, which was exacerbated by the 'absence of skilled migrants, with widespread labour shortages'. They emphasised that Australia 'benefits greatly from migrants, but the undersupply of housing is letting the nation down'.²⁶⁵
- 7.317 Similarly, MBA explained that currently the industry lacked workers to meet demands, yet bringing in migrant workers to meet labour demands pushes up demand for housing stock:
- We find ourselves in a catch-22 where we don't have enough workers to build the 200,000 dwellings a year that we need, but at the same time we don't have enough homes to meet the current migration levels, as well as the extra demand in the housing market.²⁶⁶
- 7.318 The HIA highlighted the importance of ensuring that housing stock keeps pace with demand, noting the potential for a detrimental impact on public confidence in the migration program:

²⁶² Chamber of Minerals & Energy of Western Australia, *Submission 69*, p. [2].

²⁶³ Australian Constructors Association, *Submission 10*, p. 4.

²⁶⁴ Mrs Alex Waldren, National Director Industry Policy, Master Builders Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 8.

²⁶⁵ Mrs Jocelyn Martin, Deputy Managing Director, Policy and Industry, Housing Industry Association, *Committee Hansard*, Canberra, 12 May 2023, p. 10.

²⁶⁶ Mrs Alex Waldren, National Director Industry Policy, Master Builders Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 8.

Amid an environment of acute shortages of housing and high costs, domestic acceptance of Australia's permanent migration program also presents challenges. A migration program that facilitates population growth while Australian citizens are unable to find appropriate and affordable housing, risks eroding social cohesion.²⁶⁷

- 7.319 The HIA emphasised the need for balance between placing more pressures on housing stock and the need for population growth. It called for governments to be proactive in alleviating 'the strain in the housing system by improving housing supply', but also noted that it would be 'detrimental to Australia's economic performance to unduly restrict immigration'.²⁶⁸

Committee Comment

- 7.320 In relation to the health sector the Committee notes the recommendations of the Kruk Review to improve and streamline visa application processes for IMGs and IQNMs. The Committee will monitor the progress of these reforms and their impact on GP and nurse numbers.
- 7.321 The Committee acknowledges widescale shortages in the aged care sector. It notes that Labour Industry Agreements are gradually being entered into between providers and the relevant unions and hopes that this contributes to alleviating these shortages. As a more fundamental and long-term solution, the Committee is hopeful that the proposed Essential Skills Pathway of the new Skills in Demand temporary visa provides an appropriate avenue for aged care provider to access overseas workers.
- 7.322 The Committee acknowledges evidence from the Tech Council that the domestic supply of tech workers is unlikely to meet industry demands. The Committee will watch with interest the contribution of the skilled migration program in contributing to meet this demand.
- 7.323 Finally, the Committee is cognizant that the country is in the midst of a housing crisis that has the potential to undermine public confidence in the migration system. It is of the utmost importance that governments of all levels work together to ensure that the supply of housing is sufficient to meet demands. The Committee acknowledges evidence from the building and construction industry that the provision of migrant workers must play a part in addressing workforce shortages to allow the industry to keep pace with demands.

²⁶⁷ Housing Industry Association, *Submission 43*, p. 2.

²⁶⁸ Housing Industry Association, *Submission 43*, p. 2.



8. Maximising the Workforce and Social Participation of Migrants and their Families

- 8.1 As demonstrated in other sections of this report, migration offers Australia's society, culture, and economy a wide array of benefits. As well as enriching Australia's cultural landscape, migrants infuse the economy with sought-after skills, experience, and knowledge, fill gaps in the labour market that cannot be met by domestic supply alone, and, on aggregate, helps raise Australia's productivity and standard of living.
- 8.2 Despite the already positive contribution migrants make to Australia, the Committee heard evidence there is room for further improvements to allow migrants to maximise their economic and social participation, thus promoting the goal of social cohesion and the fostering of a sense of belonging to Australian society in migrant groups.
- 8.3 The Committee heard that settlement services should be extended to facilitate the social integration of a greater range of migrants than currently—such services are, at present, mainly restricted to humanitarian entrants. Noting that some migrants require more support than others, such settlement services need to be tailored to suit the requirements of individual migrants and embedded within communities.
- 8.4 An expansion of settlement services would not only lead to better social participation and integration of migrants into Australian society, but would improve economic outcomes, too, through better targeted employment services. As noted by the Settlement Council of Australia: '[e]mployment is a key sign of successful settlement'.¹
- 8.5 The importance of settlement services is promoting the successful integration of migrants and their families into the Australian community. Settlement Services International (SSI) informed the Committee that in the Australian context, 'integration is usually defined as the capacity to participate fully in economic, social, cultural and civic life and is a multi-dimensional, two-way process of mutual adaptation between newcomers and host communities'.²
- 8.6 Finally, the Committee heard evidence that the current system can be reformed to further improve its economic outcomes. Specifically, better accounting of the skills and experience of so-called secondary applicants—family members accompanying primary visa applicants—particularly spouses and partners, would encourage higher

¹ Settlement Council of Australia, *Submission 34*, p. 6.

² Settlement Services International, *Submission 26*, p. 11.

skill couples to apply for skilled visas, thus raising the level of skill coming into the country and improving the overall economic outcomes of the migration program.

Extending Settlement Services

- 8.7 Emigrating to a new country is a major life decision that is fraught with challenges and uncertainties, as well as opportunities and possibilities. Having a support system in place to aid migrants in settling into their new home and community is vital for the long-term success of individual migrants and their families and for wider social cohesion outcomes for the country. As noted by the Australian Constructors Association in relation to the construction industry: 'The migration process cannot stop at the arrival lounge. Post-arrival integration is the key challenge facing migrants seeking to enter the construction industry.'³
- 8.8 The Committee heard evidence that the current settlement support services, while world-leading in many regards, should be expanded to better promote the economic and social participation of a wider range of migrants and advance social cohesion more generally.
- 8.9 In its submission to the inquiry, the Department of Home Affairs noted that there 'are a range of settlement options offered to new migrants that will enable them to fully participate, both socially and economically, in Australia'. The submission highlighted supports available under the Adult Migrant English Program (AMEP), the Youth Transition Support service (YTS), the Humanitarian Settlement Program (HSP), and Specialised and Intensive Services (SIS). These programs are mainly targeted to humanitarian entrants (and the YTS to 'humanitarian entrants and vulnerable migrants [aged] 15 to 25').⁴
- 8.10 Settlement services that relate specifically to humanitarian entrants, are discussed in Chapter 9.
- 8.11 At present, settlement services are delivered across the three tiers of government and through networks of publicly funded service providers under the 'National Settlement Framework' (the Framework). The Framework is a 'high level structural blueprint for the three tiers of government, Commonwealth, State and Territory, and Local Government, to work in partnership to effectively plan and deliver services that support the settlement of migrants and new arrivals in Australia.' The Framework serves to 'enhance inter-governmental collaboration, information sharing and coordination to improve settlement outcomes for migrants and new arrivals in Australia'.⁵

³ Australian Constructors Association, *Submission 10*, p. 7.

⁴ Department of Home Affairs, *Submission 127*, p. 15.

⁵ Department of Home Affairs, 'The National Settlement Framework', p. 1, <https://immi.homeaffairs.gov.au/settlement-services-subsite/files/the-national-settlement-framework.pdf>, viewed 30 July 2024.

- 8.12 The Framework recognises the vital importance of settlement supports, particularly over the first five years following a migrant’s arrival—the ‘settlement period’—for promoting long-term outcomes. Over this period, migrants ‘seek to become orientated, established, integrated and independent in their communities’. Settlement services, according to the Framework, provide migrants ‘a path and a means... to achieve full participation and adjust to their new society’.⁶
- 8.13 According to the Framework, migrants can access a wide array of settlement services, including mainstream and specialised supports, that provide migrants with ‘support, knowledge and skills that enable them to establish a life in Australia’. In particular, ‘government-funded services focus on supporting the early acquisition of English language skills, active participation in the workforce, and access to education’ to allow migrants to participate ‘economically, socially and culturally in Australian society’.⁷
- 8.14 Under the Framework, the range of services, both mainstream and specialised, provided by the three tiers of government are summarised in Figure 8.1, below.

Figure 8.1 Key Services Delivered by the Three Tiers of Government

Language Services	Employment	Education and Training
Housing	Health and Wellbeing	Transport
Civic Participation	Family and Social Support	Justice

Source: Department of Home Affairs, ‘The National Settlement Framework’, p. 3, <https://immi.homeaffairs.gov.au/settlement-services-subsite/files/the-national-settlement-framework.pdf>, viewed 30 July 2024.

- 8.15 Despite the apparent wide range of services available to migrants, the Committee heard evidence that under the current system, specialised and targeted settlement services are mainly restricted to a small number of eligible migrants. Settlement Services International (SSI), for instance, submitted the following:
- Australia is a world leader in terms of providing a comprehensive suite of support for migrants and refugees. However, there are many migrants who would benefit from this support but are unable to access it because they do not meet the eligibility criteria.⁸
- 8.16 Echoing this, the Settlement Council of Australia (SCOA), highlighted that ‘[t]he majority of settlement services are limited to refugees and humanitarian entrants, and

⁶ Department of Home Affairs, ‘The National Settlement Framework’, p. 2, <https://immi.homeaffairs.gov.au/settlement-services-subsite/files/the-national-settlement-framework.pdf>, viewed 30 July 2024.

⁷ Department of Home Affairs, ‘The National Settlement Framework’, p. 2, <https://immi.homeaffairs.gov.au/settlement-services-subsite/files/the-national-settlement-framework.pdf>, viewed 30 July 2024.

⁸ Settlement Services International, *Submission 26*, p. 11.

other visa categories that are ultimately a relatively small subset of the overall migration intake'.⁹ Expanding on this in its submission, SCOA argued the following:

All migrants go through a process of settlement, but currently only a very small subset are eligible for any kind of support to navigate the settlement journey. Despite coming through the skilled program, some may come across circumstances that mean they require more support. Others may not need much support, but would still benefit from being able to ask someone for advice on things as simple as how the health system works, how to choose a school for their children, or other matters. The lack of support for skilled migrants and their families also has gendered impacts, as women are often very isolated while not always having the same qualifications and social capital as the primary applicant.¹⁰

- 8.17 Currently, SCOA noted, 'the majority of migrants to Australia arrive with little orientation and the expectation they will work it out on their own'.¹¹ Ms Sandra Elhelw Wright, Chief Executive Officer, SCOA, explained that the 'majority of skilled migrants... are not eligible for federally funded settlement services'. Continuing, she said the following:

Despite coming through the skilled program, some may come across circumstances that mean they require more support. No matter how skilled and fluent in English you are, the process of uprooting yourself and moving to another country is inherently difficult. Some might not need much support but would still benefit from being able to ask someone for advice on things as simple as how the health system works, how to choose a school for their children and how ticketing for public transport works, or other things that someone can't necessarily be expected to know automatically upon arrival.¹²

- 8.18 Emphasising that Australia has 'social obligation towards' new arrivals, SCOA argued that the existing settlement service infrastructure needed to be better leveraged 'to support Australia's migration system to achieve its [nation] building ambitions'.¹³ Similarly, the NSW Government submitted that:

Economic migrants and refugees also make significant contributions to create vibrant economies and socially sustainable and culturally diverse communities. Better supporting these individuals to settle, integrate and meaningfully engage in Australian society will drive positive outcomes for social cohesion, cultural diversity and nation building.¹⁴

⁹ Ms Sandra Elhelw Wright, Chief Executive Officer, Settlement Council of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 26.

¹⁰ Settlement Council of Australia, *Submission 34*, pp. 4-5.

¹¹ Settlement Council of Australia, *Submission 34*, p. 5.

¹² Ms Sandra Elhelw Wright, Chief Executive Officer, Settlement Council of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 26.

¹³ Settlement Council of Australia, *Submission 34*, p. 5.

¹⁴ NSW Government, *Submission 57*, p. 3.

- 8.19 On this theme, the Federation of Ethnic Communities' Councils of Australia (FECCA) stressed migrants are 'undeniably highly motivated and capable of creating a prosperous life for themselves and their families in Australia'. Despite this, it emphasised the lack of support services as a 'gap' that needed filling:

It is in Australia's interest as well as migrants, to make this transition from arriving to thriving as quick and easy as possible. The current lack of consistent support on arrival for migrants outside the humanitarian stream is a clear gap and if addressed could deliver large social and economic returns with minimal investment.¹⁵

- 8.20 Expanding on this issue, Mr Mohammad Al-Khafaji, Chief Executive Officer, FECCA, informed the Committee that:

The absence of wraparound support is frequently identified in our consultation as a crucial missing piece in assisting new migrants to reach their full potential. New migrants face challenges securing housing, finding employment and navigating through systems and processes in a new country. We acknowledge the enormous work that the settlement service sector offers to humanitarian entrants, and we call for a similar wraparound support, light-touch support, through trusted community organisations and partners on the ground to be offered to migrants when they arrive here in Australia. We have developed a proposal entitled Arrive and Thrive, which outlines how such a program would work...¹⁶

- 8.21 In a document presented to the Committee, FECCA outlined its 'Arrive and Thrive' proposal, 'a support program for non-humanitarian migrants to strengthen the multicultural ecosystem through a national approach to the provision of information, support and services to assist new migrants to navigate, connect and thrive in their new communities...' Noting that an 'essential component of successful migration is building connection, community and a sense of belonging' and that the 'best way to support new migrants is to start with the community, not the individual', their proposal called for a 'community-led, community delivered program that improves the pathways of migrants to belonging and contributing [to] the nation'.¹⁷

- 8.22 Again, highlighting the lack of broadly available, yet specialised, support services for all migrants, Ms Violet Roumeliotis, Chief Executive Officer, SSI, argued that settlement services should be provided on a basis of need, not attached to specific visa categories, such as humanitarian visas. She explained:

What we require is that, rather than applying your resources to specific visa types, it should be based on need. Many who arrive as humanitarian entrants may not need the full service offering, so you need to do what they do in Canada. When people arrive, they consider newcomers, and settlement services can meet with any newcomer, irrelevant of their visa type—whether it's skilled, family,

¹⁵ Federation of Ethnic Communities' Councils of Australia, *Submission 52*, p 8.

¹⁶ Mr Mohammad Al-Khafaji, Chief Executive Officer, Federation of Ethnic Communities' Councils of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 63.

¹⁷ Federation of Ethnic Communities' Councils Australia, Exhibit, Public Hearing, 12 May 2023.

humanitarian or refugee. Indeed, they even allow naturalised Canadians to access those services. Then you provide the services that they require.¹⁸

The Canadian Approach to Settlement Services

- 8.23 Several contributors pointed to settlement services offered in Canada as a potential exemplar for Australia to follow. SSI, for one, submitted that in Canada, settlement services ‘are referred to as “newcomer services” and are often available to refugees, permanent residents, temporary residents and even naturalised citizens on an ongoing basis’. They further noted that such an approach ‘recognises that successful settlement and integration of newcomers is critical to ensuring public support for immigration’.¹⁹
- 8.24 FECCA, meanwhile, noted that the Canadian approach ‘works on the premise that for the economic, social and cultural benefits of immigration to be realised, migrants must integrate successfully into Canadian society’.²⁰
- 8.25 SCOA highlighted that ‘newcomer services’ in Canada ‘are highly used by skilled migrants (outside of humanitarian entrants)’ and that in 2018-19, 55 per cent of ‘Economic Class (skilled migrants) to Canada accessed employment-related services, 38 per cent accessed language training and 42 per cent accessed information/orientation services’.²¹
- 8.26 SCOA also reported that Canada spends ‘more than \$787M [CAD] on settlement support for newcomers’, allowing it to remain ‘at a competitive advantage to Australia for talent and family members’.²² They suggested if Australia adopted a similar approach that ‘[b]y supporting all migrants who arrive in Australia to navigate their new lives, Australia will remain a competitive destination for global talent’.²³
- 8.27 Speaking to the range of supports available to newcomers under the Canadian system, Dr Mairead MacKinnon, Policy Lead, Settlement Council of Australia, informed the Committee of the following:

From day one, and even pre-arrival, there is quite a lot of support for skilled migrants, family class migrants, and refugees, of course. It can be different levels. People who come on humanitarian visas are given similar intensive support as they are in Australia. But those who come on skilled visas are able to have employment support, referrals, support services, language training,

¹⁸ Ms Violet Roumeliotis, Chief Executive Officer, Settlement Service International, *Committee Hansard*, Videoconference, 16 May 2023, pp. 3-4.

¹⁹ Settlement Services International, *Submission 26*, p. 11. Also see: Government of South Australia, *Submission 84*, p. 9.

²⁰ Federation of Ethnic Communities’ Councils Australia, Exhibit, Public Hearing, 12 May 2023.

²¹ Settlement Council of Australia, *Submission 34*, p. 11

²² Settlement Council of Australia, Answers to Questions on Notice, Public Hearing, 12 May 2023.

²³ Settlement Council of Australia, *Submission 34*, p. 11.

orientation and community connections. These are all available and highly utilised by people.²⁴

Dr MacKinnon clarified that these services are funded by the Canadian Government but delivered by different organisations, with some variation across the provinces.²⁵

8.28 The Refugee Council of Australia (RCoA), too, provided details about settlement services in Canada. According to the RCoA, Canada's Resettlement Program 'assists immigrants and refugees in overcoming barriers specific to the newcomer experience, such as a lack of official language skills and limited knowledge of Canada, so that they can participate in social, cultural, civic and economic life'. They noted that these services focus on the following areas:

- Needs assessment and referrals;
- Information and orientation;
- Language training and skills development;
- Employment-related services; and
- Community connections.

Additional services include transportation, child-care, and translation services.²⁶

8.29 In addition to supports received through 'newcomer services', migrant workers in Canada also have access to social security. ISS explained:

In Canada, migrant workers have access to free health care under the health insurance system of the province or territory they are working. However, when they first arrive in Canada, it may take some time before they are covered by the provincial or territorial health insurance system. If there is a period where a worker is not covered by the provincial or territorial health insurance where they are working, the employer must obtain and pay for private health insurance that covers emergency medical care.

If a migrant loses their job through no fault of their own, or if they leave their job because of abuse, they may qualify to receive Employment Insurance benefits. Foreign workers employed in insurable employment are required to pay Employment Insurance (EI) premiums. Provided that all eligibility conditions are met, foreign workers are entitled to receive regular loss of employment benefits as well as other benefits related to sickness, maternity leave, parental leave, compassionate care and family caregiver benefits in the same fashion as Canadian citizens and permanent residents.²⁷

²⁴ Dr Mairead MacKinnon, Policy Lead, Settlement Council of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 27.

²⁵ Dr Mairead MacKinnon, Policy Lead, Settlement Council of Australia, *Committee Hansard*, Canberra, 12 May 2023, p. 27.

²⁶ Refugee Council of Australia, Answers to Questions on Notice, Public Hearing, 9 August 2023, p. 2.

²⁷ Settlement Council of Australia, Answers to Questions on Notice, Public Hearing, 12 May 2023.

8.30 By contrast, as noted by SCOA, in Australia most permanent migrants 'have to wait up to 4 years before accessing government payments due to the newly arrived resident's waiting period (NARWP)'. Moreover, 'many migrants initially arrive on temporary visas before transitioning to permanent residency meaning they may be waiting many years longer before being able to access supports'.²⁸

8.31 On this situation, SCOA argued the following:

The concept that permanent residents are to be taxed the same rate as citizens whilst receiving no social support from the government taxing them breaches the notions of fairness Australia is built on, with substantial impacts on Australia's social cohesion as a result. Providing income support to migrants as they begin their life in Australia is essential to their economic participation and supporting this economic growth. By providing migrants with support, we are providing them with an opportunity to effectively settle in Australia, including finding appropriate skilled employment.

They recommended that the NARWP be removed and that social security supports be made available to all migrants irrespective of visa status.²⁹

Improving Australia's Settlement Outcomes

8.32 As argued by contributors, Australia's support offerings for new arrivals could be improved through an expansion of its coverage beyond humanitarian entrants, as in the Canadian approach. SSI, for example, argued the following:

The Settlement Engagement and Transition Support (SETS) program is an existing suitable avenue for delivering this expanded support. SETS provides support to humanitarian entrants and other eligible migrants for up to 5 years after arrival. SETS client services helps in accessing English language skills, education, employment, and domestic and family violence support among other supports. We have advocated for limitations to accessing SETS based on length of stay in Australia and visa category to be removed due to the varying settlement journey of migrants and refugees. Many migrants and refugees fall through the cracks, and will continue to do so, by not being eligible for SETS.³⁰

8.33 On the expansion of settlement services, ISS made the following two recommendations:

- The Australian Government should broaden eligibility to settlement support and ensure adequate resourcing to meet future demand. This will ensure that a greater breadth of newcomers have the support they need to integrate and fully contribute to the community. Access to settlement

²⁸ Settlement Council of Australia, *Submission 34*, p. 7.

²⁹ Settlement Council of Australia, *Submission 34*, p. 7.

³⁰ Settlement Services International, *Submission 34*, p. 12.

support should be based on need rather than length of residency in Australia.

- The Australian Government should ensure a more targeted focus in the Adult Migrant English Program to engage women in the family migration stream and humanitarian program including more flexible options that allow for caring responsibilities and address barriers to participation.³¹

8.34 A key element in any expanded settlement services for newcomers would need to be support for migrants to join the workforce, as is done in Canada. Several contributors noted the tendency for migrants to be underutilised in the job market vis-à-vis their level of qualifications and skills, and suggested that more targeted employment services for migrants would help maximise their job prospects. The NSW Government, for example, argued that:

Australia would benefit from the migration system enabling the greatest and most appropriate skill utilisation for all visa holders – both to maximise their contribution to nation building as well as to promote their individual social and economic wellbeing.³²

8.35 The Government of South Australia pointed out that '[i]n recent years, several research reports have suggested that highly skilled migrants are being underutilised in Australia's labour market, with a substantial proportion working at a lower skill level than their qualifications and experience.'³³

8.36 Indeed, the Productivity Commission's (PC) *5-year Productivity Inquiry* report suggested that there is evidence that 'systematic mismatches can occur between migrant skill and jobs in the labour market'. The PC cited evidence from the Committee for Economic Development of Australia (CEDA) that while 55 per cent of skilled migrants work in their nominated field and 15 per cent work at the same or higher level than their nominated field, 30 per cent 'work in jobs that involve lower skills than those in their nominated occupation or are unemployed.' Additionally, they noted that for 'migrants arriving between 2013 and 2018, the degree of skills mismatch in their first 18 months of arrival resulted in forgone wages of \$1.25 billion'.³⁴

8.37 The PC suggested that a factor in this mismatch between migrant skill level and occupation was 'the barriers that migrants face once they arrive in Australia'. Explaining, the PC cited research that 'found that labour market outcomes for skilled migrants are affected by employers' "devaluation" of some foreign qualifications'.³⁵

8.38 The Australian Chamber of Commerce, meanwhile, cited research quantifying the issue and tying it to a lack of recognition of skilled migrants' qualifications:

³¹ Settlement Services International, *Submission 26*, p. 2.

³² NSW Government, *Submission 57*, p. 10.

³³ Government of South Australia, *Submission 84*, p. 9.

³⁴ Productivity Commission, *5-year Productivity Inquiry*, Vol. 7, Inquiry Report no. 100, February 2023, p. 17.

³⁵ Productivity Commission, *5-year Productivity Inquiry*, Vol. 7, Inquiry Report no. 100, February 2023, p. 17.

A report by Deloitte Access Economics (2018) suggested that in Queensland, for example, 49 in every 100 skilled migrants are not utilising the skills and experience gained before arriving in Australia, often due to lack of recognition of their qualification (25 per cent). Improved recognition processes that clearly indicate where international qualifications are equivalent to Australian qualifications is needed.³⁶

- 8.39 Consult Australia reported that 28 per cent of migrants who were qualified as civil engineers 'were unable to find work in the occupation with reasons including lack of recognition of overseas skills and qualifications, employer reluctance to employ individuals without local experience, lack of understanding of Australian standards and English language barriers'.³⁷
- 8.40 On this, the Migration Institute of Australia (MIA) suggested that the Australian Government consider developing 'educative programs to increase the awareness of migrants' overseas qualifications and abilities, as another means of increasing labour market potential and participation'. The MIA also pointed out that 'overseas work experience can be routinely dismissed and Australian work experience can be difficult to gain because of the resistance by local employers'.³⁸ Similarly, Ms Catherine Scarth, Chief Executive Officer, AMES Australia, informed the Committee that it was 'critical to engage employers to lift their awareness of the valuable skills and experience migrants bring'.³⁹
- 8.41 AMES Australia, further, highlighted the wastage of skills resulting from this situation:
- The provision of highly targeted Settlement Services for skilled migrants would avoid wastage of skills and opportunities for migrants, their families, industry and the economy. Several studies demonstrate billions of dollars wasted due to skilled migrant skills underutilisation.⁴⁰
- 8.42 The ISS called the underutilisation of existing skilled migrants a lost opportunity for the economy:
- Most discussion of migration as a response to labour and skills shortages has focussed on policies to increase the number of people coming into the country. This is a lost opportunity as newcomers who are already here are often unemployed, underemployed or working in positions well below their skill and qualification level.⁴¹
- 8.43 Like other contributors, the Government of South Australia also cited the Canadian example as an appropriate model for extending specialised employment services to

³⁶ Australian Chamber of Commerce and Industry, *Submission 79*, p. 5

³⁷ Consult Australia, *Submission 27*, p. 1.

³⁸ Migration Institute of Australia, *Submission 87*, p. 32.

³⁹ Ms Catherine Scarth, Chief Executive Officer, AMES Australia, *Committee Hansard*, Melbourne, 26 April 2023, p. 7.

⁴⁰ AMES Australia, *Submission 35*, p. 3.

⁴¹ Settlement Services International, *Submission 26*, p. 8.

migrants as a component of wider settlement services, suggesting that the Canadian approach is important as ‘the leading example of settlement support for skilled migrants and “bridging the gap” between new migrants and the employment vacancies suitable to their skills and experience’. Its submission further emphasised that the Canadians offer a suite of services to assist migrant integration into the job market...

...at both the pre- and post-arrival stage. Integration into the Canadian workplace and securing suitable employment is a key focus of the pre-arrival settlement support in Canada, with a network of organisations providing access to online job fairs to learn about potential employers, access to employer-interactive webinars, job matching platforms, sector specific mentor programs and online courses.

Industry specific assistance and information is also facilitated at both the national and jurisdictional level with organisations providing job leads, one-to-one support with employment consultants, recruitment and networking events, interviews and job searching training and resume development.⁴²

- 8.44 For implementation in the Australian context, the Government of South Australia argued that it would require partnership between government and industry and mechanisms to improve ‘the connection of recent migrants with the available job vacancies suited to the skills and experience’. Additionally, it emphasised that Australian governments ‘must also work with industry to improve employers’ understanding and perception of employing migrants, particularly those without Australian experience’.⁴³
- 8.45 The MIA, meanwhile, recommended that the Australian Government ‘implements campaigns and initiatives to educate industry and employers to discrimination as a barrier to participation in the Australian labour market for skilled migrants, family and humanitarian visa holders’.⁴⁴
- 8.46 SCOA advocated for a more ‘client-centred-approach’ to employment services for migrants (and to settlement services, more generally), arguing that ‘if newcomers are able to get individualised and tailored employment support, this has the potential to fast-track their occupational journey and maximise earning potential, thereby optimising the social and economic benefits for Australia as a whole’. Realising such a vision, however, would require a ‘significant shift in how most employment services currently operate’. SCOA contended that such an approach ‘should neither focus on getting migrants into “any job” nor support a long period of unemployment waiting for a job aligned with their profession. Rather, good supports would map the complex pathway of getting back into ones chosen profession, and work alongside them as they navigate that pathway’.⁴⁵

⁴² Government of South Australia, *Submission 84*, p. 9.

⁴³ Government of South Australia, *Submission 84*, p. 9.

⁴⁴ Migration Institute of Australia, *Submission 87*, p. 32.

⁴⁵ Settlement Council of Australia, *Submission 34*, p. 9.

8.47 SCOA, further, emphasised that such employment services must also offer access to vocational training opportunities. As pointed out by SCOA, '[t]raining is key to make sure people are both prepared for a certain job, but also in a job they want and enjoy doing', stressing that this 'requires staff at both settlement organisations, but also employment providers to provide culturally responsive training, advice and job support'.⁴⁶

8.48 Finally, SCOA argued that:

Employment is a core part of settlement, and settlement services do most of the work of supporting people into finding employment but without the infrastructure that would be available to them if they were delivering employment services. Settlement and employment are inseparable.

On this, SCOA recommended that Workforce Australia contracts be granted to settlement services providers grounded in local communities as they are best placed to deliver specialised employment services in support of migrants.⁴⁷

8.49 On this issue, SSI made the following two recommendations:

- 'The Australian Government should develop more tailored and targeted employment support response for newcomers, especially newcomers in the family and humanitarian streams and secondary applicants in the skilled stream – and pay particular attention to migrant and refugee women which sees them as new entrants to the workforce.'
- 'The Australian Government's suite of employment services, including the newly established Workforce Australia, should provide targeted support, and ensure adequate coverage by culturally responsive providers in geographic areas of indicative high demand, to people from CALD backgrounds and refugees. This would address barriers they face and support them across their employment journey spanning job-readiness, pre-employment training, paid work experience, effective job-matching and post-employment support.'⁴⁸

8.50 The Committee also heard that settlement services must encompass an element of community capacity building to promote the wider integration of migrants. On this, the Australian Migrant Resource Centre (AMRC) argued the following:

Settlement support must include capacity building of the wider community as a whole not just new and emerging communities as well as other mainstream sectors including employment. When people have a sense of belonging they are set to thrive and contribute highly, giving more back to the community compared to what they receive through settlement support.

The AMRC recommended that '[s]ettlement [services]... be expanded for all new arrival migrants and refugees according to need, not based on visa types or years in

⁴⁶ Settlement Council of Australia, *Submission 34*, p. 9.

⁴⁷ Settlement Council of Australia, *Submission 34*, p. 9.

⁴⁸ Settlement Services International, *Submission 26*, p. 2.

Australia. This will ensure better skill utilisation of skilled migrants and better access to vocational services, networks and programs.’.⁴⁹

- 8.51 Echoing the AMRC’s suggestion for better capacity building within the broader community to improve the integration process of migrants, Australian Human Rights Commissioner, Mrs Lorraine Finlay, highlighted how successful integration strategies need to be based on broad support at the community level:

It is a broader issue in terms of community and family integration. It is about ensuring that there is broader community connection so that in all of those things like housing, transport, education, health care a person is able to feel as though they are a part of a community and engaged with that community. But it's also about ensuring that we don't just deal with the individual alone, but we deal with the family as well and recognise the need to allow a family to feel as though they are part of the community and that there are opportunities for them to really engage and build a life and not just be seen as a temporary entrants to a community who will come and go, but as people who are actually making a lasting contribution.⁵⁰

Committee Comment

- 8.52 The Committee is acutely aware that the choice to uproot lives and migrate to a different country, potentially with very different languages, and cultural, social, political, and economic systems, is a major life decision that often involves an arduous path for migrants to travel. And while both the migrant and the receiving country, on aggregate, benefit from the outcomes of migration, fulsome settlement supports both pre- and post-arrival can potentially bolster these benefits further.
- 8.53 While Australia currently offers a suite of world-leading settlement services, as heard in evidence, much of this is restricted to humanitarian entrants and other vulnerable migrant cohorts.
- 8.54 The Committee agrees with suggestions that the Canadian model of ‘newcomer services’ offers one example for Australia to look to when considering how our settlement services can better aid the social and economic integration of migrants.
- 8.55 Centrally, the Committee believes that eligibility for settlement services should be broadened to all migrants on the basis of need and that migrants be triaged pre- and post-arrival in order to be offered access to services tailored to the individual needs of migrants and their families.
- 8.56 Such an approach recognises that, irrespective of visa category, some migrants require more support than others. Importantly, access to such supports must be

⁴⁹ Australian Migrant Resource Centre, *Submission 102*, pp. [5], [13].

⁵⁰ Mrs Lorraine Finlay, Australian Human Rights Commissioner, *Committee Hansard*, Canberra, 16 May 2023, p. 11.

made available to secondary applicants and holders of family visas to help maximise the economic and social participation of all migrant groups and sub-categories.

- 8.57 A vital element of any such expansion of settlement services would involve employment supports intended to allow migrants to connect to potential employers and fully utilise their skills, knowledge, experience, and qualifications.
- 8.58 Noting that there may be some inhibitions for Australian businesses in employing some migrant workers due to a lack of confidence in qualifications, skills, and experience gathered overseas, the Committee sees a role for the Australian Government to foster a higher level of confidence in migrant workers among Australian employers.
- 8.59 Largely in-line with the recommendations of the Settlement Services International, the Committee makes the following recommendations.

Recommendation 43

- 8.60 The Committee recommends that the Australian Government adopts the Canadian model to broaden eligibility to settlement services to all migrants on the basis of need, (1) with an emphasis in stronger local partnerships to improve outcomes and integration and (2) including better tailored and targeted employment supports for migrants**

Recommendation 44

- 8.61 The Committee recommends that the Australian Government improves the existing public relations program to increase the level of confidence that Australian employers have in skills, experience, and qualifications acquired by migrants overseas.**

Reforming the Points Test—Secondary Applicants

- 8.62 Some contributors to the inquiry emphasised how few permanent visa grantees are assessed for their skills. The Grattan Institute, for instance, informed the Committee of the following:

Only one-quarter of permanent visas issued over the past decade actually assessed migrant skills; another one in three went to the families of these skilled migrants; and the rest came by the family and humanitarian streams—reflecting the diverse objectives of our migration program.⁵¹

⁵¹ Trent Wiltshire, Migration and Labour Markets Deputy Program Director, Grattan Institute, *Committee Hansard*, Melbourne, 26 April 2023, p. 15.

- 8.63 In quantitative terms, this amounts to almost 1.4 million permanent visas being granted over the past decade ‘without any consideration of migrants’ skills as skilled secondary applicants, or those on family, or humanitarian visas’.⁵²
- 8.64 The Committee heard evidence that the skills and experience of secondary applicants of skilled visas grantees, in particular, could be better accounted for by the migration system to produce more beneficial outcomes for Australia.
- 8.65 A ‘secondary applicant’, or ‘secondary migrant’, is a spouse, de facto partner, or child who accompanies a primary visa holder into the country. Under the current skilled migration program, secondary applicants of primary skilled visa applicants are included in planning numbers for skilled migrants. And while secondary migrants make up over 55 per cent of the overall skilled migration intake⁵³ the system gives limited consideration to their skills, experience, and qualifications when assessing the visa application of the primary applicant.
- 8.66 As noted in the *Review of the Migration System*, ‘48,041 places of the 89,063 places in the permanent skilled migrant stream were taken by secondary applicants in 2021-2022’.⁵⁴ Secondary applicants also are not provided specialised supports to fully realise their employment potential and aid in their integration following arrival.
- 8.67 The Grattan Institute noted that while secondary applicants tend to have relatively weaker English ability than primary applicants, they also tend to have ‘significantly more education than the general Australian population (See Figures 8.1 and 8.2 below).’⁵⁵

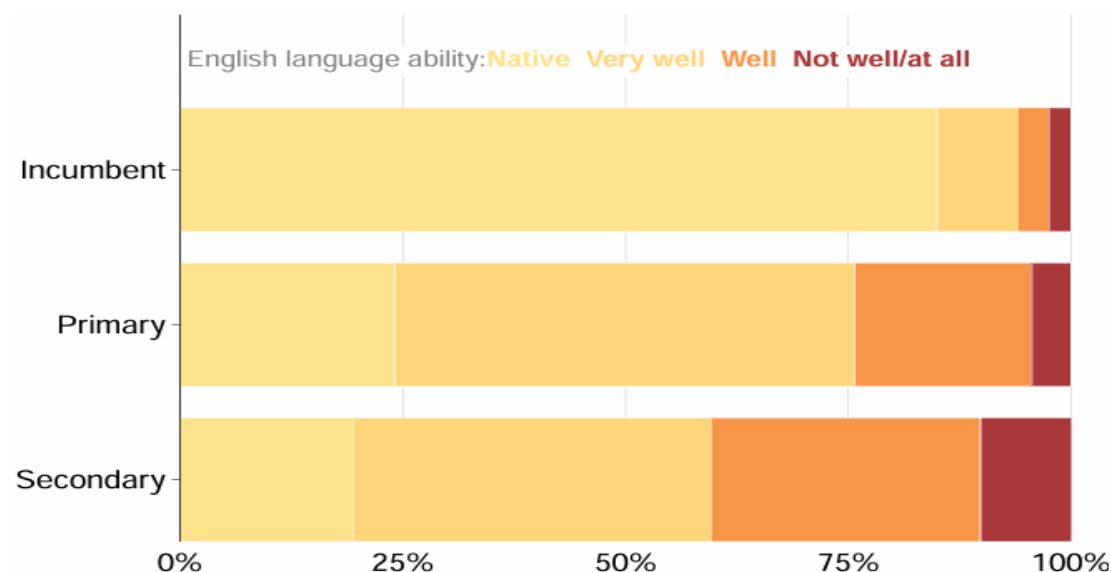
⁵² The Grattan Institute, *Submission 17*, p. 3.

⁵³ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 68.

⁵⁴ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 135.

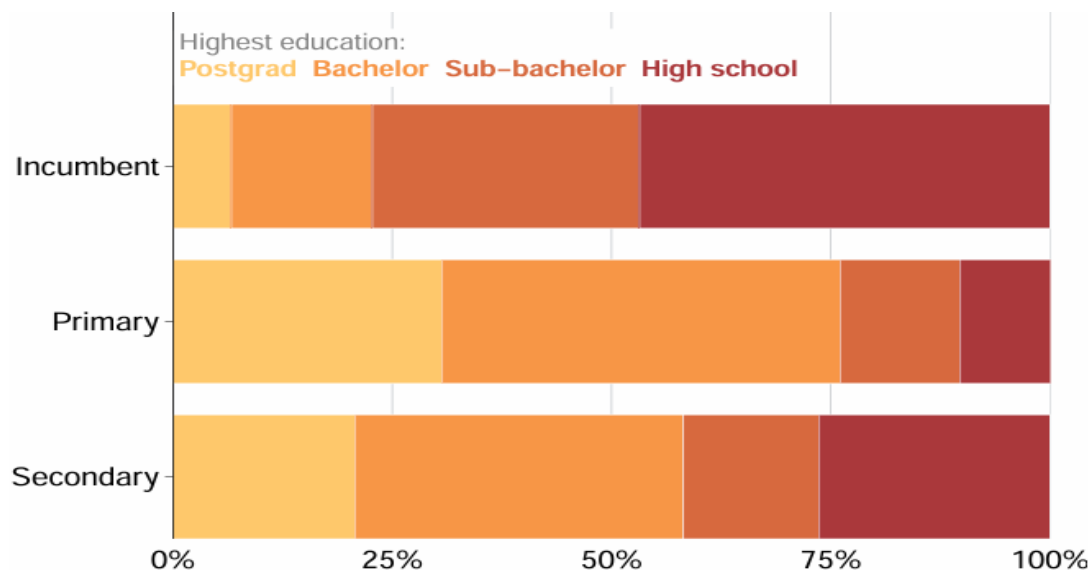
⁵⁵ The Grattan Institute, *Submission 17*, pp. 64-65.

Figure 8.2 English Language Ability - Incumbent, Primary Applicant, and Secondary Applicant



Source: Grattan Institution, Submission 17, p. 66.

Figure 8.3 Highest Educational Achievement - Incumbents, Primary Applicants, and Secondary Applicants



Source: Grattan Institution, Submission 17, p. 66.

8.68 The Department of Home Affairs submitted that ‘[w]hile many secondary applicants (spouses and partners) are also highly skilled, they tend to have lower rates of labour force participation and to be less likely to work in highly skilled roles (with labour force patterns more similar to the Australian working age population).’⁵⁶

⁵⁶ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 64.

8.69 As noted by the Grattan Institute, this is because ‘more secondary applicants are women who are outside of the labour market because they are caring for children’ and in the long term, ‘the workforce participation and incomes of secondary applicants who are caregivers today is likely to rise and better reflect their skills and qualifications, albeit remain lower than that of primary applicants’.⁵⁷

8.70 When questioned about the amount of information the Department of Home Affairs gathers about secondary applicants, the Migration Institute of Australia informed the Committee that a ‘large amount of information is collected about the skills and experience of secondary applicants during the visa application process’. Continuing, they noted:

Adult applicants for permanent visas are generally required to complete the Department of Home Affairs Form 80 or Form 1221 which includes questions on the applicant’s entire education and employment history. Applicants lodging Expressions of Interest for General Skilled Migration visas are also allocated extra points if they indicate their partner has an occupation on the skills lists.

It would appear that it may be the underutilisation of this data, rather than lack of data that is at issue. This data could be mined for the purpose of recognising secondary applicants’ skills and experience or data collection increased during the application process.⁵⁸

8.71 Given the significant place of secondary skilled visa applicants in the total skilled migration program, the Grattan Institute, made the following suggestion:

More consideration should be given to the skills of secondary applicants who account for roughly half of all permanent skilled visas granted each year. Points offered via the test for different migrant characteristics should be re-calibrated to reflect the contribution those characteristics make to migrants’ contribution to the welfare of the Australian community.⁵⁹

8.72 Elaborating on this, Mr Trent Wiltshire, Migration and Labour Markets Deputy Program Director, Grattan Institute, argued the following:

The number of points allocated to the skills and experience of spouses should be increased. This would shift the allocation of permanent skilled worker visas to include more partners with better skills and English-language proficiency, and more qualifications and job experience. High-skilled primary applicants with comparatively unskilled partners would be discouraged from applying to Australia, and would be less likely to be granted a permanent position if they did so.⁶⁰

⁵⁷ The Grattan Institute, *Submission 17*, p. 65.

⁵⁸ Migration Institute of Australia, *Answers to Questions on Notice and in Writing*, Public Hearing, 17 May 2023.

⁵⁹ Grattan Institute, *Submission 17*, p. 62.

⁶⁰ Grattan Institute, *Submission 17*, p. 65.

- 8.73 Vialto Partners made a similar point to this, recommending that an ‘increase in points be allocated to applicants who are accompanied by family members (usually spouses or partners) who meet certain skill criteria’. Expanding on this, they argued the following:

Consideration should also be given to employer sponsored visa applicants with family members (usually spouses or partners) who meet Australia’s skills criteria. At present, partners of employer sponsored visa entrants have the benefit of full working rights in Australia. There are limited mechanisms in the current migration system to prioritise family units where more than one member has skills. We recommend these family units be afforded with priority visa processing to help Australia meet its skills needs faster.⁶¹

- 8.74 When asked about how the skilled visa application process could better take into account the skills, qualifications, and experience of secondary applicants, the then Secretary of the Department Home Affairs replied with the following:

It’s just a matter of law and the way that the law is designed. If you changed the policy and the parliament legislated a change to how the points are allocated, you could do that tomorrow. It’s what I said earlier: in a democracy, ministers set the direction and parliament legislates. We would administer a program where more points were given. You’ve heard the evidence here of our thinking about how to redesign the system. Our delegates then could have regard to a two-for-one package, where you get the primary applicant but, through the information entered in the application, it might be that the other partner is not in the workforce, for whatever reason—perhaps to do with family choices and the rest of it—but down the track they might be available and they would be given a higher priority. We just apply the law as it is written. If you change the law, we’ll apply it differently.⁶²

- 8.75 When asked a follow-up question on precisely what law needed to change, Mr Pezzullo, replied that ‘[i]t’s the ability of our delegates to assign value to credentials, qualifications and talent to someone who is not applying for a visa... And you’ve got to have a provision for that in the Migration Act’.⁶³

- 8.76 Continuing on this theme, Ms Tara Cavanagh, then First Assistant Secretary, Immigration Integrity explained to the Committee that:

Our act is quite old now. It’s really been designed in a way where what we call the primary applicant has to meet the criteria around age, language, skill and qualifications et cetera. Family members just need to demonstrate that they are,

⁶¹ Vialto Partners, *Submission 28*, p. [3].

⁶² Mr Michael Pezzullo AO, Secretary, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 9.

⁶³ Mr Michael Pezzullo AO, Secretary, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 9.

in fact, a family member of that primary applicant. Of course, that can be legislated differently in a future system.⁶⁴

Committee Comment

- 8.77 The Committee recognises that spouses and children of primary visa applicants should be encouraged to accompany primary visa applicants on their journey to Australia, irrespective of type of visa, if it is their wish to do so. Coming with supportive family members aids in the integration of migrants into the Australian community and promotes the long-term goals of social cohesion.
- 8.78 At the same time, the Committee believes that there is room to raise the community impact from skilled migration applicants by giving more consideration to the skills and experience of secondary applicants of skilled migrants. While noting that secondary applicants to skilled migrants, on average, have higher educational achievement compared to the general Australian population, the skills, experience, and qualifications of secondary applicants are not currently factored into the visa application process in any thorough way. This is despite secondary applicants currently accounting for over 50 per cent of skilled migration allocation. It seems like a lost opportunity to not finesse the points test to better account for the skills and experience of these applicants.
- 8.79 A points test that can allocate higher points to relevant skills and qualifications of a secondary applicant would greatly increase the attractiveness of Australia as a migration destination for highly skilled couples.
- 8.80 The Committee also sees room to improve the settlement support offerings targeted to secondary applicants to maximise both their workforce and social participation, in-line with the recommendation in the previous section.

Recommendation 45

- 8.81 The Committee Recommends that the Australian Government amend the *Migration Act 1958*, to better account for the skills and experience of secondary applicants in the points test for skilled migration visa applicants.**

⁶⁴ Ms Tara Cavanagh, First Assistant Secretary, Immigration Integrity, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 9.

9. Humanitarian Entrants

- 9.1 The United Nations High Commissioner for Refugees (UNHCR) estimates that currently more than 114 million people worldwide have been forcibly displaced ‘as a result of persecution, conflict, violence or human rights violations’. This figure represents ‘the highest levels of displacement on record’.¹
- 9.2 International efforts to manage refugee crises in an organised manner date to the establishment of the office of the League of Nations’ High Commissioner for Refugees in 1921, which was set up to deal with the population upheavals caused by World War I and the dissolution of the empires of the Central Powers and the internal collapse of the Russian Empire.²
- 9.3 As noted in Chapter 2, Australia’s first humanitarian intake occurred in 1947 in the aftermath of World War II, with the Displaced Person Scheme, which was administered with the support of the United Nations’ International Refugee Organization, the forerunner to the current UNHCR.
- 9.4 Expressing Australia’s resolve to contribute to international efforts to manage refugee crises, in January 1954, Australia ratified the 1951 United Nations Convention Relating to the Status of Refugees. As a result of this, the country continued to resettle refugees on an ad hoc basis in response to specific humanitarian emergencies.³
- 9.5 As the next major milestone in Australia’s humanitarian migration history, in 1977, in the wake of refugee crises in Indochina and following recommendations by the Senate Standing Committee on Foreign Affairs and Defence, the Australian Government formally established Australia’s Refugee and Humanitarian Program as an integral part of the wider Migration Program.⁴
- 9.6 A humanitarian entrant refers to someone who engages Australia’s protection obligations, or in other words, a refugee. The meaning of ‘refugee’ under the *Migration Act 1958* (the Migration Act), is someone assessed to be:

¹ UNHCR, ‘Refugee Statistics’, <https://www.unrefugees.org/refugee-facts/statistics/>, viewed 29 May 2024.

² Gilbert Jaeger, ‘On the history of the international protection of refugees’, *International Review of the Red Cross*, Vol. 83, No. 843, September 2001, pp. 727-728; Michael Barnett, *Empire of Humanity: A History of Humanitarianism*, Ithaca: Cornell University Press, pp. 88-89.

³ United Nations, ‘Convention relating to the Status of Refugees’, https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&clang=_en, viewed 29 May 2024; Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 46.

⁴ Australian Government, *A History of the Department of Immigration: Managing Migration to Australia*, 2017, p. 60.

- Outside their own country of nationality or former habitual residence (their home country); and
- Owing to a ‘well-founded fear of persecution’, is unable or unwilling to return to their home country or to seek the protection of that country⁵.

9.7 The UNHCR, similarly, defines ‘refugee’ as

...someone who has been forced to flee his or her country because of persecution, war or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group.⁶

9.8 In line with the practice of the UNHCR, Australia places priority on refugee cohorts who are outside of their home country and who are in greatest need of resettlement, including the following groups:

- People assessed as refugees by the UNHCR and referred to Australia for resettlement;
- Applicant proposals by a close family member in Australia; and
- Vulnerable cohorts within refugee populations, such as women and children, ethnic minorities, LGBTIQ+ and other identified minority groups that are referred by the UNHCR or proposed by a close family member in Australia.⁷

Australia’s Refugee and Humanitarian Program

9.9 As touched on above and discussed in Chapter 2, Australia has a long history of welcoming refugees displaced as a result of conflict, persecution, and human rights abuses. Indeed, since the end of World War II, Australia has successfully resettled more than 950,000 humanitarian entrants and is consistently among the world’s top resettlement countries.⁸

9.10 Australia’s humanitarian intake has been an important component of the larger migration program for nearly 80 years and humanitarian entrants have made, and will continue to make, invaluable contributions to Australia’s culture, society, economy, and national identity.

⁵ Department of Home Affairs, ‘Australia’s protection obligations’, <https://immi.homeaffairs.gov.au/what-we-do/refugee-and-humanitarian-program/about-the-program/seek-protection-in-australia/australia-protection-obligations>, viewed 29 May 2024; *Migration Act 1958*, s 5H.

⁶ United Nations High Commissioner for Refugees, ‘Who is a refugee?’, <https://www.unrefugees.org/refugee-facts/what-is-a-refugee/>, viewed 29 May 2024.

⁷ Department of Home Affairs, ‘Refugee and humanitarian program—About the program’, <https://immi.homeaffairs.gov.au/what-we-do/refugee-and-humanitarian-program/about-the-program/about-the-program>, viewed 21 May 2024.

⁸ Department of Home Affairs, ‘Refugee and humanitarian program—About the program’, <https://immi.homeaffairs.gov.au/what-we-do/refugee-and-humanitarian-program/about-the-program/about-the-program>, viewed 21 May 2024.

9.11 Apart from the contribution humanitarian entrants make domestically, Australia's refugee intake demonstrates Australia's status as a good global citizen. On this, the Refugee Council of Australia (RCoA), the national peak body for refugees and asylum seekers, and organisations and individuals assisting them, submitted that the resettlement of people in need of protection in Australia...

... has played a crucial role in international efforts to provide protection to persons whose life, liberty, safety and other fundamental rights are at risk. It has also enabled Australia to tangibly demonstrate its international solidarity with the mostly poor countries hosting the majority of the world's refugees.⁹

9.12 According to the Department of Home Affairs, the composition of the Refugee and Humanitarian Program (the Program) 'is drawn from a range of nationalities, ethnic and religious groups, reflecting global displacement arising from conflict and persecution'. The Program is flexible and evolves in response to emerging humanitarian emergencies and global resettlement needs. The Program is guided by the following principles:

- Prioritising those caseloads most in need of global resettlement in line with guidance and referrals from the United Nations Human Rights Commission (UNHCR);
- Global and non-discriminatory; and
- Targeting vulnerable cohorts within refugee populations.¹⁰

9.13 In line with the evolving humanitarian needs of the global community, the main sources of intake for Australia's Program have changed and adapted over time (Figure 9.1).

⁹ Refugee Council of Australia, *Submission 105*, p. 4.

¹⁰ Department of Home Affairs, 'Discussion Paper: Australia's Humanitarian Program 2023-24', p. 2, <https://www.homeaffairs.gov.au/reports-and-pubs/files/australias-humanitarian-program-23-24-discussion-paper.pdf>, viewed 21 May 2024.

Figure 9.1 Major Humanitarian Resettlement Groups over Time

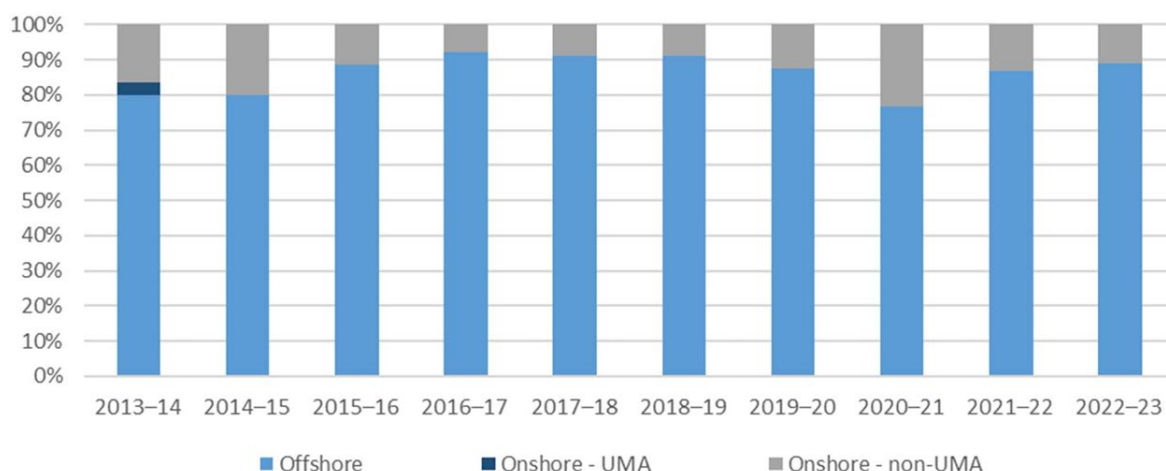
Post World War II	• Eastern Europe and Central Europe • The Balkans and Baltic states
1960s and 1970s	• Europe • Central and South America • Lebanon
1980s and 1990s	• Eastern Europe • Latin America • Middle East, Asia and Africa
Recent Arrivals	• Middle East and Afghanistan • Central Africa • Horn of Africa (Sudan, Eritrea, Somalia) • Asia (Burma/Myanmar, Bhutan)

Source: Department of Home Affairs, 'Discussion Paper: Australia's Humanitarian Program 2023-24', p. 7, <https://www.homeaffairs.gov.au/reports-and-pubs/files/australias-humanitarian-program-23-24-discussion-paper.pdf>, viewed 21 May 2024.

9.14 The Program consists of two components: offshore and onshore. The offshore component focuses on 'providing permanent resettlement in Australia to refugees and people in humanitarian need outside their home country (and outside Australia)'. The onshore component is reserved for people who arrive in Australia legally 'seek Australia's protection and are found to engage Australia's non-refoulement (non return) obligations'.¹¹ Roughly, 80 to 90 per cent of humanitarian visas go to offshore applicants vis-à-vis onshore applicants (Figure 9.2).

¹¹ Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 33.

Figure 9.2 Onshore/Offshore visas, Humanitarian Program 2013-14 to 2022-23



Source: Department of Home Affairs, 'Discussion Paper: Australia's Humanitarian Program 2024-25', p. 7, <https://www.homeaffairs.gov.au/reports-and-pubs/PDFs/humanitarian-program-2024-25-discussion-paper.pdf>, viewed 29 May 2024 (note: 'UMA' refers to Unauthorised Maritime Arrivals).

- 9.15 The Australian Government has set the intake for the Program for 2024-25 at 20,000 places. This is the same as the intake for the 2023-24 Program. The 2022-23 Program was set for 17,875 places, all of which was fully delivered, with 15,875 visas granted for the offshore component and 2,000 for the onshore component.¹²

Visa Types for Humanitarian Entrants

- 9.16 Australia offers various categories of refugee and humanitarian visas through the Program for individuals who need protection. These are broadly divided into offshore and onshore visas. Offshore protection visas are listed below.

- Refugee category visas:
 - Refugee (subclass 200)—A visa generally for people who have fled persecution and are living outside their home country;
 - In-country Special Humanitarian (subclass 201)—A visa used in very limited circumstances, as the UNHCR is not mandated to refer people for resettlement who remain in their home country, even if the UN has a presence in their country.
 - Emergency Rescue (subclass 203)—A visa that is granted to a small number of people who are outside of their home country and who are in urgent need of protection because there is an imminent threat to their life and security. Usually, it is only granted to people who have been referred by the UNHCR; and

¹² Department of Home Affairs, 'Discussion Paper: Australia's Humanitarian Program 2024-25', p. 7, <https://www.homeaffairs.gov.au/reports-and-pubs/PDFs/humanitarian-program-2024-25-discussion-paper.pdf>, viewed 21 May 2024.

- Woman at Risk (subclass 204)—A visa for women and their dependants who are subject to persecution in the home country or are registered as being ‘of concern’ by the UNHCR and without the protection of a male relative.
- Special Humanitarian Program visa:
 - Global Special Humanitarian (subclass 202)—A visa for people outside of their home country and who, while not identified as a refugee, are subject to discrimination amounting to a gross violation of human rights, and with family or community ties in Australia. The applicant must be supported by an eligible proposer, who is obliged to pay for the applicant’s travel to Australia and provide initial accommodation and orientation in Australia. Only a small number of these visas are granted despite high demand and priority is given to those who have close family members in Australia.¹³

9.17 Onshore protection visas consist of the following, divided into permanent and temporary visas:

- Permanent Protection visa:
 - Protection (subclass 866)—A visa for people who arrive in Australia on a valid visa and want to seek asylum. Grantees are allowed to stay permanently in Australia.¹⁴
 - Resolution of Status (subclass 851)—A visa that allows for the permanent resolution of status for certain visa holders, including eligible holders of a Temporary Protection visa (TPV) or Safe Haven Enterprise visa (SHEV).¹⁵
- Temporary Protection visas:
 - Temporary Protection (subclass 785)—A visa for people who arrive in Australia without a visa and want to seek asylum. The visa allows a holder to remain in Australia for three years, work, study, and access government services.¹⁶
 - Safe Haven Enterprise Visa (subclass 790)—Another visa for people who arrive in Australia without a visa and want to seek asylum. The visa allows the holder to remain in Australian for five years, work, study, and access government services.¹⁷

9.18 The key difference between the TPV and the SHEV is that the SHEV allows the holder to apply for other visas (but not a permanent Protection visa), for example, an employer sponsored skilled visa, if the holder, or their immediate family, fulfil the

¹³ Department of Home Affairs, ‘Discussion Paper: Australia’s Humanitarian Program 2024-25’, p. 5, <https://www.homeaffairs.gov.au/reports-and-pubs/PDFs/humanitarian-program-2024-25-discussion-paper.pdf>, viewed 21 May 2024.

¹⁴ Department of Home Affairs, ‘Protection visa’, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/protection-866>, viewed 4 June 2024.

¹⁵ Department of Home Affairs, ‘Resolution of Status’, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/resolution-of-status-851#Overview>, viewed 4 June 2024.

¹⁶ Department of Home Affairs, ‘Temporary Protection visa’, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-protection-785>, viewed 4 June 2024.

¹⁷ Department of Home Affairs, ‘Safe Haven Enterprise visa’, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/safe-haven-enterprise-790>, viewed 4 June 2024.

SHEV pathway requirements in a 'SHEV regional area'.¹⁸ To be eligible for the transition pathway, the holder, or a member of their immediate family, must work without receiving any social security support payments and/or study full time in a designated regional area for a total of at least 42 months of the five-year visa term.¹⁹ Very few SHEV visa holders have met these requirements.²⁰

9.19 On 13 February 2023, the Government announced a new pathway to permanent residence for eligible holders of TPVs and SHEVs who had arrived in Australia prior to 14 February 2023 via a Resolution of Status (RoS) visa, subject to character, health, and security checks. This measure applies to the so-called 'asylum legacy caseload', a group of people who arrived in Australia as Unauthorised Maritime Arrivals (UMAs) between August 2012 and December 2013, prior to the commencement of Operation Sovereign Borders, and were found to be refugees. It does not apply to UMAs during that time who were found not to be refugees. Further, any person arriving as a UMA after the commencement of Operation Sovereign Borders is subject to offshore processing and is ineligible for permanent protection, irrespective of refugee status.²¹

9.20 The Refugee Advice and Casework Service (RACS), an organisation that provides free legal advice and representation to vulnerable people seeking asylum in Australia, welcomed the 13 February 2023 announcement, noting that the measure will...

...reduce the number of people who are impacted by the temporary protection regime and foster the social cohesion of refugees into the broader Australian community. However, RACS notes that many TPV and SHEV holders who have transitioned, or will be able to transition, onto RoS Visas will have been subject to the temporary protection regime for extended periods...²²

9.21 The Australian Migrant Resource Centre (AMRC), too, supported the announcement:

¹⁸ Department of Home Affairs, 'Safe Haven Enterprise visa', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/safe-haven-enterprise-790>, viewed 4 June 2024. The list of postcodes included in the SHEV regional areas can be accessed here: Department of Home Affairs, 'Safe Haven Enterprise visa (SHEV) regional area', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/safe-haven-enterprise-790/safe-haven-enterprise-visa-regional-area>, viewed 4 June 2024.

¹⁹ Department of Home Affairs, 'Safe haven Enterprise visa pathway', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/safe-haven-enterprise-790/shev-pathway/overview>, viewed 4 June 2024.

²⁰ Susan Love, 'Resolving the status of Temporary Protection Visa holders: a quick guide', Parliamentary Library, 16 May 2023, https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2223/Quick_Guides/ProtectionVisaHolders, viewed 4 June 2024.

²¹ Susan Love, 'Resolving the status of Temporary Protection Visa holders: a quick guide', Parliamentary Library, 16 May 2023, https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2223/Quick_Guides/ProtectionVisaHolders, viewed 4 June 2024; Daniel Ghezelbash, 'Changes to temporary protection visas are a welcome development—and they won't encourage people smugglers', *The Conversation*, 13 February 2023, <https://theconversation.com/changes-to-temporary-protection-visas-are-a-welcome-development-and-they-wont-encourage-people-smugglers-199763>, viewed 5 June 2023.

²² Refugee Advice and Casework Service, *Submission 104*, p. 5. Also see: Asylum Seekers Resource Centre, *Submission 86*, p. 2

We welcome and support the permanency considerations for TPV and SHEV visa holders, who have been contributing highly through their engagement in the labour market and through entrepreneurship.²³

- 9.22 Some contributors to the inquiry, while welcoming the opening of the RoS pathway to current TPV and SHEV holders, raised concerns about the continuity of the temporary protection regime, which remains embedded within the Migration Act. The Australian Human Rights Commission, for instance, noted the following:

The Commission has long raised concerns about the impact of temporary protection visas and would encourage this Committee to consider this issue as part of its review in order to ensure that the transition to a permanent visa pathway is implemented effectively.²⁴

- 9.23 RACS, also, emphasised that the changes to open the RoS pathway to TPV and SHEV holders 'do not abolish temporary migration protection system'. They explained:

Some refugees and people seeking asylum who arrived on or after 14 February 2023 are not eligible to apply for RoS Visas. Further those impacted by Offshore processing are not eligible. Bridging visa holders, undergoing such processing also continue to be subject to temporariness and limited rights (including work, study and healthcare), inhibiting social cohesion and their overall welfare.²⁵

- 9.24 A number of contributors recommended the outright abolition of the temporary protection regime through amendment of the Migration Act and the Migration Regulations. The Asylum Seekers Resource Centre (ASRC), an organisation that provides services to asylum seekers in the Victorian community and those held in detention nationally, for example, argued that temporary protection 'denies people the opportunity to invest in their communities and erodes social cohesion, especially as people are separated from their families'.²⁶
- 9.25 In a joint submission, the Human Rights Law Centre, Migrant Workers Centre, and Asylum Seekers Resource Centre, claimed that the temporary protection regime 'denies visa-holders the right to invest in their communities, to reunite with their families, to find work and plan for a future on equal footing' and recommended that temporary protection be abolished.²⁷

²³ Australian Migrant Resource Centre, *Submission 102*, p. 9.

²⁴ Australian Human Rights Commission, *Submission 42*, p. 3.

²⁵ Refugee Advice and Casework Service, *Submission 104*, p. 5.

²⁶ Asylum Seekers Resource Centre, *Submission 86*, p. 2.

²⁷ Human Rights Law Centre/Migrant Workers Centre/Asylum Seeker Resource Centre, *Submission 120*, pp. 14, 18.

Meeting Australia's Human Rights Obligations

- 9.26 Contributors to the inquiry highlighted the importance of the Refugee and Humanitarian Program for Australia meeting its international human rights obligations.
- 9.27 Professor Alan Gamlen, Director of the Migration Hub at the Australian National University, for one, emphasised the importance of Australia meeting its human rights obligations through the Program. He told the Committee:

Absolutely, Australia has obligations internationally, particularly because it's a signatory to the refugee convention, and because we wish to have harmonious relationships with our neighbours and our allies. As a country, we've bought into the multilateral system. Fulfilling our obligations to the humanitarian protection system is a fulfilment of that commitment to multilateralism. So, yes, we absolutely do have those obligations.²⁸

- 9.28 Similarly, Australia's Human Rights Commissioner, Ms Lorraine Finlay, spoke of the 'moral imperative attached to us ensuring that we provide protection and safety to people who need that around the world' and urged that any reform to the migration system must 'ensure that upholding human rights and Australia's international obligations with respect to asylum seekers and refugees are central considerations when shaping the future direction of Australia's migration system'.²⁹

- 9.29 In its submission to the inquiry, too, the Australian Human Rights Commission, highlighted the 'important role that the Refugee and Humanitarian Program plays both with regards to Australia's migration system, and also in terms of giving effect to Australia's international human rights obligations'.³⁰ They elaborated:

Australia remains one of the most generous humanitarian countries in the world, with 13,307 visas granted under the 2021-22 Humanitarian Program. This should continue to remain a central component of Australia's migration policy given the importance of ensuring that safety and protection is provided to people who are fleeing persecution, war and violence.³¹

- 9.30 On this, the Department of Home Affairs acknowledges that the Program, among other things, aims to 'meet Australia's international obligations and positions Australia as a global leader in international resettlement efforts'.³²

²⁸ Professor Alan Gamlen, Director, Migration Hub, Australian National University, *Committee Hansard*, Canberra, 12 May 2023, p. 61.

²⁹ Ms Lorraine Finlay, Human Rights Commissioner, Australian Human Rights Commission, *Committee Hansard*, Videoconference, 16 May 2023, pp. 7, 9.

³⁰ Australian Human Rights Commission, *Submission 42*, p. 2.

³¹ Australian Human Rights Commission, *Submission 42*, p. 2.

³² Department of Home Affairs, 'The Administration of the Immigration and Citizenship Programs', 11th Edition, May 2023, p. 32.

Nation Building and the Contribution of Humanitarian Entrants

- 9.31 As noted, humanitarian entrants have contributed greatly to Australia's society, culture, and economy for 80 years. On this point, the ASRC submitted that '[m]odern-day Australia has been built on the contribution of generations of people seeking asylum and refugees'. Moreover, they continued:

Australia's response after World War II, the Vietnam War and many other world crises demonstrates that permanent migration for refugees is critical to building a nation that is prosperous whilst retaining its humanity.³³

- 9.32 The RACS, similarly, pointed to the substantial contribution the humanitarian entrants make to Australia:

We submit that refugees and humanitarian entrants bring a unique skill set to the Australian labour market by providing invaluable cultural and linguistic links to the increasingly multicultural Australian community. Accordingly, the employment of refugees can directly increase the competitive advantage of organisations by enabling them to deliver better services, build customer loyalty, and penetrate new and emerging markets.³⁴

- 9.33 While acknowledging that the aim of the Refugee and Humanitarian Program is to provide safety to those needing protection, the RCoA highlighted the 'significant contribution that refugee and humanitarian entrants make to Australia's economy and society, including in the areas of jobs and skills'. They made the following points in support of this assertion:

- The younger demographic profile and long-term engagement in the Australian labour market of refugee and humanitarian entrants (i.e., a median age 15 years younger than the national average and the lowest settler loss rate of any migrant group);
- Many refugees arriving with significant skills, qualifications and overseas work experience relevant to the Australian labour market, including as medical professionals, tradespeople, engineer, business owners, educators and carers;
- Refugee and humanitarian entrant labour force participation rates converge towards that of the Australian-born population over time. The second generation performs at a higher level;
- Refugees and humanitarian entrants engage disproportionately in the labour force in some regional areas, and industries where there is significant labour shortages;
- Refugee and humanitarian entrants show a greater propensity to form their own businesses than other migrants, and risk-taking, entrepreneurship, and an ability to

³³ Asylum Seekers Resource Centre, *Submission 86*, p. 1.

³⁴ Refugee Advice and Casework Service, *Submission 104*, p.12.

identify and take advantage of opportunities is a key characteristic of the group; and

- Refugee and humanitarian entrants facilitate the development of trade between Australian and their countries of origin.³⁵

- 9.34 As a concrete example that quantifies the economic contribution that refugee groups can have, the RCoA cited research by Deloitte Access Economics on the impact of 160 Karen refugees from Myanmar on the rural Victorian town of Nhill. The research found, according to the RCoA, that the refugees contributed a net present value of '\$41.49 million to the regional economy'. The RCoA asserted that the case 'highlights the positive impact that refugees can have on local communities when they are successfully supported and recognised'.³⁶
- 9.35 In summation, the RCoA highlighted that Australia's humanitarian entrants 'have found success in every field of endeavour, including the arts, sports, media, science, research, business and civic and community life'.³⁷
- 9.36 Significantly, refugees and other displaced people are not merely a pool of labour for the benefit of the Australian economy. While acknowledging the substantial economic contribution the humanitarian entrants make, the RACS, for instance, highlighted the important contribution to Australian society and culture humanitarian entrants make: 'Refugees also bring a wealth of cultural and social experiences that can enrich the fabric of Australian society, leading to greater cultural exchange which can help build a more diverse and inclusive society'.³⁸

Skills Assessment and Recognition of Qualifications

- 9.37 Humanitarian entrants are often inhibited from fully participating in the labour market in roles commensurate with their skill and qualification level due to difficulties in obtaining a positive skills assessment and/or recognition of their existing qualifications. On this, the Centre for Policy Development (CPD) noted that 'a sizeable proportion' of humanitarian entrants are 'working below the skill level of the positions they held in their former country of residence due to a variance of qualifications that are not recognised in Australia'.³⁹ Skills assessment and the recognition of qualifications as it relates to skilled migration was addressed in detail in Chapter 7. This section deals with evidence relating to the unique circumstances faced by the humanitarian entrant cohort.
- 9.38 As highlighted by the RCoA, humanitarian entrants often have skills and qualifications that are in high demand in the Australian labour market, yet 'have been

³⁵ Refugee Council of Australia, *Submission 105*, p. 3.

³⁶ Refugee Council of Australia, *Submission 105*, p. 4.

³⁷ Refugee Council of Australia, *Submission 105*, p. 4.

³⁸ Refugee Advice and Casework Service, *Submission 104*, p. 3.

³⁹ Centre for Policy Development, *Submission 65*, p. 10.

unable to access, afford or successfully navigate skills and qualifications recognition or industry accreditation processes'.⁴⁰

- 9.39 While acknowledging attempts to make assessment and recognition processes more accessible to migrants, including the recent Skills Assessment Pilots by the Department of Employment and Workplace Relations (DEWR)⁴¹, the RCoA highlighted that such processes 'still involve a degree of complexity' and called for any future reforms to 'ensure affordability and accessibility to refugee and humanitarian entrants'.⁴²
- 9.40 The Skills Assessment Pilots, now completed, were designed to 'deliver faster, cheaper skills assessments', and DEWR claims that the pilots helped migrants improve their employability. An evaluation of the results of the pilots is currently being undertaken 'to help improve future skills assessments for migrants'. The Pilots consisted of the following:
- Faster Migrant Skills Assessments (ended in June 2022).
 - The Pilot offered fast-tracked skills assessments for onshore migrants who had already submitted and paid for an application in a priority occupation and were awaiting an outcome;
 - Skills Assessment Outcomes for Migrants (ended in February 2024).
 - The Pilot offered free and fast-tracked skills assessments to eligible onshore migrants to help show employers they have the skills they are looking for;
 - Employability Assessments for Migrants (ended February 2024).
 - The Pilot offered free employability assessment, coaching session, personalised plan, and up-to \$3,000 to cover employability skills training.⁴³
- 9.41 VETASSESS informed the Committee that it had access to funding under the DEWR Pilots 'to do assessments of refugees' but had faced difficulties in 'trying to get the message to refugees'. VETASSESS had 'approached a number of refugee councils', but did not believe that it had done enough 'to promote the ability of a refugee or humanitarian visa holder to have a skills assessment done'. According to VETASSESS, DEWR also recognised 'that they need to put a bit more effort into marketing to the various refugee councils'.⁴⁴
- 9.42 A more fundamental barrier to skills assessment and qualification recognition faced by humanitarian entrants is the requirement to substantiate their work history, skills, or qualifications through documentation. The nature of seeking refuge or asylum

⁴⁰ Refugee Council of Australia, *Submission 105*, p. 16.

⁴¹ See: Department of Employment and Workplace Relations, 'Skills Assessment Pilots', <https://www.dewr.gov.au/assessing-authority-policy-and-assurance/skills-assessment-pilots>, viewed 28 May 2024.

⁴² Refugee Council of Australia, *Submission 105*, p. 16.

⁴³ Department of Employment and Workplace Relations, 'Skills Assessment Pilots', <https://www.dewr.gov.au/assessing-authority-policy-and-assurance/skills-assessment-pilots>, viewed 11 June 2024.

⁴⁴ Mr Rob Thomason, Executive Director, VETASSESS, *Committee Hansard*, Videoconference, 17 May 2023, p. 28.

means that many humanitarian entrants are unable to bring such documentation with them when they are forced to flee their country of origin and many face insurmountable barriers in obtaining such documents after leaving. As noted by VETASSESS:

Unlike skilled migrants who get their skills assessed as part of the application process, refugees do not. This disadvantages them when seeking employment as they have no independent verification of their skills.⁴⁵

- 9.43 VETASSESS suggested that assessing authorities can aid humanitarian entrants in substantiating their work history and qualification claims and recommended a 'skills assessment mechanism' directed at the refugee cohort. VETASSESS raised the following example of such support work:

VETASSESS undertook a pilot program for the Department of Education in 2015 involving skills assessments of refugees in select trades. The biggest challenge of the otherwise qualified tradespeople within this cohort was lack of formal validation of skills and hence low confidence from employers. Undergoing the skills assessment process and subsequent training yielded successful outcomes for the candidates.⁴⁶

- 9.44 The AMRC, which specialises in humanitarian and migrant settlement, and community capacity building, highlighted the success that Germany has had in efforts to recognise qualifications of refugees more effectively and efficiently:

In Germany between 2015 and 2018 around 8,475 Syrian vocational qualifications were recognized, as well as over 1,400 qualifications from Iran and over 800 qualifications from Iraq. The most common are recognition procedures in the field of health professions (doctor, nurse, dentist).

The AMRC pointed to the supports in place in Germany to better help refugees and other vulnerable migrants through the assessment and recognition processes: 'Germany has developed tools that support the German economy in evaluating professional experiences and qualifications of refugees'. The AMRC praised Germany's 'online application' because 'easy to use, interculturably understandable and can be used early in the integration process'.⁴⁷ This was also discussed in Chapter 7.

- 9.45 On this point, the CPD, also, raised 'Germany's innovative skills recognition system' as a possible model for similar processes in Australia. The German system, they noted, 'includes standard tests and training modules' that 'enables employers to assess the level of job readiness and identify where more training may be required'.

⁴⁵ VETASSESS, *Submission 89*, p. 21.

⁴⁶ VETASSESS, *Submission 89*, p. 21.

⁴⁷ Australian Migrant Resource Centre, *Submission 102*, p. [8]. Also See: Centre for Policy Development, *Submission 65*, p. 10.

This, they asserted, contrasted to ‘traditional skills assessments that require extensive documentation’.⁴⁸

9.46 The RCoA submitted that skill assessment and qualification recognition are not the only issues faced by humanitarian entrants and pointed to ‘industry registration or accreditation processes (‘licensing’)’ as also being problematic for such migrants. Licensing, according to the RCoA, ‘can be extremely lengthy, expensive and difficult to navigate’. Such licensing requirements, moreover, cut across ‘different Federal, state and territory jurisdictions’ and ‘effectively acts as employment gatekeeping’. The RCoA argued that there is an ‘an important role for government to play in ensuring a level of oversight and accountability to industry licensing processes’ and called for the establishment of a body similar to the Ontarian Office of Fairness Commissioner to provide such oversight.⁴⁹ Chapter 7 dealt with this suggestion in more detail.

9.47 The AMRC, meanwhile, highlighted the need for direct pathways to employment to be built into skill assessment processes.⁵⁰

There have been many cases where e.g. an electrical engineer is recognised to the equivalent of Australian standards but without connection with industry still could not engage or utilise their skills in the sector. There is a need for supported pathways and opportunities not just with the Skill Assessment Authority but also with the settlement sector, industry, wider community, departments etc to work together to create better pathways and opportunities to participation in the labour market.⁵¹

Committee Comment

9.48 The Committee acknowledges that refugees in Australia often have skills, experience, and qualifications that are not fully utilised in the Australian economy.

9.49 Refugees come to Australia seeking safety for themselves and their families, not career opportunities and, as such, may be unfamiliar with the skills and qualification assessment and verification processes and requirements. While the Committee acknowledges the effort of the Australian Government to improve the skills assessment process through its Skills Assessment Pilots, it notes that these are not specifically targeted at the humanitarian entrant cohort. Given the unique circumstances under which refugees come to Australia, the Committee sees merit in more targeted programs to support refugees navigate the skills assessment and qualifications recognition processes.

9.50 Further, recognising the often-perilous route by which many refugees enter Australia, the Committee also understands that verification through documentation (such as

⁴⁸ Centre for Policy Development, *Submission 65*, pp. 10-11.

⁴⁹ Refugee Council of Australia, *Submission 105*, pp. 16-17.

⁵⁰ Australian Migrant Resource Centre, *Submission 102*, p. [7].

⁵¹ Australian Migrant Resource Centre, *Submission 102*, pp. [7-8].

qualifications, work experience, and government documentation) is sometimes impossible for refugees. The Committee sees great value in the suggestion by VETASSESS that assessing authorities be empowered to aid refugees in substantiating their skills and qualification claims. More specifically, the Committee agrees with the Centre for Policy Development that skills assessment processes in place in Germany may offer an appropriate model for similar processes here. The Committee recommends that the Australian Government incorporate these systems into a consolidated online portal, as recommended in Chapter 7, Recommendation 40.

- 9.51 At the same time, the Committee is also cognizant that refugees also face other barriers to gaining employment commensurate to their skills and qualifications that are more sociocultural in nature. The Committee agrees with the Australian Migrant Resource Centre that better connections between industry and refugees should be built into the skills assessment and qualification recognition processes, and the settlement process more widely. This would aid both refugees, who often lack the social capital of skilled migrants and the wider Australian population, and businesses, who may be unaware of the untapped resource that the refugee cohort represents.

Recommendation 46

- 9.52 **The Committee recommends that the Australian Government undertakes a pilot program to better aid refugees in navigating the skills assessment and qualification recognition processes in Australia.**

Recommendation 47

- 9.53 **The Committee recommends that the Australian Government refers to relevant examples in Germany to devise mechanisms through which skills assessing authorities can help refugees substantiate their claims around their skills, experience, and qualifications in cases where official documentation is unavailable.**

The Government should ensure that any such mechanism is robust enough to ensure safety and quality standards for the Australian community. The Committee, further, recommends that this be implemented as part of an online portal for navigating these processes as included in Recommendation 38.

Recommendation 48

- 9.54 **The Committee recommends that the Australian Government establishes a system through which refugees are more directly connected to job opportunities relevant to their skills and qualifications that is built into the skills assessment and qualification recognition processes, and that the skill value of refugees is effectively promoted to potential employers.**

Settlement Services and Employment Supports

- 9.55 As noted elsewhere, refugees and other humanitarian entrants have experienced hardship and often trauma on their journey to safety in Australia. It is critical that such entrants are provided appropriate levels of support to allow them to integrate and thrive in their new home. As pointed out by Settlement Services International (SSI), and noted in the previous chapter, ‘integration is usually defined as the capacity to participate fully in economic, social, cultural and civic life and is a multi-dimensional, two-way process of mutual adaptation between newcomers and host communities’.⁵²
- 9.56 The Department of Home Affairs provided details on a ‘range of settlement options offered to new migrants that will enable them to fully participate, both socially and economically, in Australia’, including:
- A new Adult Migrant English Program (AMEP) business model from 1 January 2025. The new business model will provide greater flexibility and enhanced client supports to further improve English language, employment and settlement outcomes for AMEP clients;
 - Supports for vulnerable young refugees and migrants, as announced in the 2023-24 Budget, with \$9.1 million over 12 months to ensure the delivery of Youth Transition Support services, which improve employment, education and social connections for refugees and vulnerable migrants aged 15 to 25;
 - The Humanitarian Settlement Program (HSP) supports humanitarian entrants and other eligible visa holders integrate into Australian life. It does this by helping new arrivals build the skills and knowledge they need to become self-reliant and active members of the community. The program has a strong focus on helping clients to learn English, gain employment and access education and training; and
 - Specialised and Intensive Services (SIS) is a component of the Humanitarian Settlement Program (HSP) available to humanitarian entrants and other eligible visa holders who have complex needs. SIS offer clients short term needs-based support to help them access appropriate mainstream services and develop the necessary skills to manage their needs independently.⁵³
- 9.57 As identified in Chapter 4, on 16 October 2023, the then Minister for Immigration, Citizenship and Multicultural Affairs announced the release of the *Refugee and Humanitarian Entrant Settlement and Integration Outcomes Framework* (the Framework).⁵⁴ The Framework was developed to improve existing settlement services ‘with a view to further enhancing positive settlement outcomes for refugees and humanitarian entrants’. The Framework elucidates six ‘facilitating outcome areas’ considered critical to successful settlement outcomes. These areas are:

⁵² Settlement Services International, *Submission 26*, p. 11.

⁵³ Department of Home Affairs, *Submission 127*, p. 15.

⁵⁴ Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, ‘New framework to guide refugee settlement outcomes in Australia’, *Media Release*, 16 October 2023, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/new-framework-guide-refugee-settlement-outcomes-australia.aspx>, viewed 13 June 2024.

- Economic participation;
- Health and wellbeing;
- Language and digital literacy;
- Education;
- Housing and transport; and
- Understanding host culture.

Additionally, the Framework outlines two underpinning principles upon which ‘clients will be supported to engage with the settlement services model and how that model will in turn support these outcomes within the clients’. These principles are 1) self-agency, and 2) self-efficacy. ‘Self-agency’ involves the ‘ability to exercise control, influence and responsibility over one’s environment’, while ‘self-efficacy’ involves ‘a person’s belief in their capacity to act in the ways necessary to reach specific goals’.⁵⁵

- 9.58 Developing out of the Framework, the Government has announced a new Humanitarian Integration and Settlement Program (HISP) to build upon existing services under the HSP,

... but with some enhancements that will provide more flexibility for providers to deliver support to clients, based on the needs, strengths and aspirations of clients, facilitated through a mixed funding model to provide flexibility to service providers to tailor settlement services to their clients’ needs.⁵⁶

- 9.59 Some submitters argued that the current suite of settlement services is not meeting the needs of all humanitarian entrants. On this, Know Your Roots (KYR) Inc., for instance, related to the Committee a case study of a refugee’s experience with settlement services (Box 9.1).

Box 9.1 Case Study—Settlement Services and Community Organisations

Jesus (name changed to protect privacy) is a 30-year-old male refugee to Australia who was connected to a mainstream funded settlement service. He was assigned a Case Worker who provided him with pick up, placed him in a home, organised a tour of the local hospital, showed him where the bank was and where to shop for food, and supported him connecting with Centrelink. With limited English, Jesus asked for help in finding a job; to which the worker said they would return in a week to assist. Four weeks later, no further contact had been made by the Case Worker, so Jesus started to walk through Shepparton seeking help from anyone who could provide help. Jesus walked through the doors of a Community Health Service, who provided him with assistance

⁵⁵ Department of Home Affairs, ‘The Refugee and Humanitarian Entrant Settlement and Integration Outcomes Framework’, pp. 1-2, 4.

⁵⁶ Department of Home Affairs, ‘Discussion Paper: Australia’s Humanitarian Program 2024-25’, p. 8, <https://www.homeaffairs.gov.au/reports-and-pubs/PDFs/humanitarian-program-2024-25-discussion-paper.pdf>, viewed 21 May 2024.

through Bi-Cultural Workers who were able to navigate services he would need as well as assisting him in making connections to his local cultural community group and grassroots cultural safe organisations such as Know Your Roots (KYR) Inc. Jesus was able to receive support through:

- Community Health Services via Bi-Cultural Workers navigating services programs;
- Connection to his local cultural community group; and
- Connection with grassroots Cultural Safe Space organisations.⁵⁷

9.60 As the above case study demonstrates, humanitarian entrants must be supported in navigating the civic landscape of their new home. And while this case study highlights a failure of the formal settlement services, it also shows the vital role local grass-roots organisation and cultural community groups can play in aiding successful settlement of vulnerable migrants.

9.61 Indeed, a number of submitters highlighted the vital importance of local communities in the successful settlement of humanitarian entrants. Professor Joy Damousi et al, for example, emphasised the ‘pivotal role’ that community networks and associations play in helping refugees settle in Australia. They explained that:

More established community organisations can provide support to the people with similar cultural heritage, religion and/or linguistic backgrounds. While many communities in the past did this without government support, it is important that government work with groups because of the assistance they provide migrants as they resettle.⁵⁸

9.62 Moreover, as pointed out by the CPD, ‘nation building is done most practically at a local level, through direct relationships, in schools, workplaces, places of worship, community centres, sports clubs and in all the spaces and places that communities meet together’.⁵⁹

9.63 In a similar vein, SSI submitted that the settlement and integration of humanitarian entrants ‘is enhanced by sustainably funded services with specialised expertise, which deliver integrated support and are embedded in, and trusted by, communities they serve’.⁶⁰

9.64 The NSW Government, meanwhile, argued that there was a need for ‘integrated place-based approaches to service delivery that support migrants and refugees through wraparound services’. They further suggested that such services should link refugee skills ‘with appropriate employment, vocational education and training (VET) opportunities’.⁶¹

⁵⁷ Know Your Roots (KYR) Incorporated, *Submission 77*, p. [8].

⁵⁸ Prof Joy Damousi, Dr Rachel Stevens, Dr Mary Tomsic, *Submission 24*, p. 4.

⁵⁹ Centre for Policy Development, *Submission 64*, p. 8.

⁶⁰ Settlement Services International, *Submission 26*, p. 11.

⁶¹ NSW Government, *Submission 57*, p. 5.

- 9.65 As part of the offshore component of the Refugee and Humanitarian Program, refugees can enter Australia via the Community Support Program (CSP). According to the Department, the CSP is designed to provide for the private sponsorship of refugees which complements the wider Refugee and Humanitarian Program. The CSP...

... enables communities and businesses, as well as families and individuals, to propose humanitarian visa applicants with employment prospects and to support new humanitarian arrivals.

The CSP is intended to harness community support for refugees, including the willingness of the Australian business community to support refugees in practical ways through employment and financial assistance, and increase the chances of strong integration and settlement outcomes.⁶²

Applicants under the CSP are required to fulfill eligibility criteria for the Global Special Humanitarian (subclass 202) visa.⁶³

- 9.66 The Department of Home Affairs informed the Committee that a review into the CSP, undertaken in 2020-21 by the Commonwealth Coordinator-General for Migrant Services, found that global community support models can 'improve economic, social and language learning outcomes for refugees, particularly through building social capital'. In response to these findings, a new community supported pathway for refugees is being trialled: the Community Refugee Integration and Settlement Pilot (CRISP), established by an investment of \$8.6 million to support 1,500 individuals over four years. The CRISP, according to the Department, aims 'to achieve optimal settlement outcomes with the help of Australian community members who want to help refugees settle into life in Australia'.⁶⁴

- 9.67 The Government has partnered with Community Refugee Sponsorship Australia (CRSA), a national non-profit organisation, to administer the CRISP.⁶⁵ According to the CRSA, the CRISP:

empowers groups of everyday Australians in any community in Australia to welcome and support the settlement and integration of a refugee household in their local community using a 'community sponsorship' model, inspired by the successful Canadian community sponsorship model.⁶⁶

⁶² Department of Home Affairs, 'Discussion Paper: Australia's Humanitarian Program 2024-25', p. 5, <https://www.homeaffairs.gov.au/reports-and-pubs/PDFs/humanitarian-program-2024-25-discussion-paper.pdf>, viewed 21 May 2024.

⁶³ Department of Home Affairs, 'Community Support Program (CSP)', <https://immi.homeaffairs.gov.au/what-we-do/refugee-and-humanitarian-program/community-support-program/how-to-apply>, viewed 13 June 2024.

⁶⁴ Department of Home Affairs, *Submission 127*, p. 14; Department of Home Affairs, 'Community sponsorship reforms—Review of Australia's Community Support Program', <https://immi.homeaffairs.gov.au/settling-in-australia/settlement-policy-and-reform/community-sponsorship-reforms>, viewed 13 June 2024.

⁶⁵ Department of Home Affairs, 'Community sponsorship reforms—Review of Australia's Community Support Program', <https://immi.homeaffairs.gov.au/settling-in-australia/settlement-policy-and-reform/community-sponsorship-reforms>, viewed 13 June 2024.

⁶⁶ Community Refugee Sponsorship Australia, *Submission 85*, p. [1].

- 9.68 Other submitters, too, pointed to the Canadian example as a role model for successful settlement programs in Australia. The AMRC, for instance, quoted the Government of Canada on the role of settlement services in Canada:

We want newcomers to succeed and add value to our culture and society. That's why we fund services to help immigrants settle in their communities. There are more than 500 settlement service organizations across Canada. They help all newcomers to:

- learn about life in Canada and their community
- get language training
- find work
- make connections with established immigrants and Canadians.

Settlement services help newcomers adapt to life in Canada and put them on the path to eventually becoming Canadian citizens.⁶⁷

- 9.69 On the new Australian CRISP program, as CRSA explained, participants are initially identified as refugees by the UNHCR and then referred by the Department of Home Affairs into the program. They are then matched with a local Community Supporter Group who contacts the participants before they arrive in Australia and supports them over a 12-month period following their arrival. CRSA described the program as 'a "sponsor a stranger" program' and pointed out that Australia does not have a program that 'enables community sponsorship of a refugee who is identified by a community group in Australia', or a so-called 'named' or 'linked program'.⁶⁸
- 9.70 CRSA submitted that 'community sponsorship' programs, such as the CRISP, help amplify the role that humanitarian entrants play in nation building by centrally involving mainstream society in settlement and integration processes. Through such processes, CRSA contended, 'community sponsorship not only supports the effective settlement and integration of those new migrants, but also boosts social cohesion by systematically introducing new migrants to groups of established Australians who are invested in their successful settlement.'⁶⁹
- 9.71 Additionally, while acknowledging that cohort-level data is not yet available on the outcomes of the program, CRSA argued that the CRISP also facilitates greater participation in the Australian economy by refugees under the program. They explained:

This is because of the pivotal role that a group of dedicated sponsors can play in leveraging their local knowledge, professional knowledge and personal networks in assisting refugee newcomers to find suitable and sustainable work or establish businesses.

⁶⁷ Australian Migration Resource Centre, *Submission 102*, pp. [11-12].

⁶⁸ Community Refugee Sponsorship Australia, *Submission 85*, p. [1].

⁶⁹ Community Refugee Sponsorship Australia, *Submission 85*, p. [2].

They, further, recounted anecdotal evidence of ‘a number of refugees resettled through the CRISP who have begun working within their first six months in Australia, or who are taking meaningful steps towards working or establishing businesses.’⁷⁰

9.72 CRSA recommended that, among other things, that the CRISP program be made ‘a permanent feature ‘of the Migration Program and that it be scaled up to at least 5,000 places. They suggested that CRISP places should be additional to the annual humanitarian intake through the Refugee and Humanitarian Program.’⁷¹

9.73 Noting the importance of local communities in successful settlement outcomes, the AMRC emphasised the need for settlement services to include ‘capacity building of the wider community as a whole’. They explained that when ‘people have a sense of belonging they are set to thrive and contribute highly, giving more back to the community compared to what they receive through settlement support.’ The results of such community capacity building would be to position Australia as an ‘open hearted, compassionate country that welcomes people regardless of their background.’⁷²

9.74 Some contributors to the inquiry, highlighted the difficulties that humanitarian refugees face in accessing rental accommodation. CORE Community Services, for example, noted that refugees do not arrive with rental histories, explaining that:

That impacts a lot on rental auctioneering where the real estate agent has the upper hand to say: ‘You don’t have a rental history. Another person is about to pay \$100 on top—are you able to pay more than that?’ That under-the-table rental auctioneering is putting our clients in a very disadvantaged situation.’⁷³

9.75 Further to this, CORE Community Services informed the Committee that ‘housing is a key challenge that significantly affects the overall settlement experience’. They reported that ‘housing affordability is described by our clients as their main source of financial and mental stress’.⁷⁴

9.76 The AMRC recommended if settlement services were better resourced and more flexible earlier in a humanitarian entrant’s arrival it would lead to improved settlement outcomes.

Appropriately resourced and flexible settlement services across various pathways such as in education, capacity building for mainstream services, engagement with industry etc. If this is available upfront, the contribution of refugees and migrants could be seen much earlier with much better settlement outcomes and higher participation rates in the labour market.’⁷⁵

⁷⁰ Community Refugee Sponsorship Australia, *Submission 85*, p. [2].

⁷¹ Community Refugee Sponsorship Australia, *Submission 85*, p. [2].

⁷² Australian Migration Resource Centre, *Submission 102*, p. [5].

⁷³ Ms Shama Pande, Service Manager, Multicultural Communities, CORE Community Services, *Committee Hansard*, Videoconference, 17 May 2023, p. 9.

⁷⁴ Ms Joanne Robertson, Strategic Performance and Analytics Manager, CORE Community Services, *Committee Hansard*, Videoconference, 17 May 2023, p. 8.

⁷⁵ Australian Migration Resource Centre, *Submission 102*, p. 13.

Employment Support for Humanitarian Entrants

- 9.77 As a cohort, humanitarian entrants face a range of barriers to gaining meaningful and ongoing employment compared to other migrant groups that goes beyond difficulties related to skills assessment and qualifications recognition. The Committee heard that better supports were needed to help humanitarian entrants access the job market. As highlighted by the CPD, '[l]abour market participation is a key to successful settlement'.⁷⁶
- 9.78 The Department of Home Affairs highlighted that the Economic Pathways to Refugee Integration grant program was established to increase the rate of employment for refugees and humanitarian entrants by creating job opportunities and pathways to employment and self-employment for refugees with low skill levels and low English language proficiency, where \$21.3 million over three years was committed to the program.⁷⁷
- 9.79 Speaking of migrants more generally, SSI cited evidence that 'job seekers from migrant and refugee backgrounds are over-represented in long-term unemployment trends'.⁷⁸ More specifically to refugees and asylum seekers, the Centre for Policy Development pointed out that 'high levels of unemployment persist among humanitarian migrants'.⁷⁹
- 9.80 Indeed, as noted by the Department of Home Affairs, the 2016 Australian Census Migrant Integrated Dataset (ACMID) showed that in the first eight months of their arrival in Australia, only 23 per cent of humanitarian migrants in the labour force were employed but increased markedly after five years. Continuing, they explained that 'for those in the labour force who had lived in Australia for five years, employment rates increased to around 80 per cent'.⁸⁰
- 9.81 Professor Joy Damousi et al, noted that humanitarian entrants face a range of factors that inhibit labour market participation, including 'existing qualifications not being recognised; knowledge about labour market practices; tensions over what English language skills are needed and how they should be acquired; and the impact of life experience combined with structural barriers and discrimination'. Given this, they called for 'tailored supports for refugee jobseekers and catering for job-ready refugees'.⁸¹
- 9.82 The Australian Human Rights Commission, also, suggested that better supports, and the strengthening of acceptance of refugees among the community, could assist humanitarian entrants enhance their contributions to the Australian economy. They argued:

⁷⁶ Centre for Policy Development, *Submission 65*, p. 10.

⁷⁷ Department of Home Affairs, *Submission 127*, p. 14.

⁷⁸ Settlement Services International, *Submission 26*, p. 9.

⁷⁹ Centre for Policy Development, *Submission 65*, p. 10.

⁸⁰ Department of Home Affairs, *Submission 127*, p. 14.

⁸¹ Prof Joy Damousi, Dr Rachel Stevens, Dr Mary Tomsic, *Submission 24*, p. 4.

Initiatives that would assist in this regard include measures to overcome barriers to participation in the labour market, and a continued focus on the development of the National Anti-Racism Framework as an important contribution towards strengthening social cohesion in Australia.⁸²

- 9.83 SSI expressed concerns about the 'effectiveness of Federally-funded employment services to deliver outcomes for refugees and migrants'. More specifically, SSI noted that the now-defunct Jobactive Government employment service 'did not offer different cohorts of job seekers access to specialised employment service providers'. By contrast, the service provision model under the current Workforce Australia service has moved away from generalist providers focusing on all cohorts to specialist providers focusing on the needs of particular cohorts and those jobs seekers who require the most support. Workforce Australia offers providers specialist licenses for particular cohorts linked to areas of high demand.⁸³
- 9.84 While SSI acknowledged that this model 'recognised that culturally responsive services delivered by providers experienced in delivering programs to Indigenous communities, people from culturally and linguistically diverse (CALD) backgrounds, refugees and ex-offenders are a key pillar to providing improved outcomes for these cohorts', it highlighted 'inconsistencies' in the allocation of CALD and Refugee specialist licenses across South Australia, Victoria, NSW, and Queensland. It raised the example of South-West Sydney where 'no CALD or Refugee specialist licenses were allocated in one of the most culturally and linguistically diverse areas of Australia'.⁸⁴
- 9.85 On this, the RCoA submitted that 'there are only two refugee specialist employment services that have received funding through Workforce Australia to stand up services in three of the 24 regions'. The RCoA argued that it was 'imperative' that more was invested into refugee specialist employment services.⁸⁵
- 9.86 While arguing that more funding for specialised employment services for humanitarian entrants was needed, the RCoA cautioned that the 'incentive structure within employment service funding models... can push new arrivals into jobs that do not correlate to meaningful career outcomes of economic participation'. They explained that because employment services have been funded on the basis of 'simply getting a person into work', jobseekers 'can be pressured to accept entry level or low-skilled jobs'. The RCoA suggested that employment services needed to be incentivised into helping people into 'employment that more closely aligns with their skills, qualifications, experience and aspirations'.⁸⁶
- 9.87 The ASRC pointed out that many humanitarian entrants are placed on bridging visas to regularise their migration status while they await the outcome of their claim. The ASRC stressed, however, that bridging visas are not designed to be held for

⁸² Australian Human Rights Commission, *Submission 42*, p. 3.

⁸³ Settlement Services International, *Submission 26*, p. 9.

⁸⁴ Settlement Services International, *Submission 26*, p. 10.

⁸⁵ Refugee Council of Australia, *Submission 105*, p. 14.

⁸⁶ Refugee Council of Australia, *Submission 105*, p. 14.

extended periods due to the limited rights available to visa holders. The ASRC described the effect of this situation:

The temporary nature of bridging visas means that many people can only work for short periods of time as they need to renew these visas on a regular basis and sometimes require the Minister for Immigration, Citizenship and Multicultural Affairs to personally intervene to grant them permission for bridging visa renewal.⁸⁷

- 9.88 The insecure nature of bridging visas also acts to disincentivise potential employers from employing such asylum seekers. The ASRC explained:

Understandably employers are hesitant to employ people who will lose their work rights every few months or years while they hold bridging visas. This creates a cruel and precarious situation for people seeking asylum and fosters an environment where predatory employers can engage in exploitative practices. The illegal work conditions that bridging visa holders have been exposed to have been linked to instances of modern slavery. People seeking asylum are fearful of speaking out against dangerous conditions as they may lose their jobs and do not have access to mainstream social support.⁸⁸

- 9.89 As the ASRC argued, moreover:

Allowing conditions where unscrupulous employers can take advantage of migrants is harmful to the economic and social cohesion of our society and prevents people seeking asylum from accessing basic rights afforded to others in our country.⁸⁹

- 9.90 The ASRC recommended, among other things, that work and study rights be granted to all people seeking asylum on bridging visas ‘throughout the refugee status determination process’ and that people seeking asylum on bridging visas are eligible of government-funded study support, including VET courses, CSP, FEE-HELP, funded apprenticeships, and traineeships.⁹⁰

- 9.91 The RACS, warned that people seeking asylum still face ‘significant barriers to accessing employment, including language barriers, and lack of appropriate training and support.’ They explained:

Only certain bridging visas grant work rights to people seeking asylum. The availability of work rights to people seeking asylum is heavily dependent on the conditions of their visa, and the progress of their application for protection. If person seeking asylum holds a bridging visa with a ‘no work’ condition, they may be able to apply for a new bridging visa with work rights, if their application is being decided by the Department or is under merits review, and they meet

⁸⁷ Asylum Seeker Resource Centre, *Submission 86*, p. 3.

⁸⁸ Asylum Seeker Resource Centre, *Submission 86*, p. 3.

⁸⁹ Asylum Seeker Resource Centre, *Submission 86*, p. 6.

⁹⁰ Asylum Seeker Resource Centre, *Submission 86*, p. 2.

certain other criteria. In certain circumstances people seeking asylum on bridging visa with no work rights, cannot apply for work rights.⁹¹

- 9.92 Acknowledging the Australian economy is suffering major labour and skills shortages across a range of industries, the RACS believed that ‘all people seeking asylum, if engaged in a legal process to seek Australia’s protection, no matter what the stage of that process, should have access to work rights whilst awaiting any outcome or whilst making arrangements to depart Australia should that be their decision.’⁹²

We submit that refugees and humanitarian entrants bring a unique skill set to the Australian labour market by providing invaluable cultural and linguistic links to the increasingly multicultural Australian community. Accordingly, the employment of refugees can directly increase the competitive advantage of organisations by enabling them to deliver better services, build customer loyalty, and penetrate new and emerging markets.⁹³

- 9.93 Several contributors pointed out that humanitarian entrants, as a cohort, have higher levels of entrepreneurship. The CPD, for instance, indicated that humanitarian entrants ‘are among the most entrepreneurial migrants in our society, and almost twice as likely to be entrepreneurs as Australian taxpayers as a whole’. They suggested that there is ‘unmet demand’ for business loans and microfinancing at reasonable rates as part of the settlement services available in Australia. They cited the example of the ‘well-established microfinance program’ under the Office for Refugee Resettlement in the United States of America, which had achieved high repayment and business survival rates.⁹⁴

- 9.94 Continuing, the CPD highlighted that ‘a major design feature’ of the US program was ‘its reliance on localism and devolution’. They explained:

Support for projects and loans are decided by organisations in the areas where support will be delivered. Local organisations work directly to the Office of Refugee Resettlement on their application for funding support. This helps match up the funding source with communities where a framework for successful loan delivery is already in place.⁹⁵

The CPD argued that, in the Australian context, because ‘migration settlement is concentrated in place’ microfinancing was ‘particularly applicable’.

- 9.95 Related to this, the Department of Home Affairs using data from the Australian Tax Office and the Department of Human Services, noted of all humanitarian entrant taxpayers, ‘24 per cent reported income from their own incorporated business, higher than other migrants groups and all Australian taxpayers’.⁹⁶

⁹¹ Refugee Advice and Casework Service, *Submission 104*, p.11.

⁹² Refugee Advice and Casework Service, *Submission 104*, p.11.

⁹³ Refugee Advice and Casework Service, *Submission 104*, p.12.

⁹⁴ Centre for Policy Development, *Submission 65*, p. 11.

⁹⁵ Centre for Policy Development, *Submission 65*, p. 11.

⁹⁶ Department of Home Affairs, *Submission 127*, p. 14.

Furthermore, humanitarian entrant taxpayers had the highest median unincorporated business income at \$16,852, compared with migrant taxpayers from the other visa streams.⁹⁷

Employment Support for Refugee Women

- 9.96 The Committee heard that refugee women, in particular, faced barriers to employment. The CPD, for example, submitted that only 20 per cent of female humanitarian migrants are participating in the labour market compared to 60 per cent of men from this cohort. They suggested that stronger supports for humanitarian migrant women into 'decent work fosters equity, productivity and economic mobility'. They noted, in particular, that microfinancing has the potential to 'boost labour participation rates of women through home-based business to foster business experience among female humanitarian migrants'.⁹⁸
- 9.97 SSI, meanwhile, pointed out that refugee women from low and middle-income countries face significant barriers to labour market participation. This is despite recent research which found that such women 'have much higher levels of graduate and post-graduate degrees compared to Australia-born women'. Moreover, these women, the research found, are more likely to be employed in 'low-skill and low-paid jobs that are not commensurate with their skills and qualifications'.⁹⁹
- 9.98 SSI highlighted that these research results indicate that 'a more targeted policy response to unlock the economic potential' of refugee women is needed. They suggested that such a response include: subsidised entry into vocational and tertiary courses to bridge skills and qualification gaps; careers advice; and opportunities for paid internships and structured mentorship pathways.¹⁰⁰

Committee Comment

- 9.99 The Committee acknowledges the wide range of evidence it received on settlement services for humanitarian entrants. It notes the importance of embedding settlement services within communities, allowing refugees to connect with others and establish relationships and networks, while investing the wider community in the settlement and integration process.
- 9.100 The Committee endorses recent Government announcements concerning settlement services, including the release of the *Refugee and Humanitarian Entrant Settlement and Integration Outcomes Framework* and the establishment of a new community sponsorship scheme through the Humanitarian Integration and Settlement Program. The Committee is hopeful that these initiatives address much of the concerns the Committee heard in evidence and the Committee is keen to monitor the outcomes of these into the future.

⁹⁷ Department of Home Affairs, *Submission 127*, p. 14.

⁹⁸ Centre for Policy Development, *Submission 65*, p. 11.

⁹⁹ Settlement Services International, *Submission 26*, p. 9.

¹⁰⁰ Settlement Services International, *Submission 26*, p. 9.

- 9.101 In relation to employment support services, the Committee believes that more work can be done to help refugees gain employment in roles that align with their skills, qualifications, and experience. To this end, the Committee recommends that the Australian Government works within the existing funding framework to improve specialised refugee employment services and that job service provider be incentivised to help refugees find jobs, or pursue small business opportunities, best aligned with their skills and experience.
- 9.102 The Committee recognises that extended periods on bridging visas results in negative outcomes for those seeking asylum in Australia. The Committee welcomes the announcement on 5 October 2023 by the then Minister for Immigration, Citizenship and Multicultural Affairs, the then Minister for Home Affairs, and the Attorney-General to bolster the integrity of the refugee protection system. With this announcement, the Government acknowledged that processing and assessment backlogs had grown exponentially, allowing some unscrupulous individuals to take advantage of the system by lodging non-genuine applications for protection.¹⁰¹
- 9.103 The Government has invested \$58 million ‘in the Administrative Appeals Tribunal and the Federal Circuit and Family Court of Australia will increase the capacity of those bodies to deal with significant Protection visa and other migration-related caseloads’ and a further \$48 million to boost ‘essential legal assistance services to support applicants through the application process’.¹⁰² The Committee is hopeful that these investments and other integrity measures associated with the Nixon Review¹⁰³ will address the long delays in the assessment and processing of asylum seekers’ claims and the number of non-genuine claims being lodged. This will hopefully reduce the time people are placed on bridging visas while awaiting their refugee status to be determined.
- 9.104 The Committee acknowledges evidence that asylum seekers on bridging visas have inconsistent access to work rights, often due to seemingly arbitrary decisions made in varied ways during visa processing outcomes. This inconsistency does not sit well with the principle that while resident in Australia, these asylum seekers should have access to the same work rights as other bridging visa holders. The Committee recognises that there may be security or public interest considerations in restricting work rights to some asylum seeker bridging visa holders, however unless these security or public interest considerations can be firmly established the Committee considers that all other asylum seekers should have work rights to allow them to support themselves and their families and contribute to Australia's economy and society.

¹⁰¹ Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, Hon Clare O’Neil MP, Minister for Home Affairs, Hon Mark Dreyfus, Attorney-General, *Joint Media Release*, ‘Restoring integrity to our protection system’, 5 October 2023, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/restoring-integrity-protection-system.aspx>, viewed 15 June 2024.

¹⁰² Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, Hon Clare O’Neil MP, Minister for Home Affairs, Hon Mark Dreyfus, Attorney-General, *Joint Media Release*, ‘Restoring integrity to our protection system’, 5 October 2023, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/restoring-integrity-protection-system.aspx>, viewed 15 June 2024.

¹⁰³ Australian Government, ‘Rapid Review into the Exploitation of Australia’s Visa System’, 31 March 2023.

- 9.105 Finally, acknowledging the added barriers faced by refugee women to access the job market, the Committee recommends that more targeted job support services for women refugees be made available.
- 9.106 Further to this recommendation, the Committee acknowledges that this report does not address the recognised endemic issue of domestic violence and coercive control that can influence the outcomes for refugee, and indeed all migrant, women. In revising the support services improvements for refugees, the Committee recommends that the Australian Government, in line with its domestic violence reform agenda, expand all specialised employment support and domestic violence support services to all migrant women, to ensure equity in delivering desired system improvements.

Recommendation 49

- 9.107 The Committee recommends that the Australian Government works within the existing funding framework to improve specialised refugee employment support services and that that employment support service providers be incentivised to help refugees find jobs, or pursue small business opportunities, best aligned to their skills, qualifications, and experience.**

Recommendation 50

- 9.108 The Committee recommends that, unless there are compelling reasons related to security or the public interest, that the Australian Government provides work rights to asylum seekers on bridging visas to allow them to support themselves and their families and contribute to the Australian economy and society.**

Recommendation 51

- 9.109 The Committee recommends that the Australian Government makes available more specialised employment and domestic violence support services for migrant women.**

Permanent Residency and Citizenship

- 9.110 The Committee heard evidence on the value placed on permanent residency and smooth pathways to citizenship by humanitarian entrants.
- 9.111 The RACS emphasised the importance of permanent protection for humanitarian entrants as a basis for wider nation building efforts. The RACS argued that permanent protection allows refugees to ‘fully integrate’ into Australian society and contribute to Australia’s economic development ‘by allowing them to buy their own

homes, invest in business, participate and bring valuable skills to the workforce and pursue new ideas'.¹⁰⁴

- 9.112 The attainment of citizenship, moreover, is a significant milestone for humanitarian entrants on their journey to safety and security. For such migrants, as noted by the RCoA:

...Australian citizenship has special significance. Gaining citizenship marks both their integration into their new country and the end of their displacement. For many, it will mark the first time they have experienced the protection of a state, rather than its persecution.

...

For this reason, most refugees and humanitarian entrants are eager to apply for citizenship as soon as they can, and prize it highly¹⁰⁵

- 9.113 The RACS submitted that 'Australia's response to increased displacement of people by conflict and climate change should be a humane, fair, efficient, and permanent settlement process.' Noting that refugees are placed on bridging visas, often lacking certain rights, while waiting for their claim to be assessed, they cautioned that...

...[t]his lack of permanency, the delays in processing of protection visa applications, and the current use of Bridging Visas impedes people's ability to gain meaningful employment and access to proper health care whilst living in Australia.¹⁰⁶

- 9.114 The Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT), with experience of supporting 7,796 clients in 2021/22 from over 85 countries by offering both individual or family counselling and group work, believed opportunities to gain permanent residency were highly valued by individuals, families and communities who have arrived in Australia via humanitarian pathways and asylum seeking processes. They explained:

Being able to offer permanent protection to people who have experienced persecution on the basis of their race or ethnicity, membership of a social group, or through their religious or political affiliation, is an important component of Australia's commitment to human rights. It also demonstrates our nation's commitment to multiculturalism and diversity, and offers a "demographic dividend" to compensate for our aging population.¹⁰⁷

- 9.115 QPASTT submitted there was an important additional aspect of permanent migration that is highly valued by people from refugee and asylum-seeking backgrounds—the opportunity to become Australian citizens:

¹⁰⁴ Refugee Advice and Casework Service, *Submission 104*, p. 3.

¹⁰⁵ Refugee Council of Australia, *Submission 105*, P. 10.

¹⁰⁶ Refugee Advice and Casework Service, *Submission 104*, p. 11.

¹⁰⁷ Queensland Program of Assistance to Survivors of Torture and Trauma, *Submission 41*, pp. 3-4.

Citizenship signals welcome, inclusion and belonging in Australia, allowing full rights of political engagement in our nation. Citizenship is a requirement for obtaining an Australian passport and receiving protection when travelling overseas, including travel to country of origin. Citizenship is a requirement for sponsoring community and family members, and for facilitating family reunification, which for many, is a crucial component of healing from refugee torture and trauma.¹⁰⁸

- 9.116 Despite the clear benefits to gaining citizenship, QPASTT highlighted the barriers which can have ‘long-term devastating effects on the wellbeing of permanent residents’:

One important barrier to the citizenship aspirations of the communities QPASTT works with in Queensland, is the challenge of successfully completing the citizenship test. An estimated 30 per cent of all clients assisted through our intake processes seek advocacy and assistance about citizenship.¹⁰⁹

- 9.117 The Victorian Foundation for Survivors of Torture Inc. (Foundation House) called for a review of barriers and facilitators to citizenship for migrants and humanitarian settlers, noting the following:

Supporting and encouraging migrants including humanitarian settlers to become citizens are important measures to promote nation-building and social cohesion. However, many applicants and those of refugee backgrounds in particular encounter barriers to becoming citizens that are unduly onerous.¹¹⁰

- 9.118 Foundation House submitted since people of refugee backgrounds were unlikely to wish or be able to migrate elsewhere, Australia’s nation-building and social cohesion would be ‘significantly enhanced by policies and programs that strengthen refugees’ sense of being welcomed, that they belong, and that their economic, social, and cultural contributions are valued’. Expanding on this, they stated:

Humanitarian and refugee migrants are particularly likely to become permanent settlers because the persecution that they fled continues in their countries of origin; prolonged wars have seriously damaged the economies and key services such as health and education; they are stateless and not permitted to return to the countries they were forced to leave.¹¹¹

- 9.119 Being a citizen is a status that is greatly valued by people of refugee backgrounds according to Foundation House because of their histories of exclusion. They explained that for refugees...

¹⁰⁸ Queensland Program of Assistance to Survivors of Torture and Trauma, *Submission 41*, p. 4.

¹⁰⁹ Queensland Program of Assistance to Survivors of Torture and Trauma, *Submission 41*, p. 4.

¹¹⁰ Victorian Foundation for Survivors of Torture Inc; *Submission 80*, p. 1.

¹¹¹ Victorian Foundation for Survivors of Torture Inc; *Submission 80*, p. 2.

...their experience of dictatorial regimes that deny people the right to have a say in how they are governed and because it increases their opportunity to safely travel to reunite with family members in other countries.

Regrettably, many of our clients and members of refugee communities encounter barriers to becoming citizens that we believe are unduly onerous.¹¹²

9.120 QPASTT raised concerns about the various challenges involved with the current process for gaining Australian citizenship, such as an applicant being required to:

- Be a permanent resident of Australia for four years. This is currently unattainable for many people who have arrived in Australia via irregular maritime arrival or through the restricted provision of temporary protection visas only;
- Score 75 per cent or over, and pass all five values questions, on the citizenship test to test their knowledge of Australia; and
- Have a basic knowledge of English language, which is also measured by scoring over 75 per cent on the citizenship test.¹¹³

Citizenship and Knowledge of the English Language

9.121 Foundation House highlighted the challenges for some refugees to meet a requirement for citizenship by demonstrating their basic knowledge of the English language:

The requirement and the manner of its application may constitute significant barriers for people of refugee backgrounds because of the adverse impact of traumatic experiences on language learning and because a significant number may not be literate in their first language for reasons such as limited formal education in countries of origin, perhaps as an aspect of the discrimination they experienced as well as limited education generally. This particularly affects women. As one of our Counsellors observes, there is a 'gender impact'.¹¹⁴

As well as the educational barriers in countries of origin and temporary protection, mothers are generally the main carers for their children, limiting their opportunities to attend English language classes and/or to participate in employment where they are more likely to interact for extended periods with English speakers than they are in community settings.¹¹⁵

9.122 The RCoA noted that while the majority of humanitarian entrants do not require the aid of an interpreter to pass the citizenship test, there was a small proportion of refugees 'who will miss out because they personally aren't able to complete the citizenship test in English in a way that usually other members of their family can'. The RCoA emphasised that the issue was not about 'Australian values', highlighting

¹¹² Victorian Foundation for Survivors of Torture Inc; *Submission 80*, p. 2.

¹¹³ Queensland Program of Assistance to Survivors of Torture and Trauma, *Submission 41*, pp. 4-5.

¹¹⁴ Victorian Foundation for Survivors of Torture Inc; *Submission 80*, p. 3.

¹¹⁵ Victorian Foundation for Survivors of Torture Inc; *Submission 80*, p. 4.

that people 'who've lived in situations where basic rights have been denied actually understand the values more fundamentally than any of us will.'¹¹⁶

9.123 In a similar vein, QPASTT criticised the citizenship as 'a barrier that conflates English proficiency with alignment of values and language homogeneity with social cohesion'.¹¹⁷

9.124 QPASTT, further, questioned the Australian Government's reliance on a written test in English without interpreter support, claiming it was 'not a reliable or effective indicator of a person's understanding of citizenship, nor of their acceptance of the responsibilities and privileges of Australian citizenship'. They further argued that...

... the test conditions can induce a level of stress where even those with strong English language skills are failing. There is consistent anecdotal evidence from refugee communities across Queensland that this is despite attending citizenship classes, and extensive hours of pre-test independent study. QPASTT staff have frequently heard accounts of individuals attempting the test in excess of five times, incurring significant cost at having to reapply and pay application fees after every fourth attempt. Individuals have spent in excess of two years studying for the test, and make multiple test attempts.¹¹⁸

9.125 QPASTT also noted that the incidence of repeated failed attempts was more likely for people who have had limited formal schooling or have not had the privilege of being literate in their first language:

It is also apparent that these challenges disproportionately affect women from refugee background who are more likely to have had limited education opportunities and in Australia, are likely to have fulfilled caretaking responsibilities in the family home...¹¹⁹

9.126 For many, the level of distress caused by repeated failure of the citizenship test renders citizenship an unobtainable aspiration, according to QPASTT. They explained:

Failure to obtain citizenship has also created substantial distress for those who desperately want to travel to see and support ageing or seriously unwell family members, or to sponsor family members who are remaining in dangerous situations. This creates substantial moral distress when it becomes impossible to meet cultural obligations to protect and provide for family members, regardless of geographical separation. For trauma survivors, this sense of exclusion and loss of hope in their future, detrimentally impairs mental wellbeing.¹²⁰

¹¹⁶ Mr Paul Power, Chief Executive Officer, Refugee Council of Australia, *Committee Hansard*, Videoconference, 17 May 2023, p. 25.

¹¹⁷ Ms Stephanie Long, Systematic Advocacy and Strategic Projects Lead, Queensland Program of Assistance to Survivors of Torture and Trauma, *Committee Hansard*, Videoconference, 18 May 2024, p. 8.

¹¹⁸ Queensland Program of Assistance to Survivors of Torture and Trauma, *Submission 41*, p. 5.

¹¹⁹ Queensland Program of Assistance to Survivors of Torture and Trauma, *Submission 41*, p. 5.

¹²⁰ Queensland Program of Assistance to Survivors of Torture and Trauma, *Submission 41*, p. 6.

9.127 QPASTT also raised concerns about the location of interview and testing sites. They noted that despite Townsville being a regional centre, there was no local availability of citizenship interviews and testing with people required to travel 700 km to attend their interviews and tests in Cairns.¹²¹

Box 9.2 Case Study—Barriers to Citizenship, Romana’s mother Lucia’s story

My mum was an uneducated woman back in the country [Myanmar], and she had been living in the refugee camps for as long as 17 or 18 years, then came to Australia as a single mother with five children. When she arrived in Australia, she didn't have the chance to go to school as she had to look out for my younger siblings. As my siblings grew up, other family members arrived here like my grandpa and my grandma. She was going to attend the school; however, as my other family arrived here, she had to look out for them, so she didn't have the chance to study.

We started to apply for the citizenship test, and I was able to sit for the test myself as I was over 18 years old, but she had to sit the test with my other siblings [under her]. She sat the test over five times and didn't pass. For the test she had to pay over \$800 as well. As we saw, when she didn't pass the test, she was so distressed and very depressed about that. She worried about my younger siblings, who are not able to obtain citizenship to become Australian citizens. She was so depressed and anxious about that. She worried that one day they would be [asked to] go back to the country they belonged before as they are not citizens of Australia.

As for the family who live back in the country, who are facing difficulties with the living situation in the country, she would like to sponsor them, but, as she is only a permanent resident, she has a struggle sponsoring families. As the oldest daughter in the family, I have seen how she's been feeling about the test. She doesn't know anything about the test, and her literacy with English is zero per cent. For her to continue with the test was difficult, so she gave up on the test. Up till now, she hasn't applied for the test again; however, if she were to re-apply for the test, she would have to make another payment, but her other kids are underage and no-one is working. She's a single mother, so she's not able to afford another test. So there are extra risks that she has been faced with the citizenship test.¹²²

9.128 QPASTT recommended the Australian Government:

- Reinstatement of oral interpreters to support people with barriers to language due to hardship and refugee experience.
- Establish grounds for exemption, including limited schooling, disability, literacy in first language and trauma history.
- Audit locations for interviews and tests, with solutions to ensure equitable access for people living in regional, rural and remote areas.¹²³

¹²¹ Queensland Program of Assistance to Survivors of Torture and Trauma, *Submission 41*, p. 5.

¹²² Romana, Burmese Care, *Committee Hansard*, Videoconference, 18 May 2023, p. 9.

¹²³ Queensland Program of Assistance to Survivors of Torture and Trauma, *Submission 41*, p. 5.

Committee Comment

- 9.129 The Committee believes that, as a multicultural society, the essence of Australian citizenship is not necessary tied to the English language, important though this is for Australian culture, facilitating the integration of the country's diverse ethnocultural groupings, and maximising citizens' participation in civil society. Refugees, often more than other people, are acutely aware of rights and obligations of citizenship, having often been denied these things in their countries of origin. Refugees, however, come in all ages and levels of educational achievement. And while acquiring proficiency in the English language before or after arrival may be achievable for the majority of refugees, this is not the case for all.
- 9.130 For older refugees, those who have limited education, and those who have experienced trauma and hardship, exemptions should be made to allow the use of an interpreter for the citizenship test. This particularly makes sense if the intent of the test is to gauge the candidate's suitability as an Australian citizen, not their capacity in English. The Committee, therefore, recommends that exemptions be made for the use of an interpreter for the citizenship test on a case-by-case basis when the above circumstances apply.
- 9.131 Finally, acknowledging that interview and test sites are limited, the Committee recommends that the Government conducts an audit to ensure that test locations are properly aligned to areas of need.

Recommendation 52

- 9.132 The Committee recommends that the Australian Government offer exemptions on a case-by-case basis to allow the use of an interpreter for the citizenship test for refugees who are older, lack formal education, or have experienced trauma and hardship.**

Recommendation 53

- 9.133 The Committee recommends that the Australian Government conducts an audit of citizenship interview and testing sites to ensure that these are located in areas of greatest demand.**

International Police Checks and Identity Requirements

- 9.134 Foundation House raised the challenges for refugees to meet requirements to provide overseas penal clearances or police checks, as well as documents to establish their identity. They explained that:

Providing these documents may be impossible for people of refugee backgrounds from countries from which many refugees originate or in which they resided.¹²⁴

- 9.135 Foundation House submitted the example given by a Karen member of its staff explaining when Karen and Burmese community members seek police clearance requests from Thailand they never get replies from the Thai police because 'refugees are not allowed to go out from the camps and therefore there are no records for them'.¹²⁵
- 9.136 According to Foundation House, the Department of Home Affairs acknowledged that it was 'not always possible to obtain overseas penal clearances and suggests that people who are affected contact the Department to be exempt from the requirement'. Despite this, Foundation House claimed although this is explained to the Department, '...they ask again and again, and applicants wait for years unable to obtain citizenship.'¹²⁶
- 9.137 Foundation House shared similar challenges arising for refugees seeking identity documents from their countries of origin they are fleeing. They explained:
- ...people of refugee backgrounds may be unable to secure documents from their countries of origin to establish their identity.
- A person may be refused citizenship because the Department of Home Affairs is not satisfied with their identity, although the Department had previously approved that person's application for protection and resettlement, which also required it to be satisfied as to the person's identity.¹²⁷

Committee Comment

- 9.138 The Committee recognises that the evidentiary requirements for police checks and identity requirements may be problematic for refugees, and cause distress when demands for documents cannot be met due to the government of the country the person is escaping from being either non-responsive or obstructing requests.
- 9.139 The Committee notes that the Department identified that exemptions are available, but that advocates have expressed frustration with this process.
- 9.140 The Committee therefore recommends that the Department of Home Affairs develop clear guidelines to enable these exemptions to be sought and granted in the most effective way possible, while also minimising the possibility for identity fraud or manipulation.

¹²⁴ Victorian Foundation for Survivors of Torture Inc; *Submission 80*, p. 3.

¹²⁵ Victorian Foundation for Survivors of Torture Inc; *Submission 80*, p. 3.

¹²⁶ Victorian Foundation for Survivors of Torture Inc; *Submission 80*, p. 3.

¹²⁷ Victorian Foundation for Survivors of Torture Inc; *Submission 80*, p. 3.

Recommendation 54

- 9.141 The Committee recommends that the Department of Home Affairs develops clear exemption guidelines that recognise the importance of providing a pathway for refugees to establish their identity claims when documentary evidence is unobtainable, while minimising the risk of fraud.**

Climate Change and Refugees

- 9.142 The Kaldor Centre for International Refugee Law at University of NSW warned internal and cross-border displacement within and from the Pacific Islands is likely to increase as disasters intensify and become more frequent, exacerbated by the impacts of climate change. Expanding, they submitted:

Climate change not only threatens lives and livelihoods, but also loss of place, culture, family and identity, as well as dislocation from ancestral lands. In some places, climate change presents an irreversible and existential threat, particularly for low-lying atolls where food and water insecurity are already a reality.

Neither international law, nor the domestic laws of most countries, provides a clear-cut legal status to people displaced by the impacts of disasters, climate change or environmental degradation. Although refugee and human rights law may offer protection to some, it will not be an attainable or applicable solution for many.¹²⁸

- 9.143 The Kaldor Centre, which is dedicated to the study of international refugee law, claimed mobility in the context of climate change and disasters as its area of expertise, welcomed the Australian Government's announcement in 2022 of a new Pacific Engagement Visa (PEV):

...it will enable 3,000 Pacific Islanders to move permanently to Australia with their families each year, rather than being stuck in cycles of temporary work and separated from family left at home. In its implementation, it will be important for the PEV to provide preferential opportunities for countries that lack other mobility pathways and which are particularly vulnerable to the impacts of climate change over the longer term.¹²⁹

- 9.144 Smart migration opportunities, designed in close dialogue with Pacific peoples, could reduce the risk and extent of displacement in the future, according to the Kaldor Centre:

Migration can be a form of adaptation to climate change, and an important risk management strategy. Migration opportunities enable people to move in their

¹²⁸ Kaldor Centre for International Refugee Law, *Submission 48*, p. 2.

¹²⁹ Kaldor Centre for International Refugee Law, *Submission 48*, p. 2.

own time and on their own terms, rather than being displaced when disaster strikes.¹³⁰

- 9.145 The Kaldor Centre highlighted the importance of consulting with the diaspora Pacific communities in Australia when designing this Pacific Engagement Visa and future migration schemes from the region:

...diaspora communities which tend to provide considerable levels of support when new migrants arrive. In this, attention should be given to particular groups, such as women and girls, those with disabilities, and young people. It is also important to recognize wider notions of 'family' (and family support structures/living arrangements) in Pacific communities, which may not be captured by Australia's more nuclear definitions.

- 9.146 They, further, suggested that Australia 'consider creating special humanitarian visas for those adversely affected by the impacts of disasters or climate change—both for those who are here when disaster hits and cannot safely return home, as well as to assist people to find safety in the aftermath of a disaster'.¹³¹

- 9.147 The then Minister for Immigration, Citizenship and Multicultural Affairs, the Hon Andrew Giles MP, announced in April 2024 that the PEV program would commence from 3 June 2024. This joint media release, issued with the Foreign Minister and Minister for International Development and the Pacific, outlined that:

The program will enable up to 3,000 citizens of Pacific Island countries and Timor-Leste to migrate to Australia as permanent residents each year.

This will grow Australia's diaspora, deepen cultural connections, boost business, and educational ties between Australia and participating countries and support economic development in the Pacific.

Countries participating in the first year of the program include Federated States of Micronesia, Fiji, Nauru, Palau, Papua New Guinea, Solomon Islands, Timor-Leste, Tonga, Tuvalu, Vanuatu, with discussions ongoing with other partners in the region.

The PEV program will use an online ballot to select participants, who can then apply for the visa, providing an equitable, streamlined and transparent system. Applicants must secure a formal ongoing job offer in Australia and meet health and character requirements, before being granted a visa.¹³²

¹³⁰ Kaldor Centre for International Refugee Law, *Submission 48*, p. 2.

¹³¹ Kaldor Centre for International Refugee Law, *Submission 48*, p. 3.

¹³² Hon Andrew Giles MP, Minister for Immigration, Citizenship and Multicultural Affairs, Hon Penny Wong, Minister for Foreign Affairs, and Hon Pat Conroy MP, Minister for International Development and the Pacific, *Joint Media Release*, 'Key milestone for Pacific Engagement Visa program', 27 April 2024, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/key-milestone-for-pacific-engagement-visa-program.aspx>, viewed 20 June 2024.

9.148 Whilst not identifying the PEV as a mechanism to address climate change impacts on the Pacific, the PEV program creates another migration pathway for populations in nations that may be impacted by these factors into the future.

9.149 VETASSESS identified input it had provided to the Migration Review that climate-related disasters would continue to be a source of displaced refugee populations, outlining that:

Disasters accounted for more than half of internal displacements worldwide in 2021: 23.7 million people across the globe were displaced because of disasters. Weather-related disasters accounted for the majority of these, with floods and storms jointly causing 21.6 million displacements.¹³³

9.150 VETASSESS stressed that the impacts of climate change would continue to affect Australia's neighbours in the Pacific and that 'Australia has a moral obligation to assist those impacted in its regional neighbourhood'.¹³⁴

Committee Comment

9.151 The Committee noted with interest that direct evidence to this inquiry was limited on the impact of climate change and how it affected refugee populations, especially in the Pacific neighbourhood.

9.152 The Committee welcomes the development and implementation of the Pacific Engagement Visa program, but acknowledges that, as the continuing impacts of climate change become evident globally, particularly in the Pacific neighbourhood, Australia's migration system will need to be ready to adapt as those future challenges arise.

¹³³ VETASSESS, *Submission 89, Attachment 1*, p. 7.

¹³⁴ VETASSESS, *Submission 89, Attachment 1*, p. 7.



10. Regional Migration

- 10.1 The challenges of attracting and retaining migrant workers is particularly acute in rural, regional and remote areas. Evidence submitted to and heard by the Committee demonstrated both unique challenges faced in these areas, as well as, challenges shared with their urban and peri-urban counterparts, but often amplified in scale in a regional setting.
- 10.2 It is, then, perhaps not surprising that over the previous three parliaments regional issues have figured prominently in inquiries conducted by the Joint Standing Committee on Migration:
- Inquiry into the Working Holiday Maker Program (2020);
 - Inquiry into Migration in regional Australia (suspended in 2020); and
 - Inquiry into the Seasonal Worker Programme (2016).
- 10.3 The Committee heard from individuals, businesses, advocacy groups, and local and State governments, among others, that there was an overwhelming shortage of workers across a range of sectors in regional Australia, resulting in jobs that are not able to be filled by the local workforce. Despite the immediate need, there was also recognition that long term solutions were required to foster the sustainable settlement of migrant workers in regional Australia.

Where is Regional Australia?

- 10.4 There are shifting understandings and definitions of what makes up regional Australia. Under some definitions, regional Australia can include smaller State capitals and peri-urban areas abutting major cities.
- 10.5 A discussion paper issued by the Australian Government in June 2024 observed that most regional migration settings utilise a two-tier definition:
- Category 2 - 'Cities and Major Regional Centres' of Perth, Adelaide, the Gold Coast, the Sunshine Coast, Canberra, Newcastle/Lake Macquarie, Wollongong/Illawarra, Geelong.
 - Category 3 – 'Regional Centres and Other Regional Areas'.¹

¹ Australian Government, 'Supporting strong and sustainable regions: Review of Regional Migration Settings, Discussion Paper – June 2024', https://www.homeaffairs.gov.au/reports-and-pubs/PDFs/supporting_strong_and_sustainable_regions.pdf, viewed 25 June 2024.

- 10.6 Category 1, comprising ‘Major Cities’—Sydney, Melbourne, and Brisbane—is excluded from visas, incentives, and concessions directed at regional migration. For migration purposes, the remaining locations (Categories 2 and 3) are classed as designated regional areas with the boundaries aligning to postcodes.²
- 10.7 The discussion paper, however, also noted that a different definition of “regional” applies to the Pacific Australian Labour Mobility (PALM) scheme (discussed in greater detail later in this chapter). One of the aims of the PALM scheme is to help ‘fill labour gaps in rural and regional Australia’. To be eligible for the scheme, employers are generally required to be based in postcodes defined as rural or regional. (No postcode restrictions apply to employers engaged in agriculture and selected agriculture-related food manufacturing sectors).³
- 10.8 Under the Working Holiday Maker (WHM) scheme, postcodes are also used to distinguish remote and very remote Australia from regional Australia. In addition, postcodes are also used to define zones such as Northern Australia, and bushfire declared or natural disaster declared areas.⁴ The definitions assigned to these postcodes largely correlate with the Australian Bureau of Statistics (ABS) Australian Statistical Geography Standard Remoteness Structure assessments—where relative geographic access to services is used to provide a measure of remoteness across five classes:
- 1 Major Cities of Australia;
 - 2 Inner Regional Australia;
 - 3 Outer Regional Australia;
 - 4 Remote Australia; and
 - 5 Very Remote Australia.⁵
- 10.9 Eligibility for an individual’s second or third WHM visas is often dependent on undertaking specified work in approved industries and locations. For example, under

² Department of Home Affairs, ‘Regional migration’, <https://immi.homeaffairs.gov.au/visas/working-in-australia/regional-migration>, viewed 25 June 2024; Department of Home Affairs, ‘Designated regional areas’, <https://immi.homeaffairs.gov.au/visas/working-in-australia/regional-migration/eligible-regional-areas>, viewed 25 June 2024; Department of Home Affairs, ‘Designated regional area postcodes’, <https://immi.homeaffairs.gov.au/visas/working-in-australia/skill-occupation-list/regional-postcodes>, viewed 25 June 2024.

³ Pacific Australian Labour Mobility (PALM) scheme, ‘Welcome to the PALM scheme’, <https://www.palmscheme.gov.au/>, viewed 25 June 2024; PALM scheme, ‘Eligibility’, <https://www.palmscheme.gov.au/eligibility>, viewed 25 June 2024.

⁴ Department of Home Affairs, ‘Specified subclass 462 work’, Working Holiday Maker (WHM) program, <https://immi.homeaffairs.gov.au/what-we-do/whm-program/specified-work-conditions/specified-work-462>, viewed 25 June 2024; Department of Home Affairs, ‘Specified subclass 417 work’, Working Holiday Maker (WHM) program, <https://immi.homeaffairs.gov.au/what-we-do/whm-program/specified-work-conditions/specified-work-417>, viewed 25 June 2024.

⁵ Australian Bureau of Statistics, ‘Remoteness Areas: Australian Statistical Geography Standard (ASGS) Edition 3’, July 2021–June 2026, <https://www.abs.gov.au/statistics/standards/australian-statistical-geography-standard-asgs-edition-3/jul2021-jun2026/remoteness-structure/remoteness-areas>, viewed 1 July 2024.

the Working Holiday (subclass 417) visa, this might include being employed (for a minimum period) in plant and animal cultivation⁶ in regional Australia, or tourism and hospitality in northern or remote and very remote Australia.⁷

Out of Bounds

- 10.10 Such definitions, of regional, rural or remote Australia, do not always accord with lived experience of residents.
- 10.11 Rohan Mott, owner of Skymirror Australia in Sea Lake, Victoria, shared the challenges that his accommodation and gallery café business faced by being excluded from employing backpackers seeking to satisfy the 88-day work requirement to extend their initial Working Holiday (subclass 417) or Work and Holiday (subclass 462) visa. As his postcode, 3533, was designated outer regional, rather than remote or very remote, Mott told the Committee that his business was unable to satisfy the specified work required to employ backpackers in the tourism and hospitality sector.
- 10.12 Mott questioned the characterisation of his postcode as outer regional. '[W]e are remote', he told the Committee, adding that the population of Sea Lake, the largest town in the postcode, was less than 600 people, public transport was limited, and the nearest town of any substance was 80 kilometres away.⁸ While he tried to counter the isolation of the location by offering incentives including free accommodation and paying above the award rate, without access to a casual workforce, opportunities for him to help grow tourism locally had been stunted.
- 10.13 Mr Mott drew the Committee's attention to a Regional Development Australia report (2016) that projected the region had the potential to almost double the number of tourists visiting by 2025. He argued that the ABS categorisation of postcodes was 'no longer fit for purpose'. He called for postcode 3533 to be considered eligible under the 88-day work requirements, or that the list of locations eligible to satisfy the specified work requirement be expanded to include all outer regional postcodes.⁹
- 10.14 The Tasmanian Government's submission was equally critical of the use of postcodes as delimiters on where in Australia a WHM visa holder can work to be eligible for subsequent visas. In their view,

⁶ Although not including secondary processing or provision of plant and animal products e.g. milling or retailing dairy products.

⁷ Department of Home Affairs, 'Specified subclass 462 work', Working Holiday Maker (WHM) program, <https://immi.homeaffairs.gov.au/what-we-do/whm-program/specified-work-conditions/specified-work-462>, viewed 25 June 2024; Department of Home Affairs, 'Specified subclass 417 work', Working Holiday Maker (WHM) program, <https://immi.homeaffairs.gov.au/what-we-do/whm-program/specified-work-conditions/specified-work-417>, viewed 25 June 2024.

⁸ *Committee Hansard*, Videoconference, 27 September 2023, pp. 32-33; and Skymirror Australia, *Submission 128*, p. 1.

⁹ Skymirror Australia, *Submission 128*, pp. 1-2.

The underlying methodology and rationale are unclear, and the risk of inequity or unfairness is high as a result.¹⁰

- 10.15 Definitions used by other Australian Government authorities also have an impact on where migrants can work in Regional Australia. The submission of the National Rural Health Alliance, for instance, raised concerns about the expansion of the Distribution Priority Area (DPA) classification of areas experiencing shortages of General Practitioners (GPs).¹¹ Under the *Health Insurance Act 1973*, International Medical Graduates (IMGs) and Foreign Graduates of Accredited Medical Schools are required to work in areas with GP shortages for a period of up to ten years (depending on remoteness scaling) in order to provide services covered by Medicare rebates.¹²
- 10.16 The DPA classification system applied to the 10-year moratorium (as the requirement is known) incorporates an assessment of the remoteness of the catchments of GPs. The system is underpinned by the Modified Monash (MM) model that assesses the remoteness of an area, ranging in scale from MM1 (a major city) to MM7 (a very remote area). With all those areas classified from MM2 to MM7 (as well as the entirety of the Northern Territory) being considered as DPAs since 2022.¹³
- 10.17 This expansion of the DPA classification to include regional cities and some outer metropolitan areas has been criticised by the Alliance. In their view, practices located in remote areas have suffered as they recruit from the same pool of IMGs as practices located in more desirable urban areas. The Alliance contends that their earlier warning that these changes would ‘result in GPs electing not to work in rural and remote communities or indeed leaving rural and remote communities in favour of regional or outer metropolitan areas’ is being borne out.¹⁴
- 10.18 More generally the National Farmers’ Federation (NFF) indicates that the Department of Home Affairs’ treatment of regional Australia lacks nuance. The NFF observes that regional visas appear on the processing priority list for skilled visa applications¹⁵, but suggests the effectiveness of this prioritisation is diminished by the Department’s definition of ‘designated regional areas’ encompassing almost all areas of Australia,

¹⁰ Tasmanian Government, *Submission 115*, p. 7.

¹¹ National Rural Health Alliance, *Submission 130*, pp. 6-7.

¹² Department of Health and Aged Care, ‘Section 19AB restricted doctors and access to Medicare’, <https://www.health.gov.au/topics/medicare/access-practitioners-industry/doctors-and-specialists/19ab>, viewed 2 July 2025; Department of Health and Aged Care, ‘10-year moratorium and scaling’, <https://www.health.gov.au/topics/doctors-and-specialists/what-we-do/19ab/moratorium>, viewed 2 July 2024.

¹³ National Rural Health Alliance, *Submission 130*, pp. 6-7; Department of Health and Aged Care, ‘Distribution Priority Area’, <https://www.health.gov.au/topics/rural-health-workforce/classifications/dpa>, viewed 25 June 2024; Department of Health and Aged Care, ‘Modified Monash Model’, <https://www.health.gov.au/topics/rural-health-workforce/classifications/mmm>, viewed 25 June 2024.

¹⁴ National Rural Health Alliance, *Submission 130*, pp. 6-7.

¹⁵ At the time of the NFF’s submission, visa applications made in relation to an occupation to be carried out in a designated regional area was priority 3, after Ministerial Direction No. 105, those applications that were *employer sponsored* [my emphasis] for an occupation to be carried out in a designated regional area was listed as priority 1. Department of Home Affairs, ‘Skilled visa processing priorities’, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/skilled-visa-processing-priorities>, viewed 2 July 2024.

except Sydney, Melbourne and Brisbane. They call for the definition to be redefined to 'enable rural, regional and remote migration needs to be appropriately supported'.¹⁶

- 10.19 The final report of the independent reviewers into Australia's migration system was similarly critical of the 'complicated and frequently changing definition of "regional" used for migration purposes'. To the panel, the expansion of the definition to include all areas apart from Sydney, Melbourne and Brisbane appeared to be a measure to slow population growth in those cities 'rather than address[ing] the particular needs of regional and remote areas of Australia'.¹⁷

Committee Comment

- 10.20 The Committee recognises that postcodes (among other geographic delimiters) provide the Australian Government with convenient boundaries for the implementation of policy measures. Yet, as the case of Skymirror Australia highlights, how a postcode is categorised, be it outer regional, remote or very remote, can affect the ability of businesses within an area to attract and retain workers.
- 10.21 Further, the application of this postcode categorisation has not been consistent. For example, certain postcodes of Northern Australia currently eligible for specified work include areas designated as outer regional Australia and encompass major centres such as Cairns and Townsville in Queensland, and Darwin in the Northern Territory.¹⁸
- 10.22 The Committee notes that the *Final Report* of a previous inquiry conducted by a predecessor of this Committee into the Working Holiday Maker program recognised the importance of the tourism and hospitality sector in sustaining both regional and remote communities as well as the industries that these communities support. This report also recorded the challenges faced by businesses in these areas in attracting suitable staff. The Committee agrees with Recommendation 3 of that inquiry to expand the areas eligible to employ backpackers in tourism and hospitality to hard-to-staff rural areas.¹⁹ The Committee reiterates that recommendation in this report, especially given there has been no substantive Government Response provided.
- 10.23 More generally the Committee is concerned at the patchwork approach to defining regional Australia and its component parts. While the Department of Home Affairs notes that they take a largely two-tiered approach to regional Australia, this is

¹⁶ National Farmers' Federation, *Submission 81*, Attachment 1, p. 15.

¹⁷ Australian Government, *Review of the Migration System*, Final Report, March 2023, pp. 127-28.

¹⁸ Department of Home Affairs, 'Specified subclass 462 work', Working Holiday Maker (WHM) program, <https://immi.homeaffairs.gov.au/what-we-do/whm-program/specified-work-conditions/specified-work-462>, viewed 25 June 2024; Department of Home Affairs, 'Specified subclass 417 work', Working Holiday Maker (WHM) program, <https://immi.homeaffairs.gov.au/what-we-do/whm-program/specified-work-conditions/specified-work-417>, viewed 25 June 2024; Australian Bureau of Statistics, 'Remoteness Areas: Australian Statistical Geography Standard (ASGS) Edition 3', July 2021-June 2026, <https://www.abs.gov.au/statistics/standards/australian-statistical-geography-standard-asgs-edition-3/jul2021-jun2026/remoteness-structure/remoteness-areas>, viewed 1 July 2024..

¹⁹ Joint Standing Committee on Migration, *Final Report of the Inquiry into the Working Holiday Maker Program*, November 2020, p. 44.

compromised by the same approach not being shared across government departments. This lack of consistency adds complexity and creates confusion for those who need to understand and negotiate more than one scheme: is it a designated regional area or a Distribution Priority Area? Is the remoteness of an area being assessed under the Modified Monash model or the Australian Statistical Geography Standard Remoteness Structure?

10.24 The Committee is also troubled by the lack of distinction accorded to regional Australia. As currently conceived, the 'designated regional area' equates the experience of those living on remote properties with those in cities such as Canberra, Perth and Adelaide. Further, Category 3 – Regional Centres and Other Regional Areas – appears to be a catch-all for regional Australia encompassing provincial cities, intensive farming areas, tiny townships, and outback stations. Such a broad characterisation fails to demonstrate respect for the vastly different experiences and opportunities face by residents across the breadth of this category.

10.25 It is noted that the Australian Government's recently released discussion paper (*Review of Regional Migration Settings*) acknowledges that '[r]egional definitions could also be simpler, and better account for the needs of regions'. The paper, recognising that the diversity of regional Australia cannot be addressed by a 'one-size-fits-all' approach, calls on stakeholders to respond to their questions:

Could the definitions of regional be aligned across the various regional visas?
How can definitions be structured to better account for the unique circumstances of regions?²⁰

10.26 Perhaps an equally important question that the Australian Government should consider is: do these definitions and underpinning models adequately support the attraction and retention of migrant workers to the areas in which they are needed in regional Australia? The Committee is of the opinion that these definitions should be reviewed to make them more fit for purpose.

Recommendation 55

10.27 The Committee recommends that the Australian Government allows Working Holiday (subclass 417) and Work and Holiday (subclass 462) visa holders to work in tourism and hospitality in all hard-to-staff rural and remote areas of Australia as part of their 88 days or 6 months to qualify for their second- or third-year Working Holiday Maker visa.

Recommendation 56

10.28 The Committee recommends that the Australia Government reviews the definitions used by Australian Government departments in legislation and regulation in relation to regional Australia with a view to fostering a more

²⁰ Australian Government, *Supporting strong and sustainable regions: Review of Regional Migration Settings*, Discussion Paper, June 2024, pp. 7, 9-10.

uniform approach, especially in relation to their application in policies and procedures.

Recommendation 57

- 10.29 The Committee recommends that the Australian Government ensures that the definition of regional Australia, and its constituent parts, used by the Department of Home Affairs to underpin its policies and procedures, is both consistent and sufficiently nuanced to support the attraction and retention of migrant workers to the areas in which they are needed in regional Australia.**

Reviewing Regional Migration Settings

- 10.30 In their 2023 *Final Report*, the independent reviewers into Australia's migration system made the point that migration was only one element that needed to be addressed in a much broader examination of the challenges faced in regional Australia. They added that challenges faced by Australia were often exacerbated in its regions—greater population decline, lower workforce participation, lower wages and productivity, unique skill shortages, and dealing with the impact of climate change, among other things.²¹
- 10.31 Simply put, the reviewers found that '[r]egional migration programs have had little success to date'. Migrants were less likely than Australian citizens to live in regional areas and, of those that did, more than a quarter left within five years.²² In their view, a different approach to planning was needed; an approach that focused on the longer term, where migration was considered as part of broader regional goals, and underpinned by more effective collaboration across all levels of government so as to share data, among other capabilities.²³
- 10.32 In response, the Australian Government's *Migration Strategy* (the Strategy) announced a new commitment to:
- Plan migration over a longer-term horizon to better manage the migration intake, with greater state and territory collaboration.²⁴
- 10.33 The Strategy also noted the Government's existing commitment of increased skilled migration to alleviate labour shortages in regional Australia, alongside a new commitment to accord the highest processing priority to migrants sponsored by employers in regional Australia (established by Ministerial direction 105 on 15

²¹ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 123

²² Australian Government, *Review of the Migration System*, Final Report, March 2023, pp. 123-25.

²³ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 134

²⁴ Australian Government, *Migration Strategy: Getting Migration working for the nation. For workers. For businesses. For all Australians*, December 2023, p. 80.

December 2023), with further evaluation of regional settings and the Working Holiday Maker program to take place following consultation with stakeholders.²⁵

10.34 On 21 June 2024, as part of this consultation process, the Government released the discussion paper *Supporting strong and sustainable regions: Review of Regional Migration Settings*.²⁶ The discussion paper for the Review proposed five objectives for regional migration that align with, and support, the five national objectives for migration:

- Raising living standards through supporting the unique skills needs of the regions;
- Ensuring a fair go in the workplace by making sure that visa settings do not contribute to migrant worker exploitation and support the wages and conditions of regional workers;
- Building stronger communities by planning for regional migration and giving all communities the opportunity to benefit from migration;
- Strengthening Australia's international relationships by using regional migration settings to support stronger international relationships and connect Australia's regions with our international partners; and
- Making the system work by providing tailored approaches to migration without being overly complex.²⁷

10.35 Submissions were sought from stakeholders on improvements that might be made to regional migration settings with a particular focus on eight questions posed in the discussion paper. The questions touched on the ability of visas to meet skills needs, consideration of a regional occupation list, definitions of regional, settings that maintain access to the WHM program while reducing exploitation, consistency in Australia's approach to lower paid migration, factors underpinning successful settlement, provisional visa settings, and improving regional migration planning.²⁸

Committee Comment

10.36 Evidence heard during this inquiry touched on the same issues raised by the Independent Review and echoed in the Australian Government's *Migration Strategy* and discussion paper.

²⁵ Australian Government, *Migration Strategy: Getting Migration working for the nation. For workers. For businesses. For all Australians*, December 2023, pp. 80, 84-88.

²⁶ Department of Home Affairs, 'Regional Migration settings discussion paper released – submissions welcome', 4 July 2024, <https://www.homeaffairs.gov.au/news-media/archive/article?itemId=1222>, viewed 8 July 2024; Department of Home Affairs 'Review of Regional Migration Settings discussion paper', <https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/review-of-regional-migration-settings-discussion-paper> viewed 8 July 2024.

²⁷ Australian Government, *Supporting strong and sustainable regions: Review of Regional Migration Settings*, Discussion Paper, June 2024, p. 3.

²⁸ Australian Government, *Supporting strong and sustainable regions: Review of Regional Migration Settings*, Discussion Paper, June 2024, pp. 10, 14, 17.

- 10.37 The Committee agrees with the longer-term collaborative approach suggested by the Independent Review. It also welcomes the Australian Government's identification of Regional Migration as an area in need of reform, and its scrutiny of existing programs, policies and procedures relevant to regional Australia.
- 10.38 Given the shared interests of these reviews, and the overlapping evidence from stakeholders and individuals, it is expected that recommendations made in this chapter will, by and large, complement and build on this work.

Visas in Regional Settings

- 10.39 The Department of Home Affairs' discussion paper (*Review of Regional Migration Settings*) notes that visas of all types operate in regional Australia. These include:
- Visas targeted to the regions—where, as a pre-requisite for a permanent visa, migrants are required to be resident in the regions for three years e.g., permanent regional employer sponsored, and permanent regional points tested visa;
 - Visas with requirements that create strong ties to the regions, e.g., WHM visas, where undertaking certain work for a specified period in regional Australia enables access to a second (or third) WHM visa, and the PALM scheme where the work is often located in regional Australia;
 - Visas offering concessions or incentives for being located in the regions, e.g., international students undertaking study at a regionally based institution, or concessions granted to eligibility for a skilled visa for work in a Designated Area Migration Agreement; and
 - '[m]ainstream visas with no particular regional dimensions, but that still support the regions'.²⁹
- 10.40 While some employers rely on just one visa type, others—particularly larger businesses—access migrant workers using a combination of visa types. For example, the Committee was told that horticulture growers accessed migrant workers via:
- The PALM Scheme for short term harvest workers;
 - Horticulture Industry Labour Agreement Program (HILA Program) for long term skilled workers; and
 - Standard 494/482 work visas.³⁰
- 10.41 While recognising each of these visa types, the focus of this section is not to provide an in-depth explanation of their operation, but rather to draw attention to the evidence of how these visas operate in regional Australia, their perceived flaws, and suggestions made for their improvement or replacement.

²⁹ Australian Government, *Supporting strong and sustainable regions: Review of Regional Migration Settings*, Discussion Paper, June 2024, p. 7

³⁰ Lamattina Holdings Pty Ltd and Elmtree Migration Lawyers, *Submission 123*, p. [1].

Skilled Migration

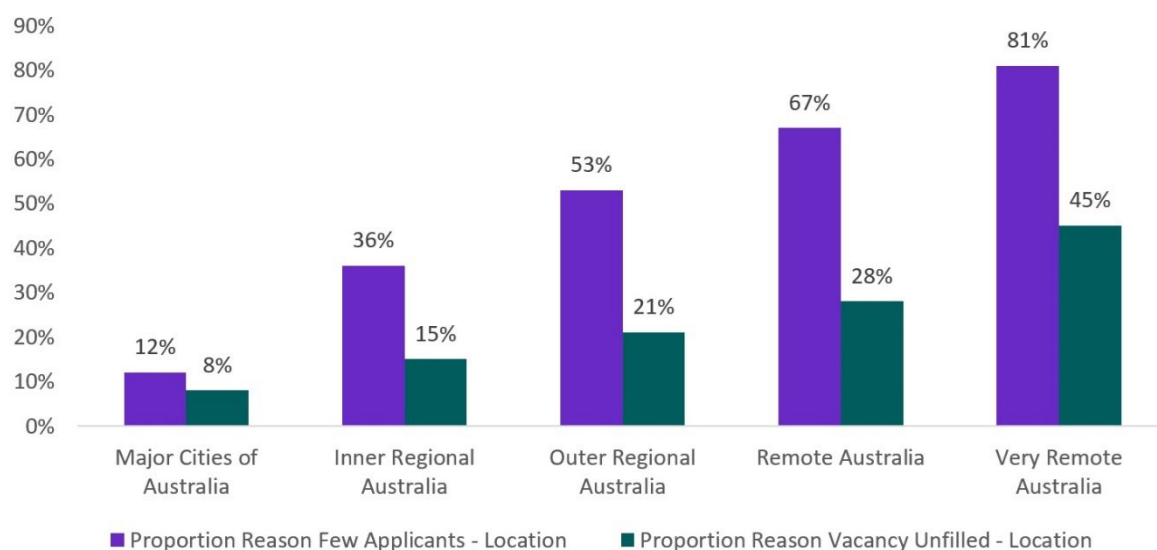
- 10.42 The Migration Strategy Action Plan released in December 2023 affirmed the Australian Government's existing commitment to increased skilled migration to help meet labour shortages in regional Australia.³¹ Yet, as the Committee was told by stakeholders, increased skilled migration was only likely to be effective following reform of the underlying visa settings and the creation of a welcoming environment to encourage migrants to choose and then settle in regional Australia.
- 10.43 In October 2023, Jobs and Skills Australia highlighted that skill shortages were more pronounced in regional areas. Their research found that the likelihood of employers reporting recruitment challenges increased in proportion to the remoteness of their location:
- In Very Remote areas, more than 80% of employers believed the reason they did not receive many applicants was because of the job location and over 40% of employers had a suitable applicant not take a job offer because of the location. In the Northern Territory, 55% of employers who had few applicants and 25% of employers with an unfilled vacancy listed location as the reason. In Western Australia, these figures were 36% and 20%, respectively.³²
- 10.44 Further, occupational shortages could be very much place based, with remote and regional areas experiencing shortages for occupations that were not in short supply on a national level. Location, in their view, was likely 'to remain a barrier for the foreseeable future'.³³

³¹ Australian Government, *Migration Strategy – Action Plan*, [December 2023], p. 4.

³² Jobs and Skills Australia, *Towards a National Jobs and Skills Roadmap: Annual Jobs and Skills Report 2023*, October 2023, p. 14.

³³ Jobs and Skills Australia, *Towards a National Jobs and Skills Roadmap: Annual Jobs and Skills Report 2023*, October 2023, p. 55.

Figure 10.1 Employers identify location as a barrier to recruitment



Source: Jobs and Skills Australia, *Towards a National Jobs and Skills Roadmap: Annual Jobs and Skills Report 2023*, p. 55

- 10.45 The National Farmers' Federation (NFF) similarly noted the effect of this shortage of workers as it limited the productivity of farms, placing them in precarious positions, and the lack of skilled workers stifled the 'industry's ability to innovate and adapt to change'. While the NFF noted a priority of promoting agricultural careers to domestic workers, they stressed that 'migration will remain an important part of the workforce "puzzle"'.³⁴
- 10.46 The Government of South Australia was one of several submitters who argued that there was a need to make regional visas more attractive. Its submission highlighted the inadequacies of the current skilled visas in attracting or directing migrants to particular jurisdictions or regions. It noted that Australia's three general skilled migration visas—the Commonwealth (Skilled Independent [Permanent] visa [subclass 189]), jurisdictional (State Nominated [Permanent] visa [subclass 190]) and Skilled Work Regional (Provisional) visa (subclass 491)—operate under a 'largely identical eligibility framework'. As a result, there is considerable overlap in the visas for which potential skilled migrants are eligible.³⁵
- 10.47 Drawing on analysis of skilled migrants expressing interest in South Australian nomination in January 2023, the Government of South Australia found that almost half (47 per cent) were eligible for all three skilled migration visa categories. The consequence, they maintained, is that jurisdictional and regional visas are 'comparatively far less attractive than the Commonwealth Skilled Independent (Permanent) visa'. Further they added that:

³⁴ National Farmers' Federation, *Submission 81*, Attachment 1, p. 8.

³⁵ Government of South Australia, *Submission 84*, p. 6.

... in many cases, the provisional regional visa is considered the visa of last resort once prospective migrant have ascertained if they are unlikely to secure a permanent visa.

The Government of South Australia also claimed that of the 77 additional occupations that were only available to the regional visa, just 4 per cent were eligible.³⁶

10.48 The Government of South Australia judged that incentives, such as the additional occupations and reduced pass-mark under the points-test, have not effectively supported the jurisdictional and regional visas objectives of:

- meeting the skills needs of particular economies and regions; and
- supporting the settlement of skilled migrants outside the largest metropolitan centres.³⁷

10.49 For the Government of South Australia, any longer-term strategy required skilled migration policy settings designed to 'provide clear pathways to permanent residency in a way that supports the distribution of skilled migrants to where they are needed'. They argued for the retention of a points-based system but added that its design required a collaborative approach between the Commonwealth and the states and territories.³⁸

10.50 A cooperative approach was also called for by Australian Pork Limited (APL). APL's submission recommended that the Australian Government 'collaborate with agricultural industries to address workforce shortages, and invest in attraction and retention strategies for working migrants, through implementation of the National Agricultural Workforce Strategy'. Consultation with their industry revealed that labour and skill gaps were the main workforce issues faced by almost three quarters of respondents and that despite their efforts, they struggled to find domestic employees with the 'appropriate interest, attitude and skills'.³⁹

10.51 APL noted that their industry's workforce is 'skilled, specialised and generally engaged on a permanent basis'. They stressed that any reform of Australia's skilled migration program 'must be supported by program administration that understands rural and regional labour market constraints to ensure fair decision making by government'. In their view, there was a need for a national regionalisation agenda that was 'underpinned by appropriate levels of investment to provide economic and social infrastructure to ensure equitable access to opportunities'.⁴⁰

10.52 Peak bodies were among many submitters that highlighted the centrality of providing skilled migrants with pathways to permanent residency. The APL pointed out that both employers and migrants call for pathways to permanency, leading to their view

³⁶ Government of South Australia, *Submission 84*, pp. 5-7.

³⁷ Government of South Australia, *Submission 84*, p. 6..

³⁸ Government of South Australia, *Submission 84*, pp. 6-8.

³⁹ Australian Pork Limited, *Submission 114*, pp. 3-4, 6.

⁴⁰ Australian Pork Limited, *Submission 114*, pp. 2-3.

that 'it must be a central feature of future migration settings'.⁴¹ NFF added that the provision of such pathways remain an 'incredibly important aspect' in Australia's competitiveness in the international labour market.⁴²

10.53 Loddon Campaspe Multicultural Services made the point that:

Without permanent residency, it is difficult to be able to plan, and invest in migration. In many ways, permanent residency is the enticement that a migrant needs to put down their roots in this country, and to make their commitment to the country.⁴³

10.54 Ms Sally Urquhart, Business Innovation Manager at HealthWISE argued that the ability to apply for a permanent visa was not sufficient if processing of that visa was inefficient. Delays in processing, she explained, were both emotionally and financially costly to migrants and created uncertainty for their business. She highlighted the case of a member of HealthWISE's information communications technology team based in Tamworth with his wife, a registered nurse, and one year old Australian-born son:

He has lived regionally for seven years, has fulfilled the three-year regional requirement of the 491 [Skilled Work Regional (Provisional)] visa, but they are still waiting for their application for permanent residency to be processed. They've got no indication why it hasn't been approved and when it might be approved. Effectively they are living in limbo. This family can't enrol their son in early education because they would have to pay the full rate of \$180 a day. They are worried he is not getting the stimulation he needs to thrive. They haven't been able to buy a house because of the extra costs that they would face and the foreign investment tax that they would be subject to. They say the biggest mistake they made was to choose regional, because they've watched their friends get permanent residency in other states – in Brisbane and Melbourne – and buy a home.⁴⁴

10.55 In Ms Urquhart's opinion, the existing regional visa system was 'working against us, not for us, as regional employers. She added that simplifying pathways to permanency was only one element in a raft of changes needed to incentivise skilled migrants to work in regional Australia. In addition, she called for:

- Recognition that every requirement of visa and residency applications incur costs and, due to the need to travel, take time off work, and pay for accommodation, the costs are greater for migrants living in regional Australia;
- The need to ensure that the skilled occupations list reflects actual shortages; and

⁴¹ Australian Pork Limited, *Submission 114*, p. 10.

⁴² National Farmers' Federation, *Submission 81*, p. [3].

⁴³ Loddon Campaspe, *Submission 109*, p. 2.

⁴⁴ Ms Sally Urquhart, Business Innovation Manager, HealthWISE, *Committee Hansard*, Videoconference, 14 August 2023, 7.

- The provision of support to organisations in regional settlement locations that support migrants, and particularly those providing training and employment opportunities to humanitarian entrants to Australia.⁴⁵

10.56 The NSW Government also considered that a raft of reforms was needed to attract skilled migrants to the regions. They called for the removal of ‘unnecessary barriers’ such as age, years of experience or English language requirements. At the same time, they called for the introduction of incentives to relocate, suggesting fee waivers for visa applications and the provision of pathways to permanency. To ‘strengthen planning, coordination and evaluation of regional resettlement’, they suggested a multi-layered approach where Commonwealth, state and territory and local governments coordinated with business and community groups.⁴⁶

10.57 The Regional Universities Network (RUN) highlighted the stored potential offered by regional universities. They pointed out that 70 per cent of the students who graduate from a regional university remain in rural, regional or remote Australia. Consequently, RUN called for support to promote the benefits of studying in regional locations to international markets and that this be ‘complimented by positive regional differentiation in policy settings’. Among them, they recommended ‘providing onshore international students with clear, assured pathways from study-to-skilled migration’ and additional points towards skilled visa applications for students who have studied in regional Australia.⁴⁷

10.58 Mr Mark Wright, National Leader of Immigration Services at KPMG Australia, agreed that the regional migration program should leverage from the labour market already resident in the country, rather than building a new program to attract migrants to regional locations in Australia from offshore. In his view, graduating students should have the opportunity to take up a graduate visa that offered a pathway to permanent residency after three years, provided that they had been working for an employer in a location outside of the major cities of Sydney, Melbourne, or Brisbane (with the pathway being longer for those who remained in the city). Such a visa, he believed, would incentivise ‘labour to work in locations where perhaps those skills and labour market needs are greatest’.⁴⁸

10.59 The need for better recognition of local conditions in the policies applied to regional Australia was a constant theme in the evidence presented to the Committee. Mr Constantine Paxinos, Vice President of the Migration Institute of Australia (MIA) identified the need for a ‘bottom-up perspective’ in respect to workplace shortages in regional Australia:

We wouldn't want a situation where there's a gatekeeper sitting in Canberra or Sydney with a spreadsheet saying, 'We've got enough accountants; we're not

⁴⁵ Ms Sally Urquhart, Business Innovation Manager, HealthWISE, *Committee Hansard*, Videoconference, 14 August 2023, 8.

⁴⁶ NSW Government, *Submission 57*, pp. 4-5.

⁴⁷ Regional Universities Network, *Submission 94*, pp. [4-6].

⁴⁸ Mr Mark Wright, National Leader, Immigration Services, KPMG Australia, *Committee Hansard*, Videoconference, 16 May 2023, p. 28. See also Mr Constantine Paxinos, Vice President, Migration Institute of Australia, *Committee Hansard*, Videoconference, 17 May 2023, p. 45.

going to allow accountants,' but there's an employer sitting in Mildura, for instance, that needs an accountant desperately and can't find them, and they've shown that they can't find anyone. We need to have that flexibility in the system.⁴⁹

- 10.60 Ms Liz Ritchie, Chief Executive Officer of the Regional Australia Institute (RAI) called for the nation to 'double down our efforts and focus on rural and regional Australia and the opportunities that lie there'. She particularly noted the need to tailor a campaign to attract migrants to relocate to regional Australia that was:

... much more targeted at our secondary migrant community living in our capital cities, so we've done a blanket campaign that has really provided dividends. However, we know that, in order to reach our migrant audience who are residing in our capital cities, we need to get much more targeted and much more nuanced.⁵⁰

Committee Comment

- 10.61 The Committee recognises that several measures were introduced by the Australian Government in late 2023 to streamline existing processes for the benefit of regional Australia. These include expansion of pathways to permanent residence to all streams of the Temporary Skills Shortage visa and a ministerial direction to prioritise skilled visa applications. The Committee remains interested to learn whether these measures make an appreciable positive impact in countering the immediate and long-term skill shortages in regional Australia.⁵¹
- 10.62 The Committee also acknowledges the Australian Government's moves to streamline Labour Market Testing requirements. The Committee heard that in many parts of regional Australia, worker shortages across several sectors are so acute as to make this requirement farcical. The removal of the requirement to advertise positions through Workforce Australia and increasing the period of validity are welcome moves.⁵²
- 10.63 Yet, as the Government of South Australia pointed out, the existing visa settings do little to incentivise skilled migrants to choose a regional location over an urban one. Given the acute shortages across a range of sectors in regional locations, the Committee believes there should be a two-pronged approach to both promote the advantages of living in regional Australia, especially to those skilled migrants already onshore, alongside dedicated incentives that make relocation an attractive choice.

⁴⁹ Mr Constantine Paxinos, Vice President, Migration Institute of Australia, *Committee Hansard*, Videoconference, 17 May 2023, p. 47.

⁵⁰ Ms Liz Ritchie, Chief Executive Officer, Regional Australia Institute, *Committee Hansard*, Canberra, 29 November 2023, pp. 2, 4-5.

⁵¹ Department of Home Affairs, 'The Administration of the Immigration and Citizenship programs', 12th Edition, May 2024, pp. 31-32.

⁵² Australian Government, *Migration Strategy: Getting Migration working for the nation. For workers. For businesses. For all Australians*, December 2023, p. 53

Recommendation 58

- 10.64 The Committee recommends that the Australian Government works with state and territory governments to tailor a campaign that promotes the virtues of relocating to Australia's regions to skilled migrants.**

Recommendation 59

- 10.65 The Committee recommends that the Australian Government works with state and territory governments to tailor a suite of incentives that encourage migrants to move to Australia's regions.**

Focus on Healthcare Professionals

- 10.66 Over the course of the inquiry, the importance of healthcare professionals to daily lives of those in regional communities became evident.
- 10.67 As noted in Chapter 7, Australia relies heavily on International Medical Graduates (IMGs) to fill roles as General Practitioners (GPs). This reliance on IMGs is all the more apparent in regional settings that face acute shortages in healthcare professionals. Rural Workforce Agencies (RWA) cited analysis that found that IMGs in Australia were 'more likely than local graduates to provide health services in regional and remote areas'.⁵³
- 10.68 HealthWISE informed the Committee that in their business, skilled migrants have been 'crucial in filling workforce gaps in health care (Speech Pathology and Dietetics), preventative health and information technology roles and enabling our business to grow and thrive', enriching their colleagues and clients through their 'skills, networks, diversity of thought and entrepreneurial ideas', their contribution, extending into the rural communities in which they live.⁵⁴
- 10.69 Yet, despite their centrality to regional Australia, the National Rural Health Alliance (NRHA) told the Committee that '[r]ural communities have fewer registered nurses, midwives, pharmacists, dentists, optometrists, psychologists, physiotherapists, podiatrists, occupational therapists, and other allied health workers'. Further, an independent report commissioned by the NRHA found rural Australia had a health access spending deficit that, on average, equated to \$848.02 less being spent on a rural person per year, compared to an urban resident.⁵⁵
- 10.70 In the view of Dr Gerard Foley, Chair of the Primary Care Business Council (PCBC), the process to recruit IMGs was 'needlessly slow and burdensome' with visa processing taking more than a year and costing an applicant upwards of \$25,000. Advocating reform, he directed the Committee's attention to New Zealand where the

⁵³ Rural Workforce Agencies, *Submission 96*, p. [2].

⁵⁴ HealthWISE, *Submission 36*, p. [2].

⁵⁵ *Evidence Base for Additional Investment in Rural Health in Australia* cited in National Rural Health Alliance, *Submission 130*, p. 2, 4.

same process was completed in three months at a cost of \$5,000.⁵⁶ This perspective was echoed by Associate Professor Michael Clements of the Rural Faculty of the Royal Australian College of General Practitioners (RACGP), who called for a 'reduction in the administrative burden and a reduction in the time frame between an overseas-trained doctor expressing an interest in a role in Australia and the point where they're actually seeing patients'.⁵⁷

10.71 The RWA told the Committee that:

The reality is that more doctors, nurses and allied health professionals are needed now to support healthy communities and migration is, and will remain, integral to meeting these demands.⁵⁸

10.72 The Committee heard that there was an imperative to get health professionals working in regional areas where residents experience a 'higher burden of disease than the general community'—life expectancies are shorter and the impact of chronic health conditions greater.⁵⁹

10.73 Several witnesses highlighted the need for additional training and support to provide a soft landing for IMGs placed in regional settings. Dr Raymond Lewandowski, President elect of the Rural Doctors Association of Australia, for example, recognising that migration was 'the first of many bureaucratic hurdles' that healthcare professionals were subject to, shared the view that case management was 'essential', particularly for healthcare professionals and their families living and practicing in rural and remote communities.⁶⁰

10.74 The NRHA questioned how long Australia can 'ethically and consciously' continue to:

... place doctors who are not used to the Australian system, culture, integration and regions, in rural Australia without the support, infrastructure and funding in rural communities?⁶¹

10.75 The submission of the RACGP put forward that it was essential that IMGs wanting to practice in Australia first complete 'cultural awareness and cultural safety training'. They highlighted the correlation between remoteness, chronic disease and multimorbidity prevalence, as well as the higher representation of Aboriginal and Torres Strait Islander peoples in regional Australia.

10.76 The RACGP recommended that a collaboration be formalised between the RWA (a not-for-profit, government funded organisation) and Indigenous peak bodies to develop a training curriculum that could be in place before IMGs commenced

⁵⁶ Dr Gerard Foley, Chair, Primary Care Business Council, *Committee Hansard*, Videoconference, 17 May 2023, p. 56.

⁵⁷ Associate Professor Michael Clements, Rural Faculty, Royal Australian College of General Practitioners, *Committee Hansard*, Videoconference, 18 May 2023, p. 27.

⁵⁸ Rural Workforce Agencies, *Submission 96*, p. [2].

⁵⁹ Australian College of Nursing, *Submission 90*, p. 4.

⁶⁰ Dr Raymond Lewandowski, President elect, Rural Doctors Association of Australia, *Committee Hansard*, Videoconference, 14 August 2023, p. 23.

⁶¹ National Rural Health Alliance, *Submission 130*, p. 3.

practice in Australia.⁶² In the view of Associate Professor Clements, the RWA had been underutilised and it should play a 'key role' in providing a 'concierge-like' or case management service to aid the transition of IMGs.⁶³

10.77 The RWA, in turn, called for the Committee to revisit the 2012 Standing Committee on Health and Ageing's *Lost in the Labyrinth* report's recommendation that '[s]erious consideration should be given to the feasibility of providing an individualised case management service for IMG's'.⁶⁴

10.78 In the face of acute shortages, strategies to attract and retain healthcare professionals in regional Australia was a strong theme in the evidence presented to the Committee.

10.79 HealthWISE, a provider operating across 17 local government areas in New South Wales and Queensland, for instance, told the Committee that:

Recruitment and retention of a skilled and knowledgeable workforce is vital to the delivery of primary health services in rural Australia and is a constant challenge for our organisation and others like us, operating in non-metropolitan areas of Australia.⁶⁵

10.80 Dr Foley of PCBC affirmed that there is 'a need for immediate solutions to increase the supply of medical graduates to our primary care system'. He pointed out that IMGs were 'doing much of the heavy lifting in the most difficult to serve areas, including regional and outer-metropolitan areas where socioeconomic barriers are greater'.⁶⁶

10.81 The Australian College of Nursing highlighted the importance of providing healthcare professionals with a pathway to permanency. They observed that, due to their 'relative simplicity', many internationally qualified nurses and midwives (IQNMs) arrive in Australia on temporary visas. The absence of a pathway to permanency, they believed, limited the ability of IQNMs to fully integrate into the communities in which they live. Given the 'crucial role' that nurses and midwives play in providing health care to 'people living in rural and remote areas who experience a higher burden of disease than the general community', they argued that the provision of permanent migration pathways would help ensure that greater access to care will be delivered to those 'who need it most'.⁶⁷

⁶² Royal Australian College of General Practitioners, *Submission 73*, p. 4; see also Associate Professor Michael Clements, Rural Faculty, Royal Australian College of General Practitioners, *Committee Hansard*, Videoconference, 18 May 2023, p. 31.

⁶³ Associate Professor Michael Clements, Rural Faculty, Royal Australian College of General Practitioners, *Committee Hansard*, Videoconference, 18 May 2023, p. 30. Rural Workforce Agencies, *Submission 96*, p. [1].

⁶⁴ Rural Workforce Agencies, *Submission 96*, p. [3].

⁶⁵ HealthWISE, *Submission 36*, p. [1].

⁶⁶ Dr Gerard Foley, Chair, Primary Care Business Council, *Committee Hansard*, Videoconference, 17 May 23, p. 56.

⁶⁷ Australian College of Nursing, *Submission 90*, pp. 4-5.

10.82 For Associate Professor Clements, the support and structure designed to attract IMGs to regional Australia needed to be tailored. In his view '[e]very town has its own drawcard', whether it be 'housing, spousal employment, child care, a car package, a fishing package, a travel-home package'. He particularly highlighted the recent successful chain migration of Egyptian-born doctors to Wagga Wagga and the establishment of a Coptic Orthodox Christian church to support their social and spiritual needs.⁶⁸

10.83 Ms Kristy Challingsworth, a member of the PCBC, told the Committee what was 'most important' to many new IMG's was 'housing and schooling for their children'. These same elements, she added, were also crucial in attracting doctors to regional Australia.⁶⁹

10.84 The absence of childcare and familial support was an issue raised in several submissions.

10.85 For example, the Committee was told that increasing numbers of doctors were choosing to work part time to balance their family responsibilities and the pressures of the work. Associate Professor Clements observed that several of his colleagues would increase the hours they worked if more childcare was available. He added that:

We know that, particularly for our rural doctors and rural generalists, they would contribute to after-hours or weekend emergency department coverage and would provide overnight birthing support or anaesthetic support if there was someone to look after the children for them to do so.⁷⁰

10.86 Raising the importance of parental support, he added that 'I have no doubt that facilitating parents to join doctors would increase the work capacity of those ... [whose] ability to work after hours and work extra hours is limited by [a lack of] childcare options'.⁷¹

10.87 Jobs and Skills Australia, in their 2023 annual jobs and skills report, affirmed the following related to this point:

Recruitment difficulty in regional areas remain particularly acute in high skilled occupations like General Practitioners, engineers and nurses but childcare issues are another key issue, with so many 'childcare deserts' ... in regional Australia. If

⁶⁸ Associate Professor Michael Clements, Rural Faculty, Royal Australian College of General Practitioners, *Committee Hansard*, Videoconference, 18 May 2023, pp. 30, 32; Jane Norman, 'Coptic Orthodox Christian church helps cure Wagga Wagga's chronic GP shortage', ABC News, 14 May 2023. <https://www.abc.net.au/news/2023-05-14/coptic-orthodox-christian-church-attracts-doctors-to-wagga-wagga/102337150>, viewed 1 August 2024.

⁶⁹ Ms Kristy Challingsworth, Member, Primary Care Business Council, *Committee Hansard*, Videoconference, 17 May 23, p. 61.

⁷⁰ Associate Professor Michael Clements, Rural Faculty, Royal Australian College of General Practitioners, *Committee Hansard*, Videoconference, 18 May 2023, p. 33.

⁷¹ Associate Professor Michael Clements, Rural Faculty, Royal Australian College of General Practitioners, *Committee Hansard*, Videoconference, 18 May 2023, p. 33.

we are going to attract enough professionals to work in regional areas, childcare support for working parents will be a key factor.⁷²

- 10.88 PCBC argued that the introduction of a Parents Visa (sub class 103) for rurally placed IMGs in priority locations was necessary to enhance the attractiveness of rural and remote locations, 'particularly for GPs with young families who may need the assistance with young children'.⁷³
- 10.89 The Committee also heard evidence that the recruitment of IMGs was limited by the requirement that the work undertaken by IMGs granted limited or provisional registration be supervised.⁷⁴ PCBC judged the supervisory requirements to be 'particularly onerous in rural and remote communities where doctor shortages, and therefore supervisor shortages, are widespread'.⁷⁵ While Associate Professor Clements told the Committee that supervision acted as a 'barrier or a rate limiter to growth in the remote areas'.⁷⁶
- 10.90 Ms Challingsworth (PCBC), who is also Chief Executive Officer of the Medical First Group of practices, explained that the supervisory requirements added to the shortage of GPs in rural locations. She cited the example of an IMG in Shepparton, Victoria, whose services were in demand and wanted to work, but was unable to, due to a lack of supervisors. She added that, at the same time there was no incentives for experienced GPs to take on the roles as it was not funded, yet at level 1 (of the Australian Health Practitioner Regulation Agency's *Guidelines: Supervised Practice for International Medical Graduates*⁷⁷), supervisors were required to undertake face-to-face consultation with the IMG during each patient visit.⁷⁸
- 10.91 Associate Professor Clements noted that some regions had developed innovative models to help manage the supervisory burden, including a healthcare business that funds a GP whose sole role is to supervise IMGs over a large area; and a regional hospital where the doctors assist in supervising IMGs (both in person and remotely) in local practices. He added that:

There's no program that pays for a GP's time. So we do think that if we can crack that supervision nut open by finding dedicated funding, rather than leaving it to

⁷² Jobs and Skills Australia, *Towards a National Jobs and Skills Roadmap: Annual Jobs and Skills Report 2023*, October 2023, p. 55.

⁷³ Primary Care Business Council, *Submission 110*, p. [4].

⁷⁴ Australian Health Practitioner Regulation Agency, *Guidelines: Supervised Practice for International Medical Graduates*, 4 January 2016, pp. 2, 7.

⁷⁵ Primary Care Business Council, *Submission 110*, p. [4]; see also RACO, *Submission 73*, p. [2].

⁷⁶ Associate Professor Michael Clements, Rural Faculty, Royal Australian College of General Practitioners, *Committee Hansard*, Videoconference, 18 May 2023, p. 30.

⁷⁷ Australian Health Practitioner Regulation Agency, *Guidelines: Supervised Practice for International Medical Graduates*, 4 January 2016, p. 7.

⁷⁸ Ms Kristy Challingsworth, Member, Primary Care Business Council, *Committee Hansard*, Videoconference, 17 May 2023, p. 59.

these small pockets [of innovation], we can increase the capacity of the good practices.⁷⁹

- 10.92 To alleviate the supervisory burden, PCBC recommended a reduction in the requirement for IMGs who were from “substantially comparable” countries’, a reassessment of the limitation requiring three years’ experience before a GP is eligible to take on a supervisory role, providing financial incentives for GPs to become supervisors, and permitting recently retired GPs to take on supervisory roles.⁸⁰
- 10.93 A further topic that featured repeatedly in the evidence was the requirement under the 10-year moratorium that IMGs and other foreign trained doctors work in designated priority areas (DPAs) for up to 10 years before being entitled to a provider number and the ability to practice Australia wide.
- 10.94 As discussed earlier in relation to definitions of regional Australia, several witnesses were dismayed by the impact of the expansion of the DPAs to include urban and peri-urban areas. Mr Dermot Roche, speaking as the Chief Executive Officer and Director of Ochre Health Pty Limited, noted the ‘significant adverse and detrimental effect’ on the regional and rural areas in which his business operated, as doctors were now able to work in major centres like Newcastle or Wollongong instead of remote locations like Bourke or Lightning Ridge. He was particularly critical that the expansion of the DPA was made ‘without any further funding or recognition that we need to incentivise people to go to rural and regional areas’ and judged that, if these issues were not addressed, the effect was ‘going to be devastating for towns that have only got one or two doctors’.⁸¹
- 10.95 RACGP stated that it has ‘has never supported or endorsed the 10-year moratorium’. They characterised the moratorium as a policy option that addresses acute shortages but does not deliver a long-term solution. In their view, compelling doctors to work in regional areas was unsustainable and generally not effective as they move away after satisfying the requirements. They put forward four recommendations to attract and retain IMG’s and overseas trained doctors in general practice:
- 1 Subsidising the training support program for IMGs through the RACGP’s FSP [Fellowship Support Program], which supports IMGs achieving general practice specialist recognition across rural and remote Australia;
 - 2 Providing additional funding via housing, travel and infrastructure support for GP supervisors, GP trainees and general practices in rural and remote areas to support GPs in training;
 - 3 Increasing the Workforce Incentive Program with additional payments for doctors who use advanced skills in rural areas (scaled to rurality); and

⁷⁹ Associate Professor Michael Clements, Rural Faculty, Royal Australian College of General Practitioners, *Committee Hansard*, Videoconference, 18 May 2023, p. 30.

⁸⁰ Primary Care Business Council, *Submission 110*, p. [4].

⁸¹ Mr Dermot Roche, Director, Primary Care Business Council, and Chief Executive Officer and Director of Ochre Health Pty Limited, *Committee Hansard*, Videoconference, 17 May 2023, p. 61.

- 4 Providing access to the relevant specialty Medicare Benefit Schedule (MBS) items when a GP holds advanced skills in a rural area to compensate GPs for gaining additional expertise.⁸²

10.96 Instead of compulsion, the RACGP encouraged a 'blended approach encompassing rurally scaled incentives and support to attract doctors to choose rural general practice.'⁸³ Similarly Mr Peter Barns, Chair of the RWA, suggested that to make the prospect of practice in regional areas more attractive, the Australian Government could introduce scaled reimbursement of the registration and examination costs incurred by IMGs. He explained:

If you are coming into Melbourne, you get zero support and zero money. If you move out further, you scale it and say, 'Okay, your registration costs and your cost for the exam are all reimbursable the further you go.'⁸⁴

10.97 Associate Professor Clements considered a collaborative approach was required from all tiers of government to consult with locals and find out what infrastructure or other measures were needed in their region, and to engage with the local practices and distinguish the barriers they face. He also reminded the Committee that '[i]t's not all about money, but money does need to be part of the conversation'.⁸⁵

Committee Comment

10.98 The Committee acknowledges that the *Independent Review of Australia's Regulatory Settings Relating to Overseas Health Practitioners*, conducted by Robyn Kruk (the Kruk Review), that was released during the course of the current inquiry. While having a very broad remit, the Kruk Review recognised that '[s]hortages are particularly acute in distinct locations and care settings, and key specialities', and those who live in regional, rural and remote areas 'find it harder to access many forms of care'.⁸⁶

10.99 The Kruk Review made 28 recommendations many of which respond to the concerns raised with the Committee in relation to operation of regional healthcare and the challenges of recruiting and retaining healthcare practitioners. To expand the pool of migrant applicants, the Kruk Review's recommendations included measures to streamline migration, registration, and other processes; remove barriers to migration; enhance flexibility by using technology as an option to provide remote testing, supervision, and support tools.

⁸² Royal Australian College of General Practitioners, *Submission 73*, p. 5; Royal Australian College of General Practitioners, Answer to Question Taken on Notice, Public Hearing, 18 May 2023, p. 1.

⁸³ Royal Australian College of General Practitioners, Answer to Question Taken on Notice, Public Hearing, 18 May 2023, p. 1.

⁸⁴ Mr Peter Barns, Chair, Rural Workforce Agencies, *Committee Hansard*, Videoconference, 14 August 2023, p. 16.

⁸⁵ Associate Professor Michael Clements, Rural Faculty, Royal Australian College of General Practitioners, *Committee Hansard*, Videoconference, 18 May 2023, p. 32.

⁸⁶ Robyn Kruk, *Independent Review of Australia's Regulatory Settings Relating to Overseas Health Practitioners*, Final report, 2023, p. 3.

10.100 Among the recommendations were several initiatives that focused on ‘acknowledged areas of shortage’. These included:

- removing or reducing requirements such as satisfying the Skilling Australians Fund levy and Labour Market Testing;
- providing more flexibility by broadening the age exemption on skilled visas;
- providing an expedited pathway to registration; and
- granting a ‘quicker and easier’ pathway to permanent residency.

As part of a long-term strategy, the Kruk Review’s recommendations also encompassed planning for future workplace needs, the collection of data, and the development of performance indicators to document progress made towards the recruitment of migrant health practitioners in areas of shortage.⁸⁷

10.101 The Committee believes that the adoption of the Kruk Review’s recommendations, particularly those targeted towards areas with acknowledged shortages, address many of the concerns raised by those presenting evidence to the current inquiry.

10.102 The Committee notes that the report was endorsed by National Cabinet and the Health Workforce Taskforce appointed to ‘oversee implementation of the recommendations over the next 18 months’.⁸⁸ As noted in Chapter 7, the Committee will monitor the progress of these reforms, particularly the progress of those measures that are intended to make an impact in areas with acknowledged shortages.

10.103 In addition to the measures in the Kruk Review, the Committee believes there is an urgent need for the Australian Government to investigate and invest in, initiatives that both attract and foster the long-term retention of healthcare professionals in regional Australia.

10.104 Initiatives are particularly warranted in the wake of the expansion of the DPA for the 10-year moratorium. The Committee does recognise that this measure provides IMGs with greater choice as to where they live and practise while they satisfy the regional service requirements for the moratorium period. Yet, the Committee shares the concerns expressed by witnesses that this expansion will further disadvantage more remote rural areas seeking to attract GPs.

10.105 To this end, the Committee believes that it is necessary to counterbalance the expansion of the DPA with measures that afford greater support and concessions to those working in those more outer regional or remote areas.

10.106 In relation to incentivising the long-term settlement of healthcare professionals, the Committee looks favourably on the proposal that access to parent visas be prioritised

⁸⁷ Robyn Kruk, *Independent Review of Australia’s Regulatory Settings Relating to Overseas Health Practitioners*, Final report, 2023, pp. 13-17.

⁸⁸ Department of Health and Aged Care, ‘Independent review of health practitioner regulatory settings’, <https://www.health.gov.au/our-work/independent-review-of-health-practitioner-regulatory-settings>, viewed 31 July 2024.

for IMGs that spend a predetermined period of time working in outer regional or remote areas.

Recommendation 60

10.107 The Committee recommends that the Australian Government works with all tiers of government and major stakeholders to develop a package of scaled incentives that foster the long-term settlement of healthcare professionals in outer regional or remote areas.

Recommendation 61

10.108 The Committee recommends that the Australian Government considers offering prioritised access to parent visas to International Medical Graduates who spend a predetermined period working in regional, rural, and remote areas to incentivise those doctors to remain in regional areas.

Semi-Skilled Migrants and Essential Workers

10.109 Many submitters railed against the characterisation of workers in agriculture and horticulture as being unskilled labourers. They noted that the work they undertake entailed training and employees who mastered the requirements of the position were valued members of the business. To employers, these were essential workers who filled semi-skilled roles.

10.110 Dr Kaya Barry pointed out that there is recent academic work that ‘shows that farm work is incorrectly assumed to be “low-skilled” or “unskilled”’. A view reinforced by a system that she asserts:

... seems to have little value placed on the knowledges that workers gain in farm work roles, let alone the importance of retaining dedicated and proficient workers in low-skilled farm jobs who are willing to remain in regional places through permanent migration.⁸⁹

10.111 The Robinvale & District Table Grape Growers Association (RDTGGA) stated that ‘any discussion on migration policy and associated visas must include the unskilled worker cohort’, maintaining that it is ‘essential to attract and retain both skilled and unskilled migrants equally’. And, questioning the appropriateness of the latter term as, in their view, these ‘so called “unskilled migrant workers”’ were ‘only unskilled until trained effectively’.⁹⁰

⁸⁹ Dr Kaya Barry, *Submission 15*, p. 2.

⁹⁰ Robinvale & District Table Grape Growers Association, *Submission 63*, pp. [1, 3].

Box 10.1 Case Study—Recognition of Skills Acquired by Working in the Horticultural Industry—Don Albanese

I'm a local grower—third generation. I've probably been a table grape farmer for approximately 27 years now, since I left school after completion of year 12. As an industry, we see a shortage in workers, like every other industry in Australia, I'd say, but most definitely in regional Victoria. I've written a submission to the inquiry. Probably my biggest concern is that it's geared towards skilled labour and traditionally our labour force in horticulture has been deemed unskilled, which I would argue against. I'd say, yes, they're unskilled when they get here, but once they've been trained and got experience, they're not unskilled anymore. You require skills to do the work that's required in the table grape industry. ... If we're going back and reading what my submission and our submission was as a committee [Robinvale and District Table Grape Growers Association], it would be that it's more down the path of including horticulture, viticulture and regional areas in the conversation for a pathway to permanent migration, but also look at it as not just unskilled labour and not lower class. These people gain skills and become valuable members of the community.⁹¹

10.112 Migrant workers, the Committee heard, also helped to invigorate regional economies. Settlement Services International (SSI) highlighted research from the OECD that demonstrated:

... that regional areas with higher proportions of migrants tend to have higher productivity levels finding that: "On average, a one percentage point higher share of migrants in the local [regional] population is associated with higher labour productivity of roughly A\$1,490."⁹²

10.113 Further, the RDTGGA were one of several submitters who argued that the efforts of these workers in helping to ensure the long-term prosperity of regional Australia should be acknowledged with access to a pathway to permanency. They called on the Australian Government to:

Recognise the amount of time that migrant farm workers spend working and living in regional communities, focusing on the skills they have acquired after significant training while in "seasonal" and casual work. With this in mind, find pathways to permanent migration.⁹³

10.114 Similarly, NFF affirmed how the agricultural workforce had 'benefited significantly from migration streams, not only the low and semi-skilled workers on temporary visas but also through skills shortage visas that develop long-term relationships with employers'. They particularly highlighted the economic and social gains yielded when 'both employer and worker have certainty regarding an employment arrangement':

⁹¹ Mr Don Albanese, Chairperson, Robinvale and District Table Grape Growers Association, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 8

⁹² Settlement Services International, *Submission* 26, p. 5.

⁹³ Robinvale & District Table Grape Growers Association, *Submission* 63, pp. [1-4].

Employers are more willing to invest in the worker through training and expanded responsibilities. Workers are increasingly productive as they develop skills and experience on a particular farm. And their permanence enables them to connect and engage other community members and groups.⁹⁴

They, too, considered that permanent migration ‘must be a central feature of future migration settings’.⁹⁵

10.115 Speaking of the aged care sector, Mr Tim Hicks, Executive General Manager of Policy and Advocacy at Bolton Clarke, noted the importance of migrant workers that his company brought in to help fill shortages and invested in their training, that they have ‘some prospects of being rewarded’.⁹⁶

10.116 The provision of pathways to permanency for these essential workers was an investment not only in the individual and the business they worked in, but also for the community in which they lived. Equally important, the Committee heard, was that pathways to permanency were ‘realistic and achievable’ for working migrants, encompassing recognition of the skills that migrants acquired after spending time working and living in regional communities.⁹⁷ Indeed, the research of Kaya Barry found that ‘most people in regional communities who are involved with migrant farm workers’ wanted reform that enabled ‘easier and realistic pathways to permanent migration as a reward and goal for dedicated migrant workers’.⁹⁸

10.117 To assist in alleviating workplace shortages in the region, Australian Pork Ltd advocated additional training for lower skilled workers. They suggested two strategies:

- A joint Federal and State/Territory government investment in agricultural workforce and training ‘hubs’ located in rural Australia; and
- Ensuring that the Skilling Australians Fund expenditure is directed to benefit the agricultural industries that contribute to it.⁹⁹

Income Threshold Challenges

10.118 As foreshadowed in Chapter 7, the tying of visas to an increased Temporary Skilled Migration Income Threshold, or TSMIT, and occupation lists has proved to be a barrier for employers trying to access lower skilled workers in rural areas. In regional Australia, pay rates were more likely to fall below the TSMIT and frequently occupations needed were not on the occupation list.

⁹⁴ National Farmers’ Federation, *Submission 81*, p. [2].

⁹⁵ National Farmers’ Federation, *Submission 81*, p. [2].

⁹⁶ Mr Tim Hicks, Executive General Manager, Policy and Advocacy, Bolton Clarke, *Committee Hansard*, Videoconference, 27 September 2023, p. 16.

⁹⁷ Robinvale and District Table Grape Growers Association, *Submission 63*, p. [4].

⁹⁸ Dr Kaya Barry, *Submission 15*, p. 4.

⁹⁹ Australian Pork Ltd, *Submission 114*, pp. 3-4.

10.119 The challenge for some occupations was, as the Law Council of Australia pointed out, their inability to gain adequate recognition of their skills and transition to a skilled visa. The Law Council observed a skills assessment was mandatory for the Skilled Employer Sponsored Regional (Provisional) visa (subclass 494) and that skills assessing body VETASSESS required farmers to possess a bachelor's degree.¹⁰⁰

10.120 Clubs Australia pointed out that the most common skilled workers engaged by clubs on TSS visas are chefs and cooks whose wages vary, particularly 'between and within metropolitan and regional areas'. They feared the impact of raising the TSMIT above the market salary rate operating in regional and rural areas that were 'already struggling to attract workers' and where wages were typically lower. They called for any increase in the TSMIT to:

... carefully consider the impact on the ability of regional and rural hospitality businesses to engage chefs and cooks on the TSS and boost overall regional productivity.¹⁰¹

10.121 NFF, anticipating an increase to the TSMIT, considered that if it was to rise to 'even' \$70,000 then:

... the likely result would be that agriculture will no longer be able to use the skilled migration program — or at least have its use severely restricted — thereby losing yet another important avenue for accessing labour.

NFF cited research conducted by the Grattan Institute that the agricultural, forestry and fishing sectors would lose 84 per cent of its skilled visa workers, a 'gut punch' that would 'cripple many parts of the industry'.¹⁰²

10.122 NFF acknowledged that the skilled visa system, while intended to target high skilled and specialist employees, had been used by farmers (before the TSMIT increased) 'as the only system open to them to meet their labour requirements'. And, in the absence of a purpose-built stream, it was likely that farmers would 'continue to use the skilled migration stream for this end'.¹⁰³

10.123 The RDTGGA was one of several witnesses that lamented the 'demise' of the proposed Australian Agricultural Visa (AAV) which, in their view, had the potential to offer 'a more streamlined and efficient process for bringing in unskilled migrant labour' and called for it to be revisited.¹⁰⁴

10.124 The staged introduction of an AAV program was announced in August 2021. The program, intended to supplement the PALM scheme, targeted skilled, semi-skilled and low-skilled workers in particular occupations across a range of agricultural and primary industry sectors, as well as support services and primary processing. The

¹⁰⁰ Law Council of Australia, Answers to Questions on Notice, Public Hearing, 12 May 2023, p. 18.

¹⁰¹ Clubs Australia, *Submission 74*, p. 3.

¹⁰² National Farmers' Federation, *Submission 81*, Attachment 1, p. 15.

¹⁰³ National Farmers' Federation, *Submission 81*, Attachment 1, p. 19.

¹⁰⁴ Robinvale & District Table Grape Growers Association, *Submission 63*, pp. [2, 4].

program was repealed in September 2022, following the change of government, and relocated within the PALM scheme.¹⁰⁵

10.125 NFF, while not calling for reinstatement of the AAV, lamented what they believed were likely benefits of the program. In particular it highlighted that the visa would have been more accessible to smaller growers and offered a sustainable alternative to WHMs. Further, its focus on Asia—a MOU was signed with Vietnam and preliminary discussions were held with other Asian nations—the AAV prudently diversified the global markets for labour that agriculture could access.¹⁰⁶

10.126 Instead, NFF called for the Australian Government to consider introducing ‘a dedicated semi-skilled visa option specific to the agricultural sector’ and pointed to Canada’s Agricultural stream in its Temporary Foreign Worker Program as a potential model. The Agricultural stream allowed for the recruitment of a foreign worker (in the absence of suitable domestic workers) for up to two or three years (for low wage and wage above the median respectively), crucially it had no equivalent to the TSMIT, just a requirement that the worker be paid above the provincial median.¹⁰⁷

Committee Comment

10.127 The evidence heard by the Committee outlined above reinforced the ongoing need in regional Australia for a reliable source of semi and lower-skill workers. Acute shortages in the regions have resulted in employers using whatever visa categories offer the simplest and most timely access to migrant workers (regardless of whether or not they were intended to target this cohort). Recent increases to the TSMIT have curtailed these avenues.

10.128 As remarked in Chapter 7, the Committee is interested to see how the Government’s new Essential Skills Pathway provides a ‘more regulated pathway for lower paid workers with essential skills’.¹⁰⁸ As this pathway is in its early stages, the Committee makes no recommendations on this issue, but will monitor its implementation and impact.

¹⁰⁵ Hon. Alex Hawke MP, Hon. Barnaby Joyce MP, Hon. David Littleproud MP and Hon. Marise Payne, ‘Australian Agriculture Visa’, Joint Media Release, 23 August 2021, <https://minister.homeaffairs.gov.au/AlexHawke/Pages/australian-agriculture-visa.aspx>, viewed 6 August 2024; Australian Government, ‘Australian Agriculture Visa Program’, Factsheet 12 April 2022, <https://www.dfat.gov.au/sites/default/files/australian-agriculture-visa-fact-sheet.pdf>, viewed 6 August 2024; and Department of Home Affairs, *The Administration of the Immigration and Citizenship programs*, 12th Edition, May 2024, p. 22.

¹⁰⁶ National Farmers’ Federation, *Submission 81*, Attachment 1, pp. 18-19.

¹⁰⁷ National Farmers’ Federation, *Submission 81*, Attachment 1, pp. 18-20.

¹⁰⁸ Australian Government, *Migration Strategy: Getting Migration working for the nation. For workers. For businesses. For all Australians*, December 2023, p. 52.

Labour Agreements

10.129 Australia's Migration Program includes a range of labour agreements that span regions, industries, specific businesses, projects, and a skilled refugee pilot.¹⁰⁹ Visas granted under a labour agreement are employer sponsored and form part of the Skilled stream of the Migration Program.¹¹⁰

10.130 In common across all the forms of labour agreements is that they encompass a negotiated set of concessions and streamlined processes and, through this, provide access to a wider pool of potential applicants.¹¹¹ The concessions that are granted vary, but might include less stringent English language or skill requirements, a shorter path to permanent residency, and/or access to occupations not on the skilled occupation list. The Horticulture Industry Labour Agreement (HILA), for instance, provides for the following concessions to the standard skilled visa requirements:

- Discount of up to 10% on the Temporary Skill Migration Income Threshold (TSMIT) where it is demonstrated that equivalent Australian workers do not receive annual earnings equal to TSMIT;
- A broader range of monetary payments (e.g. regularised overtime) and non-monetary benefits (e.g. accommodation) can be counted as guaranteed earnings;
- For the TSS visa—overseas workers must score at least IELTS 5.0 overall, and at least IELTS 4.0 in each individual component score. For the Employer Nominated Scheme (ENS) and Skilled Employer Sponsored Regional (SESR) visas—overseas workers must score at least IELTS 5.0 overall, and at least IELTS 4.5 in each individual component score and
- Overseas workers can be up to 50 years of age when they apply for an ENS or SESR visa.¹¹²

10.131 During the course of this inquiry, the Committee heard most commonly about industry labour agreements and Designated Area Migration Agreements (DAMAs) in the evidence presented on regional migration.

¹⁰⁹ For further details on the range see: Department of Home Affairs, 'Labour agreements', <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-agreements>, viewed 26 July 2024.

¹¹⁰ Department of Home Affairs, *The Administration of the Immigration and Citizenship programs*, 12th Edition, May 2024, p. 29.

¹¹¹ Department of Home Affairs, *The Administration of the Immigration and Citizenship programs*, 12th Edition, May 2024, p. 32; Department of Home Affairs, 'Designated area migration agreements', <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-agreements/designated-area-migration-agreements>, viewed 26 July 2024; Department of Home Affairs, 'Industry labour agreements', <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-agreements/industry-labour-agreements>, viewed 26 July 2024.

¹¹² Department of Home Affairs, 'New Horticulture Industry Labour Agreement', <https://immi.homeaffairs.gov.au/what-we-do/skilled-migration-program/recent-changes/new-horticulture-industry-labour-agreement>, viewed 29 July 2024.

- 10.132 Industry labour agreements are made between the Australian Government and a particular industry to provide streamlined recruitment of overseas workers where an appropriately qualified local workforce is not available. Of the ten existing industry labour agreements, half have a rural focus—dairy industry, fishing industry, horticulture industry, meat industry, and pork industry—while other agreements, particularly the Aged Care Industry Labour Agreement, reflect needs that span rural and urban communities.¹¹³
- 10.133 DAMAs are similarly a formal agreement between the Australian Government and a Designated Area Representative (DAR) that is usually a state or territory government or a regional body such as a shire council or chamber of commerce. They are intended to provide ‘flexibility’ for a defined region to ‘respond to their unique economic and labour market conditions’.
- 10.134 The current process is two-tiered—once the ‘DAMA head agreement’ is in place, then individual businesses within that region (endorsed by the DAR) can apply for an individual DAMA labour agreement under the terms established by the head agreement. The existing 13 DAMAs have a strong focus on rural, regional and remote areas, comprising 9 regional agreements (4 in Western Australia, 2 each in Queensland and Victoria, and 1 in New South Wales), 1 urban agreement for metropolitan Adelaide, and three state- and territory-wide agreements for South Australia, Western Australia and the Northern Territory.¹¹⁴
- 10.135 Looking forward at how DAMAs would figure in Australia’s migration strategy, Mr Mark Wright, National Leader, Immigration Services at KPMG Australia, considered that there continued to be ‘a very strong role’ for DAMAs, provided that they are:
- ... carefully structured and appropriately targeted, with the appropriate integrity measures in place and supported by the relevant regional authority.
- In his view, DAMAs could be a ‘powerful tool to ensure that the appropriate labour is targeted to the appropriate location in the right numbers’.¹¹⁵
- 10.136 Peak bodies supporting Australia’s agricultural, pastoral and horticultural needs expressed mixed feelings about the value of labour agreements. APL, for example, stressed the importance of both the Pork Industry Labour Agreement (since 2011) and the Meat Industry Labour Agreement to their industry. They argued that the ‘Government should continue to recognise the role of Labour Agreements in

¹¹³ Department of Home Affairs, ‘Industry labour agreements’, <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-agreements/industry-labour-agreements>, viewed 29 July 2024.

¹¹⁴ Department of Home Affairs, ‘Designated area migration agreements’, <https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-agreements/designated-area-migration-agreements>, viewed, 29 July 2024; Australian Government, *Supporting strong and sustainable regions: Review of Regional Migration Settings*, Discussion Paper, June 2024, p 8.

¹¹⁵ Mr Mark Wright, National Leader, Immigration Services, KPMG Australia, *Committee Hansard*, Videoconference, 16 May 2023, p. 29.

providing tailored migration solutions with high levels of worker protections, particularly given current “one size fits all” standard skilled migration settings’.¹¹⁶

10.137 At the same time, APL also noted the downside of the associated application process being ‘resource intensive, costly and lengthy processes’ resulting in delays that can impede business. They highlighted that timeliness remains imperative in industries like theirs:

Being based in remote areas and part of the food and fibre supply chain — which cannot absorb delays given we are dealing with biological systems, animal welfare, and perishable goods — a fast and responsive migration system is key for agriculture and the processing sector.¹¹⁷

10.138 This sentiment was echoed by the joint submission from growers Lamattina Holdings Pty Ltd and their legal representatives Elmtree Migration Lawyers. They pointed out that the horticultural sector required ongoing employees, not just harvest workers, to service the fresh produce needs of consumers. The Horticulture Industry Labour Agreement Program they note, ‘goes some way to fill this gap’ as it enables growers to sponsor both low-skilled and semi-skilled horticultural workers and take advantage of concessions not available under the standard visa programs.¹¹⁸

10.139 Yet, they added, costs remain high, especially as ‘[m]ost foreign workers do not have the financial capacity to contribute to their visa fees’. The various fees they argue, ‘makes sponsoring foreign workers and expensive process that only large growers can afford’ with the risk largely borne by the employer. Processing times of some six months under the HILA, in their view, ‘is simply too long and does not meet most business’s operation needs’. Added to this is the cost and time required to conduct Labour Market Testing which they note is ‘unnecessary’ in towns and regions with low populations in which the supply of local workers has been exhausted and it is known that a shortage exists.¹¹⁹

10.140 The Committee heard from Mr Gaethan Cutri, Managing Director of Cutri Fruit, who spoke candidly of his experience applying for a HILA:

My gosh, that's a lot of work. It seems so obvious and so easy to fill in, but it's not. It took ages. I'm a frigging lawyer and it took me ages. I had to give it to a migration lawyer because that is the process. There are a couple of things we couldn't answer. It cost me \$10,000 and I did the majority of the work. ... There's no logical reason to make it so hard to get a HILA. It's so difficult.¹²⁰

10.141 Some also argued that the settings for labour agreements were not fit for purpose. Among them, Lamattina Holdings Pty Ltd and Elmtree Migration Lawyers expressed frustration at the English language and skill assessment requirements. They judged

¹¹⁶ Australian Pork Ltd, *Submission 114*, p. 10.

¹¹⁷ Australian Pork Ltd, *Submission 114*, pp. 10-11.

¹¹⁸ Lamattina Holdings Pty Ltd and Elmtree Migration Lawyers, *Submission 123*, pp. [1-2].

¹¹⁹ Lamattina Holdings Pty Ltd and Elmtree Migration Lawyers, *Submission 123*, pp. [1-2].

¹²⁰ Mr Gaethan Cutri, Managing Director, Cutri Fruit, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 18.

that the requirement for low and semi-skilled workers sponsored under the 482 HILA program to obtain a IELTS English score of 4 was 'unnecessarily high'. In their view, the level of English required should be pegged at a level that 'supports understanding operational instructions and Workplace Health and Safety rules'. Similarly, they were baffled as to why applicants were required to provide evidence of their work experience for low-skilled positions such as a forklift driver. They point out that this is an unrealistic expectation as the work of many of these employees would have been paid in cash and their work largely undocumented in their home country.

Requiring low-skilled workers to obtain tax documents/payslips from countries where they don't receive them, is simply not practical and unnecessarily eliminates the most highly valued workers from the visa program.¹²¹

They argue that a sponsor would not invest in a worker if they did not have the skills to perform the job.¹²²

- 10.142 Moreover, the Committee heard that the time and complexities entailed in securing a labour agreement, could backfire on sponsoring employers. Mr Gaethan Cutri, of Cutri Fruit, related that at the end of the application process:

... we've lost people we've brought in. We've spent hundreds of hours trying to get them their visa because it takes so long for no apparent reason. There's literally no reason [for the Department] to sit on a visa for a year or two. They [the migrant workers] get spooked and go, 'Gee, I'm not going to get my sponsorship. I'm not going to get my pathway to PR.' Then they go to another person who has no better chance but they tell them a story. All we're doing is transferring staff around.¹²³

- 10.143 The Committee was also informed that labour agreements lacked flexibility, assuming that business operations remained static. Mr Cutri, for example, found that after an equity partner buy-in, he was unable to transfer his labour agreement to the new business. Frustrated by the rigidity of the agreement, he complained:

It's the same farm. It's the same farmland and the same employees. I am still probably the biggest single shareholder yet I can't transfer it. I am having to run an old business combined with a new business because it's just too difficult to transfer. It's completely crazy.¹²⁴

- 10.144 Regional Development Australia bodies representing the Gold Coast and the Darling Downs and South West shared their investigation into whether setting up a DAMA would prove beneficial to their region. To Ms Estella Rodighiero, Director of Regional Development Australia Gold Coast Inc., DAMAs initially appeared to 'be the saviour'

¹²¹ Lamattina Holdings Pty Ltd and Elmtree Migration Lawyers, *Submission 123*, p. [3]

¹²² Lamattina Holdings Pty Ltd and Elmtree Migration Lawyers, *Submission 123*, p. [3]

¹²³ Mr Gaethan Cutri, Managing Director, Cutri Fruit, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 18.

¹²⁴ Mr Gaethan Cutri, Managing Director, Cutri Fruit, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 21.

for their region. But, upon investigation, time and expense proved to be significant barriers, especially in a fluid job market:

It can take up to 18 months to two years, and we don't know what our skills gap is going to be then. The horse has almost bolted.¹²⁵

10.145 While they had hoped that DAMAs offered a way to leverage migration to support worker shortages, they found that the process was too long (extending up to two years), expensive and risky, especially as 'success is uncertain'.¹²⁶

10.146 Further, the Committee heard that the establishment of a DAMA could create inequity and undermine the efforts of businesses in surrounding areas to recruit migrant workers. Mrs Lauren Russell, Projects Officer at Regional Development Australia Darling Downs and South West Inc. explained that concessions attached to a DAMA could draw migrant workers away from one regional area to another. She explained that:

... for someone working in aged care in our region, it's much more attractive for them to go up to Townsville or somewhere else where there is a DAMA and there's a pathway to permanent residency. We can't offer them that here without the DAMA. So we're already competing in the difficult global market, but then without a DAMA we're not competing on a level playing field within Australia.¹²⁷

10.147 In the assessment of NFF, problems faced by rural industries and businesses under the skilled visa system had resulted in 'commodities resorting to bespoke 'industry labour agreements''.¹²⁸ It is a view that has garnered traction, with the Australian Government's *Migration Strategy* acknowledging that the:

... significant growth in the number of labour agreements is a clear indication that the current temporary skills program is failing to meet Australia's skilled workforce needs.¹²⁹

10.148 Alongside outlining actions to reform the permanent and temporary skilled migration programs¹³⁰, the Strategy identified the need to produce '[c]learer guidelines for labour agreements' alongside 'simpler approaches to skilled migration'. Moreover, it committed to 'evaluating the role of DAMAs, including how to improve the process' in order to 'help meet regional workforce needs'.¹³¹

¹²⁵ Ms Estella Rodighiero, Director of Regional Development Australia Gold Coast Inc., *Committee Hansard*, Videoconference, 18 May 2023, p. 37.

¹²⁶ Regional Development Australia Gold Coast Inc, *Submission 2*, p. [1].

¹²⁷ Mrs Lauren Russell, Projects Officer at Regional Development Australia Darling Downs and South West Inc., *Committee Hansard*, Videoconference, 18 May 2023, p. 35.

¹²⁸ National Farmers' Federation, *Submission 81*, Attachment 1, p. 19.

¹²⁹ Australian Government, *Migration Strategy: Getting Migration working for the nation. For workers. For businesses. For all Australians*, December 2023, p. 44.

¹³⁰ See discussion on key actions 1 and 2. Australian Government, *Migration Strategy: Getting Migration working for the nation. For workers. For businesses. For all Australians*, December 2023, pp. 42-59.

¹³¹ Australian Government, *Migration Strategy: Getting Migration working for the nation. For workers. For businesses. For all Australians*, December 2023, pp.44, 97; Australian Government,

Committee Comment

- 10.149 The Committee acknowledges the view that the proliferation of labour agreements is potentially a symptom of a broken migration system. These programs have often been reactive to problems in the existing skilled migration program. The establishment of Industry Labour Agreements has largely been in response to the difficulties faced by industries when they have endeavoured to swiftly recruit workers with particular skills to identified locations, especially if those locations are in regional or remote areas. As recorded in the evidence received by the Committee, while such agreements are intended to streamline processes, labour agreements were still considered to be too complex, the process too slow, and the concessions insufficiently generous.
- 10.150 The Committee also acknowledges that labour agreements, and particularly DAMAs, may create a two-tier system where employers and regions not included or signed up, miss out on concessions and are disadvantaged in their ability to attract migrants. This inequity is compounded by the time and cost entailed in establishing these agreements, as it tends to favour larger entities with the financial and administrative capacity to invest—be it a regional body setting up a DAR or a business wanting to take advantage of a labour agreement. Given this inequity, the Committee considers that it is essential that these elements of the skilled migration program be reviewed to provide smaller employers with a viable alternative method of recruiting migrant workers, that is cost-effective and timely.
- 10.151 The Committee also urges that the Australian Government's review of the role of DAMAs be mindful to consider the impact of their establishment on workplace shortages in the surrounding regions.

Recommendation 62

- 10.152 The Committee recommends that the Australian Government reviews Designated Area Migration Agreements and Industry Labour Agreements to ensure that they are fit for purpose.**

Working Holiday Maker Program

- 10.153 The Department of Home Affairs notes that the Working Holiday Maker (WHM) program 'promotes cultural exchange and boosts people-to-people connections between young adults from Australia and partner countries'.¹³² A reciprocal program, it has been in operation for almost 50 years, and encompasses almost 50 countries/jurisdictions.

Supporting strong and sustainable regions: Review of Regional Migration Settings, Discussion Paper, June 2024, p. 1.

¹³² Department of Home Affairs, *The Administration of the Immigration and Citizenship Programs*, 12th Edition, May 2024, p. 18.

10.154 The program is split into the Working Holiday (subclass 417) and the Work and Holiday (subclass 462) visas.¹³³ In common, these subclasses have entitlements to work and undertake limited study, and provide opportunities (after meeting certain work/location requirements¹³⁴) to extend an applicant's stay beyond the initial 12-month visa. Eligibility for each subclass is determined by the country/jurisdiction where the applicant holds citizenship and a valid passport. Applicants from one of the 29 countries eligible for the subclass 462 visa, however, need to satisfy additional minimum education and English language requirements that applicants who are citizens of the 19 countries eligible for the subclass 417 visa do not have to meet. Further, with the exception of the United States of America, all countries/jurisdictions named in the 462 visa, are subject to caps on the number of places granted each financial year that range from 100 to 5,000.¹³⁵

10.155 Several submitters noted the importance of the WHM program to regional Australia. The Backpacker & Youth Tourism Advisory Panel (BYTAP), for example, pointed out that one in three jobs held by WHMs are located in regional Australia and that, compared to other international visitors, WHMs tended to 'stay longer, spend more and disperse more widely'. They also stressed the importance of WHMs in filling casual temporary roles and seasonal work, including 8 per cent of hospitality jobs, 14 per cent of farm jobs, and 80 per cent of workers harvesting fresh produce.¹³⁶ NFF, when reflecting on those same statistics, remarked that 'it cannot be overstated' how important backpackers are to the agricultural sector and reminded the Committee that 'the sector was brought to its knees when borders closed during the pandemic crisis', and backpacker numbers dropped.¹³⁷

10.156 Yet this reliance on the WHM program also suggests that there is a tension between the aim of the program as a cultural exchange that fosters bilateral relations, and Australia's dependence on the program to fill workplace shortages in particular sectors and geographic locations.

10.157 Responding to a question on notice, the Department of Home Affairs informed the Committee that:

The 'specified work' requirement; was introduced in 2005 to address chronic and severe labour shortages, particularly in Australia's major agricultural regions.

¹³³ Department of Home Affairs, *The Administration of the Immigration and Citizenship Programs*, 12th Edition, May 2024, p. 18; Department of Home Affairs, 'Working Holiday Maker (WHM) program', <https://immi.homeaffairs.gov.au/what-we-do/whm-program>, viewed 11 July 2024.

¹³⁴ Note From 1 July 2024 UK passport holders granted a subclass 417 visa are eligible for three Working Holiday visas without meeting any specified work requirements. Department of Home Affairs, 'Working Holiday (subclass 417) visa arrangements for UK passport holders', <https://immi.homeaffairs.gov.au/what-we-do/whm-program/latest-news/arrangements-uk-passport-holders>, viewed 22 July 2024.

¹³⁵ Department of Home Affairs, 'First Work and Holiday visa', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/work-holiday-462/first-work-holiday-462>, viewed 15 May 2024; Department of Home Affairs, 'First Working Holiday visa', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/work-holiday-417/first-working-holiday-417>, viewed 17 July 2024; Department of Home Affairs, 'Working Holiday Maker (WHM program: Status of country caps', <https://immi.homeaffairs.gov.au/what-we-do/whm-program/status-of-country-caps>, viewed 15 July 2024.

¹³⁶ Backpacker & Youth Tourism Advisory Panel, *Submission 7*, pp. [1-6].

¹³⁷ National Farmers' Federation, *Submission 81*, Attachment 1, p. 9. Emphasis in original.

'[O]ngoing labour shortages' was also the reason given for the expansion to a second working holiday visa, with a third visa added in 2019.¹³⁸

10.158 The Department indicated that administering the programs was a delicate balancing act with:

Adjustments in relation to eligible industries, regions and subclasses aimed to maximise the benefit to these regions and industries, while increasing WHM program numbers and prioritising local job opportunities for young Australians.¹³⁹

10.159 The Business Council of Australia (BCA), however, considered that bilateral aspects of the WHM program (among others) created preferential arrangements that were not always in the national interest. They drew attention to caps on the number of applicants drawn from countries that, in effect, limited access to workers. From the BCA's perspective, if a change was in Australia's interest, it should be pursued to ensure that Australian businesses could...

... access the best workers, regardless of whether they come from a country with which we have a free trade agreement in place.¹⁴⁰

10.160 The independent migration review, following its examination of the WHM program, encouraged the Australian Government to consider strengthening the focus of the program on cultural exchange by limiting visas to one year.¹⁴¹ The Australian Government's discussion paper on regional migration, however, made it clear that the Government would not adopt that recommendation as it 'would significantly damage local economies in regional Australia'.¹⁴²

10.161 Dr Kaya Barry also spoke about the reliance of many farmers and regional towns on the 'labour, spending, and tourism' of WHMs for their 'survival'. The main issue evident to Dr Barry is that while WHMs (similar to PALM workers) stay for up to three years and deliver 'essential labour' to regional hubs and industries, they have no existing pathways to permanent migration. Instead, they seek ways to migrate permanently, typically via lengthy and convoluted employer sponsorship visas or by pursuing further study.¹⁴³

10.162 Yet, it is WHMs' desire to stay, be it for additional WHM visas or permanently, that can make them more vulnerable and open them up to exploitation. As the Federation of Ethnic Communities' Councils of Australia (FECCA) observed:

¹³⁸ Department of Home Affairs, AOnswers to Questions on Notice, Public Hearing, Canberra, 14 June 2023, p. [2]; and Australian Government, *Supporting strong and sustainable regions: Review of Regional Migration Settings*, Discussion Paper, June 2024, p. 12.

¹³⁹ Department of Home Affairs, Answers to Questions on Notice, Public Hearing, Canberra, 14 June 2023, p. [2]; see also Australian Government, *Migration Strategy: Getting Migration working for the nation. For workers. For businesses. For all Australians*, December 2023, p. 85.

¹⁴⁰ Business Council of Australia, *Submission 56*, p. 14.

¹⁴¹ Australian Government, *Review of the Migration System*, Final Report, May 2023, pp. 9, 89.

¹⁴² Australian Government, *Supporting strong and sustainable regions: Review of Regional Migration Settings*, Discussion Paper, June 2024, p. 12.

¹⁴³ Dr Kaya Barry, *Submission 15*, p. 2. See also Migration Institute of Australia, *Submission 87*, pp. 20-21.

Visas that tie migrants to an employer diminish the ability for workers to report illegal practices and harassment due to fear of losing their job, income, safety at work and their right to live in Australia.¹⁴⁴

10.163 Both FECCA and VETASSESS pointed to past reports documenting the extensive underpayment of students and backpackers, including the Migrant Justice Institute's 2017 publication, *Wage Theft in Australia*, that recorded underpayment being particularly prevalent among those engaged in food services, and fruit and vegetable picking, and a 2022 Senate Economics References Committee inquiry, that found underpayment was, in many industries, 'deliberate and systematic, and often normalised, especially for migrant workers'.¹⁴⁵

10.164 VETASSESS called on the Australian Government to '[a]ggressively address migrant exploitation'. FECCA recommended 'increased monitoring and oversight' of both the WHM program and the PALM scheme. While submissions made by the Community and Public Sector Union and the Migration Youth and Children Platform called for a two-pronged approach that involved both education programs to ensure visa holders are aware of their rights, alongside stronger protection and compliance activities to shield migrants from unscrupulous employers.¹⁴⁶ Further, for migrant's seeking redress from exploitation, the introduction of a short term 'Workplace Justice visa' was suggested to allow WHMs (among other exploited migrant workers) to undertake employment while taking legal action against their employers for significant breaches of labour laws.¹⁴⁷

10.165 Acknowledging the findings of past reviews and the evidence provided by stakeholders, the Australian Government identified the WHM program as an area for future reform to ensure that it 'supports development objectives in regional Australian and does not contribute to the exploitation of workers'.¹⁴⁸ In line with this direction, the discussion paper on regional migration pointed out that the past reviews found that the '[w]ork requirements in the Working Holiday Maker Program increase the risk of exploitation' and that the vulnerability of these workers was exacerbated by the remoteness of their workplace, a lack of knowledge of their rights, poor English language skills, as well as cultural and language barriers.¹⁴⁹

¹⁴⁴ Federation of Ethnic Communities' Councils of Australia, *Submission 52*, pp. 7-8. See also 'Li – Working Holiday visa – ineligibility for next visa' a case study highlighting the vulnerability of backpackers to unscrupulous employers in: Immigration Advice and Rights Centre and Unions NSW, *Submission 32*, p. [12].

¹⁴⁵ Federation of Ethnic Communities' Councils of Australia, *Submission 52*, pp. 7-8; VETASSESS, *Submission 89*, p. 13. See also Grattan Institute, *Submission 17*, p. 33.

¹⁴⁶ VETASSESS, *Submission 89*, p. 13; FECCA, *Submission 52*, pp. 7-8; Community and Public Sector Union, *Submission 62*, Attachment 1, p. [4]; Migration Youth and Children Platform, *Submission 99*, p. 6.

¹⁴⁷ Human Rights Law Centre, Migrant Workers Centre and the Asylum Seeker Resource Centre, *Submission 120*, p. 24.

¹⁴⁸ Australian Government, *Migration Strategy: Getting Migration working for the nation. For workers. For businesses. For all Australians*, December 2023, pp. 87-88.

¹⁴⁹ Australian Government, *Supporting strong and sustainable regions: Review of Regional Migration Settings*, Discussion Paper, June 2024, p. 11.

10.166 The Committee was also made aware by the Department of Home Affairs of differences between where specified work can be performed depending on the visa subclass:

The specified work that can be undertaken in each industry and area is specific, albeit similar, to each visa subclass, with the main difference being that only subclass 417 holders can count mining as specified work.¹⁵⁰

10.167 A closer look at the eligibility requirements indicates that the locations for certain types of work are more restricted for those applying for a subclass 462 visa. 417 visa holders can satisfy the specified work requirements by gaining employment in:

- plant and animal cultivation;
- fishing and pearling;
- tree farming and felling;
- mining; or
- construction,

so long as the work takes place in 'Regional Australia'. Yet 462 visa holders are unable to undertake work in mining; can undertake fishing and pearling, or tree farming and felling in Northern Australia only; and plant and animal cultivation, or construction in Northern Australian and other specified areas of regional Australia. It was noted that it was the Minister who determined the types of specified work and eligible regions, but no reasoning was given for the discrepancies between the two subclasses.¹⁵¹

10.168 Currently eligibility for the WHM program requires most applicants to be up to 30 years of age. This age increases to 35 for applicants from selected countries under the Working Holiday Visa (subclass 417), currently Canada, Denmark, France, Republic of Ireland, Italy, and the United Kingdom of Great Britain and Northern Ireland. Calls for the increased age to be uniformly applied to all applicants, regardless of their country of origin, was frequently made in the evidence presented to the Committee.

10.169 The Australian Private Hospitals Association (APHA) was among those who argued for the age of to be increased. Like other submitters the APHA pointed out that people were working longer and demonstrated changing attitudes towards their work-life balance. They observed that '[c]hoices to combine travel and work are not limited to young adults'. The health sector, they reasoned,

¹⁵⁰ Department of Home Affairs, Answers to Questions on Notice, Public Hearing, Canberra, 14 June 2023, p. [2].

¹⁵¹ Department of Home Affairs, Answers to Questions on Notice, Public Hearing, Canberra, 14 June 2023, pp. [2-3].

... stands to benefit by welcoming skilled and experienced workers of all ages including those who may be attracted by the option of a working holiday later in life.¹⁵²

10.170 BYTAP likewise called for the age limit to be expanded to 35 for all participating countries. Reform of the visa and policy settings, they argued was necessary to further maximise the benefits of the WHM program. Among them, they recommended that the Australian Government:

- Fast track agreements with new countries to participate in the program;
- Remove visa caps on countries that have been identified as low risk; and
- Remove English language, educational and letter of support requirements from the 462 subclass visa.¹⁵³

10.171 Several of the recommendations made by BYTAP highlighted the lack of consistency between the two visa subclasses, with additional eligibility requirements specified for the subclass 462. They draw attention to some countries being subject to extraordinarily low caps on visa places—with those allocated 100 places being quickly exhausted. Further, BYTAP argues that the language, educational and letter of support requirements are ‘onerous imposts that are not evenly applied to all countries in the program and are not requirements under the 417 Working Holiday visa’. They contend that a major motivation to take part in the WHM program is for backpackers to improve their English language skills and they add that this is ‘not a reciprocal requirement for Australians travelling overseas on a WHM visa’.¹⁵⁴

10.172 More generally NFF argued that there was a need to improve Australia’s attractiveness by providing ‘clear and simple pathways for visa applications’. Expensive costs of flights along with ‘international exorbitant’ visa application fees, they point out are a significant barrier in the competition for backpackers.¹⁵⁵ To mitigate these expenses, the joint submission from the Accommodation Association of Australia, Australian Hotels Association and Tourism Accommodation Australia, suggested rebating visa fees in the short term and benchmarking the pricing and timeliness of Australia’s visa processing with key competitors such as Canada and New Zealand to ensure that the nation is competitive in the longer term.¹⁵⁶

10.173 The WHM program allows visa holders to undertake ‘any kind of work’, not just lower paid, unskilled or semi-skilled work. The Committee heard that veterinarians commonly make use of the WHM program to undertake work in Australia as a way of helping to ‘immediately address the veterinary profession skills shortage’.¹⁵⁷

¹⁵² Australian Private Hospitals Association, *Submission 100*, p. 2.

¹⁵³ Backpacker & Youth Tourism Advisory Panel, *Submission 7*, p. [2].

¹⁵⁴ Backpacker & Youth Tourism Advisory Panel, *Submission 7*, pp. [1-6]. See also NFF, *Submission 81*, p. [3].

¹⁵⁵ National Farmers’ Federation, *Submission 81*, p. [3].

¹⁵⁶ Accommodation Association of Australia/Australian Hotels Association/Tourism Accommodation Australia, *Submission 83*, p. 4. See also the Australian Retailers Association, *Submission 108*, p. 2.

¹⁵⁷ Australian Veterinary Association, *Submission 51*, pp. 2-3.

10.174 The Australian Veterinary Association (AVA), Australasian Veterinary Boards Council and Vetlink Employment Service each told the Committee of the ‘dire and escalating critical workforce shortage’ in their sector.¹⁵⁸ They pointed out that while the WHM visa is available to undertake any work, it is not fit for purpose for many roles in the veterinary profession. While recognising the temporary waivers in place at the time they made their submission, veterinary peak bodies argued that the six-month work limitation (under visa condition 8547) made the WHM program too time consuming and expensive to recruit and induct vets. Instead, they argued for a relaxation of the requirements more in line with the United Kingdom’s Youth Mobility Scheme visa¹⁵⁹, that has no restrictions on the length of time worked with a single employer or a requirement to undertake work in a rural location.¹⁶⁰

Committee Comment

Immediate Considerations

10.175 The Committee considers that the current arrangement of the WHM scheme would benefit from simplification through adopting a more consistent approach, both across and within the two visa subclasses. The current arrangement is two tiered, with privileges and concessions accorded to one visa subclass and not the other. While the Committee recognises that this results, in part, from bilateral agreements, the extent of the disparity makes the program overly complex for applicants, employers and those administering the scheme.

10.176 The Committee was convinced by the evidence of the benefits of increasing the age limit for eligibility to participate in the WHM program up to 35 across both visa subclasses.

10.177 The Committee also agrees that there should be a re-examination of some of the eligibility criteria and restrictions placed on 462 subclass visa applications. The Committee notes the wide disparity between caps on places ranging from 100 to 5,000. Further, the Committee considers that caps of 100 are so low as to almost negate their apparent usefulness to either Australia or the home nation.

10.178 Similarly, the Committee is concerned by the degree of disparity in educational requirements. It notes that while the applicants of some nations are only obliged to have completed a senior secondary certificate, others are required to complete a tertiary qualification. The underlying reasoning for this disparity is not apparent and, from the Committee’s perspective, this requirement would benefit from the Australian Government taking a more standardised approach.

¹⁵⁸ Vetlink Employment Service, *Submission 16*, p. [1]; Australasian Veterinary Boards Council, *Submission 18*, p. 1; and Australian Veterinary Association, *Submission 51*, pp. 2-3.

¹⁵⁹ Government of the United Kingdom, ‘Youth Mobility Scheme visa’, <https://www.gov.uk/youth-mobility>, viewed 18 July 2024.

¹⁶⁰ Vetlink Employment Service, *Submission 16*, pp. [4-5]; and Australian Veterinary Association, *Submission 51*, p. 5.

10.179 The Committee, does however, see value in the requirement that applicants have a minimum of functional English. While noting BYTAP's concern that backpackers apply for working holiday programs in order to improve their English language skills, the Committee also recognises that the level specified for a subclass 462 visa, is the lowest level required. The Committee believes that functional English helps ensure that applicants understand what is required of them when employed, and better equips them to understand their rights and help protect them from exploitation.

10.180 The Committee recognises that minimising exploitation is a focus of the Migration Strategy and has been highlighted as a particular interest in the subsequent regional migration discussion paper in relation to the WHM program. Like submitters, the Committee believes that the Australian Government should continue to improve the current multi-pronged approach that empowers WHMs through education and support, improves oversight of employers of potentially vulnerable migrants, provides protection to migrants who have valid claims of exploitation, and responds strongly to penalise unscrupulous employers.

10.181 The Committee also considers that the migration system should take a less complex approach to providing incentives to locations and/or specified work that entitle visa holders to subsequent visas. It is the Committee's view that maintaining two sets of eligible locations that are similar, but not identical, across the two visa subclasses is counterproductive and not in line with the Migration Strategy's aims of simplification.

Recommendation 63

10.182 The Committee recommends that the Australian Government increases the age of eligibility for a Working Holiday Maker visa to 35 across the two subclasses of the scheme.

Recommendation 64

10.183 The Committee recommends that the Australian Government reviews the Working Holiday Maker program with a view to standardising requirements and reducing disparities between participating countries and visa subclasses.

Recommendation 65

10.184 The Committee recommends that that Australian Government aligns locations eligible to satisfy specified work requirement across the two visa subclasses of the Working Holiday Maker program.

Recommendation 66

10.185 The Committee recommends that the Australian Government continues to improve the educational program directed at Working Holiday Maker scheme participants to provide them with knowledge of their rights while working in

Australia and implement more robust mechanisms to monitor compliance with labour laws by businesses employing Working Holiday Maker visa holders.

A Longer-term View

- 10.186 Like the independent migration review, the Committee considers that the WHM program has strayed from its original purpose as a cultural exchange. At the same time, the Committee acknowledges the Australian Government's concern that radical change, such as limiting the program to one year, would have a devastating impact on the regions that rely on the program's contributions to the workforce.
- 10.187 On this issue, perhaps the use of the WHM program by the veterinary sector to help tackle workplace shortages is instructive. While the Committee has sympathy with the challenges facing the veterinary industry, it considers that in a well-functioning migration system, existing visas, such as the Temporary Skill Shortage (TSS) visa (that offers short- and medium-term streams), should be fit for purpose to provide a temporary workforce in a timely manner. Further, such a system would negate the need for temporary waivers, such as the Minister for Immigration, Citizenship and Multicultural Affairs' authorisation continuing an exemption process to the WHM program to enable visa holders to work for the same employer for more than six months from 1 January 2024.¹⁶¹
- 10.188 As observed in Chapter 7, the Committee hopes that the replacement of the TSS visa with a new four-year Skills in Demand visa, encompassing three pathways that span specialist, core and essential skills, will improve the options available for those who require temporary workers for a more sustained period—be they highly skilled veterinarians or farm labourers crucial to the cultivation of fruit and vegetable crops. The Committee considers that, development of such a visa, as outlined in Recommendation 33, would in the longer term, incentivise and attract some of those who currently use the WHM program as an opportunity to pursue temporary work in Australia.
- 10.189 The Committee believes that, if the operation of the Skills in Demand visa proves successful, the Government should reconsider the settings in place for the WHM program and realign its focus to providing shorter term arrivals from diverse backgrounds with the opportunity to be part of a cultural exchange.

Pacific Australia Labour Mobility Scheme

- 10.190 The Pacific Australia Labour Mobility scheme, known as the PALM scheme, is part of Australia's broader International Development Policy to foster a peaceful, stable and prosperous Indo-Pacific.¹⁶² It is managed by the Department of Foreign Affairs and

¹⁶¹ Department of Home Affairs, 'Visa conditions: Waivers and permissions', <https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/waivers-and-permissions/work-longer-than-6-months>, viewed 18 July 2024.

¹⁶² Australian Government, *Australia's International Development Policy: For a Peaceful, Stable and Prosperous Indo-Pacific*, August 2023, <https://www.dfat.gov.au/sites/default/files/international-development-policy.pdf>, pp. 11, 42.

Trade and the Department of Employment and Workplace relations, aided by the Pacific Labour Facility.

10.191 The scheme operates as a temporary migration program offering unskilled, low-skilled and semi-skilled employment to Pacific and Timor-Leste workers that allows them to ‘develop skills, earn income and support their families back home’. The scheme also helps fill workforce gaps in rural and regional Australia, as well as in agricultural and specified related sectors, providing employers with ‘access to a pool of reliable and productive workers’.¹⁶³

10.192 Under the scheme, approved businesses (or businesses using an approved labour hire company) can engage workers to fill either short-term seasonal placements (up to 9 months) or longer-term positions of one to four years in duration. PALM participants are drawn from Timor-Leste and nine Pacific Countries: Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The scheme is demand driven and roles undertaken span agriculture, hospitality, tourism and the care sector.¹⁶⁴

10.193 Mr Tim Hicks, Executive General Manager of Policy and Advocacy at Bolton Clarke, speaking of his experience in the aged care sector, was one of several that the Committee heard from who praised the PALM scheme as having ‘worked incredibly well at bringing in workers and upskilling them’. These workers, he said, were some of their ‘best and most dedicated’, attributes that encouraged his business to invest heavily in assisting them to complete formal vocational qualifications as well as additional training and support.¹⁶⁵

10.194 Yet, not all employers considered the cohort of workers who arrive under the PALM scheme to be fit-for-purpose. The horticultural sector, in particular, questioned the appropriateness of PALM workers’ skills and capabilities in relation to manual labour associated with picking table grapes and stone fruit at a profitable level. Mr Fred Tassone, for one, told the Committee that he and his colleagues in the sector had repeatedly complained that the workers were unsuited to the job required. Remarking of the system:

If we ask for a particular skill set of workers, it is ludicrous that we are being delivered a totally opposite skill set of people to what we need.¹⁶⁶

¹⁶³ Department of Employment and Workplace Relations, ‘Pacific Australia Labour Mobility scheme’, <https://www.dewr.gov.au/pacific-australia-labour-mobility-scheme>, viewed 31 July 2024; Department of Foreign Affairs and Trade, ‘Pacific Labour Mobility’, <https://www.dfat.gov.au/geo/pacific/engagement/pacific-labour-mobility>, viewed 31 July 2024.

¹⁶⁴ PALM Pacific Australia Labour Mobility, ‘Welcome to the PALM scheme’, <https://www.palmscheme.gov.au/>; Department of Home Affairs, *The Administration of the Immigration and Citizenship Programs*, 12th Edition, May 2024, pp. 21-22.

¹⁶⁵ Mr Tim Hicks, Executive General Manager, Policy and Advocacy, Bolton Clarke, *Committee Hansard*, Videoconference, 27 September 2023, p. 12.

¹⁶⁶ Mr Fred Tassone, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 15. See also the testimony of Mr Scott Barber, Chief Executive Officer, Swan Hill Rural City Council, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 12; and Mr Ian McAlister, Chairman, Summerfruit Export Development Alliance, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 14; and Australian Table Grape Association, *Submission 72*, p. [2].

10.195 To help meet their operational needs, the horticultural industry called for the PALM scheme to be expanded to other locations, particularly Southeast Asia. Growers argued that workers from these locations had the attention to detail and work ethic required to excel in the sector.¹⁶⁷

10.196 To this end, the Australian Table Grape Association Inc. (ATGA) was encouraged by the Australian Government's commitment to honour a pre-existing memorandum of understanding signed with Vietnam to enable 1,000 workers to work in the agricultural sector.¹⁶⁸ As part of the MOU, the ATGA called on the Australian Government to incorporate a pilot program with international students from Vietnam. Under their proposal, students from Vietnam would undertake formal TAFE training in horticulture alongside on-the-job training, moving between the Citrus, Summerfruit and Table Grape industry in the Sunraysia district. At the end of the program students would be able to take their skills and accreditation back to Vietnam, or have the opportunity to see if they qualify for permanent residency.¹⁶⁹

10.197 Dr Rachel Stephens, Research Fellow at the Research Centre for Refugees, Migration and Humanitarian Studies, Australian Catholic University, also called for expansion of the PALM scheme into South Asia but for humanitarian reasons. Australia, in her view, needed to be mindful that they did not deplete Pacific islander nations of their human resources so:

... perhaps another consideration is that we should be expanding the PALM scheme to include South Asian countries, for example, where there are surplus human resources.¹⁷⁰

10.198 NFF, while acknowledging the success and growth of the PALM scheme, also highlighted the barriers that discouraged many employers from participation. In addition to being responsible for the pastoral care of workers, they noted that employers were required to...

... negotiate a complex bureaucratic approval process, arrange and make upfront payment of airfares and transport, ensure suitable accommodation, guarantee the worker at least 30 hours work per week, comply with government's reporting requirements, and obtain approval before making any changes to their dealings with the PALM workers.¹⁷¹

10.199 Managing these responsibilities, they added, put it out of reach of many smaller businesses. To enhance access and maximise the scheme's potential NFF proposed a concierge service to assist new employers and smaller businesses to better engage with the scheme.¹⁷²

¹⁶⁷ See for example, Mr McAllister, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, pp. 14-15.

¹⁶⁸ Department of Home Affairs, *The Administration of the Immigration and Citizenship programs*, 12th Edition, May 2024, pp. 21-22.

¹⁶⁹ Australian Table Grape Association Inc., *Submission 72*, pp. 2-3.

¹⁷⁰ Dr Rachel Stephens, Research Fellow, Research Centre for Refugees, Migration and Humanitarian Studies, Australian Catholic University, *Committee Hansard*, Videoconference, 26 April 2023, p. 31.

¹⁷¹ National Farmers' Federation, *Submission 81*, Attachment 1, p. 13.

¹⁷² National Farmers' Federation, *Submission 81*, Attachment 1, pp. 11-13.

- 10.200 Like other migration programs in regional Australia, the Committee heard of the need for PALM workers who made longstanding contributions to the communities in which they live and work, to have the prospect of a pathway to permanent residency.
- 10.201 NFF highlighted the need for permanency to be an 'option' for PALM workers. They observed that while farmers often made inquiries as to how they could enable their 'valued migrant employees to remain on the farm permanently', they were frustrated by the existing visa system that, among other things, did not accommodate workers without credentials recognised by the skills list.¹⁷³
- 10.202 Independent writer and researcher, Peter Mares, raised concerns that PALM workers as a group were becoming 'permanently temporary and permanently unrepresented'. That through the process of one group of workers staying for an extended period before being replaced by a new cohort, they fail to gain a voice. Mares argues for the application of democratic principles and principles of fairness in the consideration of the rights of these workers.¹⁷⁴
- 10.203 Similarly, cultural geographer, Dr Kaya Barry, considered the replacement of a seasonal workforce with the 'certain and longer-term contract' entailed under the PALM scheme merely shifted 'the focus from one temporary visa cohort to another' and did nothing to 'resolve issues and uncertainties that working migrants face about future migration prospects'. She observed that there are some workers who have undertaken the journey multiple times, including on former schemes, who 'start to build that double life and aren't necessarily desiring to have that circular mobility for decades'.¹⁷⁵
- 10.204 Dr Barry, like the historian Professor Joy Damousi, welcomed the Albanese Government's promise to create permanent migration pathways for some Pacific Island workers.¹⁷⁶ Approximately a year after this promise was made, in April 2024, the Australian Government announced the commencement of the Pacific Engagement Visa program. Under the visa up to 3000 places would be available annually via a ballot process to applicants from specified nations whether located onshore (if they hold a temporary visa or bridging visa A, B, or C) or offshore.¹⁷⁷
- 10.205 A strong thread in the evidence was the need to improve the 'working relationship between all the tiers of government and the community providers', as identified by Mr

¹⁷³ Mr Ben Rogers, General Manager, Workplace Relations and Legal Affairs, National Farmers' Federation, *Committee Hansard*, Canberra, 12 May 2023, p. 44.

¹⁷⁴ Mr Peter Mares, Private capacity, *Committee Hansard*, Melbourne, 26 April 2023, p. 54.

¹⁷⁵ Dr Kaya Barry, *Submission 15*, pp. 2-4; and Dr Kaya Barry, Private capacity, *Committee Hansard*, Videoconference, 18 May 2023, p. 15.

¹⁷⁶ Dr Kaya Barry, *Submission 15*, pp. 2-4; and Professor Joy Damousi, Director, Research Centre for Refugees, Migration and Humanitarian Studies, Institute for Humanities and Social Sciences, Australian Catholic University, *Committee Hansard*, Melbourne, 26 April 2023, p. 29.

¹⁷⁷ Department of Home Affairs, *The Administration of the Immigration and Citizenship programs*, 12th Edition, May 2024, p. 35; Department of Home Affairs, 'Pacific Engagement visa (subclass 192)', <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/subclass-pacific-engagement-visa-192>, viewed 5 August 2023.

Dennis Hovenden, Economic Development Manager, Swan Hill Rural City Council, in order to produce positive outcomes.¹⁷⁸

10.206 Mr Scott Barber, Chief Executive Officer of the Swan Hill Rural City Council, told the Committee that there was a 'clear disconnect in the information flow' between government agencies, the council, and local providers. While they noted there had been some improvement following their feedback, the existing process was one where the council found that it was 'trying to play catch-up on issues'. They relayed the example that:

... seasonal workers from different Pacific islands are brought into our community on a Friday afternoon. Nobody from council or the people that can support those workers firstly are aware that they're coming; secondly, know the numbers; and, thirdly, know what their cultural background is and where they're actually going to be working.¹⁷⁹

10.207 As illustrated in the Case Study below, the Committee heard of the extraordinary efforts of non-government organisations, local councils and regional development bodies to welcome PALM workers, foster respectful cultural exchange, and work cooperatively with employers and service providers to deliver settlement support, despite being constrained by inadequate capacity and funding.¹⁸⁰

Box 10.2 Case Study—The Challenges of Supporting PALM Workers in the Wimmera Southern Mallee

In the Wimmera Southern Mallee region, it's predominantly meatworkers that we have in the PALM scheme. They're here on four-year visas. They are in the region for a long time, and they require settlement support, which they're not eligible for, because of their temporary visa status. They also require other services, such as English language classes, maybe medical help, and road safety training. With all of these things, we can't leverage funding to support these workers, because of their temporary visa status. We have been working alongside the PLF [Pacific Labour Facility]. We've got a good working relationship with the representatives for our area and also with our community connector. He is absolutely brilliant, but he's incredibly underresourced, and it doesn't really provide any meaningful settlement support on the ground for employees. Overall, the employees are quite vulnerable. In terms of negative experiences, when a lot of their settlement journey is dependent on their employers, it adds an extra layer of vulnerability, whereas third-party support could help.

We touched on the settlement servicing. There are big resource gaps, and that also means a big burden on local community, on local government and on overstretched

¹⁷⁸ Mr Dennis Hovenden, Economic Development Manager, Swan Hill Rural City Council, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 5.

¹⁷⁹ Mr Scott Barber, Chief Executive Officer of the Swan Hill Rural City Council, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, pp. 4-5.

¹⁸⁰ See for example, Wimmera Development Association, *Submission 124*, pp. [2-5]; Swan Hill Rural City Council, *Submission 31*, pp. [2, 5-6]; Know Your Roots Incorporated, *Submission 77*, pp. [2-4].

servicing, such as settlement. We're backfilling the support in a way that's quite undermining of the outcomes for workers but also our community and our region. There's also a lack of induction and community connection in terms of the local experience. That has knock-on effects in terms of social cohesion within the community for PALM workers. Again, that's an added layer of vulnerability for the employees, who could be having a much more meaningful and engaged experience in our area.

With regard to the recommendations that we highlighted in the submission, we feel that there needs to be a recognition that each PALM visa holder needs settlement support. Some of that is provided through the PLF, but it's very focused on the PALM scheme and the induction into that, rather than induction into community. ... We really feel the scheme needs to be integrated on a much more local level, with more meaningful partnerships with local council, local settlement services and the wider community.¹⁸¹

10.208 The temporary visa status of PALM workers, Wimmera Southern Mallee noted, was a particular challenge as they are unable to access settlement support, compromising the ability of local service providers and community organisations to develop tailored induction and inclusion activities, such as English language classes or driving lessons. This in turn, they maintained, is more likely to lead to negative settlement experiences and anti-social behaviour that has the potential to create 'complex local community relations'.¹⁸²

10.209 Know Your Roots Inc. (KYR) also highlighted the ineligibility of PALM workers to access Medicare as a barrier to inclusion. They reported with frustration that these workers pay taxes, contribute to the economy, and have the same health needs as residents but are not entitled to access Medicare (unless part of the family accompaniment program pilot). Instead, they are personally liable for their health care costs and are required to have adequate health insurance.

10.210 In KYR's experience, despite private health cover, these workers had restricted access to hospitals without the payment of an upfront fee. Among the effects they observed was, poorer health management as workers delayed seeking health support until desperate. In turn, the delays being more likely to impact their work, mental health and ability to provide for families at home, and increase the likelihood of unpaid debt to public hospitals.¹⁸³

10.211 For the Swan Hill Rural City Council, a core part of migration policy should be 'to embrace migrants and to minimise separation from family members, as the current system can [take] years to reunite families'.¹⁸⁴

¹⁸¹ Mrs Sara Barron, Migration and Settlement Program Manager, Wimmera Southern Mallee Development, *Committee Hansard*, Videoconference, 27 September 2023, pp. 18-19.

¹⁸² Wimmera Development Association, *Submission 124*, pp. [2-5].

¹⁸³ Know Your Roots Inc., *Submission 77*, pp. [2, 6]; Department of Home Affairs, "Temporary Work (International Relations) visa (subclass 403): Pacific Australia Labour Mobility stream", <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-work-403/pacific-australia-labour-mobility-stream#Eligibility>, viewed 6 August 2023.

¹⁸⁴ Swan Hill Rural City Council, *Submission 31*, p. [6].

10.212 Evidence heard by the Committee highlighted the damaging impact that ‘fragmentation and dislocation from family’ had on some PALM workers. Ms Sara Barron and Mr Chris Sounness, speaking on the situation in the Wimmera Southern Mallee, called for a multi-pronged approach. They argued for the development of long-term relationships between the receiving locality and the sending nation:

Local governments would have a lot more capability to deal with, say one country and build a really strong relationship with one particular PALM country and develop that relationship and really make sure that their community is on board in supporting a particular island, rather than trying to develop multiple relationships.¹⁸⁵

And, to help counter the isolation and long-term separation from home they called for workers to be accompanied by families, provided that they were adequately supported with access to education, health and social services.¹⁸⁶

10.213 Mrs Lorraine Finlay, Human Rights Commissioner at the Australian Human Rights Commission, praised recent Australian Government commitments to improve the PALM scheme through reforms that strengthen oversight and increase support for workers. These she regarded as ‘a welcome first step towards ensuring that migrant workers are appropriately protected from labour exploitation and that appropriate attention is given to this important issue’.¹⁸⁷

10.214 Although contested, particularly by individual employers¹⁸⁸, the Committee did hear about the vulnerability of PALM workers to exploitation. Poor language skills, cultural unfamiliarity, isolation, a lack of awareness of their rights and entitlements, and the power imbalance between workers and their employer or labour hire company, contributed to making PALM workers more likely to be taken advantage of by unscrupulous actors.

10.215 The Wimmera Southern Mallee Development, for example, shared the case of a group of PALM workers who sought their help after being pressured by a labour hire company to sign a contract that incorporated vastly higher transportation fees and repayment of the difference accrued over the period of the previous contract. The WDA explained that, all up, this would leave the workers with ‘virtually no remaining salary after deductions for 20 weeks’. Faced with punitive deductions, they left the

¹⁸⁵ Mr Chris Sounness, Chief Executive Officer, Wimmera Southern Mallee Development, *Committee Hansard*, Videoconference, 27 September 2023, p. 22.

¹⁸⁶ Mrs Sara Barron, Migration and Settlement Program Manager, Wimmera Southern Mallee Development, *Committee Hansard*, Videoconference, 27 September 2023, pp. 18-19; and Mr Chris Sounness, Chief Executive Officer, Wimmera Southern Mallee Development, *Committee Hansard*, Videoconference, 27 September 2023, p. 22. See also National Farmers’ Federation’s ‘in principle support’ for such a policy, *Submission 81*, p. [4].

¹⁸⁷ Mrs Lorraine Finlay, Human Rights Commissioner, Australian Human Rights Commission, *Committee Hansard*, Videoconference, 16 May 2023, p. 7.

¹⁸⁸ See for example Mr Don Albanese, Chairperson, Robinvale and District Table Grape Growers Association, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 11.

region.¹⁸⁹ In this context, alongside enforcement and oversight, measures to improve settlement, enhance cultural literacy, are vital elements to empower PALM workers.

Committee Comment

10.216 The Committee welcomes recent reforms to the PALM scheme announced in the 2023-24 Budget that endeavour to minimise worker exploitation and enhance supports.¹⁹⁰ Further positive steps have been taken to aid in the settlement of workers and counter anti-social behaviour through the piloting of a family accompaniment program and the provision of avenues for pacific workers to have a pathway to permanency. These are measures that invest in the long-term future of the scheme, and, in due course, the Committee looks forward to seeing them yield positive outcomes.

10.217 The Committee believes that these initiatives can be enhanced by better cross-government communication to help make sure that PALM workers are provided with a soft landing in regional Australia. The Committee heard that local councils and community groups are often caught unaware or excessively stretched by the demands placed on them by the arrival of a cohort of PALM workers. At the most basic level, information about the arrival of PALM workers in a region needs to be delivered well in advance to ensure the preparedness of local support networks.

10.218 Likewise, the Committee believes that regional communities in Australia that take in PALM workers should be given the opportunity to build on their experience and make longer-term connections. As one witness suggested, this could be in the manner of a 'sister' like relationship built up with a single PALM nation to ensure that both communities build up knowledge and awareness of each other, their attributes and their needs.

10.219 The Committee is encouraged by the establishment of the PALM Family Accompaniment Pilot. As the Committee heard, it is hoped that such measures will minimise the impact of separation and improve settlement outcomes. It is particularly pleasing that this pilot incorporates access to Medicare for both the worker and their accompanying family members. Particularly for those PALM workers on the longer-term basis the Committee considers that the provision of adequate healthcare is essential to safeguarding the treatment of citizens of our partner nations.

Recommendation 67

10.220 The Committee recommends that the Australian Government improves communication systems to ensure that local councils and relevant community

¹⁸⁹ Wimmera Development Association, *Submission 124*, p. [3].

¹⁹⁰ PALM: Pacific Australia Labour Mobility, 'Budget 2023-24: Expanding and improving the Pacific Australia Labour Mobility scheme', <https://www.palmscheme.gov.au/sites/default/files/2023-05/PALM%20scheme%20reforms%20Budget%20announcements%20-%20factsheet.pdf>, viewed 5 August 2024.

and government organisations are given adequate prior notice of the arrival and composition of PALM workers.

Recommendation 68

10.221 The Committee recommends that Australian Government initiates longer term relationships between a receiving region in Australia and a participating PALM nation to develop culturally specific programs to foster productive cultural exchange and participation.

Recommendation 69

10.222 The Committee recommends that, in due course, the Australian Government reviews outcomes relating to the expansion of Medicare to participants in the PALM Family Accompaniment Pilot.

Settlement Services in Regional Settings

10.223 Successful migration, particularly to rural and remote areas, has historically been accompanied by a receptive and supportive host community and processes that ease the settlement experience. A community that welcomes migrants, recognises the skills and other attributes they bring with them, and assists migrants in their transition into becoming a valued member of their adopted community. In such a society it is the kith and kin network that spreads the word and fosters further migration.

10.224 Success stories of this kind hark back to the early nineteenth century. Among the earliest, German Lutheran migrants, tradespeople who were initially sought out by the South Australian Company in 1836 and 1837. Waves followed, settling in communities on the banks of the River Torrens, the Adelaide Hills and the Barossa Valley in the colony of South Australia.¹⁹¹ Regional Australia continues to be enriched by chain migration. Among the recent examples, the Committee heard of the Karen community in Nhill, as well as the Yezidi in Toowoomba and in Armidale.¹⁹²

10.225 This section of this chapter explores what successful settlement might look like in a regional setting. It considers the constraints, the challenges, and service gaps faced by those working with, employing and supporting migrants in regional Australia, alongside the initiatives considered necessary to overcome these barriers.

10.226 The Committee notes the Australian Government's new Regional Investment Framework outlining its approach to supporting 'strong and sustainable regions' by:

¹⁹¹ James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, its People and their Origins*, Cambridge University Press, Cambridge, 2001, pp. 360-65.

¹⁹² Loddon Campaspe Multicultural Services, *Submission 109*; Multicultural Australia, Answers to Questions on Notice, Public Hearing, 18 May 2023, Attachment 1; HealthWISE, *Submission 36*.

... valuing local voices and priorities, being informed by and building the evidence, operating with flexibility, integrity and transparency, and coordinating across governments to make investments work better for regions.¹⁹³

10.227 As indicated in the evidence below, the priority areas of the framework (see Figure 10.2) align with the approach called for by many stakeholders that the Committee heard from in relation to settlement services in regional settings.

Figure 10.2 Priority focus areas of the Regional Investment Framework

Investing in People 	Investing in Places 	Investing in Services 	Investing in Industries and Local Economies 
<i>Putting people at the forefront of growth, with local voices influencing decision making.</i>	<i>Targeted and place-based investment that enables communities to thrive.</i>	<i>Investment in regional services with a focus on improving quality and accessibility.</i>	<i>Ensuring regional industries and economies are positioned for sustainable growth.</i>
✓ Listening to local voices and partnering with communities. ✓ Targeted investment in skills, education, training and local leadership capacity.	✓ Supporting adaptive, accessible, sustainable and liveable regions. ✓ Delivering infrastructure where and when it is needed.	✓ Enhancing connectivity, accessibility and equity of services. ✓ Investment including across communications, health, water, and transport.	✓ Investment to help activate economic and industry growth. ✓ Supporting the conditions needed for industries to diversify and grow.

Source: Department of Infrastructure, Transport, Regional Development, Communications and the Arts, 'Regional Investment Framework: The Australian Government's approach to supporting strong and sustainable regions', July 2023.

Constraints, Planning, and Capacity Building

10.228 Comparatively few in the migrant cohorts discussed in the preceding sections of this chapter have entitlements to access funded settlement services. As observed in Chapter 8, at present, these services are mainly confined to refugee and humanitarian entrants. Eligibility otherwise is limited to the holders of specified family and partner visas that have low English proficiency; and the dependants of holders of specified working and skilled visas, provided that the dependents are located in rural and regional areas and have low English proficiency.¹⁹⁴

10.229 Yet, as the Wimmera Southern Mallee Development remarked of PALM workers in their region:

None of the visa holders qualify for SETS [Settlement Engagement and Transition Support program] support. However, they do need Settlement support.¹⁹⁵

¹⁹³ Department of Infrastructure, Transport, Regional Development Communication and the Arts, 'Regional Investment Framework: The Australian Government's approach to supporting strong and sustainable regions', July 2023, <https://www.infrastructure.gov.au/sites/default/files/documents/regional-investment-framework-july2023.pdf>, viewed 7 August 2024.

¹⁹⁴ Department of Home Affairs, 'Program eligibility', <https://immi.homeaffairs.gov.au/settling-in-australia/sets-program/eligibility>, viewed 8 August 2024.

¹⁹⁵ Wimmera Development Association, *Submission 124*, p. [2].

10.230 Ms Catherine Scarth, Chief Executive Officer at AMES Australia, called for ‘broad-based settlement services based on need’. A service that recognises that migrants do not all require the same level of support, but that is available, particularly in regional areas, to:

... make sure that people can find work quickly and all of those other things—connect to the local community—so that we do have cohesive, integrated communities.¹⁹⁶

With access to these supports helping to ‘connect people to the local community, which enhances and fosters good integration’.¹⁹⁷

10.231 SSI argued that there is a lack of understanding by those developing regional migration settings of ‘local settlement capacity and capability’ and their limitations. This in turn, constrains the effectiveness of regional migration policy. In their view:

... while successive governments have sought to promote regional migration, there has been overreliance on visa conditions to drive this agenda with insufficient attention on ways to retain newcomers and to promote and sustain secondary migration to regional areas.¹⁹⁸

10.232 To Ms Shama Pande, Service Manager, Multicultural Communities, CORE Community Services, this lack of forward planning was a contributing factor to the poor retention of migrants in regional Australia. As she explained:

There is a huge government push for regional migration, but what we are seeing is that, if that infrastructure's not put in place, the services are not there and wraparound services are not built, we are setting up our migrants and refugees for failure. That will not work.¹⁹⁹

10.233 Further she, like other witnesses the Committee heard from, was critical of the then policy of limiting settlement services to five years:

There might be people who might not need support as much as the other people do, but prescribing time and putting settlement in one blanket is absolutely putting us back and not allowing us to move forward with our cohort.²⁰⁰

10.234 In her view there had been too much focus on the economics, rather than ‘the importance and the value of social integration’. While acknowledging that ‘as a nation, we want people to be economically integrated and give back to the nation’,

¹⁹⁶ Ms Catherine Scarth, Chief Executive Officer at AMES Australia, *Committee Hansard*, Melbourne, 26 April 2023, p. 10.

¹⁹⁷ Ms Catherine Scarth, Chief Executive Officer at AMES Australia, *Committee Hansard*, Melbourne, 26 April 2023, p. 10.

¹⁹⁸ Settlement Services International, *Submission 26*, pp. 5, 7.

¹⁹⁹ Ms Shama Pande, Service Manager, Multicultural Communities, CORE Community Services, *Committee Hansard*, Videoconference, 17 May 2023, p.11

²⁰⁰ Ms Shama Pande, Service Manager, Multicultural Communities, CORE Community Services, *Committee Hansard*, Videoconference, 17 May 2023, p.11

she argued that ‘until we provide that sense of social cohesion and belonging to this new country, we won’t be able to achieve a lot’.²⁰¹

10.235 The Grattan Institute highlighted the poor retention rate of migrants in regional or remote Australia. They cited research that indicated that about half of the migrants who chose to live in outer regional, remote or very remote regions, left within five years. To the Institute, migration policies that required migrants to move to regional areas was likely ‘to reduce the net benefits the community derives from skilled migration’, in addition to poor retention rates, the cost of regional moves to migrants in terms of lower wages and in turn the fiscal dividend they provide to the community.²⁰²

10.236 Yet to SSI, the finding that a high proportion of migrants left regions within five years, only served to highlight the need for ‘a greater focus on retention and supporting lasting connections for newcomers in regional areas that benefit them and the regional communities where they settle’.²⁰³

10.237 SSI recommended ‘multi-year forward planning to ensure that social and physical infrastructure capacities and constraints are managed’. Collaborative planning was required, led by the Australian Government, and spanning all tiers of government, as well as settlement providers, and local stakeholders in order to ‘manage gaps in social and physical infrastructure proactively’.²⁰⁴

Place-Based, Person-Centred, and Community-Led

10.238 While many who provided evidence pointed out the distinctive aspects of regional Australia as compared to urban centres and cities, equally apparent in the evidence was the differences experienced across regional Australia. It was clear that a one-size-fits-all approach to policy and procedures was not likely to be effective in regional Australia.

10.239 The NSW Government advocated that the Australian Government takes a place-based approach to ‘empower communities to respond to local needs and improve social and economic outcomes for regional areas’. They suggested trialling such an approach with states and territories playing a coordinating role accompanied by targeted migration measures to ‘support regions to secure skilled migrants who will remain in that region’.²⁰⁵

10.240 SSI, likewise, advocated a targeted localised approach that engaged both the local community and migrants. In their view:

²⁰¹ Ms Shama Pande, Service Manager, Multicultural Communities, CORE Community Services, *Committee Hansard*, Videoconference, 17 May 2023, p.11

²⁰² Grattan Institute, *Submission 17*, pp. 44-45, 63.

²⁰³ Settlement Services International, *Submission 26*, p. 7.

²⁰⁴ Settlement Services International, *Submission 26*, p. 6.

²⁰⁵ NSW Government, *Submission 57*, p. 11.

Coordinated, place-based community engagement initiatives provide a platform to recognise the shared aspirations of the local host community and newcomers while also creating a welcoming and socially inclusive environment.²⁰⁶

SSI particularly pointed to the importance of ‘social connections and belonging’ to increase the retention of migrants in regional Australia. They recommended that the Australian Government, alongside state and territory governments:

...invest in tailored and holistic support for newcomers who migrate or relocate to regional areas by scaling up programs that successfully facilitate access to the labour market and place-based community engagement initiatives in regional locations where there is a high demand for newcomers (in partnership with local governments).²⁰⁷

10.241 The Refugee Council of Australia drew the Committee’s attention to research assessing what constituted positive settlement programs in regional Australia. Examining the settlement of Yazidi refugees in Armidale, New South Wales, SSI and the University of New England found that ‘successful regional settlement is built on a multi-partner approach’, that mutual adaptation was required from both the host community and the new arrivals and required initiatives that cross the spectrum of community attitudes and concerns. These elements were also identified in a review of evidence relating to regional migrant settlement in Australia conducted by the Monash Migration and Inclusion Centre and Welcoming Cities. The report determined five key factors for success that RCOA summarised as:

- Locally driven coordination, consultation, planning and budgeting;
- Meaningful consultation and a culture of welcome in receiving communities;
- Employment that matches demand with the characteristics of new migrants;
- Accessible housing, transport and culturally appropriate services; and
- Established ethnic communities and multicultural organisations (desirable).²⁰⁸

10.242 Yet, as Ms Pande (CORE Community Services) pointed out, community-led settlement activities were too often conducted without adequate government support:

We have seen on the ground, at the coalface, that the prescriptive time frame does not work. What happens, 60 to 70 per cent of the time, is that the community organisation, the place based organisation, at its core ends up doing

²⁰⁶ Settlement Services International, *Submission 26*, p. 7.

²⁰⁷ Settlement Services International, *Submission 26*, p. 7.

²⁰⁸ Refugee Council of Australia, Answers to Questions Taken on Notice, Public Hearing, 9 August 2023, p. [1]; Susan E. Watt, Tadhg McMahon, and Stefania Paolini, *From the ‘resistant’ to the ‘champions’ Community attitudes during the first four years of refugee settlement in Armidale*, Final Report, University of New England/SSI, February 2023, p. 4; John van Kooy, Rebecca Wickes and Aleem Ali, *Welcoming Regions*, Monash Migration and Inclusion Centre/ Welcoming Cities, 2019, pp. 5-13.

the heavy lifting for the government, because the people can't live in the community on their own.²⁰⁹

10.243 The Committee heard from the Swan Hill Rural City Council on the work they do to foster migration and encourage long-term settlement. The Council told the Committee that it was a municipality in 'desperate need of skilled migrant workers in a variety of industries'. Among its initiatives the:

Council acts as a skilled migration certifying agent, works very closely with service providers who are supporting migrants and temporary workers arriving in our Municipality, is actively involved in the Pacific Australia Labour Mobility (PALM) Scheme and has been seeking to establish a Designated Area Migration Agreement (DAMA) with neighbouring Councils on both sides of the Murray River.²¹⁰

In addition, the Council had prioritised 'social inclusion' in its strategic documents, promoted cultural diversity through Harmony Day and other events and assisted migrant groups with meeting facilities in Council buildings.²¹¹

10.244 Likewise, the Wimmera Southern Mallee Development told the Committee that in their region of Victoria they delivered the Settlement Engagement and Transition Support (SETS) program, acted as a regional certifying body, and convened the bi-monthly settlement committee meetings with regional representatives, as well as working more generally with local employers, Neighbourhood House and Shire Council to support PALM workers and organise community integration events.²¹²

10.245 Based on their experience working with migrants in the Shepparton region of Victoria, Know Your Roots strongly argued for the voice of organisations, such as their own, to contribute to the evidence base used by government to develop policy and other initiatives:

Enable community organisations who are working directly with people from birth countries to report directly to both governments to provide sure evidence of growth, change and care of people and grow stronger ties. Enable such organisations to be at the table where policies are being written for such programs of attractions and retention to be present and provide valuable lived experience, observation to policies that will drive not only skilled migrant pathways to permanent residency but also developing skills onshore for potential migrants to permanent residency.²¹³

10.246 Ms Laureta Wallace, Director of External Affairs at the RAI noted the innovative approach taken by one of their members, Work+Stay. A social enterprise, their goal

²⁰⁹ Ms Shama Pande, Service Manager, Multicultural Communities, CORE Community Services, *Committee Hansard*, Videoconference, 17 May 2023, p.11

²¹⁰ Swan Hill Rural City Council, *Submission 31*, p. [2].

²¹¹ Swan Hill Rural City Council, *Submission 31*, p. [2].

²¹² Wimmera Development Association, *Submission 124*, p. 2.

²¹³ Know Your Roots, *Submission 77*, p. [5].

is 'to support regional Australian employers find people with the right skills for their business' and provide the migrants they support with connections in their new community to ensure that they become long term members of that community. Taking a holistic approach, they undertake 'pastoral care on behalf of the employer', by 'going into communities and connecting with real estates, connecting with the health community, connecting with the school and taking that burden off the actual employer'. Ms Liz Ritchie, CEO, RAI, explained:

They're not quite settlement services. They're actually being funded by the employers to be the intermediary, which is actually a different take on some of the challenges that we've experienced.²¹⁴

²¹⁴ Ms Liz Ritchie, Chief Executive Officer, Regional Australia Institute, *Committee Hansard*, Canberra, 29 November 2023, p. 4; Work+Stay, <https://www.workandstay.com.au/>, viewed 8 August 2023. See also Settlement Services International, *Submission 26*, p. 7.

Box 10.3 Case Study—Toowoomba’s Path to Successful Settlement—Christine Castley

Toowoomba is very good example. In Toowoomba, there are about 5,000 Yazidis, and about 3,000 of those we've settled through the Humanitarian Settlement Program. We were surprised to find, when we looked at the number count, that the community was up to about 5,000. The extra 2,000 are people who chose to come through secondary settlement. Toowoomba is a successful story in how you do regional settlement.

It's also a story about a journey that happened over time. It didn't happen overnight, and we worked very, very closely with the local government. We have a close relationship with the mayor and counsellors and other service providers in the community. All of us are very honest about the fact that it has been a journey of learning. I think this year Toowoomba will celebrate its 10-year anniversary as a welcoming city. It has been a journey on which the mayor will openly say he has had to learn a lot about along the way in terms of how you do it well and how you adapt and adjust. One of the reasons for its success has been its geography. The park setting suits the Syrians and the Iraqis who are used to such a lifestyle, and Toowoomba works really well for them. But, once we developed a critical mass, our sense has been that that's why people are requesting to go to Toowoomba, even if they come from overseas. It is amazing to hear the name Toowoomba is known overseas, and that's because of the Yazidi network. They've been saying, 'This is the city you want to come and live in because this is where the settings are right for us to settle.'

That's important to just thinking through the impacts in terms of school responses, for example, integrating a large number of children who come from a different cultural setting and a different language setting and the supports that you put in place. We were funded to provide youth hubs attached to those key schools. That was a pilot, and, as pilots do, it ran out of funding and the school is really missing that support to integrate people at the school and within broader community settings. We've worked very closely with the police, for example. We now have a police liaison officer who is from a Yazidi background and a police liaison officer who is from a Sudanese background. That has been from the close relationship we've formed with police around that cohesion, community safety and connection. That's just an example of how you build the social infrastructure to create a successful regional settlement and a really honest relationship with the local organisations, with the local government, to try to plan, learn and strategise and make sure that you do it right.²¹⁵

Secondary Migration

10.247 The challenges of supporting secondary settlement to regional localities recurred in the evidence heard by the Committee. Most noted that by the time these migrants made their second move, they were unlikely to be eligible for further settlement support.

²¹⁵ *Committee Hansard*, Videoconference, 18 May 2023, pp. 3-7.

10.248 At the commencement of this inquiry, migrants who were eligible for funded settlement support under the SETS program were limited to five years of assistance. While providers welcomed the removal of the ban on providing services beyond five years, this 2023-24 Budget measure was not accompanied by additional funding to aid expanding services to beyond the five-year period, entailing that service providers stretch their existing funding to cover this work.

10.249 Among them, Mrs Sara Barron from the Wimmera Southern Mallee Development expressed frustration that there was no ‘correlational resourcing component’ that accompanied the removal of the five-year barrier. Secondary resettlement in her district, she noted, included many who were ‘still very high-need migrants with big English language barriers and skills barriers’. So, while she welcomed the announcement:

... there definitely needs to be a more joined-up approach in terms of: if you're going to remove that barrier, how do you scale up the resourcing to support that demand?²¹⁶

10.250 Ms Mirta Gonzales, General Manager, Education and Social Participation, AMES Australia, affirmed the need for this change:

We and the sector have been arguing for a long time that settlement after migration or after arriving in Australia does not stop at five years or four years or any other number—that people may take a long time to actually settle and that secondary migration takes into consideration that factor.²¹⁷

10.251 Drawing on their experience of supporting secondary settlement in regional Queensland, Multicultural Australia identified the following factors as ‘critical’ for success:

- Appropriately matched local community and refugee community needs;
- A ready and welcoming local community;
- Tailored settlement services;
- Appropriate infrastructure and services; and
- Capacity for economic integration.²¹⁸

10.252 They also made the point that secondary settlement was not a short-term commitment, rather it was based on ‘years of work’ that involved working ‘intensively and collaboratively with several local partners’. That this process was not without challenges and that these continue to be addressed in a collaborative format. Among

²¹⁶ Mrs Sara Barron, Wimmera Southern Mallee Development, *Committee Hansard*, Videoconference, 27 September 2023, p. 20.

²¹⁷ Ms Mirta Gonzales, General Manager, Education and Social Participation, AMES Australia, *Committee Hansard*, Melbourne, 26 April 2023, p. 10.

²¹⁸ Multicultural Australia, Answers to Questions on Notice, Public Hearing, 18 May 2023, pp. 4-5.

many factors, they highlighted the need for a 'holistic' model and recognition that 'client choice and participation' was required 'at every state of the process'.²¹⁹

Housing

10.253 The paucity of suitable housing in regional Australia, while acute, is not new.

10.254 The former Joint Standing Committee on Migration's Inquiry into Migration in Regional Australia, although cut short in early 2020 by the COVID-19 pandemic, resulted in a report to record 'recurrent issues' that appeared in the evidence, amongst which was housing. While variation from place-to-place was noted, it was acknowledged that a lack of housing could 'present a real issue', especially in smaller communities.²²⁰

10.255 The evidence heard by the present Committee reinforces this earlier finding. For example, Clubs Australia observed that the impact of limited housing availability, particularly in regional areas, serves as a preventive barrier for attracting migrants.²²¹

10.256 AMES Australia agreed that access to suitable and affordable housing was a major barrier to people resettling in regional and rural areas. They called for the National Cabinet to focus on addressing the national housing crisis, and suggested a new tack be taken on how to support migrant home ownership such as, public housing on a rent to buy scheme.²²²

10.257 Mr Dennis Hovenden, Economic and Development Manager, Swan Hill Rural City Council, described the housing dilemma in regional Australia as a chicken and egg-like scenario:

this goes back to your skilled migration and your migration program in general—is the difficulty in attracting trades. We've got plans to build homes—we just haven't got people to build them. ... So I think it's an issue that the committee needs to be very mindful of when you're looking at trying to put migrants into communities. We welcome them—we've got employment. But we also need the infrastructure—for example, housing—to ensure that the migrants and seasonal workers coming into our area actually have a roof over their head.²²³

10.258 The NSW Government recommended a cooperative approach to '[i]mprove housing supply and affordability in regional communities to facilitate migration flows, in partnership with states and territories. This should include increased support for connecting infrastructure to expedite housing in these communities.'²²⁴

²¹⁹ Multicultural Australia, Answers to Questions on Notice, Public Hearing, 18 May 2023, pp. 3-6.

²²⁰ Joint Standing Committee on Migration, *Report of the Inquiry into Migration in Regional Australia*, June 2020, pp. 15-16.

²²¹ Clubs Australia, *Submission 74*, p. 5.

²²² AMES Australia, *Submission 35*, p. 2.

²²³ Mr Dennis Hovenden, Economic and Development Manager, Swan Hill Rural City Council, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 7.

²²⁴ NSW Government, *Submission 57*, p. 5.

10.259 APL were one of several submissions that highlighted housing as part of a broader suite of infrastructure required to support migrants in regional Australia. They highlighted the need for ‘adequate and affordable accommodation’ alongside support for ‘roads, transport and electricity infrastructure, connectivity and services (social, health, childcare and education)’. Implementation of this investment in their view required ‘nationally coordinated cross-agency strategies at all levels of government’ that was ‘informed by accurate data and input by industry and community groups’.²²⁵

10.260 To meet these needs, the APL called on the Australian Government to support a national regionalisation agenda that was ‘underpinned by appropriate levels of investment, to provide economic and social infrastructure to ensure equitable access to opportunities’. They also suggested this approach presented an ‘opportunity to enhance outcomes by supporting and partnering with large regional businesses and organisations who already invest and have significant experience in delivering migrant worker community support activities’.²²⁶

10.261 The final report of the Review of the Migration System recognised that [r]egional development is a whole-of-government issue that can only be addressed in small part by migration’. In line with this broader approach, they suggested linking the number of migration places open to states or territories to ‘specific regional economic and community development plans’. In doing so, they argued that:

Such plans could highlight how and when housing, infrastructure and services will be provided to support the existing community and proposed migration flows.²²⁷

Committee Comment

10.262 The Committee welcomes Ministerial direction 105 that prioritises skilled visa application for employer sponsored visas related to occupations carried out in a designated regional area. But as witnesses have pointed out, the arrival of migrants in regional areas must be accompanied (and ideally preceded) by support to deliver on-the-ground settlement assistance and investment in infrastructure.

10.263 It is clear from the evidence received by the Committee that existing settlement services are struggling to adequately support migrants in the regions. Shortfalls encompass funding, staffing, access, and facilities. The Committee recognises that uplift in support is required not only to meet the current needs, but that funding and other assistance is required to ensure that settlement services can support growth in the regional migration program.

10.264 The Committee is encouraged by the Regional Investment Framework and its commitment to listen to local voices, adopt a place-based approach to investment. We look forward to seeing how this framework translates into funding commitments,

²²⁵ Australian Pork Limited, *Submission 114*, p. 3.

²²⁶ Australian Pork Limited, *Submission 114*, p. 3.

²²⁷ Australian Government, *Review of the Migration System*, Final Report, March 2023, p. 134.

particularly in the areas of settlement support, community building, and infrastructure needs in both the short term and in planning for the future of regional communities.

10.265 The Committee reiterates its recommendation from Chapter 8 that settlement services be extended to a wider range of visa holders on the basis of need. Given the unique challenges faced by regional, rural, and remote Australia, the Committee believes it particularly important that governments work together and with community service providers to ensure that local settlement services are adequately resourced to deliver services required for successful regional migration.

10.266 Lack of housing is a perennial issue across the Australian landscape, and one that is exacerbated in regional, rural, and remote settings. While the Committee can offer no recommendations on how this issue may be overcome, it is crucial that all tiers of government collaborate to devise solutions that are long-term in vision, sustainable, and scalable across the width and breadth of the nation.

Recommendation 70

10.267 The Committee recommends that the Australian Government collaborates with all levels of government to ensure that settlement service providers located in regional, rural, and remote settings are adequately resourced to deliver settlement services uniquely required in regional Australia.

What Next?

10.268 Regional migration remains a fluid area of reform. As noted throughout this chapter, reviews have occurred regularly over a long period and are ongoing.

10.269 Given the state of flux, the Committee is vitally interested in how the Australian Government addresses the existing challenges through its *Migration Strategy* and other measures.

10.270 In the past, successive Governments have been reactive, typically employing a carrot and stick approach via a combination of rules and restrictions alongside incentives. The Committee believes that, while these approaches have their place, increasingly the perspective of stakeholders (shared by this Committee) is that a longer-term view is necessary, one that is not so fixated on economic imperatives and instead adopts a more holistic approach that focuses more on creating a supportive environment that fosters long term settlement of productive migrants in regional Australia and the cultivation of stronger, more vibrant regional communities.

10.271 To this end, the Committee believes more work is required and it intends to conduct a deeper examination into aspects of Australia's regional migration program.



11.Improving Research Capacity

- 11.1 Throughout the evidence received by the Committee for this inquiry there was a strong theme of attracting migrants with research and academic qualifications to enable a vibrant education and research ecosystem in Australia's society. There was also consistent referencing of research outcomes and data analysis from a wide range of sources to support the witness'/submitter's argument on how best to improve the existing migration system.
- 11.2 However, shortcomings in the capacity for the Australian Government to undertake research, or enable research of, migration trends and factors to inform evidence-based policy was acknowledged in the evidence received by the Committee and raised as an area of concern regarding the ability for research to inform better policy outcomes.
- 11.3 As mentioned above, while many submitters and witnesses referenced research outcomes in their evidence to the Committee, that research was often drawn from disparate sources, ranging from academia, to privately engaged consultants, to research undertaken by NGOs and migration advocacy peak bodies themselves. Data presented by the Australian Bureau of Statistics was referenced regularly, but without a large proportion of analysis of that data by government.
- 11.4 While the Committee recognises the value of this data and research, the drivers behind the commissioning of such efforts and the outcomes can sometimes be skewed by the aims of the research undertaken or the methods applied.
- 11.5 The ability for the nation, through government, to understand the drivers behind migration inputs, and also the outcomes once migrants join Australian society, is a critical element of migration (as well as economic, social, and employment) policy consideration, development, and implementation. Such research is also vitally needed if migration is to play a central role in Australia's nation building endeavours.
- 11.6 To this end, the Committee was concerned to discover the continuing absence of specialised and directed migration research capability within government itself, or enabled by government, in recent years. The Committee did receive some evidence of targeted research efforts within government, but not in a consistent or centralised manner.

Centralised Research Capabilities

Previous Considerations

11.7 In the late 1980s the Australian Government established the Bureau of Immigration Research, which became the Bureau of Immigration and Population Research in 1993, and the eventual Bureau of Immigration, Multicultural and Population Research (the Bureau) in 1994, an independent, professional research body, created within the then Department of Immigration and Ethnic Affairs.

11.8 The Bureau's objective was stated as:

...to enhance understanding of the economic, social, environmental and other impacts of immigration, population and multicultural change, both to raise the level of public debate and to aid in the formation of government policy.¹

11.9 The Bureau, as a dedicated institution to undertake and deliver targeted research and analysis, was a resource that could be used by the Government to inform policy and program design, up to its closure in 1996 to meet budget savings measures.²

11.10 Between that date and 2013, some elements of the Bureau's research capabilities were continued by government, but not in a coordinated fashion.

11.11 As commented on by this Committee's predecessor in its 2013 *Inquiry into Migration and Multiculturalism in Australia*, the ability for the Australian Government to coordinate and commission research was a role of the then Department of Immigration and Citizenship, through the then Policy Innovation, Research and Evaluation Unit.³

11.12 That inquiry found that while there was ebbing and flowing capacity within government over time to conduct research and deliver useful policy from such research, the Committee agreed with concern 'about the decline in research capacity, especially qualitative research, relating to immigration, cultural diversity, settlement and participation'.⁴

11.13 That inquiry ultimately led to the following recommendation:

Recommendation 15

¹ "Bureau of Immigration, Multicultural and Population research", *Leaflet from: Bureau of Immigration, Multicultural and Population Research, 1995*, https://www.multiculturalaustralia.edu.au/doc/bimpr_2.pdf, accessed 25 June 2024.

² Minister for Immigration and Multicultural Affairs, the Hon P Ruddock MP, 'Restructure of Immigration Research Activities', Media Release, 30 July 1996, https://www.multiculturalaustralia.edu.au/doc/ruddock_2.pdf, accessed 15 July 2024.

³ Joint Standing Committee on Migration, *Inquiry into Migration and Multiculturalism in Australia*, March 2013, p. 126.

⁴ Joint Standing Committee on Migration, *Inquiry into Migration and Multiculturalism in Australia*, March 2013, p. 127.

The Committee recommends the establishment of a government funded, independent collaborative institute for excellence in research into multicultural affairs with functions similar to that of the former Bureau of Immigration, Multicultural and Population Research.

The institute should have a statutory framework articulating key principles of multiculturalism, functions in research and advice to government, and a cross sectoral independent board.

This institute should actively engage with local communities, private business and non-government organisations and provide data for better informed policy.

The qualitative and quantitative research capabilities of the institute must enable up-to-date and easily accessible data and research analysis on social and multicultural trends.

More dedicated research into long-term migration trends occurring within Australia and the social effects of migration—such as the local impacts of migration on cultural diversity and social inclusion within Australian society—should be supported.

The Committee particularly recommends an increased emphasis on qualitative data collection.⁵

- 11.14 However, as identified in the current inquiry by Dr Andrew Theophanous⁶, the Australian Government in 2017 responded to that report and its recommendations, by supporting the recommendations for research capability in principle, but not supporting any concrete action. The response stated that the then Government:

...does not consider that all of the suggested approaches, such as the establishment of an independent research institute, are necessary to achieve the intent of the Committee's recommendations in this area.

The Australian Government's Multicultural Access and Equity Policy recognises the significant role that data plays in the delivery of effective government programs and services. The Policy encourages government departments and agencies to collect, analyse and share data on the cultural and linguistic diversity of their client base in order to facilitate the reduction of barriers inhibiting access to government services and the effective achievement of program outcomes.

A range of research assessing migrant settlement outcomes is currently being undertaken through collaboration across government agencies and in partnership with researchers and academics. The work includes data matching and longitudinal studies, and will continue to build national capacity.⁷

⁵ Joint Standing Committee on Migration, *Inquiry into Migration and Multiculturalism in Australia*, March 2013, p. 130.

⁶ Dr Andrew Theophanous, *Submission 61*, p. 38.

⁷ Australian Government, Response to the Joint Standing Committee on Migration Report: *Inquiry into Migration and Multiculturalism in Australia*, p. 10.

11.15 Dr Theophanous also noted recommendation 8 in the Senate Legal and Constitutional Affairs References Committee's February 2021 report *Nationhood, national identity and democracy*:

The committee recommends that the Australian government establishes and resources a national research centre on migration, citizenship and social cohesion, to monitor:

- flows of migration and migrant settlement;
- issues of diversity and cohesion;
- affiliation and identity;
- civic participation and engagement;
- evaluation of service provision and access; and
- gaps in existing research.⁸

11.16 Unfortunately, the 18 recommendations of that report were not substantively addressed when a response was tabled in May 2024, stating '[t]he Government notes all recommendations. However, given the passage of time since this report was tabled, a substantive Government response is no longer appropriate'.⁹

Current Mechanisms in Government

11.17 When questioned about the data collection, research, and analysis capabilities of the Department of Home Affairs (the Department), the then Secretary, made the following comments:

In terms of research, data collection and the like, I put a contention back in response to both the premise as well as the inference that I draw from your question, Madam Chair. Has there been a loss of data collection? No. All the statistical capability, the data collection and our ability to understand who's coming across the border and who's getting visas was maintained throughout that period. We've got a deeply expert statistical team, a data team and a data science team, and they're people who are experts in both data science and immigration. All of the statistics that we're able to generate for this committee and others come from those areas.¹⁰

11.18 Secretary Pezzullo then expanded into an explanation of why migration data and employment outcome analysis and research was not currently centralised in the Department:

⁸ Senate Legal and Constitutional Affairs References Committee, *Nationhood, national identity and democracy*, p. 119.

⁹ Australian Government, Australian Government response to the Senate Standing Committee on Legal and Constitutional Affairs report: *Nationhood, national identity and democracy*, May 2024.

¹⁰ Mr Michael Pezzullo AO, Secretary, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 3.

I'm responding to what I think was the implied premise of your question, which was that, if you have a deeply expert immigration department, they can do this sort of end-to-end understanding of what's happening in the labour market and the arrival of immigrants and their settlement and integration into the labour market. Yes, there was that capability, and it was completely disconnected from the employment department. Both of my predecessors started to put in place transitional arrangements that I, if you like, consummated and finalised to in fact transfer it.

To this day, it's still vested in the employment department because they've got the holistic view on how the labour market is working and where the skills hot spots are. In combination with other departments, such as the agriculture department, they need to tell us who they need and what types of skills they need and we'll go and get them. So we're more the recruiting part. If Australia were a corporation, we'd be the recruiting part of the HR department. We're not setting the strategic direction. Otherwise, you end up having two visions of the employment market, two visions of the labour market and two visions of what kind of human inputs you need into your economy. Then you had Treasury over here separately working on population. That, to a number of us, appeared to be rather odd.

We've got a very deep knowledge of how the programs work, of where the talent is in our applications and of where to go and recruit. We provide input to Treasury, as they think about population, and we provide inputs to the Department of Employment and Workplace Relations, as it's now constituted. But we don't see ourselves as leading on employment dynamics, because you'd then have two departments, potentially, with a degree of policy and intellectual tension between them. So we provide inputs, but there's a very clear lead as to who the employment minister is and who the employment secretary is.¹¹

11.19 This current mechanism was challenged by the Migration Hub at ANU, who submitted that a 'by-product of over-securitization and over-centralization in Australia's current migration system is that decisions are too often made by senior officials parachuted in from distantly related portfolios, with little or no specialist training or operational understanding of migration that would allow them to speak meaningfully about the effects of policies'.¹²

11.20 The Migration Hub also contended that the lack of a real understanding of the impact of migration policies on the ground (due to decentralised research and migration functions residing in Home Affairs), leads to artificial focuses on perceived priorities, fuelled by lower quality journalistic commentary. This results in:

...periodic moral panics...that migration policy is often the outcome of ad hoc defensive responses to political attacks, rather than the outcome of well-

¹¹ Mr Michael Pezzullo AO, Secretary, Department of Home Affairs, *Committee Hansard*, Canberra, 14 June 2023, p. 4.

¹² ANU Migration Hub, *Submission 70*, p. 17.

reasoned deliberation based on rigorous evidence. As well as thinking about where in government the migration bureaucracy should sit in Australia's future migration system, there is a need to consider:

- What institutions around society need to be equipped with knowledge and skills about how migration works and how to manage it?
- How can Australia provide the necessary capacity in those institutions where it does not exist, so that a wider range of stakeholders can contribute to better-informed public discussion of migration and its implications?¹³

11.21 This contention ultimately led to the Migration Hub suggesting that a National Institution on Human Migration and Mobility could 'conduct rigorous, independent research and analysis, to inform and advise the government of the day on policy for the present, and for the future'.¹⁴

11.22 The Migration Hub argued that such an institution should stand separate to government, think-tanks, and NGOs, to ensure that research outcomes stand independent to political and industry drivers, being convened from 'leading migration experts across academia, policy, non-government organisations, and industry, to share knowledge, collect evidence, question assumptions, and inform solutions to major challenges related to the movement of people'.¹⁵

11.23 In public hearing evidence, Professor Alan Gamlen, Director of the Migration Hub, expanded on international exemplars, and the possibilities for an independent institute domestically:

There's also at various times been the International Migration Institute; a range of other initiatives around these two pillars of forced migration; and the Centre on Migration, Policy and Society. So, yes, there is a model, and I think we need something like that down here. Australia has been really a world [leader]—I always say that Australia has some of the best migration policymaking in the world but also some of the worst. We have often led the world, being a classical immigration country, in innovating in migration regulations and in building a socially cohesive, migrant-founded society. But I think in recent years, partly because of this loss of capacity that I've described, we risk no longer having that status. I think that building capacity through having an interdisciplinary, broadly focused institute that looks at how people move around over space is critical to rebuilding that capacity.¹⁶

¹³ ANU Migration Hub, *Submission 70*, p. 18.

¹⁴ ANU Migration Hub, *Submission 70*, p. 18.

¹⁵ ANU Migration Hub, *Submission 70*, p. 18.

¹⁶ Professor Alan Gamlen, Director, Migration Hub at ANU, *Committee Hansard*, Canberra, 12 May 2023, p. 59.

The Need for Reform

11.24 The Committee received other evidence spread throughout submissions and hearing evidence of the importance of research and evidence to inform outcomes, but also to demonstrate that community concerns and consultation are recognised, centralised, and inform migration policy outcomes.

11.25 Identifying a need for centralised consideration and coordination of migration data and policy outcomes, linked to employment outcomes, was emphasised by primary producers and business owners in Robinvale in Victoria:

I ask, 'Is this microphone on?' because we haven't been listened to. We've been served these people with these penalty rates and they are not fit for service. I've said this at a previous inquiry. If you go to a lawyer's office and ask them to fix your sink, they'll say, 'Go to a plumber.' It is the same for us. If we ask for a particular skill set of workers, it is ludicrous that we are being delivered a totally opposite skill set of people to what we need, which then equates to whether these guys can make money in the job that they can. If you are asking a plumber to have the same skill set as a lawyer and to walk into a lawyer's office and be competent as a lawyer, it's not dissimilar to a South Pacific islander coming and picking table grapes at a profitable level. We know that. We've tried to say that so many times, but we are not being listened to.¹⁷

11.26 When hearing from primary producers and businesses about the need for better outcomes and reform in evidence-based policy creation, the Committee heard recurring requests for:

- Government to develop more effective processes for consultation, where outcomes are tied to concrete migration and employment solutions; and
- Government to review existing reports and inquiries and implement appropriate recommendations, so stakeholders do not end up engaging on the same issue through multiple channels.

11.27 When questioned about current research capacity and the potential need for an institution to provide centralised research, data and analysis, a number of witnesses agreed on the merit of the proposal. As one such example, Ms Catherine Scarth, Chief Executive Office, AMES Australia responded:

...there are smatterings of research undertaken by different institutions, including AMES. We have a small policy and research unit. But there is no major coordinated national body tasked with tracking the experiences of all migrant pathway groups and being in a position to make recommendations to government about streamlining or whatever that might be. So I think that is a gap. It would enhance the efforts of the immigration department unit within Home

¹⁷ Mr Fred Tassone, *Committee Hansard*, Robinvale, Victoria, 27 April 2023, p. 15.

Affairs if it had that level of intellectual capacity to provide sound, evidence based policy advice to policy-makers.¹⁸

11.28 Ms Scarth further elaborated that any such institution ‘...needs to be ongoing and independent, because to trace and understand patterns and the impact of policies on migration and cohesion takes a longitudinal study, not sporadic inquiries. It needs to be dedicated research that can analyse data, collect data and have access to data. Often what occurs is researchers try and do small bodies of work but they don't necessarily have access to the data, and we're not necessarily collecting the right data. So at least a body like that could also provide advice about what kind of data we need to be collecting’.¹⁹

11.29 The NSW Government submitted a number of recommendations to the inquiry, drawing from and building on submissions made to both the *Employment White Paper* and the Migration System Review. One of these recommendations (number 23) identified under the banner of ‘[t]he role of settlement services and vocational training in utilising migrant experiences, knowledge, and opportunities’ stated:

Improve data collection, coordination and sharing mechanisms to provide states and territories with timely opportunities for input and information about incoming migrants. their skills and potential needs, including the enhancement of the Continuous Survey of Australian Migrants.²⁰

11.30 This identification of data and knowledge access and delivery to states and territories is an important acknowledgement of the requirement for open sources of migration and employment data and research outcomes to stakeholders wider than the Australian Government.

11.31 In their submission to the inquiry, Estrin Saul Migration Specialists and Welcoming Disability, noted that despite the continuing migration policy focus on potential costs to the community of granting visas to migrants with pre-existing health concerns, there was a historical acknowledgement of the lack of a mechanism of quantifying that cost:

Other than protecting public health, the main argument used in support of the current health requirement concerns notional costs to the community. The Australian National Audit Office (ANAO) pointed out in a 2007 review of the administration of the Health requirements of the Migration Act, that the Department of Immigration (then, DIAC) did not have the technology in place, nor any sort of adequate information gathering structures, to determine the actual cost of the migrants who had been granted or refused visas, and put in place recommendations that would enable the Department to collect such data. There

¹⁸ Ms Catherine Scarth, Chief Executive Office, AMES Australia, *Committee Hansard*, Melbourne, 26 April 2023, p. 8.

¹⁹ Ms Catherine Scarth, Chief Executive Office, AMES Australia, *Committee Hansard*, Melbourne, 26 April 2023, p. 8.

²⁰ NSW Government, *Submission 57*, p. 13.

is no evidence that the Department has put in place those recommendations for data gathering.²¹

- 11.32 When questioned about the state of the future migration program for the next 30 years, the Grattan Institute identified that a lack accessible information prevents informed opinion:

Grattan does not have a view about what the optimal size of the permanent migrant intake is. That's because we don't think that we have enough information yet to really know what the full sets of benefits are that you get from the migration program to weigh up against the costs that migrants do impose on the broader community via increased demand for housing at a time, say, when supply is short.²²

- 11.33 Settlement Services International identified a number of considerations for the Committee in responding to the first Term of Reference for the inquiry — The role of permanent migration in nation building, cultural diversity, and social cohesion — but emphasised that research and data plays a central role in guiding policy:

Dedicated research funded by the Commonwealth could generate evidence to better guide all aspects of migration policy by undertaking its own research, supporting greater consistency across immigration and census datasets and making them accessible to researchers. This should include providing research outputs that document migration policy outcomes for different cohorts (e.g., temporary migrants, women) and jurisdictions (e.g., national, State/Territory and LGAs).²³

- 11.34 This observation led to their recommendation that '[t]he Australian Government should invest in building the evidence-base for the migration program. Ideally, this investment would establish a stand-alone agency, such as the Bureau of Immigration and Population Research which existed until the mid-1990s.'²⁴

- 11.35 Mr Rafael Azeredo submitted on the issue of protracted temporariness for migrants residing in Australia for extended periods without Permanent Resident status, drawing on his own doctoral research. Mr Azeredo identified an inability to draw authoritative conclusions for his research, acknowledging that '[t]he exact number of migrants in this situation is not clear, as there is no information publicly available on how long migrants on temporary visas have been residing in Australia for', with an acknowledgement that '[m]ore research into the reasons why migrants are unable to access the Migration Program is needed.'²⁵

- 11.36 Mr Azeredo submitted the following recommendation:

²¹ Estrin Saul Migration Specialists and Welcoming Disability, *Submission 68*, p. 10.

²² Mr Brendan Coates, Economic Policy Program Director, Grattan Institute, *Committee Hansard*, Canberra, 26 April 2023, p. 19.

²³ Settlement Services International, *Submission 26*, p. 4.

²⁴ Settlement Services International, *Submission 26*, p. 5.

²⁵ Mr Rafael Azeredo, *Submission 21*, pp. 4, 5.

Fostering research and improving the transparency around protracted temporariness. There is limited data publicly available that allows for a clear analysis of protracted migration temporariness trends in Australia. Data on Australia's Estimated Resident Population (ERP) on temporary visas and on the average number of years migrants remain living in Australia on temporary visas before obtaining PR status, for example, would be valuable in that direction. Improving transparency around this issue would also help to evaluate whether the recent reforms to the Migration Program will be effective in improving the transition from temporary to permanent status. Promoting research into protracted temporariness, including into the reasons why migrants are unable to access the Migration Program, would also be beneficial for research informed policymaking.²⁶

Committee Comment

- 11.37 The Committee appreciates the diverse opinions provided in evidence to this inquiry, and the general acceptance of the need for centralised and coordinated research and data analysis to guide migration policy and migration-related, social, economic and employment outcomes.
- 11.38 The Committee agrees with the sentiment that in recent years, and mostly over the past decade, migration policy settings have adjusted in a reactive and often misguided way. This is clearly changing with the current Australian Government focus in reviewing, simplifying, and resetting the migration system.
- 11.39 However, the Committee is also discouraged that repeated recommendations over the previous decade, including from this Committee's predecessor from the 43rd Parliament, to establish an independent collaborative research institution remain unactioned.
- 11.40 The research focus in the 1990s, enabled by the Bureau, set Australia on a course to be a world-leader in migration policy. However, with the devolution of this research-informed focus, exacerbated by the shift in migration policy focus following the Children Overboard incident in 2001, Australia has deviated from this course to instead develop an extremely complex and hard to navigate system, realigned to whatever reactive pressure was seen as the priority of the time.
- 11.41 As acknowledged in earlier chapters, the COVID-19 pandemic has provided a circuit-breaker for the migration system, and alongside the current Government's review and reform focus, the Committee again sees merit in resetting the policy direction for migration, supporting the critical impact that coordinated and collaborative research and data analysis can have on policy settings going forward.
- 11.42 Global priorities have shifted, and the Committee received evidence that the traditional attractiveness of Australia as an immigration destination has diminished

²⁶ Mr Rafael Azeredo, *Submission 21*, p. 7.

due to the impact of the epidemic and migration policy settings. Therefore, without basing migration targets, outcomes, and policies on solid research, the Committee believes that other countries will overtake Australia as a destination of choice for skilled migrants, as well as surpass our nation in fulfilling international obligations.

- 11.43 To this end, the Committee is recommending, in a similar light to the previous historical recommendations outlined earlier in this chapter, that the Australian Government scope and fund the establishment of an independent, collaborative institution for migration studies and research.
- 11.44 This institution should draw from existing data sources, as well as academic research capabilities, but also community, business, and non-government organisations for their expertise in linking migration to 'on the ground' outcomes from the experience of migrants themselves and the societal and economic sectors they support and work in.
- 11.45 This institution can be established as an adjunct to any reformed machinery of government changes that eventuate from reviews or this inquiry's recommendations, but be independent, funded by government, and overseen by an advisory panel drawing from the key Australian Government departments (Home Affairs, Prime Minister and Cabinet, Employment, and Health), with liaison from state and territory governments, but also from identified leaders in the research, community and business sectors, to ensure that research efforts achieve agreed and aligned outcomes.

Recommendation 71

- 11.46 The Committee recommends that the Australian Government develop and implement the establishment of a fully funded, independent collaborative institution for research and data collection and analysis related to migration policy, and associated policy impacts in social cohesion, employment, health, and any other relevant policy and portfolio considerations.**

The institution should be overseen by an advisory panel of eminent experts and representatives from key Australian Government departments, state and territory governments, as well as leaders in the research, community and business sectors.

- 11.47 In order for research and analysis outcomes undertaken by the institution to be accessible and relevant to supporting and stimulating positive migration, and other, policy outcomes, all research data and outcomes not made public through other means should be made publicly available through the DATA scheme established under the *Data Availability and Transparency Act 2022* and the Office of the National Data Commissioner.

Recommendation 72

- 11.48 The Committee recommends that any research or data analysis outcomes resulting from the work of the institution be made publicly available through the DATA scheme administered by the Office of the National Data Commissioner.**



12. Conclusions

- 12.1 Since the commencement of this inquiry on 23 November 2022, much has happened in relation to Australia's migration system. Starting with the Jobs and Skills Summit in September 2022; through the independent review of the migration system, which reported in March 2023; the release of the Government's *Migration Strategy* in December 2023; and the release of the Multicultural Framework Review in July 2024, the nation is experiencing the most significant proposed changes to its migration system and its supporting cultural and administrative frameworks in generations.
- 12.2 Within this fluid space and as part of this review and reform process, the Committee has sought to provide a comprehensive overview of the main facets of the migration system, as outlined in the Terms of Reference for the inquiry, and to make recommendations in-line with the evidence gathered over the course of the inquiry that complement the Government's reform agenda.
- 12.3 The Committee makes 73 recommendations, covering much of the operations and functions of the migration system and the wider cultural setting and administrative framework upon which it is based. These recommendations, if acted upon, will aid Australia in attracting and retaining the highest-calibre migrant workers, improve application processes and reduce costs for Australian businesses and migrants alike, improve settlement outcomes and foster social cohesion, and position the country for future prosperity with migration as a central policy lever for our nation building endeavours.
- 12.4 Key among the matters these recommendations address is the need to re-situate migration within the administrative framework of government. As our history demonstrates, migration can be instrumental in nation building—in providing sturdy foundations for national growth, cultural enrichment, and social stability, and in ensuring Australia remains prosperous into the future. For this to happen, the government department charged with custodianship of the migration system must be singularly focussed on ensuring that that system functions to the highest standards possible.
- 12.5 The Committee heard that the 2017 amalgamation of immigration, citizenship, multicultural affairs, and social cohesion functions with national security and policing functions within the Department of Home Affairs degraded the capacity of government to deliver a world-class migration system. The Committee is persuaded that disaggregating the Department of Home Affairs and re-establishing government functions related to the migration system within a standalone Department of Immigration, Citizenship and Multicultural Affairs would provide the administrative and cultural shift necessary to maximise migration for the purposes of nation building.

- 12.6 Secondly, the need to improve the research capacity of government is of vital importance if migration is to play a central role in nation building. Unless the evidence base of migration policy is improved through independent and impartial research that is focussed on long-term outcomes, the system will remain plagued by ad-hoc tinkering on the margins in response to short-term political and socioeconomic considerations. Research that is independent of the political process will provide a basis for migration policy to truly act as an engine room for nation building and the cultivation of Australia's long-term prosperity. As such the Committee has recommended that the Government establishes an independent research institute focussed on migration policy and its wide-ranging interactions with Australia's economic, social, demographic, and cultural landscapes.
- 12.7 Thirdly, the Committee heard convincing evidence that settlement outcomes and integration strategies can be improved if settlement services are offered to migrants on the basis of need. At present only a small percentage of permanent migrants are eligible for settlement services—mainly refugees and other humanitarian entrants. While recognising the primary need of this cohort for support in re-settling following displacement, the Committee acknowledges that other migrant cohorts, too, could benefit from access to these services. Importantly, not all migrants require the same level of support, irrespective of their visa class, meaning that the system must offer tailored access to settlement supports based on the individual needs of migrants and their dependants. While the expansion of eligibility for settlement services would come with a cost impost, the Committee believes that the long-term benefits derived from a more flexible, adaptive, and responsive settlement services industry would far outweigh these costs.
- 12.8 While advocating for an expansion of settlement services to all migrants in need of those services, the Committee also recognises that specialised settlement and employment services are still vital for refugees and humanitarian entrants. The Committee has, therefore, recommended that more be invested into ensuring that refugees and humanitarian entrants—and their dependants—are provided the support required for them to integrate and thrive in their new homes.
- 12.9 Fourthly, the Committee heard considerable amounts of evidence on the inefficiencies, exorbitant costs, and excessive timeframes associated with the visa application system. This situation not only makes the system difficult to navigate and expensive for prospective migrants but acts as an unnecessary roadblock for Australian employers seeking to access vitally needed workers. While acknowledging that improving the Department of Home Affairs' ICT systems is a priority area for the Government, the Committee reiterates the crucial need for the Department's systems to be updated and rationalised in order to cut back on time and costs associated with applications. One area where such improvements should be prioritised is the development of a consolidated one-stop platform encompassing visa application, skills and qualifications assessment, licensing approvals, and connecting migrants to potential employers and settlement services.
- 12.10 Finally, as earmarked in Chapter 10, the Committee see a need to examine more carefully the complexities of regional migration. Many of the endemic issues faced by Australia—lack of appropriately skilled workers, housing shortages and lack of

infrastructure, difficulties in accessing medical facilities and GPs, and under-resourcing of settlement support services—are exacerbated in regional, rural, and remote areas of the country. Added to this, regional Australia struggles to attract and retain migrants compared to our main population centres. While the Committee has made 16 recommendations related to regional Australia, the Committee feels that this area requires deeper consideration through a dedicated inquiry. As a final recommendation, the Committee recommends that the Minister for Home Affairs refer Terms of Reference for an inquiry focused on regional migration.

Recommendation 73

12.11 The Committee recommends that the Minister for Home Affairs refer Terms of Reference for an inquiry into regional migration to the Joint Standing Committee on Migration for inquire and report in this term of Parliament.

12.12 There is still much that can be improved about the migration system to, once again, place Australia as the world's most desirable migration destination and the Committee is hopeful that this report contributes to reform efforts.

12.13 As a closing remark, the Committee expresses its gratitude and thanks all those who made contributions to this inquiry, both through written submissions and participation at public hearings. The Committee acknowledges the hard work by individuals, community organisations, research institutes, businesses, and governmental bodies in articulating their diverse experiences with the migration system and their recommendations on how it can be improved. This effort is all the more significant given the current high volume of reviews and inquiries currently being undertaken in this space and the Committee is thankful for this effort.

Ms Maria Vamvakinou MP
Chair

24 September 2024



A. List of Submissions

- 1 Don Owers
- 2 Regional Development Australia Gold Coast Inc
- 3 Frank Simpson
- 4 Prof Peter McDonald
- 5 Smart Energy Council
- 6 Association of Heads of Independent Schools of Australia
- 7 Backpacker & Youth Tourism Advisory Panel (BYTAP)
- 8 *Name Withheld*
- 9 James Spicer
- 10 Australian Constructors Association
- 11 Scott O'Keefe
- 12 SEMMA
- 13 Mr Peter Mares
- 14 John Bentley
- 15 Dr Kaya Barry
- 16 Vetlink Employment Service
- 17 Grattan Institute
- 18 Australasian Veterinary Boards Council
- 19 Peter Martin
- 20 Gordon Payne
- 21 Mr Rafael Azeredo
- 22 Duolingo

- 23** Robyn Coghlan
- 24** Prof Joy Damousi, Dr Rachel Stevens, Dr Mary Tomsic
- 25** SUPRA
- 26** Settlement Services International
- 27** Consult Australia
- 28** Vialto Partners
- 29** *Name Withheld*
- 30** The AOYE Group and Sapien Group
- Attachment 1
 - Attachment 2
 - Attachment 3
 - Attachment 4
- 31** Swan Hill Rural City Council
- 32** Immigration Advice and Rights Centre and Unions NSW
- 33** Mr Ian Penrose
- 34** Settlement Council of Australia
- 35** AMES Australia
- 36** HealthWISE
- 37** Independent Higher Education Australia
- 38** Master Builders Australia
- 39** Tech Council of Australia
- 40** Multicultural Australia
- 41** Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT)
- 42** Australian Human Rights Commission
- 43** Housing Industry Association
- 44** Regional Development Australia Darling Downs and South West Inc
- 45** Australian Academy of Technological Sciences and Engineering

- 46** Australian Academy of Science
- 47** KPMG Australia
- 48** Kaldor Centre for International Refugee Law
- 49** Dr Christopher Watson
- Attachment 1
 - Attachment 2
- 50** Paul D. Prentice
- 51** Australian Veterinary Association
- 52** Federation of Ethnic Communities' Councils of Australia
- 53** Mrs Lee Hunter
- 54** Fragomen Australia
- 55** IDP Education
- 56** Business Council of Australia
- Attachment 1
 - Attachment 2
- 57** NSW Government
- Attachment 1
 - Attachment 2
- 58** Sustainable Population Australia
- 59** Multilingual Australia
- 60** Dr Peter Cook
- 61** Dr Andrew Theophanous
- 62** CPSU
- Attachment 1
- 63** Robinvale & District Table Grape Growers Association
- 64** Multicultural Youth Advocacy Network
- Attachment 1

- 65** Centre for Policy Development
- 66** Robert Heron
- 67** Mr Simon Cole
- 68** Estrin Saul Migration Specialists & Welcoming Disability
- 69** The Chamber of Minerals & Energy of Western Australia
- 70** The Migration Hub at ANU
- 71** CORE Community Services
- 72** Australian Table Grape Association Inc
- 73** The Royal Australian College of General Practitioners
- 74** Clubs Australia
- 75** Co.As.It. Community Services Ltd
- 76** Language on the Move Research Group
- 77** Know Your Roots (KYR) Incorporated
- 78** Migrant Workers Centre
- 79** Australian Chamber of Commerce and Industry
- 80** Foundation House - The Victorian Foundation for Survivors of Torture Inc.
- 81** National Farmers' Federation
 - Attachment 1
- 82** Talent Beyond Boundaries
- 83** Accommodation Association of Australia/Australian Hotels Association/Tourism Accommodation Australia
- 84** Government of South Australia
- 85** Community Refugee Sponsorship Australia
- 86** Asylum Seeker Resource Centre
- 87** Migration Institute of Australia
- 88** Heather Marr, Libby Hogarth, Nish K. Padiya

- 89** VETASSESS
- Attachment 1
 - Attachment 2
- 90** Australian College of Nursing
- 91** Australian Technology Network of Universities (ATN)
- 92** South-East Monash Legal Service
- 93** Independent Schools Australia
- 94** Regional Universities Network
- 95** Mildura Regional Development
- 96** Rural Workforce Agencies
- 97** *Name Withheld*
- 98** Women's Legal Services Australia
- 99** Migration Youth and Children Platform
- 100** Australian Private Hospitals Association
- 101** Australian Automotive Aftermarket Association
- 102** Australian Migrant Resource Centre
- 103** Centre for Multicultural Youth
- 104** Refugee Advice and Casework Service
- 105** Refugee Council of Australia
- 106** Science and Technology Australia
- 107** Investment Migration Industry Group
- Attachment 1
- 108** Australian Retailers Association
- 109** Loddon Campaspe Multicultural Services
- 110** Primary Care Business Council
- 111** Association of Mining and Exploration Companies

- 112** SBS
- 113** Australian Small Business and Family Enterprise Ombudsman
- 114** Australian Pork Ltd
 - Attachment 1
- 115** Tasmanian Government
- 116** Australian Bahá'í Community
- 117** Law Council of Australia
- 118** Anti-Slavery Australia
- 119** NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS)
- 120** Human Rights Law Centre/Migrant Workers Centre/Asylum Seeker Resource Centre
- 121** Australian National Audit Office
- 122** ISANA
- 123** Lamattina Holdings Pty Ltd/Elmtree Migration Lawyers
- 124** Wimmera Development Association
- 125** Joseph Youhana
- 126** Mr Chandra Bamunusinghe
- 127** Department of Home Affairs
- 128** Skymirror Australia
- 129** BDO Migration Services
- 130** National Rural Health Alliance
- 131** Aged & Community Care Providers Association



B. Public Hearings and Witnesses

Wednesday, 26 April 2023

Balmoral Room

Stamford Plaza Melbourne Hotel

111 Collins St

Melbourne

Consulate General of Sri Lanka, Melbourne

- Mr Sandith Samarasinghe, Consul General of Sri Lanka, Melbourne
- Mr Chandra Bamunusinghe

AMES Australia

- Ms Chatherine Scarth, Chief Executive Officer
- Ms Mirta Gonzalez, General Manager, Education and Social Participation

Grattan Institute

- Mr Brendan Coates, Economic Policy Program Director
- Mr Trent Wiltshire, Migration and Labour Markets Deputy Program Director

Talent Beyond Boundaries

- Mr John Cameron, Co-founder
- Ms Steph Cousins, Global Chief Executive Officer
- Ms Sathya Gnanakaran, Australia and New Zealand Director
- Mrs Louna Ghawi, Australia and New Zealand Co-director
- Mr Atheer Kareem

Prof Damousi, Dr Stevens, Dr Tomsic

- Professor Joy Damousi, Director, Research Centre for Refugees, Migration and Humanitarian Studies
- Dr Rachel Stevens, Research Fellow, Research Centre for Refugees, Migration and Humanitarian Studies
- Dr Mary Tomsic, Research Fellow, Research Centre for Refugees, Migration and Humanitarian Studies

Human Rights Law Centre/Migrant Workers Centre/Asylum Seeker Resource Centre

- Mr Gabriel Dain, Operations Manager
- Mr Youssef Ragab, Organiser
- Ms Hannah Dickinson, Principal Solicitor
- Ms Sanmati Verma, Managing Lawyer
- Ms Parchehr (Betia) Shakiba

South East Melbourne Manufacturers Alliance

- Mr Peter Angelico, President

Peter Mares, Private capacity

Thursday, 27 April 2023

Foyer/Meeting Room

Robinvale Community Arts Centre

37 Robin St

Robinvale

Swan Hill Rural City Council

- Mr Scott Barber, Chief Executive Officer
- Mr Dennis Hovenden, Economic and Development Manager

Table Grape Associations

- Mr Don Albanese, Chairperson
- Mr Jeff Scott, Chief Executive Officer

Roundtable Session

- Mr Ian McAlister
- Mr Geathan Cutri
- Mr Fred Tassone
- Mr Retief Scholtz

Friday, 12 May 2023

Committee Room 2R1

Parliament House

Canberra

Law Council of Australia

- Mrs Valerie Pereira, Chair, Migration Law Committee, Federal Dispute Resolution Section
- Mr Chris Spentzaris, Deputy Chair, Migration Law Committee, Federal Dispute Resolution Section
- Ms Lena Hung, Member, Migration Law Committee, Federal Dispute Resolution Section
- Mr Matthew Wood, Principal Policy Lead

Housing/Construction Industry

- Mrs Alex Waldren, National Director Industry Policy
- Mr Geordan Murray, Executive Director, Industry Policy
- Mrs Jocelyn Martin, Deputy Managing Director, Policy and Industry

Loddon Campaspe Multicultural Services

- Mrs Sonia Di Mezza, Chief Executive Officer

Tech Council of Australia

- Mr Thomas McMahon, Chief Executive Officer

Settlement Council of Australia

- Ms Sandra Elhelw Wright, Chief Executive Officer
- Dr Mairead MacKinnon, Policy Lead

Tech Sciences Sector

- Professor Chennupati Jagadish, President
- Ms Lauren Sullivan, Policy Analyst
- Dr Owen Myles, Policy Analyst
- Dr Tony Peacock, Fellow
- Dr Sarah Tynan, Director of Policy and Engagement
- Ms Misha Schubert, Chief Executive Officer
- Dr Kathy Nicholson, Chair, Policy Committee

National Farmers' Federation

- Mr Ben Rogers, General Manager, Workplace Relations and Legal Affairs
- Mr Harry Young, Policy Officer, Workplace Relations and Legal Affairs

Women's Legal Services Australia

- Ms Vanessa Burn, Chair, Migration Committee
- Ms Lisa Fowler, Deputy Chair, Migration Committee

The Migration Hub at ANU

- Professor Alan Gamlen, Director

Federation of Ethnic Communities' Councils of Australia

- Mr Mohammad Al-Khafaji, Chief Executive Officer
- Mr Januka Gunasena, Policy and Project Officer

Tuesday, 16 May 2023

Videoconference

Settlement Services International

- Ms Violet Roumeliotis, Chief Executive Officer
- Ms Toni Beachamp, Social Policy Lead

Australian Human Rights Commission

- Mrs Lorraine Finlay, Human Rights Commissioner

Immigration Advice and Rights Centre and Unions NSW

- Mr Thomas Costa, Assistant Secretary
- Mr Joshua Strutt, Centre Director and Principal Solicitor

Clubs Australia

- Mr Simon Sawday, Executive Manager, Policy and Government
- Ms Olivia Simpson, Manager, Policy and Government

KPMG Australia

- Ms Jemma Horsley, Partner
- Mr Mark Wright, National Leader, Immigration Services

Vialto Partners

- Ms Stacey Tsui, Partner
- Mr John O'Brien, Senior Manager

- Ms Annalisa Symons, Director
- Ms Rachel Williamson, Director

Fragomen Australia

- Ms Rebecca Baggiano, Special Counsel
- Mr Charles Johanes, Special Counsel

CPSU

- Ms Brooke Muscat, National President
- Ms Theresa Wallace, Section Councillor

Wednesday, 17 May 2023

Videoconference

Duolingo

- Mr James Daniel Holden, Country Director, Australia and New Zealand

CORE Community Services

- Ms Shama Pande, Service Manager, Multicultural Communities
- Ms Joanne Robertson, Strategic Performance and Analytics Manager

Australian Retailers Association

- Ms Fleur Brown, Chief Industry Affairs Officer

Refugee Council of Australia

- Mr Paul Power, Chief Executive Officer

VETASSESS

- Mr Rob Thomason, Executive Director
- Mr Brett Galt-Smith, Manager, Stakeholder and Government Relations

Refugee Advice and Casework Service

- Ms Sarah Dale, Centre Director and Principal Solicitor
- Mr Arif Hussein, Senior Solicitor

Dr Andrew Theophanous, Private capacity

Migration Institute of Australia

- Ms Julie Williams, National President
- Mr Constantine Paxinos, Vice President
- Mr Peter Vymys, Chief Executive Officer

- Ms Bronwyn Markey, Senior Manager, Professional Services

SBS

- Ms Clare O'Neil, Director, Corporate Affairs
- Mr David Schiappapietra, Head of Language Content, Audio and Language Content

Primary Care Business Council

- Dr Gerard Foley, Chair
- Mr Jeremy Stones, Executive Director
- Mr Dermot Roche, Director
- Ms Kristy Challingsworth, Member

Thursday, 18 May 2023

Videoconference

Multicultural Australia

- Ms Christine Castley, Chief Executive Officer
- Ms Rose Dash, Chief Client Officer

Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT)

- Ms Stephanie Long, Systemic Advocacy and Strategic Projects Lead
- Ms Noemie Rigaud, Team Leader, Intake and Connect Team
- Mr Suan Muan Thang, Intake Practitioner and Social Worker
- Romana
- Mr Rasol Afshari

Roundtable Session

- Dr Kaya Barry
- Mr Rafael Azeredo

Australian Constructors Association

- Mr Jon Davies, Chief Executive Officer

The Royal Australian College of General Practitioners

- Associate Professor Michael Clements, Chair, Rural Faculty

Regional Development Associations

- Ms Estella Rodighiero, Director

- Mrs Lauren Russell, Projects Officer

Sustainable Population Australia

- Dr Peter Cook, Vice President
- Dr Jane O'Sullivan, Member, Executive Committee

Wednesday, 14 June 2023

Main Committee Room

Parliament House

Canberra

Department of Home Affairs

- Mr Michael Pezzullo AO, Secretary
- Ms Stephanie Foster PSM, Associate Secretary
- Ms Tara Cavanagh, First Assistant Secretary Immigration Integrity, Assurance and Policy
- Mr Andrew Kiley, Assistant Secretary, Refugee, Humanitarian and Settlement

Wednesday, 9 August 2023

Committee Room 2R1

Parliament House

Canberra

New Zealand Government

- Mr Jivan Grewal, General Manager, Employment, Skills and Immigration Policy
- Mr Richard Owen, General Manager, Immigration Risk and Border, Immigration New Zealand

Monday, 14 August 2023

Videoconference

Australian Private Hospitals Association

- Mr Michael Roff, Chief Executive Officer
- Ms Diana McManus, People Director, Hospitals

HealthWISE

- Ms Sally Urquhart, Business Innovation Manager

Rural Workforce Agencies

- Mr Peter Barns, Chair
- Mr Edward Swan, Executive Officer, Representation and Engagement, National Coordination Unit

Australian College of Nursing

- Adjunct Professor Kylie Ward, Chief Executive Officer
- Ms Linda Davidson, National Director, Professional Practice

Rural Doctors Association of Australia

- Mrs Peta Rutherford, Chief Executive Officer
- Dr Raymond Lewandowski, President Elect

Migration Institute of Australia

- Ms Julie Williams, National President
- Mr Constantine Paxinos, Vice President
- Ms Bronwyn Markey, Senior Professional Services Manager

Wednesday, 27 September 2023

Videoconference

VETASSESS

- Mr Robert Thomason, Executive Director
- Mr Brett Galt-Smith, Manager, Stakeholder and Government Relations

BDO Migration Services

- Ms Maria Jockel, Global and National Immigration Leader, Accredited Immigration Law Specialist, Legal Principal, Managing Director

Bolton Clarke

- Mr Tim Hicks, Executive General Manager, Policy and Advisory

Wimmera Southern Mallee Development

- Mr Chris Sounness, Chief Executive Officer
- Mrs Sara Barron, Migration and Settlement Program Manager

Office of the Migration Agents Registration Authority

- Ms Tara Cavanagh, Group Manager, Immigration Policy
- Mr Michael Willard, Group Manager, Immigration Operations
- Ms Emily Winch, Senior Director, Office of the Migration Agents Registration Authority

IDP Education

- Ms Kim Dienhoff, Head, Government Relations

Skymirror Australia

- Mr Rohan Mott, Owner

Aged & Community Care Providers Association

- Mr Tom Symondson, Chief Executive Officer

Joseph Youhana, Private capacity

Wednesday, 29 November 2023

Committee Room 1R4

Parliament House

Canberra

Regional Australia Institute

- Ms Elisabeth (Liz) Ritchie, Chief Executive Officer
- Ms Laureta Wallace, Director, External Affairs



C. List of Responses to Questions Taken on Notice and in Writing

Answers to Questions on Notice

- 1 VETASSESS - answers to questions on notice - public hearing on 17 May 2023
- 2 Settlement Services International – answers to questions on notice – public hearing on 16 May 2023
- 3 Settlement Services International – answers to questions on notice – public hearing on 16 May 2023 - attachment 1
- 4 Settlement Services International – answers to questions on notice – public hearing on 16 May 2023 - attachment 2
- 5 Queensland Program of Assistance to Survivors of Torture and Trauma – answers to questions on notice – public hearing on 18 May 2023
- 6 Regional Development Australia Gold Coast – answers to questions on notice – public hearing on 18 May 2023
- 7 Swan Hill Rural City Council – answers to questions on notice – public hearing on 27 April 2023
- 8 Swan Hill Rural City Council – answers to questions on notice – public hearing on 27 April 2023 - attachment 1
- 9 Swan Hill Rural City Council – answers to questions on notice – public hearing on 27 April 2023 - attachment 2
- 10 Swan Hill Rural City Council – answers to questions on notice – public hearing on 27 April 2023 - attachment 3
- 11 Swan Hill Rural City Council – answers to questions on notice – public hearing on 27 April 2023 - attachment 4
- 12 Swan Hill Rural City Council – answers to questions on notice – public hearing on 27 April 2023 - attachment 5
- 13 Swan Hill Rural City Council – answers to questions on notice – public hearing on 27 April 2023 - attachment 6

- 14 Federation of Ethnic Communities' Council of Australia – answers to questions on notice – public hearing on 12 May 2023
- 15 Settlement Council of Australia – answers to questions on notice – public hearing on 12 May 2023
- 16 Duolingo - answers to questions on notice - public hearing on 17 May 2023
- 17 Immigration Advice and Rights Centre/Unions NSW – answers to questions on notice – public hearing on 16 May 2023
- 18 Immigration Advice and Rights Centre/Unions NSW – answers to questions on notice – public hearing on 16 May 2023 - attachment 1
- 19 Immigration Advice and Rights Centre/Unions NSW – answers to questions on notice – public hearing on 16 May 2023 - attachment 2
- 20 Immigration Advice and Rights Centre/Unions NSW – answers to questions on notice – public hearing on 16 May 2023 - attachment 3
- 21 Migration Hub @ ANU - answers to questions taken on notice - public hearing on 12 May 2023
- 22 Women's Legal Services Australia – answers to questions on notice – public hearing on 12 May 2023
- 23 Department of Home Affairs - answers to questions on notice and in writing - public hearing on 14 June 2023
- 24 Master Builders Australia – answers to questions on notice – public hearing on 12 May 2023
- 25 AMES Australia – answers to questions on notice – public hearing on 26 April 2023
- 26 Clubs Australia – answers to questions on notice – public hearing on 16 May 2023
- 27 Vialto – answers to questions on notice – public hearing on 16 May 2023
- 28 Fragomen – answers to questions on notice – public hearing on 16 May 2023
- 29 Migration Institute of Australia - answers to questions on notice and in writing - public hearing on 17 May 2023
- 30 Community and Public Sector Union – answers to questions on notice – public hearing on 16 May 2023
- 31 Multicultural Australia – answers to questions on notice – public hearing on 18 May 2023

- 32 Multicultural Australia – answers to questions on notice – public hearing on 18 May 2023 - attachment 1
- 33 Multicultural Australia – answers to questions on notice – public hearing on 18 May 2023 - attachment 2
- 34 South East Melbourne Manufacturers Alliance – answers to questions on notice – public hearing on 26 April 2023
- 35 Professor Damousi, Dr Stevens, Dr Tomsic – answers to questions on notice – public hearing on 26 April 2023
- 36 Primary Care Business Council - answers to questions on notice - public hearing on 17 May 2023
- 37 Sustainable Population Australia - answer to questions taken on notice - public hearing on 18 May 2023
- 38 Royal Australian College of General Practitioners - answers to questions taken on notice - public hearing on 18 May 2023
- 39 Law Council of Australia - answers to questions taken on notice - public hearing on 12 May 2023
- 40 Refugee Council of Australia - answers to questions on notice - public hearing 9 August 2023
- 41 New Zealand Government - answers to questions on notice - public hearing on 17 May 2023
- 42 Aged & Community Care Providers Association - answers to questions on notice - public hearing on 27 September 2023
- 43 Office of the Migration Agents Registration Authority, Department of Home Affairs - answers to questions on notice - public hearing on 27 September 2023
- 44 IDP Education - answers to questions on notice - public hearing on 27 September 2023
- 45 IDP Education - answers to questions on notice - public hearing on 27 September 2023 - QON1 - attachment1
- 46 IDP Education - answers to questions on notice - public hearing on 27 September 2023 - QON1 - attachment 2
- 47 IDP Education - answers to questions on notice - public hearing on 27 September 2023 - QON2 - attachment 1
- 48 BDO Migration Services - answers to questions on notice - public hearing on 27 September 2023

- 49 BDO Migration Services - answers to questions on notice - public hearing on 27 September 2023 - QON1 & QON4 - attachment 1
- 50 BDO Migration Services - answers to questions on notice - public hearing on 27 September 2023 - QON1 - attachment 2
- 51 BDO Migration Services - answers to questions on notice - public hearing on 27 September 2023 - QON1 - attachment 3
- 52 BDO Migration Services - answers to questions on notice - public hearing on 27 September 2023 - QON1 - attachment 4
- 53 BDO Migration Services - answers to questions on notice - public hearing on 27 September 2023 - QON1 - attachment 5
- 54 BDO Migration Services - answers to questions on notice - public hearing on 27 September 2023 - QON1 - attachment 6
- 55 BDO Migration Services - answers to questions on notice - public hearing on 27 September 2023 - QON4 - attachment 2

Tabled documents/Exhibits

- 1 Settlement Council of Australia - exhibit - public hearing on 12 May 2023
- 2 Federation of Ethnic Communities' Council of Australia - exhibit - public hearing on 12 May 2023
- 3 Dr Andrew Theophanous - exhibit - public hearing on 17 May 2023



Additional Comments from the Australian Greens

Additional Comments - Migration Pathways

The Australian Greens view the inquiry into *Migration, Pathway to Nation Building*, as a much-needed review of the deficiencies with Australia's immigration system and how to approach migration in the future. However, the review's terms of reference are limited to the point that this inquiry is unable to address some of the most pressing issues in the migration system.

This limitation is particularly concerning as it relates to the almost complete exclusion of people seeking asylum and refugees from the purview of the inquiry. The Chair Report makes statements such as:

“Australia has a long and proud history of welcoming newcomers and is a nation founded on the enterprising spirit and community enrichment that migration imparts.”

The Chair's Report can make such statements only by excluding the treatment of people seeking asylum from the inquiries reference, which, through offshore detention, temporary protection visas and other punitive policies, has seen many newcomers harmed and marginalised by the Government.

Further, while making some important recommendations, the Chairs Report itself frames migration as a primarily 'economic' mechanism, undervaluing its cultural, social, and familial elements.

This is a focus that fails to recognise how humanitarian and family reunion programs, which used to be the main flow of migration to Australia, provide enormous social, economic and familial benefits across the country.

Importance of family reunion

This review has not appropriately addressed the fundamental shift in Australia's immigration system away from families towards work-based visas. In the mid-1980s, for every skilled visa provided, there were four family visas. Today, that trend has been reversed, with only one person coming to Australia on a family visa for every three people coming on a skilled visa.

Even the absolute number of people arriving in Australia on Family visas has decreased over recent decades, from 79,500 in 1987-88 to only 52,500 in 2022-23. This is a systemic

change in Australia's migration program away from family and community towards a narrow economic approach, which has ramifications for social cohesion and, ultimately, our broader economic interests.

As ANU Migration Hub stated in its submission:

"International migration is not like international trade or international finance because people have agency, while widgets and money do not. Framing Australia's migration system narrowly as a tool for 'enriching the economy' misses this insight. The risk of such an economistic framing is that it quickly loses social license."¹

The issues with treating immigration as an issue of economics were also highlighted by the Federation of Ethnic Communities Councils of Australia (FECCA), which stated:

"Social aspects of migration such as family reunion, are as equally important as the economic aspects and are crucial to creating a society where everyone can belong."²

The reduction in family visas has profound social impacts. People travelling to Australia to contribute their skills and knowledge are often denied the ability to form deeper ties to the community by bringing their family over. As the Scanlon report found:

"Migrating to Australia, especially without family, can be a difficult and isolating experience. In 2023, 58 per cent of people who have migrated to Australia in the last 10 years reported that they feel isolated from others some of the time or often."³

Furthermore, grandparents and other family members often perform important unpaid and unrecognised work, such as looking after grandchildren while their work-age children are at work.

While family visas offer the community these clear benefits, the wait times and costs are often exorbitant. A recent Commonwealth Ombudsman Report on parent visas noted:

"Depending on the type of parent visa applied for, the total [Visa Application Charge] payable can be as high as more than \$40,000 and the wait time for processing up to almost 30 years."⁴

Furthermore, according to the joint submission from the Human Rights Law Centre, Migrant Workers Centre and Asylum Seeker Resource Centre (the joint submission), some visa classes have wait times that exceed the length of the visa. This includes the Prospective Marriage (Subclass 300), which lasts for between 9 and 15 months but has a current

¹ ANU Migration Hub, *Submission 70*, p. 8.

² Federation of Ethnic Communities' Councils of Australia, *Submission 52*, p.2.

³ Dr James O'Donnell, *Mapping Social Cohesion: 2023*, Scanlon Foundation Research Institute, 2023, p. 87.

⁴ Commonwealth Ombudsman, *Righting Refunds Investigation into the appropriateness of the Department of Home Affairs' policies and procedures for Visa Application Charge refunds for parent visas*, 13 August 2024 p.3.

processing time of 37 months. An ANAO report found in June 2022 that a quarter of Partner visa applications on hand were older than three years.⁵

As the joint submission also noted, the offshore Partner (Subclass 309) visa processing times doubled over the previous decade from 4-11 months in 2011-12 to 7-23 months in 2020-21. The joint submission also made the point that the standard processing times between partners from the UK and Afghanistan also show discrimination within the processing system.⁶

	2013	2014	2015	2016	2017	2018	2019	2020	2021
Afghanistan	456	540	429	364	446	646	607	835	1326
UK	206	252	283	224	160	190	251	297	296

7

Multicultural communities applying for their parents or loved ones to come to Australia often feel like the high fees and long wait times are intentional policies to prevent them from bringing the family here.

These issues are sometimes referred to as “informal caps”, which are not aligned with the intent of the family visa program to be “demand-driven”. As the joint submission states:

“Family visas are intended to be ‘demand driven’ – that is, applications are to be processed and granted according to the number of eligible visa applicants, and not based on a limited supply of places available. This is expressed in the Act, which states that caps are not to be imposed on Partner or Child visas.”

Despite this, the Government and Department continue to observe an informal cap on the number of Partner visas available by way of annual programming levels, which Departmental officials and members of Government often refer to erroneously as a ‘ceiling.’”⁸

Even when a family member arrives, there are barriers to accessing the support needed to engage in the community. A significant barrier is the four-year prohibition on support under the waiting period for newly arrived residents. As the Settlement Council of Australia noted:

“In order to better attract and retain migrants to Australia, Australia has to be seen as a destination where new arrivals will be supported when they first arrive – but also if they come across hard times, know they and their families will be supported by the Australian government. Currently, most migrants who arrive as

⁵ Auditor-General, Management of Migration to Australia — Family Migration Program, Report No 16 2022– 23 (27 March 2023) (ANAO Report)

⁶ Human Rights Law Centre, Migrant Workers Centre and Asylum Seeker Resource Centre, *Submission 120*, p. 27.

⁷ *Ibid*

⁸ Human Rights Law Centre, Migrant Workers Centre and Asylum Seeker Resource Centre, *Submission 120*, p. 25.

permanent residents have to wait up to 4 years before accessing government payments due to the newly arrived resident's waiting period.⁹

While the Chair's Report makes a series of positive recommendations that move migration away from the security framing of the previous Coalition Governments, this cannot be replaced with an economic framing that values certain migrants over others.

The Chair's report acknowledges the cultural impacts of reduced family reunions, stating:

"The Committee strongly agrees that a shift in the Australian Government's approach to family migration is necessary, particularly in respect to parent visas. Family, in all of its diversity and across generations, plays a significant part in the building of our nation. While recognising that a solution that meets the demographic and economic needs of the country, as well as the social needs of its people, is unlikely, the Committee urges that equity and fairness be the underpinning principles of any new programs put in place. To this end, fees should be affordable and not encompass options that offer a faster track."

However, there is a failure in the recommendations to make the system fairer or address the scale of the issue acknowledged. The Recommendations concerning this issue only call for the following:

- cease to offer permanent parent visas to new applicants,
- development of appropriate visa settings for the family migration stream.

Far more is needed. Ending permanent parent visas to new applicants may be more honest with applications about the likelihood of the application being processed, but it does allow someone's parent to come to Australia and complete their family.

Recommendation 1

The government should implement the changes recommended by the Commonwealth Ombudsman in its review of parent visas.

Recommendation 2

The government's migration planning should seek a better balance between family and skilled streams, acknowledging that people on family visas also bring unique skills and benefits to Australia.

Recommendation 3

Additional funding should be urgently provided to process family visas in acknowledgement of the unacceptable delays.

⁹ Settlement Council of Australia, *Submission 34*, p. 7.

Recommendation 4

The government should abolish the newly arrived resident's waiting period (NARWP).

Recommendation 5

The Department of Home Affairs provides a transparent assessment of the actual cost of visa processing and ensures that the fees charged are in proportion to the expenses incurred.

Rights of people seeking asylum

Because of the narrow terms of reference, the Chair's Report fails to address both the Australian Government's historical treatment of people seeking asylum and the rights that have been denied to them. The conscious exclusion of people seeking asylum from the migration experience in Australia was an inherent design flaw in this inquiry.

The policies of offshore detention and the denial of rights for people who sought asylum have been formative migration policies over the past two decades and have become Australia's most internationally identifiable immigration policy.

To ignore the treatment of people who sought asylum by sea in this inquiry is a conscious choice by the Government to avoid addressing the well-known human rights abuses, cruelty and harm with these policies.

Fast Track

The Chair Report notes multiple times the conversion of those who had a Temporary Protection Visa (TPV) and Safe Haven Enterprise Visa (SHEV) to permanent protection through the RoSV process. It was the right call to provide people on TPV and SHEV who have gone through the unfair Fast Track system a pathway to permanent protection.

But the Chair's Report is silent on all those who failed by the Fast Track system living in Australia and are unable to access a permanent visa, as well as all those people held in offshore detention currently in Australia and others who still remain held offshore.

In explanation of who was impacted under the Albanese Government's RoSV process, the Chair Report states:

"The announcement does not apply to those persons who arrived prior to the commencement of Operation Sovereign Borders but have subsequently been found not to be owed protection as a refugee—that is, those not holding a TPV or SHEV visa. This group comprises approximately 12,000 people."

This is a misleading statement. The only pathway for people who sought asylum by sea in the period indicated was through the Fast Track process, a process that was deeply flawed and cannot be considered a fair refugee status determination system. To say people who are not on a TPV/SHEV are by definition not owed protection ignores the fact that Fast Track was not a fair determination process.

The review body for the Fast Track process, the Immigration Assessment Authority (IAA), was rightfully abolished earlier this year. While acknowledging the process was unfair, the Albanese Government is still forcing people who have gone through this system to live with the consequences.

As the joint submission noted:

“The Albanese rightly acknowledged these harms in extending permanent residency to 19,000 people who had previously been subjected to the ‘fast track’ process. But that announcement arbitrarily excluded another 12,000 people subjected to ‘fast track’ assessment, approximately 1000 asylum seekers transferred from Nauru and Manus Island to Australia, and another 165 people who continue to languish in those countries.”¹⁰

The current proposition that people should exhaust their legal options and then apply for Ministerial Intervention is not a solution. People need a clear pathway to permanency after over a decade of being part of the community.

Recommendation 6

Provide a fair pathway to permanency for all those subjected to the Fast Track process.

Recommendation 7

Abolish TPV/SHEVs.

Offshore detention

It is to the great shame of Australia that the country's most identifiable immigration policy, since the White Australia policy, has been offshore detention of people who seek asylum by sea. The fact that the Terms of Reference purposefully excluded offshore detention from consideration means that this review will be an incomplete look at the migration system.

People have been held offshore, having sought asylum by sea in Australia a decade ago. A recent report by ASRC found that out of the nearly 50 people held on PNG and 100 on Nauru, health issues were widespread, finding that:

¹⁰ Human Rights Law Centre, Migrant Workers Centre and Asylum Seeker Resource Centre, *Submission 120*, p. 14.

- 20% of refugees in PNG are so unwell their lives are at imminent risk
- 100% of the refugees in PNG, and 65% of people held in Nauru suffer from physical health conditions
- 88% of the refugees in PNG and 22% of people held in Nauru suffer severe mental health conditions
- 100% of people in PNG reported difficulty accessing medical care, including being declined care and being asked to pay for care when they have no financial support
- 60% of people in Nauru reported concerns with the limited healthcare available in Nauru
- 100% of people detained in Nauru and in PNG have reported experiences of trauma (including persecution, the journey to seek asylum by sea, family separation, medical trauma, experiences of violence in detention)
- 40% of the refugees in PNG suffer chronic suicidal ideation and a history of suicide attempts and
- 10% of people held in Nauru experience suicidal ideation.¹¹

There are also around 1,000 people who sought asylum by sea, were taken to offshore detention, were not included in the Fast Track process, and are in a permanent state of visa limbo. This group of people is caught in an indefinite process of renewing bridging visas with no ongoing work rights, study rights, Medicare, or support.

The Joint Submission provided the following case study that showed what people in this group experience:

“Continuing Limbo in PNG Mohammad is a Hazara man from Afghanistan who is in PNG. He entered Australia by sea in 2013; several of the men he travelled with were subject to the ‘fast track’ process and will shortly receive RoS visas. Mohammad has been recognised as a refugee in PNG. But is currently under severe strain he is worried about his family in Afghanistan who are living under Taliban rule. He is engaged in the Canadian resettlement process.

Mohammad has suffered in offshore detention in PNG for over 9 years. He has a multitude of untreated health conditions which makes it difficult for him to eat. He also suffers from depression. His doctor suggests he exercises, but Mohammad does not want to leave his house for fear of his safety.

“My hopes are to be with family, find work, stand on my own feet, feel independent and feel like a human. To have a peaceful life. Just do not forget us and hopefully, you can help us get out of this situation. We are stuck and cannot do anything to change our life for the better.”¹²

¹¹ ASRC, Cruelty by Design: The health crisis in offshore detention, July 2024 p.3.

¹² Human Rights Law Centre, Migrant Workers Centre and Asylum Seeker Resource Centre, *Submission 120*, p. 17.

The joint submission also noted that this cohort is not eligible to apply for a bridging visa and must wait for the Minister to ‘lift the bar.’

The violations of human rights and international law committed through offshore detention have been well documented and should have been included in this inquiry.

Recommendation 8

For the Minister to permanently ‘lift the bar’ to permit people deemed ‘unauthorised maritime arrivals’ or ‘transitory persons’ to make valid Bridging visa applications as of right.

Recommendation 9

Provide a fair pathway to permanency for all those who sought asylum by sea.

Recommendation 10

End offshore detention of people who seek asylum by sea.

Bridging visas

The chair’s Report has largely failed to address the most prevalent form of ‘temporary permanency’ in Australia, bridging visas.

Bridging visas are meant to be interim visas that bridge people from one substantive visa to another. However, this is not how it is currently used, instead, they are a mechanism for Governments to address the deficiencies and injustices of the immigration system.

People on a bridging visa do not have a guaranteed ongoing right to work, study, access to Medicare or any mainstream social support. The visas normally last only for six months - an indication that the original intention of the visas was that they only be used for a short-term interim visa - however, people are now left languishing on these visas for years, constantly having to renew them.

The joint submission noted:

“There are currently more than 357,743 Bridging visa holders in Australia experiencing these types of uncertainty. It is unacceptable that a significant segment of the community is subjected to years of purgatory and heightened insecurity (including at work, as we return to below). The flow-on consequences of such arrangements for people’s ability to settle and make a life in the country are obvious.”¹³

¹³ Human Rights Law Centre, Migrant Workers Centre and Asylum Seeker Resource Centre, *Submission 120*, p. 9.

While there is a general overuse of bridging visas, there is a specific issue when concerning people seeking asylum. Wait times for permanent protection visas have become unconscionable. As the Asylum Seeker Resource Centre (ASRC) noted in its submission:

“As of August 2022, the average Department of Home Affairs processing time for a Protection visa was 1,076 days. As of 31 December 2022, the AAT processing times for protection cases was 1,968 days. In addition, applicants seeking judicial review of their Protection visa refusals wait for at least two to three years for their matter to be finalised.”¹⁴

During this time, people seeking asylum are held on bridging visas without guaranteed work rights, study rights, Medicare, or support. For years, their applications are in limbo, during which time people are in a precarious situation and can be exploited.

As Refugee Advice and Casework Service (RACS) explained:

“Conditions attached to bridging visas, notably any prohibitions on working, can lead to exploitation of people seeking asylum as they are left with little option to earn an income other than enduring harsh working conditions outside the regulated labour market, as they are also not eligible for any financial support programs.”¹⁵

The Refugee Council of Australia (RCOA) highlighted that the overuse of bridging visas is a systemic change in Australia’s migration system:

“A major shift in Australia’s migration, including to some extent in the Humanitarian Program, has been the explosive growth in temporary migration. In recent years, there has been discussion of making this the default position, with all migrants treated as provisional entrants. Such policies should be avoided.

...

They are also more at risk because typically social protections, including access to social security, depend on a fundamental division between permanent and temporary residence. For example, women fleeing family violence are often not able to access refuge because of their lack of secure visa status. Typically, the social effects are being mitigated by funding and programs provided by State governments.

These effects are very apparent in the system of temporary protection visas for refugees and the ongoing reliance on bridging visas. People in this situation face many barriers, including to further education and to disability support. They are ineligible for most social security benefits, increasing their vulnerability further. Such barriers impede their settlement and are directly counterproductive to their ability to contribute to Australian society.”¹⁶

¹⁴ Asylum Seeker Resource Centre, *Submission 86*, p. 3.

¹⁵ Refugee Advice and Casework Service (RACS), *Submission 104*, p.9.

¹⁶ Refugee Council of Australia, *Submission 105*, p. 10.

Part of the reason that this proliferation in bridging visas occurred is due to the defunding of legal assistance, as ASRC explained:

“The defunding of free legal assistance to people seeking asylum has also contributed to ineffective visa processing. Since 2014, successive governments have whittled down funding and since August 2022 there has been no government-funded legal assistance for protection visa applicants

The lack of free legal assistance to people seeking asylum has had a devastating impact on their ability to engage with the complex visa application process due to barriers including literacy and language skills, poor mental health, and isolation from community support, especially for people in immigration detention. Without legal assistance, people seeking asylum cannot effectively engage in the refugee status determination process, which increases unfair outcomes and inefficient visa processing. It also exposes people seeking asylum to defective advice and covert representation, at great expense to their futures.”¹⁷

The lack of legal assistance also leads to poor applications or applications that require further information, contributing to the backlog and delays, as previously noted.

The joint submission made this point clearly:

“Given the already onerous impact of precarious Bridging visa status, and noting that delays across the regime (from visa processing to merits and judicial review) mean that people now remain on Bridging visas for years on end, there is no justification for subjecting visa holders to restrictive conditions. Study and residence-related restrictions function to prevent Bridging visa holders from participating in the community on an equal footing for years on end. As we discuss at section 4.1. below, work-related restrictions do not in fact prevent Bridging visa holders from engaging in work – particularly given that they are deprived of all other forms of income support. Rather, such restrictions serve only to channel Bridging visa holders into informal and unregulated forms of work, in which they are at greater risk of being exploited and underpaid.”¹⁸

The joint submission recommended that connecting the bridging visa with a clear event such as Ministerial intervention, ‘third country resettlement’ or the conclusion of a court case, would stop the constant renewal and would address many issues with the current system.

Previously, the Government had a ‘90-day rule’, which required a visa status determination process for people seeking asylum to be completed within 90 days. The abolishment of this rule corresponds with a blowout in wait times. The Chairs Report makes a very weak recommendation to “consider” reintroducing this 90-day rule. This is insufficient, partially as the the Labor Party nominally supports its reintroduction in full.¹⁹

¹⁷ Asylum Seeker Resource Centre, *Submission 86*, p. 4.

¹⁸ Human Rights Law Centre, Migrant Workers Centre and Asylum Seeker Resource Centre, *Submission 120*, p.11.

¹⁹ Australian Labor Party, *ALP National Platform*, p.141.

Recommendation 11

Provide people seeking asylum access to government-funded legal assistance.

Recommendation 12

Amend Bridging visa conditions to provide guaranteed ongoing work, study and support, with expiry occurring once an event has occurred (such as a substantive visa is provided).

Recommendation 13

Reintroducing the '90-day rule' into the Migration Act 1958 to ensure that refugee status determinations are concluded within 90 days.

Onshore Immigration Detention

Australia has a uniquely cruel onshore immigration detention system. Once against this, it was noticeably excluded from the review remit. How the government treats people who have had their visa expire or have had it cancelled is integral to the migration system as a whole.

The average time someone will spend in Australia's immigration detention system is 545 days, with some people held for over five years, up from under 100 days in 2013.²⁰ Compared to other countries like Canada, the UK, US, Germany and France, the average time spent in detention is between 14 and 55 days.²¹

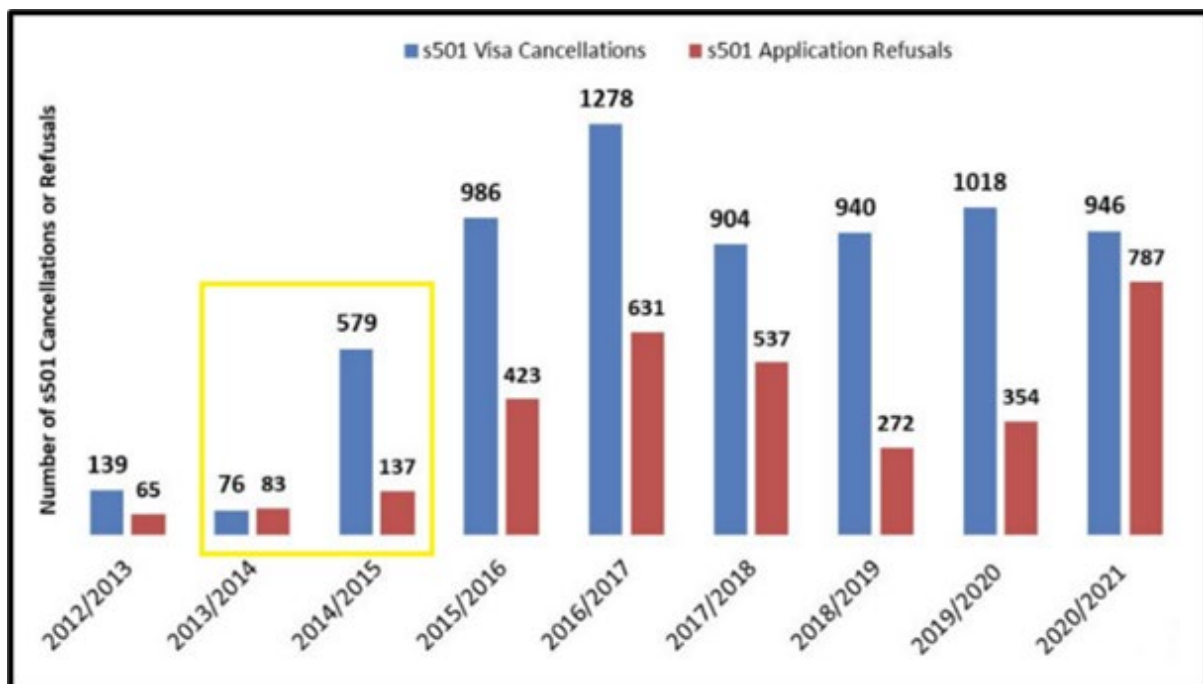
Part of the reason there has been such an unparalleled rise in average time spent in detention is linked to the Minister's 'god-like' powers to cancel visas. Powers that have drastically increased in recent years. As the joint submission notes:

"Visa cancellation decisions on character grounds have increased exponentially since the introduction of mandatory cancellation powers to the Act in 2014. The following graph depicts the immediate and exponential increase in cancellation decisions between 2013 and 2014."²²

²⁰ Department of Home Affairs, *Immigration Detention and Community Statistics Summary*, July 2024, p.12.

²¹ ASRC, *Ending Indefinite and Arbitrary Immigration Detention*, August 2022 p.7.

²² Human Rights Law Centre, Migrant Workers Centre and Asylum Seeker Resource Centre, *Submission 120*, p.11.



Australia's punitive and cruel system is known internationally, so it should not be a surprise that we are not attracting people to the same extent as countries with fairer systems.

Recommendation 14

Detention can only be a last resort with strict timeframes.

Recommendation 15

The Minister's visa cancellation powers are reviewed.

International Students

The Chair Report also notes:

"The Committee recognises the important role that international students play in adding vitally-needed skills into the Australian economy. The Committee hopes that international students continue to be a significant source of Australia's permanent migrant program and that the reforms announced by the Australian government for international education help to ensure that Australia is able to retain those international students who can potentially make the best contributions to Australia's economy and society as permanent residents and citizens."

This is deeply offensive when viewed in the context of the Albanese Government rushing through student visa caps without proper consultation or process. International students are vital not only to Australia's economy but also to our culture and society.

The treatment of international students by the Albanese Government, including scapegoating students for the housing crisis and leaving thousands without certainty.

Public Interest Criterion and Significant Cost Threshold

The Public Interest Criterion (PIC) and Significant Cost Threshold (SCT) are in desperate need of reform as they entrench discrimination against people with disabilities and illnesses into the immigration system. The Chair's Report does not go far enough in its recommendation for a simple exploration of issues that are already clear and relegating the rights of people with a disability as secondary to unclear considerations of "Budget impacts".

The Chairs Report makes the following recommendation concerning PIC:

"The Committee recommends that the Australian Government explores simplifying the health requirements to a single Public Interest Criterion that incorporates an entitlement to apply for a waiver of the health requirements."

In April 2024, the Department released the Review of the Migration Health Requirement and Australia's visa Significant Cost Threshold (SCT). In this review, the Department recommended the Government:

"Consider greater access to a health waiver (PIC 4007) for permanent skilled visa subclasses. The review notes that Government authority would be required for this change. [And] Identify options to streamline the health waiver processes for visa applicants and visa delegates." The review did not recommend further exploration.

The Chairs Report, by not recommending implementing the finds of the review is effectively dragging its feet on reform. There has been sufficient "exploration" of the negative effects of the limits to the PIC, and now action is needed.

Concerning the SCT, the Chair's Report makes the following recommendations:

The Committee recommends that the Australian Government remove specialised education services from the description of 'community service costs' in the policy settings for the Australian visa Significant Cost Threshold, with appropriate consideration to Budget impacts.

The Committee recommends that the Australian Government increases the Significant Cost Threshold to an amount that will enable Australia to remain competitive with comparable countries, with appropriate consideration to Budget impacts."

Once again, these recommendations are insufficient. Ensuring people with a disability are treated fairly, and their rights are respected, or at the very least Australia's laws are aligned with other comparable nations, should not be a secondary consideration to "budget impacts."

While there has been a welcome step by the Government to raise the SCT from \$51,000 to \$86,000. However, this is still extremely low and well below comparable countries such as Canada and New Zealand, whose equivalents of over 10 years would be \$296,000 and \$151,000, respectively.

The equivocation in the recommendation to remove specialised education services from the description of 'community service costs' in the SCT is also a concern. Education is a fundamental right, the need for education should not be counted against someone's visa application.

Recommendation 16

The government should provide greater access to PIC health waivers.

Recommendation 17

Special education costs are excluded from the SCT.

Recommendation 18

Raise the SCT to an amount that allows us to remain comparable with other countries.

Positives

There are some recommendations in the chair's Report that will have notable benefits, including:

- Re-establishing the Department of Immigration, Citizenship and Multicultural Affairs.
- Removing the requirement to retest the English language proficiency of visa applicants already in Australia.
- Automatic skill and qualification recognition of foreign workers coming from countries where standards for a given occupation are clearly higher than that of Australia.
- Amending the Migration Act 1958, to better account for the skills and experience of secondary applicants in the points test for skilled migration visa applicants.
- She is undertaking a pilot program to better aid refugees in navigating the skills assessment and qualification recognition processes in Australia.
- Developing clear exemption guidelines that recognise the importance of providing a pathway for refugees to establish their identity claims when documentary evidence is unobtainable.

- The Committee recommends that the Australian Government adopts the Canadian model to broaden eligibility to settlement services to all migrants on the basis of need, (1) with an emphasis on stronger local partnerships to improve outcomes and integration and (2) including better tailored and targeted employment supports for migrants
- The Committee recommends that unless there are compelling reasons related to security or the public interest, that the Australian Government provides work rights to asylum seekers on bridging visas to allow them to support themselves and their families and contribute to the Australian economy and society.

The Committee recommends that the Australian Government make available more specialised employment and domestic violence support services for migrant refugee women.

Finally, the Chair Report's recommendation for an independent collaborative institution for research and data collection and analysis related to migration policy and associated policy impact is positive. The advisory panel that oversees this body must have people with lived experience of seeking asylum and migrating to Australia represented.

Senator David Shoebridge
Greens Senator for New South Wales



Additional Comments from Ms Allegra Spender MP

Introduction

Migration is central to the story of Australia. It has profoundly shaped our society, economy, and culture in the past – and it will play an important role as we continue to build our nation in the future.

Australia is one of the most successful multicultural countries in the world and our ability to integrate successive waves of migrants into a diverse and cohesive society is unique. As the daughter of a migrant and the representative of an electorate where nearly two-thirds of constituents have at least one parent born overseas,¹ the success of our migration system is an issue that is close to my heart.

The Committee's majority report provides a detailed assessment of the state of Australia's migration system and makes a large number of useful and practical recommendations. I commend the members of the Committee and the secretariat for their work. The majority report also builds on the excellent work of Dr Martin Parkinson AC PSM, Professor Joanna Howe, and Mr John Azarias and their final report of the *Review of the Migration System* in March 2023.

However, the Committee's majority report does not address important changes that are needed to our migration system and fails to call-out deficiencies in recent Government policy.

My additional comments address these areas, including:

- The exclusion of skilled trades workers from the new *Specialist Skills* visa pathway.
- The introduction of caps on overseas students, at the same time as the Committee seeks to enable an increase in low-skilled temporary migration by relaxing *Working Holiday* visa requirements.
- The lack of fair and permanent solution for those failed by the Abbott Government's 'Fast Track' refugee status determination process.
- The limited transparency and Ministerial accountability for visa processing times.

Each of these areas is addressed in more detail below.

¹ ABS (2021). Census – Wentworth Electorate (61.7%) ([link](#))

List of additional recommendations

1. Strengthening skilled migration:

1.1: The Australian Government should allow all migrants who meet the earnings threshold to access the *Specialist Skills Pathway* of the *Skills In Demand* visa, regardless of their occupation.

1.2: The Australian Government should provide an alternative pathway to the Aged Care Industry Labour Agreement to address workforce shortages in aged care, which does not mandate providers enter into an MOU with a union, but which provides appropriate safeguards against exploitation.

2. Overseas students and working holiday makers:

2.1: Enrolment limits for overseas students imposed by the Australia Government should not extend beyond the calendar year 2027.

2.2: During the period which the Australian Government imposes enrolment limits for overseas students, such limits should not be imposed at the level of individual courses.

2.3: The Australian Government should retain the maximum age threshold of 30-years for *Working Holiday* visas, except for countries that have a specific agreement with Australia which provides extended reciprocal work and/or travel rights for Australian citizens.

3. Supporting people failed by 'Fast Track':

3.1: The Australian Government should create an expedited re-application process to assess the protection claims of people rejected under the 'Fast Track' refugee status determination process, but who still reside in Australia. This should include the opportunity to present new information, if relevant, such as the current circumstances of their home country.

3.2: The Australian Government should allow those rejected under 'Fast Track' – but who still reside in Australia and do not have a protection claim – to apply for other types of permanent visa, if they are eligible. For example, this could include partner visas or skilled visas.

3.3: The Australian Government should provide access to Ministerial Intervention to create a permanent pathway for those rejected under 'Fast Track' who have compelling and compassionate reasons to stay in Australia – but who do not have a current protection claim and are not eligible for another type of permanent visa.

4. Fairness to those living with disability:

4.1: The Australian Government should give further consideration to ensuring the migration system is fair to those living with a disability or with family members living with a disability.

5. Improving government accountability:

5.1: The Australian Government should establish a framework for reporting to Parliament on visa processing times and performance against service level agreements – and report on a consistent set of performance statistics on a regular basis.

1. Strengthening skilled migration

Skilled migration is one of the most significant economic levers available to our country. As set out in the *Migration Strategy*, a well-targeted skilled migration system can play a key role in building a more productive workforce and a stronger economy, supporting “rising living standards, business growth and better wages”².

The reforms to skilled migration proposed in the *Migration Strategy* are a welcome step forward. They will help shift our skilled migration intake towards higher-skilled and higher-earning cohorts, who will be provided with clearer pathways to permanent residency and more opportunity to move employers.

One aspect of these reforms is the creation of a new temporary visa called the *Skills in Demand* visa. This has three pathways:³

- **Specialist Skills Pathway** – for those earning at least \$135,000 in any occupation (except trades workers, machine operators, drivers and labourers). Applicants for this visa will have applications processed in 7 days and will not need to wait for their occupation to appear on a skills list.
- **Core Skills Pathway** – for those earning at least \$70,000 with an occupation on the Core Skills Occupation list; and
- **Essential Skills Pathway** – for those earning under \$70,000 but working in essential skill occupations.

I strongly support the introduction of the *Specialist Skills Pathway* in particular, which will help fast track the arrival of the highest skilled and highest earning migrants to Australia. However, for this pathway to be successful, it is critical that no particular occupations are specified as eligible or ineligible, in order to give businesses maximum flexibility to quickly respond to changing workforce needs.

Whilst the Committee has endorsed the development and implementation of the *Skills in Demand* visa and the *Specialist Skills Pathway*, no comment has been made on the decision to exclude trades workers, machine operators, drivers and labourers from this stream. No clear rationale has been provided for this carve-out, and there is no obvious reason why a sector-agnostic visa pathway based on a high salary threshold is appropriate for every occupation in Australia – except for those related to construction.

² Australian Government (2023). *Migration Strategy – Getting migration working for the nation*, pages 22-2

³ Australian Government (2023). *Migration Strategy – Getting migration working for the nation*, pages 49-51

The decision to exclude these workers comes at a time when the building industry is experiencing significant labour shortages and Australia is desperately trying to build more houses.⁴ Shortages are particularly acute for higher-skilled and higher-earning parts of the sector⁵ – where workers are in short supply, are difficult and expensive to recruit, and cannot be trained domestically in a short timeframe. Skilled migration – alongside domestic workforce development – is therefore an important tool to make sure that Australia has the construction workforce we need.

There is no rationale for these workers to be excluded from the *Specialist Skills Pathway* and the Government's proposed carve out should be removed.

Recommendation 1

The Australian Government should allow all migrants who meet the earnings threshold to access the Specialist Skills Pathway of the Skills In Demand visa, regardless of their occupation.

In addition to the specific challenges of the construction sector, the Committee also heard evidence of workforce shortages in aged care. For example, the Aged and Community Care Providers Association (ACCPA) informed the Committee that the industry was likely to “have a shortfall over the next decade of something like 110,000 workers”.⁶

To help address this shortfall through the migration program, the Government announced the introduction of the Aged Care Industry Labour Agreement (ACILA) in May 2023. The ACILA requires employers who want to employ migrants through this pathway to enter into a memorandum of understanding (MOU) with the relevant industry union.

The introduction of the ACILA was criticised during the inquiry process. It has been perceived as an attempt to increase union involvement in the aged care sector – irrespective of the wishes of employees and irrespective of whether this delivers better outcomes for those accessing aged care services. Whilst there are valid concerns about migrant worker exploitation in lower-waged industries, it is not clear that mandatory union involvement is the solution.

Examples of evidence submitted to the inquiry on this issue included:

- *“BDO argued that the MOU requirement is ‘misconceived’ and emphasised that it is ‘inconsistent with standard Labour Agreement requirements’. Given this, they submitted that the Agreement ‘is not the solution’ to addressing ‘the significant and growing aged care workforce shortages’.”*⁷

⁴ Housing Industry Association, *Submission 43*, page 2; Master Builders Australia, *Submission 38*, page 5.

⁵ *Committee Majority Report*, pages 228-229

⁶ Mr Tom Symondson, Chief Executive Officer, Aged and Community Care Providers Association, *Committee Hansard*, 27 September 2023, Canberra, page 35.

⁷ *Committee Majority Report*, page 224

- “ACCPA, reported ‘varying experiences’ of ACCPA members with the Agreement... and noted that the model MOU ‘for some providers includes things that are challenging to actually achieve’.”⁸

It is not clear why union involvement in the migration system should be a necessary precondition to employing people in aged care. An alternative pathway should therefore be provided.

Recommendation 2

The Australian Government should provide an alternative pathway to the Aged Care Industry Labour Agreement to address workforce shortages in aged care, which does not mandate providers enter into an MOU with a union, but which provides appropriate safeguards against exploitation.

2. Overseas students and working holiday makers

There is currently significant discussion in the community around the level of temporary migration. This is a hard debate, because people are hurting, housing is a huge problem, and temporary migration has been high. In response, the Government has taken unprecedented action to reduce the number of overseas students coming to Australia through the introduction of enrolment caps.

However, migrants are not the main driver of the current unacceptable levels of housing and rental stress. Instead, it is primarily the failed housing policies of successive local, state and federal governments, as well as Australia’s shift in recent years to fewer people living in each dwelling.⁹

When looking at migration that could take pressure off the housing market, many have looked at higher education. There are valid questions around why so-called “ghost colleges” have been able to operate unchecked, why universities don’t provide more student accommodation, and whether the balance of international and local students is right. These are all legitimate concerns that need to be addressed.

But while migration can be a short-term lever, pulling it hard has significant costs and can distract from the laser focus we need on increasing housing supply and restoring intergenerational equity. Dramatic swings in policy – such as the introduction of enrolment caps for overseas students – can be dangerous and short-termist.

Education is Australia’s fourth-largest export earner¹⁰ and is particularly valuable as fossil fuel exports decline over time. The soft diplomacy impact of Australian-educated people in our region is significant, and it is also not clear that the kind of unprecedented action proposed by the Government will have a meaningful impact on the rental crisis.

⁸ Committee Majority Report, page 224

⁹ Reserve Bank of Australia (2023). *A new measure of average household size* (link)

¹⁰ Department of Education (2024). Education export income – 2019-20 to 2022-23 (link)

The Committee report does not recommend the introduction of enrolment caps, but neither does it recommend that the Government change course. It does not propose any constraints on the unprecedented power given to the Minister under this policy, or the over-reach in allowing Government to set caps at the individual course level.

At a minimum, education providers should be allowed to determine how caps apply, and caps should be time-limited to avoid long-lasting damage to our international education sector.

Recommendation 3

Enrolment limits for overseas students imposed by the Australia Government should not extend beyond the calendar year 2027.

Recommendation 4

During the period which the Australian Government imposes enrolment limits for overseas students, such limits should not be imposed at the level of individual courses.

The primary justification provided for introducing overseas student caps is that high levels of temporary migration are putting pressure on housing. Despite this, the Committee has recommended enabling an increase in low-skilled temporary migration as part of Recommendation 63, by increasing the age threshold for people to access *Working Holiday* visas from 30 to 35.

This recommendation is contradictory to the imposition of overseas student caps and inconsistent with the objectives of the *Migration Strategy*. The strategy emphasises the importance of shifting our migration system towards higher-skilled, higher-earning migrants, with clearer pathways to permanency. Opening up *Working Holiday* visas to older migrants – who do not have to meet any skill requirements – and who have more limited prospects of ever qualifying to become permanent residents – is not aligned with this objective.

The combined impact of the Committee's recommendation and the imposition of student caps is that Australia will essentially replace a cohort of overseas students – who pay significant course fees, make a large economic contribution to Australia, and have more viable routes to permanent residence – with a cohort of low skilled temporary migrants.

This recommendation also creates additional worker exploitation risks, given employers' ability to control whether migrants' meet work requirements to qualify for second or third visas.

Instead of undercutting the migration system by a blanket increase in the age limit, the age limit should only be raised for countries where Australia has agreements that provide extended reciprocal work and travel rights (e.g. as part of the Australia-UK Free Trade Agreement).

Recommendation 5

The Australian Government should retain the maximum age threshold of 30-years for *Working Holiday* visas, except for countries that have a specific agreement with Australia which provides extended reciprocal work and travel rights for Australian citizens.

3. Migrants failed by ‘Fast Track’

Whilst the Committee’s terms of reference did not explicitly cover humanitarian entrants, “the role of permanent migration in national building” and “the economic and social contribution of migrants, including family and humanitarian migrants” were included.¹¹ As such, the Committee received evidence in relation to those failed by the ‘Fast Track’ refugee status determination process.¹²

The ‘Fast Track’ process was introduced by the Abbott Government in 2014 and applies retrospectively to people who:

- arrived in Australia by boat from 13 August 2012 to 1 January 2014; and
- were allowed to remain in Australia and apply for a protection visa.¹³

The ‘Fast Track’ process also applies to children born to parents within this group.

The ‘Fast Track’ process has failed refugees and people seeking asylum on many levels. It has produced unfair and legally incorrect decisions, caused extended delays, re-traumatised people, and resulted in refugees being deported to countries where they face persecution and harm.¹⁴

The Government has admitted that ‘Fast Track’ was fundamentally flawed, abolishing the process and the Immigration Assessment Authority (IAA) which administered it. In 2023, the Government made the welcome decision to grant permanent protection to those in the ‘Fast Track’ cohort who were living on Temporary Protection Visas (TPVs) and Safe Haven Enterprise Visas (SHEVs).

However, there are currently more than 8,000 people in Australia who were subjected to the ‘Fast Track’ process and were not provided permanent protection as part of this announcement.¹⁵ People in this cohort include those whose TPV/SHEV application has yet to be decided by the Department; those who were refused a TPV/SHEV and are seeking

¹¹ *Committee Majority Report*, pages xxiii

¹² For example: Human Rights Law Centre, Migrant Workers Centre, and Asylum Seeker Resource Centre, *Submission 120*

¹³ See the definition of ‘fast track applicant’ in s 5(1) of the Migration Act 1958 (Cth)

¹⁴ For example, see: Human Rights Law Centre, Migrant Workers Centre, and Asylum Seeker Resource Centre, *Submission 120*, pages 14-16; Asylum Seeker Resource Centre (2024). *Briefing paper – People failed by fast track* (link); Kaldor Centre for International Refugee Law (2022). *Fast Track Refugee Status Determination Research Brief*; Mary Anne Kenny (2022). *Temporary Protection Visas in Australia: A reform proposal*, Kaldor Centre Policy Brief 13

¹⁵ Asylum Seeker Resource Centre (2024). *Briefing paper – People failed by fast track*, page 1 (link)

merits or judicial review, or have pending requests for ministerial intervention; and some who were refused a TPV/SHEV and are no longer engaged in a process, but remain in Australia. They are typically unable to re-apply for protection (regardless of the current circumstances in the country they are seeking protection from) and unable to apply for other types of visa (for example, even if they have married an Australia citizen).

Over the past two years I have met several people in this cohort – including talented, ambitious, and hard-working young people – who have been completely failed by ‘Fast Track’. They have been living in Australia for more than a decade, forced into destitution and poverty for years as they attempt to rebuild their lives – while facing an unknown future and fear of deportation. For all intents and purposes, they are Australian. All they want is to live, work, study, and contribute to our society.

The below recommendations therefore seek to provide pathways to permanent protection and lasting status determination for this group, and to put an end to the traumatic limbo they have lived in for the past decade.

Recommendation 6

The Australian Government should create an expedited re-application process to assess the protection claims of people rejected under the ‘Fast Track’ refugee status determination process, but who still reside in Australia. This should include the opportunity to present new information, if relevant, such as the current circumstances of their home country.

Recommendation 7

The Australian Government should allow those rejected under ‘Fast Track’ – but who still reside in Australia and do not have a protection claim – to apply for other types of permanent visa, if they are eligible. For example, this could include partner visas or skilled visas.

Recommendation 8

The Australian Government should provide access to Ministerial Intervention to create a permanent pathway for those rejected under ‘Fast Track’ who have compelling and compassionate reasons to stay in Australia – but who do not have a current protection claim and are not eligible for another type of permanent visa.

4. Fairness to people living with disability

During the inquiry, the Committee considered in detail the nature of minimum health standards for migrants, and how these affect those seeking to access visas. As acknowledged in Chapter 6 of the Committee’s report, health criteria are applied in a blunt manner and current requirements do “not allow for consideration to be given to the

contribution the visa applicant would make to social, cultural and economic life in Australia or the contribution the person would make to meeting the costs associated with their disability (or whether they would actually access any services).¹⁶

In particular, existing health requirements can discriminate against temporary migrations who:

- Have a child while they are in Australia who has a disability; or
- Develop a disability whilst in Australia (e.g. due to a workplace incident).

For example, Welcoming Disability submitted that the costs associated with the special education of a child with disabilities mean that, if that child is school age and their parents are applying for a visa with a term of more than two years, the application is “almost guaranteed to fail the health requirement”, irrespective of whether the child would require special education.¹⁷

Recommendation 8 in the Committee report seeks to address these challenges. However, it could be further strengthened by explicitly acknowledging the need for the migration system to treat people with a disability – and their families – fairly.

Recommendation 9

The Australian Government should give further consideration to ensuring the migration system is fair to those living with a disability or with family members with a disability.

5. Improving government accountability

The Committee heard evidence from a broad range of business stakeholders that slow processing of visas was having a detrimental impact on “their ability to attract and secure migrant workers across an array of industries”.¹⁸ As a local MP, the extensive time taken to process visa applications is one of the most common issues that constituents contact me about.

This is acknowledged by the Committee report, which characterises our visa system as “overly complex, costly, and comparatively slow” and therefore failing to “serve the needs and interests of Australian businesses, the Australian community, and prospective migrants”.¹⁹

However, despite an acknowledgement of the problem, there is limited willingness from either of the major parties to be accountable for improving things. Opportunity for parliamentary scrutiny over visa processing times is scant – particularly for members of the

¹⁶ Immigration Advice and Rights Centre and Unions NSW, *Submission 32*, pages 27-28.

¹⁷ *Committee Majority Report*, page 119

¹⁸ *Committee Majority Report*, page 148

¹⁹ *Committee Majority Report*, page 16

House of Representatives – who are frequently the parliamentarians chasing-up applications on behalf of their constituents.

As is expected of the private sector, the Government should be accountable for the level of services that it delivers.

Recommendation 10

The Australian Government should establish a framework for reporting to parliament on visa processing times – and performance against service level agreements – and report on a consistent set of performance statistics on a regular basis.

Ms Allegra Spender MP
Independent Member for Wentworth