

Submission to the Policy Consultation Paper Visa Simplification: Transforming Australia's Visa System

1. Introduction

- 1.1. The Victorian Multicultural Commission (the Commission) welcomes the opportunity to make a submission on the simplification of Australia's visa system. We are the voice of Victoria's multicultural communities and the main link between them and government. The successful functioning of Victoria's unique multicultural society remains one of our State's greatest strengths.
- 1.2. The Commission provides independent policy advice, informed by the knowledge and expertise of its commissioners, by its program of community consultations, and by its Regional Advisory Councils (RACs), to the Victorian Government in accordance with its statutory role under the *Multicultural Victoria Act 2011* (the Act).
- 1.3. The objectives of the Commission (set out in section 7 of the Act) include:
 - to promote the full participation by Victoria's diverse communities in the social, cultural, economic and political life of Victoria;
 - to promote access by Victoria's diverse communities to services made available by governments and other bodies; and
 - to promote the rights and responsibilities of citizenship as a unifying force that strengthens our diverse multicultural community.¹
- 1.4. The Commission acknowledges the many benefits of migration to Australia, including the social, cultural and economic contributions made by multiple waves of migrants. In the economic sphere for example, migration has contributed positively to innovation, workforce participation and international trade links.² Victoria is one of the most culturally diverse

¹ *Multicultural Victoria Act 2011* (Vic) s. 7

² CEDA (2016) *Migration: the economic debate*. Accessed 24 August 2017:
<https://www.ceda.com.au/CEDA/media/ResearchCatalogueDocuments/Research%20and%20Policy/PDF/32509-CEDAMigrationReportNovember2016Final.pdf>

societies in the world and one of Australia's most diverse states³ with 27.3 percent of residents born overseas⁴. Victoria also attracts the second highest number of migrants in Australia (47,516 in 2015-16)⁵ and has welcomed one third of Australia's annual humanitarian intake over the last 5 years⁶.

- 1.5. In our experience, the resettlement journey can be a difficult one for some migrants. This can be in terms of finding initial and longer-term accommodation, employment, schools for children, and overcoming linguistic and cultural barriers. Obtaining a valid visa is a first step in the settlement journey and the success of that journey is impacted by the time it takes to obtain a visa and the conditions attached.
- 1.6. The Commission advocates for a visa system that is fair and equitable, both in terms of accessibility and outcomes for applicants. The discussion paper raises the difficulties posed by the current system, which has become cumbersome and difficult to navigate. A user-centred system, with fewer categories, would better enable Australia to reap the full benefits of migration. The Commission suggests that the complexity of the current system is unfairly burdensome for some applicants.
- 1.7. The current visa system has become overly complex. Thus, the Commission supports the simplification of the Australian visa system in principle if it achieves the following:
 - risk assessment processes must not discriminate against applicants from culturally and linguistically diverse (CALD) or non-English speaking backgrounds (NESB) and must uphold human rights
 - direct applications for permanent residency, without a period of provisional residence, must remain as a stream in order to facilitate the economic and social benefits of skilled migration and to address Australia's humanitarian responsibilities under international agreements⁷
 - the revised visa system should facilitate clear pathways for temporary visa holders to transition to permanent status and recognise the contribution and commitment they have made to Australia during a period of temporary residence.

³ VMC (2017) *2016 Census: A snapshot of our diversity*. Accessed 4 September 2017:

<http://www.multicultural.vic.gov.au/population-and-migration/victorias-diversity/2016-census-a-snapshot-of-our-diversity>

⁴ ABS (2017) *Cultural Diversity in Australia, 2016*. Accessed 4 September 2017:

<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Cultural%20Diversity%20Article~20?OpenDocument&ref=story>

⁵ DIBP (2017) *2015-16 Migration Program Report: Program year to 30 June 2016*.

⁶ VMC (2016) *Annual Report 2015-16*. Accessed 25 August 2017:

<http://www.multicultural.vic.gov.au/images/2016/VMCAAnnualReport2016.pdf>

⁷ Australia's obligation of non-refoulement is principally derived from four conventions:

- Convention Relating to the Status of Refugees (1951) and the Protocol relating to the Status of Refugees (1967) (COR);
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Australia on 8 August 1989;
- Convention on the Rights of the Child (CROC), ratified by Australia on 16 January 1991; and
- The International Covenant on Civil and Political Rights (ICCPR), ratified by Australia on 13 August 1980. Retrieved 31 August 2017:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Former_Committees/minmig/report/c08

- 1.8. The Commission welcomes the opportunity to provide further feedback on the transformation of the visa system as this reform project progresses and more detailed proposals become available. Through an ongoing consultation program, the Commission has direct access to migrant and refugee communities across Victoria and would draw on their insights to inform the Commission's response.

2. Recommendations

2.1 In response to the Department of Immigration and Border Protection's consultation paper on visa simplification, the Commission makes the following recommendations.

The Commission recommends that:

- a) *the visa system be simplified and modernised to streamline the application process, shorten processing times and deliver consistent outcomes for applicants*
- b) *visa categories be significantly broadened to reflect the overall purpose of migration*
- c) *the visa system and merits review process be made fully accessible for applicants from non-English speaking backgrounds (NSEB), with limited formal education or limited internet access*
- d) *visa holders are adequately informed of the protections they are entitled to under Australian law, to minimise the risk of exploitation, especially for temporary visa holders*
- e) *prospective migrants not be subject to a period of provisional residency to become eligible to apply for permanent residency; the permanent migration stream should be retained*
- f) *the visa system provide clear and achievable pathways to transition from temporary to permanent residence, to avoid creating long-term, temporary migrant status*
- g) *conditions imposed on temporary visa holders do not inhibit their ability to resettle successfully and thereby contribute to Australian society*
- h) *changes to the visa system or migration program are made with appropriate warning and do not negatively impact applications already lodged*
- i) *risk assessment processes be reviewed in order to streamline visa processing, while ensuring that these processes are non-discriminatory and uphold human rights*
- j) *the impact of temporary protection visas be reviewed and full access to merits review for all asylum seekers be restored⁸*
- k) *all humanitarian visa holders be eligible for permanent residency; including the right to family reunification, full access to government services, work rights, travel and eligibility for Commonwealth Supported tertiary education and HELP loans.*

⁸ Following the recommendation of the Australian Human Rights Commission (2015), *Australia's Second Universal Periodic Review: Submission by the Australian Human Rights Commission under the Universal Periodic Review Process*. Retrieved 5 September 2017: https://www.humanrights.gov.au/sites/default/files/WEB_Australias_Second_UPR_Review_2015.pdf

3. What would a system with 10 visas look like?

- 3.1. The Commission supports a comprehensive review of the visa system, with a focus on user-centred design. The revised visa system should improve accessibility for applicants, reduce the administrative burden on DIBP and accelerate processing times. Feedback from our RAC members indicates that the inaccessibility of the current visa system deters prospective applicants or results in unsuccessful applications or visa cancellations. The complexity leads to greater reliance on migration agents⁹, which is an additional financial and resource burden on applicants.
- 3.2. The Commission advocates for a visa system that is easier for applicants to navigate, especially for those with low levels of English proficiency or formal education. Visa categories should be broadened to reflect common sense understandings of the purposes of migration, replacing the current system of 99 highly specific visas, some of which are distinguished by only a single feature. A robust visa system must also demonstrate integrity and deliver consistent outcomes. Increased discretion in visa processing should not lead to unpredictable and inconsistent outcomes. Applicants must also be able to obtain detailed information on how their application will be assessed and the conditions that will apply to their visa if their application is successful. This is especially important for persons seeking asylum in Australia.
- 3.3. As far as practicable, the visa system should be fully digitised and available online. However, the system must incorporate alternative options so that applicants with limited internet access or low levels of computer literacy are not disadvantaged. Many communities report difficulties in applying for visas in regions where there is no Australian diplomatic mission or internet access. To ensure the accessibility of the system, technical and bureaucratic language should be avoided and translated supporting materials must be made available.
- 3.4. A revised visa system with approximately 10 categories would better reflect the claim that Australia is “an open and welcoming country”. For example, Canada considers itself to be an “immigrant friendly country” and revamped its visa system in 2016 to make immigration smooth for new immigrants. The Canadian Government announced changes in 2016 to “popular express entry” visas to make “immigration hassle free”. This approach by Canada is consistent with its policy of welcoming refugees and migrants and providing leadership on multicultural narratives.

4. What factors should we consider when simplifying the visa system?

- 4.1. Among the factors that should be considered in this review of the visa system are the benefits of migration; Australia’s obligations to humanitarian entrants under international treaties; the importance of family reunion in settlement outcomes and for a globally mobile population; and the importance of ensuring that visa application and risk assessment processes uphold human rights. A wealth of research analysing the impacts of migration shows that migrants

⁹ Kendall, C. (2014) 2014 Independent Review of the Office of Migration Agents Registration Authority. Accessed 24 August 2017: <https://www.border.gov.au/ReportsandPublications/Documents/reviews-and-inquiries/omara-review.pdf>

contribute extensively to economic, social and civic life in their adopted country. Australia needs a simplified, modern and transparent visa system to continue attracting migrants and to fully benefit from the contributions they make.

- 4.2. While Australia has focused primarily on skilled migration over the last 30 years, the evidence indicates that migrant workers make important contributions to the labour market in both high and low skilled occupations.¹⁰ Immigrants fill labour market shortages in declining occupations and in industries perceived as undesirable by domestic workers. This is particularly evident in Australia through the dependence of the horticulture industry on working holiday makers to supply seasonal, low skilled labour in regional locations.¹¹
- 4.3.
- 4.4. The demographics of migrant populations also drive and support economic growth. Compared to the domestic-born population, migrants are more likely to be of working age, more highly educated, have a higher workforce participation rate and are less likely to access welfare.^{12,13} In common with other Western nations, Australia faces structural population ageing, and migration is a solution to impending population decline. Migrants are more tightly concentrated around the prime working age and have higher rates of fertility, which assists in maintaining the size of the labour force and broadening the tax base to meet the financial and support needs of an ageing population.¹⁴
- 4.5. While humanitarian entrants contribute in similar ways to other migrants (although the full benefits may be realised over a longer time period) they also have additional characteristics and motivations which further enhance their positive impact. Refugee and asylum seeker cohorts are younger on average and have a higher fertility rate, thus more effectively addressing the issues of an ageing population.¹⁵ Humanitarian entrants are also more entrepreneurial than the general population and other migrant groups with a higher propensity to start their own small or medium enterprise and a higher success rate.¹⁶
- 4.6. First and second generation humanitarian entrants also make a significant contribution to civil society through formal and informal volunteering and a high degree of civic and community engagement. Refugees and asylum seekers also have the “lowest rate of settler loss across all

¹⁰ OECD (2014) Is migration good for the economy? *Migration Policy Debates*. Accessed 25 August 2017: <https://www.oecd.org/migration/OECD%20Migration%20Policy%20Debates%20Numero%202.pdf>

¹¹ Department of Agriculture and Water Resources (2016) *Inquiry into Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016 and related bills. Submission to the Senate Economics Legislation Committee*.

¹² Harper, S. (2016) *The Important Role of Migration in an Ageing Nation*. *Journal of Population and Ageing*, Vol. 9, Issue 3, pp 183-189

¹³ Migration Council Australia (2015) *The Economic Impact of Migration*. Accessed 24 August 2017: http://migrationcouncil.org.au/wp-content/uploads/2016/06/2015_EIOM.pdf

¹⁴ Harper, S. (2016) *The Important Role of Migration in an Ageing Nation*. *Journal of Population and Ageing*, 9(3), 183-189

¹⁵ Hugo, G. (2011) *A Significant Contribution. The Economic, Social and Civic Contributions of First and Second Generation Humanitarian Entrants*. Department of Immigration and Citizenship, Canberra. Accessed 28 August 2017: <https://www.border.gov.au/ReportsandPublications/Documents/research/economic-social-civic-contributions-about-the-research2011.pdf>

¹⁶ Hugo, G. (2011) *A Significant Contribution. The Economic, Social and Civic Contributions of First and Second Generation Humanitarian Entrants*. Department of Immigration and Citizenship, Canberra. Accessed 28 August 2017: <https://www.border.gov.au/ReportsandPublications/Documents/research/economic-social-civic-contributions-about-the-research2011.pdf>

visa categories” meaning that the businesses they build, networks they establish and support they provide continues to benefit Australia for the long term.¹⁷

- 4.7. The family migration component is important for community members wanting to settle close to family as part of an extended social support network. But equally important is the ability of family to travel to Australia on a temporary basis for community members to reconnect - for grandparents to meet their grandchildren or families displaced and divided by war to reunite. A visitor visa system that facilitates reunions without undue burden of visa application fees and bonds would benefit community members and acknowledge Australia’s place in a globally connected world.

5. What should be the key characteristics of a simplified and flexible visa system?

- 5.1. Based on input from our community consultations, the Commission considers the following essential characteristics of a simplified visa system:
- a small number of visas distinguished by broad, common sense understandings of the purpose of migrating to Australia, for example; holiday, study, work;
 - a non-discriminatory approach to risk assessment with human rights at the heart;
 - clear pathways from temporary visa status to permanent residency and citizenship;
 - fair and affordable visa fees and associated costs;
 - a stable system which produces consistent outcomes, not subject to sudden or retrospective change; and
 - accessible methods of review for those seeking to appeal the merits of a decision.
- 5.2. A key characteristic of an equitable visa system is the predictability and consistency of outcomes, evident through a commitment to procedural fairness. While the VMC understands that the visa system must remain flexible to respond to changing priorities, it is important that any changes to application requirements or visa conditions occur with sufficient warning and do not negatively impact applications already lodged.
- 5.3. Changing the visa conditions or assessment criteria with undue haste and lack of consultation impacts not only the visa holder and their family, but also the wider community. For example, the shift to priority processing for permanent residency in 2009 to manage the backlog of valid applications for independent general skilled migration, placed tens of thousands of applicants into “indefinite limbo” as they were placed in the lowest priority category; their applications

¹⁷ Hugo, G. (2011) A Significant Contribution. *The Economic, Social and Civic Contributions of First and Second Generation Humanitarian Entrants*. Department of Immigration and Citizenship, Canberra. Accessed 28 August 2017: <https://www.border.gov.au/ReportsandPublications/Documents/research/economic-social-civic-contributions-about-the-research2011.pdf>

remaining unprocessed as long as there are higher category applicants ahead of them.¹⁸ Not only does this effectively put the lives of these prospective migrants on hold, but it irreversibly damages Australia's reputation as an "open and welcoming country" and our ability to attract the best and brightest.

- 5.4. The cost of visa applications and related expenses also pose a significant barrier to entry for many prospective migrants, particularly if the visa is temporary and they are likely to face additional fees in the future. The Commission's stakeholders have raised this as a particular challenge when seeking family reunification or applying for a family visitor visa. In some cases the primary income earner will migrate on a temporary skilled visa, but is reluctant to bring their partner, children or parents due to the high cost and provisional status of their own visa. The contributory parent visa (subclass 143), for example, costs tens of thousands of dollars and the family visitor visa can attract a bond of \$10,000, beyond the financial reach of many families.
- 5.5. A further example of the inequity of the current system is apparent in the prohibitive cost of sponsoring a humanitarian applicant under the Community Support Program. Visa application fees and associated costs are over \$50,000 for a family of five¹⁹ (compared to CAD27,000 for a four-person family under the private sponsorship program in Canada)²⁰. Although this program was proposed as an alternate pathway for humanitarian entrants, the 1,000 places available actually fall within the existing refugee and humanitarian program. The Commission considers that the high cost of sponsorship will prevent many prospective humanitarian entrants from securing a place under this program and this is not in keeping with the spirit of humanitarian migration.
- 5.6. A modern and transparent visa system must provide accessible methods of review for unsuccessful applicants or inappropriate visa conditions. In particular, full access to merits review must be available for asylum seekers. This is an essential checkpoint in the assessment process and ensures that genuine claims for refugee status are not rejected. Methods of review must be accessible for applicants with low levels of English, result in timely outcomes and not be unduly bureaucratic.

6. What distinctions should apply to temporary and permanent visas?

- 6.1. Consistent with international trends, Australia has transitioned towards a strong focus on temporary migration since the 1990s. This reflects a paradigm shift. Where migration was originally seen as a tool for population growth, based on the assumption that new migrants would remain and become citizens, it now involves the highly targeted selection of temporary

¹⁸ Mares, P. (2012) "Temporary Migration and its Implications for Australia" *Papers on Parliament No. 57*. Accessed 24 August 2017:

http://www.aph.gov.au/sitecore/content/Home/About_Parliament/Senate/Powers_practice_n_procedures/pops/pop57/c03#_ftn1

¹⁹ Refugee Council of Australia (2017) *The Community Support Program: Providing complementary pathways to protection or privatising the Humanitarian Program*. Accessed: 29 August 2017 <https://www.refugeecouncil.org.au/ourwork/16445/>

²⁰ Refugee Council of Australia (2017) *Report of 2017 Annual Tripartite Consultations on Resettlement*. Accessed: 29 August 2017 https://www.refugeecouncil.org.au/wp-content/uploads/2017/08/ATCR_2017-Final-Report.pdf

migrants to fill skill and labour market gaps. There are over a million long-term temporary migrants in Australia today, many of whom will likely seek permanent residency. The current system provides no certainty or stability; they *may* be eligible for one of the limited places in the permanent migration program, but this by no means guaranteed.

- 6.2. The Commission stresses that all of Australia's residents, irrespective of their visa status, are members of the Australian community. They contribute economically, socially and culturally and are entitled to the protection of their human rights. Their ability to navigate systems and establish themselves in the community is essential to their settlement and research indicates that the earlier settlement occurs the greater their beneficial participation.
- 6.3. Limiting access to services for temporary and provisional visa holders, with the aim of reducing government expenditure, is short sighted in its failure to consider that those visa holders are long term residents of the Australian community. Early support and interventions are an investment in long term beneficial settlement outcomes. The Commission recommends that the longer the term of temporary residence, the more visa conditions should mirror permanent visa status.
- 6.4. A modern, simplified visa system has a role in enabling temporary visa holders to understand their visa requirements, and their rights and protections under Australian law. RAC members have raised workplace exploitation as a significant and ongoing issue for temporary migrants. This is supported by the 2016 Senate Committee Inquiry, which found evidence of systematic abuse of temporary visa holders including wage theft or underpayment, poor working conditions and human trafficking akin to modern slavery.²¹
- 6.5. Over 10 percent of cases received by the Fair Work Ombudsman are from temporary visa holders.²² However, it is likely that many more violations go unreported as sponsored temporary visa-holders are dependent on their employer for their right to remain in Australia and there is a lack of understanding (especially among NSEB migrants), regarding the industrial protections they are entitled to under Australian law.
- 6.6. The Victorian Inquiry into the Labour Hire Industry and Insecure Work found that those on working holiday maker and student visas were just as likely to be victims of workplace exploitation as subclass 457 visa holders and seasonal workers. In response, the Victorian Government is introducing a universal licensing scheme for the labour hire industry, to ensure fair working conditions, proper safety standards and fair pay.

²¹ Senate Standing Committees on Education and Employment (2016) *A National Disgrace: The Exploitation of Temporary Work Visa Holders*. Accessed 11 September 2017
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/temporary_work_visa/Report

²² Mares, P. (2012) "Temporary Migration and its Implications for Australia" Papers on Parliament No. 57. Accessed 24 August 2017:
<https://www.ceda.com.au/CEDA/media/ResearchCatalogueDocuments/Research%20and%20Policy/PDF/32509-CEDAMigrationReportNovember2016Final.pdf>

- 6.7. RAC members have also reported that community members on temporary visas have difficulty securing employment due to their temporary visa status. Their non-permanent status is seen as a risk to employment stability, thus employers do not give due consideration to their skills and experience. Unscrupulous employers, in some cases, seek to benefit from their vulnerability.
- 6.8. Student visa holders report that both the visa conditions and temporary status are barriers to gaining employment. Employers dismiss their applications out of hand, considering their visa work restrictions a liability.²³ Furthermore, some students do not fully understand their visa conditions relating to employment and risk losing their visa. This is particularly an issue for students working in the 'gig economy' such as food delivery and ridesharing, where workers are paid per delivery or ride rather than per hour. Some students have breached the work limit of 40 hours per fortnight by failing to account time spent online waiting for the next 'gig'; time for which they are not paid.²⁴
- 6.9. The actual and perceived insecurity of temporary visa status, combined with a lack of familiarity with Australian law and a negative perception of the police due to pre-migration experiences, also poses significant risks. Refugees and migrants have informed the VMC of their reluctance to report criminal activity, harassment or domestic violence to the police due to fear this may jeopardise their visa status. In particular, CALD women are at increased risk of family violence under circumstances of insecure visa status, especially when a dependent on their spouse's visa application or sponsored by a partner or prospective spouse. They feel unable to report abuse or escape the relationship due to fear this will risk their, or their children's, visa status.²⁵
- 6.10. Although there may be distinctions between temporary and permanent residents, temporary visa holders must be given the best chance to successfully settle in Australia and make a positive contribution. Australia stands to benefit most from migrants with positive settlement experiences .

7. What requirements should underpin a migrant's eligibility for permanent residence?

- 7.1. Eligibility for permanent residence is currently determined by a range of factors, including employer sponsorship, occupation, family and other connections to Australia, depending on the visa subclass. However, the Commission will focus here on family reunification; a significant issue faced by all migrants but particularly temporary humanitarian visa holders,

²³ VMC (2016) *Engaging our youth: our future*. Accessed 4 September 2017:

<http://www.multicultural.vic.gov.au/images/2016/EngagingOurYouthOurFuture.pdf>

²⁴ Goods, C., Veen, A., Barratt, T. "Being exploited and breaching your visa: the limited choices of the food delivery worker." *The Conversation*. 21 August 2017. Accessed: <https://theconversation.com/being-exploited-and-breaching-your-visa-the-limited-choices-of-the-food-delivery-worker-82589>

²⁵ VMC (2015) *Submission to the Victorian Government Royal Commission into Family Violence*. Accessed 25 August 2017: http://www.multicultural.vic.gov.au/images/Victorian_Multicultural_Commission_Submission_to_the_Royal_Commission_into_Family_Violence_final_2.6.15.pdf

and gives rise to the Commission's recommendation that Australia's most vulnerable migrants should be directly eligible for permanent residency.

- 7.2. Family separation is a common occurrence in situations of war or displacement and it significantly affects resettlement experiences. Australia has obligations under international law to support family reunification.²⁶ However, refugees on Temporary Protection Visas (TPVs) and Special Humanitarian Entry Visas (SHEVs) are currently unable to sponsor family members and their travel is restricted. Long-term family separation places significant psychological, social and financial strain on humanitarian entrants and compounds the existing, unique challenges of refugee resettlement.²⁷ The Commission has been advised that many refugees experience feelings of hopelessness and "survivor's guilt" as they struggle to re-establish their lives in Australia knowing that they have left family members behind in high-risk situations.
- 7.3. By contrast, Canadian immigration policy prioritises family reunification, as highlighted in the Commission's report on settlement in Canada and the USA, 'A Settlement Journey'. The Canadian government seeks to improve settlement outcomes for its humanitarian entrants by creating pathways to ensure they are swiftly reunited with family members.²⁸ The UNHCR also emphasises the importance of family reunification under international protection obligations. To align with UNHCR recommendations, family reunification should be available to all refugees, regardless of their position within the family or their mode of arrival.²⁹

8. Should a prospective migrant spend a period of time in Australia before becoming eligible for permanent residence? What factors should be considered?

- 8.1. The Commission does not support provisional residence as a precursor to eligibility for permanent residence. Australia has a long history of successfully resettling migrants and humanitarian entrants who have previously never set foot in the country. Mandating a period of provisional residence risks deterring prospective migrants from moving to Australia and limiting our ability to fully benefit from the potential long-term economic and social contribution of each migrant.
- 8.2. The Commission does not support a two-step migration process or parallel visa pathways which prevent prospective migrants from directly applying for permanency, as the temporary status of migrants makes them vulnerable to exploitation, delays their settlement and postpones the benefits to Australia of their full participation in the economic, social and cultural life of the community.

²⁶ *International Covenant on Civil and Political Rights*, 1966 (ICCPR), art 23; Human Rights Committee, *General Comment No. 19: Protection of the family, the right to marriage and equality of the spouses (Art. 23)*, UN Doc HRI/GEN/1/Rev.6, 149 (1990), paras 3 and 5.

²⁷ Refugee Council of Australia (2016) *Addressing the Pain of Separation for Refugee Families*. Accessed 5 September 2017: <http://www.refugeecouncil.org.au/wp-content/uploads/2016/11/RCOA-Report-Family-Reunion-11-16-WEB.pdf>

²⁸ VMC (2017) *A Settlement Journey. A case for a holistic approach to how we settle new arrivals in Victoria: learnings from Canada and the USA 2016*. Accessed 5 September 2017: http://www.multicultural.vic.gov.au/images/2017/ASettlementJourney_LearningsfromCanadaAndUSA2016.pdf

²⁹ UNHCR (2001) *Annual Tripartite Consultations on Resettlement. Geneva, 20-21 June 2001. Background Note for the Agenda Item: Family reunification in the context of resettlement and integration*. Accessed 5 September 2017: <http://www.unhcr.org/3b30baa04.pdf>

- 8.3. The Commission does support transparent and explicit pathways for temporary visa holders to become permanent residents. Increasingly, applications made for permanent migration are made by existing temporary visa holders, as can be seen from the increase in onshore applications.³⁰ Those aspiring to migrate permanently are either using temporary migration as a pathway towards residency, or make the decision to remain in Australia following their arrival. Streamlining legal pathways for temporary visa holders reduces the administrative burden, for both government and the applicant, as well as the associated costs, and has the benefit of retaining those who have already established their lives in Australia.
- 8.4. The Commission does not support the use of temporary protection visas for humanitarian entrants.³¹ The Office of the United Nations High Commissioner for Refugees (UNHCR) provides clear direction on the circumstances under which it is appropriate to issue temporary humanitarian visas - where "individual status determination is either not applicable or feasible, or both".³² The use of temporary arrangements is not appropriate for long-term stays and undermines Australia's protection obligations under international law.
- 8.5. The Commission would like to see a case management approach for asylum seekers that takes into consideration individual circumstances. The conditions imposed on temporary humanitarian visa holders impairs their ability to successfully resettle in Australia. This includes; no access to settlement services, limited access to social services or income support, the requirement to pay international student fees for tertiary education and being ineligible for Commonwealth Supported places or HELP loans.³³
- 8.6. TPV and SHEV holders are also ineligible to propose relatives for a humanitarian visa and are prevented from travelling overseas, except where there are 'compassionate and compelling circumstances'. Thus some humanitarian entrants remain separated from their immediate family members with no prospect of reunification. The detrimental mental health effects of temporary visa status are regularly raised through VMC consultations. RAC members report that the lack of security leads to increased stress, feelings of hopelessness and depression, and in some cases visa holders re-live the trauma and uncertainty of escaping persecution.
- 8.7. The requirements for transition from a SHEV to permanent visa status are onerous for individuals and families to achieve, most especially for people who are displaced and vulnerable. For example, the UNHCR reports that war widows are among the most vulnerable

³⁰ Mares, P. (2012) "Temporary Migration and its Implications for Australia" Papers on Parliament No. 57. Accessed 24 August 2017
http://www.aph.gov.au/sitecore/content/Home/About_Parliament/Senate/Powers_practice_n_procedures/pops/pop57/c03#_ftn1

³¹ *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014 (Cth)*.

³² Australian Human Rights Commission (2017) *Asylum seekers, refugees and human rights: Snapshot Report*. 2nd edition. Accessed 24 August 2017 <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/asylum-seekers-refugees-and-human-rights-snapsho-0>

³³ Australian Human Rights Commission (2017) *Asylum seekers, refugees and human rights: Snapshot Report*. 2nd edition. Accessed 24 August 2017 <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/asylum-seekers-refugees-and-human-rights-snapsho-0>

people displaced by the Mosul conflict, without an income and most often with children to support.³⁴ Requiring this vulnerable cohort to remain employed or in full time study for three years, without access to full government assistance, is simply unachievable for many and not in keeping with Australia's international obligations.

- 8.8. We should be empowering humanitarian entrants to build a better future and contribute to Australia's growth and productivity. For those granted protection in Australia, this should facilitate clear pathways to permanent residency and citizenship.

9. What role does the visa system play in ensuring Australia remains attractive to the best and brightest temporary and permanent migrants?

- 9.1. In many cases, prospective migrants first encounter Australia through the visa application process. The complexity of the system, transparency and efficiency of processes shape an applicant's initial perceptions of the nation. To ensure Australia remains attractive to the best and brightest migrants, the visa system must be accessible to applicants of all backgrounds, must not discriminate on any unsubstantiated basis and must produce timely outcomes. This will affirm Australia's reputation as a welcoming, egalitarian society and its standing as a global destination of choice.

- 9.2. The Commission's consultations indicate that pathways to permanent residency and likelihood of success have a significant impact on the decision to migrate. By clarifying pathways to permanent residency and mechanisms for sponsoring family members at the outset, Australia's visa system can overcome these barriers for potential migrants. The number of places available under the permanent migration stream must also be adjusted to keep pace with demand and replenish an ageing workforce. Studies demonstrate the value to Australia of attracting migrants from diverse backgrounds. For example, the University of New England (2007) concluded that the social benefits of migration far outweigh the costs, especially in the longer term. The evidence demonstrates overwhelming public support for the view that migrants to Australia have made and continue to make substantial contributions to Australia's stock of human, social and economic capital.³⁵

10. Do you think that visa system that is simple to understand and assesses risk quickly will make Australia a more attractive destination? Why?

- 10.1. Patterns of migration are becoming progressively diverse, and the range of source countries continues to expand. While this increases Australia's cultural and religious diversity, it also creates a tension in the relationship between justice and security. The visa system must

³⁴ War Widows, UNHCR, 2017. Retrieved 5 September 2017: <https://www.unrefugees.org.au/our-stories/asmaas-story/>

³⁵ University of New England (2007) *The Social Costs and Benefits of Migration into Australia*. Accessed 5 September 2017 https://www.dss.gov.au/sites/default/files/documents/01_2014/contents_exec_summary_and_intro.pdf

therefore balance concern for national security with issues of democracy, human rights, and social cohesion.

- 10.2. The threat of terror-related security breaches must not be employed as a means to deter and reject valid applications from war zones and regions of civil unrest. The Commission supports the streamlining and codification of risk assessment processes, however, a revised visa system must uphold human rights and protect applicants from unfair discrimination.
- 10.3. The process for classifying applicants as low risk or high risk must be equitable and non-discriminatory. This applies particularly to applicants from countries or regions where there is civil unrest or war. The UNHCR reports that 55% of refugees worldwide in 2016 came from three countries – South Sudan, Afghanistan and Syria.³⁶ It would be concerning to see applicants from these regions penalised on the basis of their country of origin, ethnicity, citizenship status, language, political views or any other unsubstantiated basis. Consideration of risk must apply to all applicants equally regardless of the visa stream - humanitarian entrants pose no greater threat to Australia's security than temporary skilled migrants or investors. Use of profiles would be a flawed application of risk assessments and could lead to discrimination against individuals.
- 10.4. The revised system must be open and accountable as well as flexible to better facilitate processing. The policy discourse on multiculturalism appears to have shifted from the language of multiculturalism to that of diversity, social cohesion and harmony, with security concerns at times linked to the agenda . The Commission cautions against a national security narrative which could be misunderstood to justify targeting of individual groups of migrants or lead to calls for an abandonment of Australia's long standing non-discriminatory program, of which the nation should be proud.
- 10.5. The visa system sets the tone for the national discourse on immigration in setting a constructive narrative. In Canada for example, the narrative at the highest level set an atmosphere of acceptance and support for Syrian refugees, and fostered a groundswell of community goodwill toward their arrival. The visa system also has a role as a practical manifestation of Australia's commitment to an inclusive and egalitarian multicultural society.
- 10.6. The Commission contends that streamlining of the visa process should enhance the integrity and procedural fairness of the process rather than diminish it. Most migrants come to Australia not only to work, produce, and fill skills shortages, but also to create new futures for themselves and their families. A simplified visa system, which is fair, transparent and efficient, will ensure Australia's viability in attracting and retaining migrants.

³⁶ United Nations High Commissioner for Refugees (2017) Global Trends: Forced Displacement in 2016. Accessed 18 August 2017: <http://www.unhcr.org/en-au/statistics/unhcrstats/5943e8a34/global-trends-forced-displacement-2016.html?query=global%20trends>