

Submission to the Australian Government Department of Immigration and Border Protection Discussion Paper, Strengthening the Test for Australian Citizenship.

1. Introduction

- 1.1. The Victorian Multicultural Commission (VMC) welcomes the opportunity to make a submission on these important matters. We are the voice of Victoria's multicultural communities and the main link between them and the government. Victoria's multicultural society is acknowledged as a great asset and a strength of our state.
- 1.2. The VMC provides independent advice to the Victorian Government, operating under its remit, as outlined under the *Multicultural Victoria Act 2011* (the Act). The successful functioning of Victoria's unique multicultural society remains one of our state's greatest assets and strengths and enjoys bi-partisan support.
- 1.3. A major objective of the Commission, under the Act, is to promote the full participation by Victoria's diverse communities in the social, cultural, economic and political life of Victoria (s.7(a)) and to encourage all of Victoria's diverse communities to retain and express their social identity and cultural inheritance and to promote mutual respect (s.7(c)). These aims are consistent with the Australian government's immigration program and its intentions in the promotion of Australian citizenship.

2. Context

- 2.1. The VMC does not support the proposed citizenship test reforms as they will have damaging effects on the most vulnerable members of our community.
- 2.2. Since Federation, the development of Australian citizenship has been intertwined with immigration, with changes to citizenship law generally reflecting changes in immigration policies.¹ The Census of Population and Housing reflects the journey of migration and the multicultural make-up of our nation. In 2017 the Australian Bureau of Statistics (ABS) reports that the census provides information showing that 'we're a big, diverse community' and that 'there's nothing typical about Australians'.²

¹ Klapdor, M., Coombs, M. & Bohm, C. (2009) *Australian citizenship: a chronology of major developments in policy and law*. Parliament of Australia, Department of Parliamentary Services: Canberra.

² ABS (2017) National results and the 'typical' Australian. Retrieved 1 June 2017: <http://www.abs.gov.au/websitedbs/D3310114.nsf/home/2016+Census+National>

- 2.3. The VMC has grave concerns that the requirements being proposed to strengthen the test for Australian citizenship will operate in opposition to the spirit and the policy of multiculturalism, and of remaining true to the Australian maxim of the 'fair go'. Multiculturalism has served Australia well as a notion that is both inclusive and welcoming. Further, the notion of citizenship that it reflects, has been more conducive to effective settlement and social cohesion.³
- 2.4. The VMC would like to see a greater commitment to the valuable social, cultural, civic and economic contributions diverse communities have made and continue to make to Australian society. We suggest that, encouraging unity through a more inclusive multicultural national identity would bring our diverse cultures and communities together in more constructive ways, and create a more socially inclusive, cohesive and united nation. Australian citizenship after all is not a static concept. It has been evolving since Federation and indeed has grown to be more inclusive since the 'White Australia Policy' was abandoned.
- 2.5. Difficult pathways to citizenship will not have these desired outcomes especially when the proposed requirements would seem to unduly burden applicants from non-English speaking backgrounds (NESB). This could be viewed as a more divisive step. There are many measures that could be taken to create greater national unity other than by introducing more onerous requirements for citizenship, which appear to limit rather than enhance unity.
- 2.6. This submission addresses the aspects that seem to place a greater burden on multicultural community members, especially those from NESB. These aspects are the proposed resident requirement, introduction of an English language test, and the requirement to demonstrate integration.

3. General resident requirement

- 3.1. A function of the VMC is to 'undertake systematic and wide-ranging consultations with bodies and people to determine the needs of Victoria's diverse communities'.⁴ Through our regular regional advisory council meetings and community consultations we hear directly from local communities about the difficulties they face.
- 3.2. While promoting a sense of citizenship among long-term residents is a legitimate task of a democratic state such as Australia, the proposed four years residency, is onerous and may present an insurmountable obstacle to many in the community. For example, Afghan communities in Dandenong have told the VMC that 'long immigration processes for refugees waiting for citizenship' negatively impacts on their 'experiences of settlement and integration'.⁵
- 3.3. In practical terms, many people from refugee backgrounds are effectively stateless. The Universal Declaration of Human Rights Article 15 affirms that "everyone has the right to a nationality". With these words, the international community recognized that every individual,

³ Klapdor, M., Coombs, M. & Bohm, C. (2009) *Australian citizenship: a chronology of major developments in policy and law*. Parliament of Australia, Department of Parliamentary Services: Canberra.

⁴ *Victorian Multicultural Act 2011*, sections 8(a) and (b)(i).

⁵ Dialogue with the Afghan Communities, Dandenong, 31st October 2015.

everywhere in the world, should hold a legal bond of nationality with a State. Citizenship is both a privilege and a right. Having offered refugee and humanitarian entrants Australia's protection, the Australian citizenship test should ensure a fair pathway to citizenship.

- 3.4. Thus the VMC strongly disputes the premise that 'increasing the minimum period of permanent residence required to qualify for citizenship will enable greater examination of an aspiring citizens' integration with Australia.' It would appear that such an increase would instead act to separate these groups by establishing a requirement that discounts any contribution as a temporary visa holder.
- 3.5. In symbolic terms, citizenship has great value for the Australian population at large, in that it formally establishes membership in the national community.⁶ A key dynamic in migration globally has been a shift from permanent settlement to temporary or circular migration.⁷ The VMC is of the opinion that with increased temporary migration and a longer minimum residence requirement, the problem of national belonging will be exacerbated. If we seek a truly inclusive and cohesive society we should facilitate pathways to citizenship rather than create additional obstacles.
- 3.6. People living in the community on temporary visas status (Temporary Protection Visa and Safe Haven Enterprise Visa) are particularly vulnerable. These are people to whom Australia has protection obligations. Temporary visa status of 3-5 years (which can be extended) enables people to build a new life and become contributing members of Australian society. To discount this capability due to the 'temporary' status of their legal standing and in effect position them back at the starting line is not in the spirit of inclusive citizenship rights. Nor is it in the best interests of Australia to do so.
- 3.7. Reports of poor mental health, especially among temporary visa holders, reach the VMC regularly from community members. For example, affected Afghan community members at Dandenong reporting on the issues they face included 'mental health, post-traumatic stress, depression, and self-harm amongst bridging visa holders'.⁸
- 3.8. We also hear regularly from regional advisory group members about the traumatic nature of temporary protection on diverse community members. The Australian Human Rights Commission (AHRC) supports these findings, highlighting the detrimental effects from the temporary nature of the protection granted on vulnerable groups, including mental health impacts, separation anxiety due to being separated from loved ones and discrimination and penalisation.⁹
- 3.9. As a result of these findings the VMC supports the status quo and the current requirements for citizenship that take account of periods of temporary residency. We are also in agreement

⁶ Klapdor, M., Coombs, M. & Bohm, C. (2009) *Australian citizenship: a chronology of major developments in policy and law*. Parliament of Australia, Department of Parliamentary Services: Canberra.

⁷ Castles, S., Vasta, E. & Ozkul D. (2012) *The internal dynamics of migration processes and their consequences for Australian government migration policies*. University of Sydney: Sydney

⁸ Dialogue with the Afghan Communities, Dandenong, 31st October 2015.

⁹ Australian Human Rights Commission, Tell me about: Temporary Protection Visas, December 2013.

with the AHRC that all people who are found to be owed protection obligations should be granted a Permanent Protection Visa, with eligibility to apply for Australian citizenship.¹⁰

Recommendation

The VMC recommends that the Australian Government:

- *retains the current residency requirement of four years lawful stay.*

4. English language testing

- 4.1. The VMC hears from many of the long settled migrant communities who, along with their children and grandchildren have become Australian citizens and who contribute to Australia's economic prosperity. Many of those migrants had low competency in English or are now, in their older years, losing their English language skills. Their participation in the economic, social, cultural and political life of Australia, as good citizens, is recognised by the VMC through its community engagement. The VMC, therefore, rejects the notion that good citizenship and shared values is predicated on English language skills.
- 4.2. The VMC appreciates the benefits of English language skills in migrants to the migrants' settlement outcomes and to Australia through enhanced social and economic participation. However, while proposing a required 'competency in English language skills', the discussion paper has not sought to clarify the level of 'competency' that is required. The International English Language Testing System (IELTS) measures the language proficiency of people who want to study or work where English is used as a language of communication. It uses a nine-band scale to clearly identify levels of proficiency, from non-user (band score 1) through to expert (band score 9).¹¹
- 4.3. The Australian Government provides the Adult Migrant English Program (AMEP) which helps new arrivals learn basic English skills. AMEP provides up to 510 hours of English language tuition and is available to migrants from the family, skilled and humanitarian visa streams.
- 4.4. Evaluation of AMEP however, finds that the benchmark of functional English is insufficient for participation in Vocational Education and Training (VET) beyond the Certificate I/II level, and higher education, and considered by some stakeholders and AMEP participants as insufficient to gain employment.¹²
- 4.5. Earlier English competency requirements were more broad.

4.5.1. The *Australian Citizenship Amendment Act 1984* was aimed at removing discriminatory aspects of the Act in relation to sex, marital status and nationality. The English

¹⁰ Australian Human Rights Commission, Tell me about: Temporary Protection Visas, December 2013

¹¹ IELTS introduction. Retrieved 30 May 2017: <https://www.ielts.org/what-is-ielts/ielts-introduction>

¹² Acil Allen Consulting. (2015, May 22). *AMEP Evaluation*, Department of Education and Training: Melbourne. Accessed 7 June 2017: https://docs.education.gov.au/system/files/doc/other/amep_evaluation_report_-_for_public_release.pdf

language requirement was changed from 'adequate' to basic and applicants over 50 were exempted from the English language requirement.¹³

4.5.2. The *Australian Citizenship Amendment (Citizenship Testing) Act 2007* assessed English language skill simply by their ability to pass the test in English.¹⁴

- 4.6. It will be necessary to specify a level of competency in the first instance in order for people to aspire to reach that level. For example, PhD students can enrol in a study programs with between 5.0 to 6.5 IELTS in some Australian universities.¹⁵ The VMC suggests that this requirement has not been sufficiently researched and needs to be revised to provide a reasonable daily competence of language.
- 4.7. Victoria's Multicultural Policy Statement (2017) acknowledges that 'people from all over the world have chosen to make our state their home.' Multiculturalism accepts cultural and linguistic diversity, and to facilitate participation and inclusion we also have a commitment to the availability of interpreters and translated materials.
- 4.8. The Australian Government's Multicultural Statement, *Multicultural Australia - united, strong, successful*, makes a firm public statement recommitting to multicultural Australia, setting priorities and strategic directions for the coming years.
- 4.9. Importantly, the Victorian Policy Statement also acknowledges that 'our cultural diversity adds in the order of \$1 billion to the Victorian economy every year, through greater innovation and productivity.'¹⁶ It should be acknowledged that this was also accomplished by earlier migrant waves, many of whom are now elderly Australian citizens and still not proficient English speakers.
- 4.10. There must also be a level of substantive equality built into this requirement so that all family members from non-English speaking backgrounds are able to attain the level of competency. For example, while the children of migrants receive English as an Additional Language (EAL) tuition and men (husbands and fathers) are often given precedence as the primary wage earner, women (housewives and mothers) and the elderly are sometimes left behind. This was acknowledged in earlier legislation (at 4.2.1 above), when over 50s were exempted from English language requirement. Substantive equality measures also relate to any costs associated with the requirement to learn English.
- 4.11. The VMC is also concerned that this requirement would operate in direct contradiction of multicultural policy which celebrates and facilitates cultural, linguistic and religious diversity. If multiculturalism is simultaneously a nation building philosophy, a policy framework, and a

¹³ Klapdor, M., Coombs, M. & Bohm, C. (2009) *Australian citizenship: a chronology of major developments in policy and law*. Parliament of Australia, Department of Parliamentary Services: Canberra.

¹⁴ Klapdor, M., Coombs, M. & Bohm, C. (2009) *Australian citizenship: a chronology of major developments in policy and law*. Parliament of Australia, Department of Parliamentary Services: Canberra.

¹⁵ Southommasane, T., Race Discrimination Commissioner, *Inclusion, citizenship and race* (28 April 2017). Speech given to Australian Education Union Victoria Principals Conference, Melbourne. Retrieved 1 June 2017: <https://www.humanrights.gov.au/news/speeches/inclusion-citizenship-and-race>

¹⁶ *The Economic Benefits of Cultural Diversity*, Victoria University and Elgin Economics 2016, cited in the Victoria Multicultural Policy Statement, 2017.

demographic reality,¹⁷ then this proposed requirement must be more balanced. Notwithstanding that a citizenship test that is properly conceived is compatible with cultural diversity and multiculturalism, the VMC is concerned that greater clarity is needed.

- 4.12. The Chairperson of the VMC travelled to Canada and the USA in late 2016 to investigate best-practice refugee settlement programs. Settlement services and programs are widely available to support refugees and humanitarian entrants in Canada. Common to many of these services was a collaborative approach to service delivery through partnerships to ensure timely responsiveness, joined-up services and flexibility¹⁸.
- 4.13. A tenet of Canada's settlement approach is that "the first 'job' of any new arrival is learning English" along with obtaining further education and training in order to facilitate the integration process. Many of the new arrivals had no or beginner level English so the provision of Language Instruction for Newcomers to Canada (LINC) was very important to their short and long term settlement outcomes¹⁹. The Canadian Government, in cooperation with local school boards, community colleges, immigrant and community organisations, offers French and English language training across Canada through LINC. Provincially, any accredited group or school board can teach English as a Second Language (ESL). There are large waiting lists for access to LINC language services, so practical solutions such as this one can be mobilised quickly to provide the necessary services²⁰.
- 4.14. Measuring the effectiveness of Australia's settlement system, including the provision of English language learning opportunities, will be key to ensuring that programs are designed so that all new arrivals to Australia experience long-term positive settlement outcomes.

Recommendation

The VMC recommends that the Australian Government considers:

- *the compatibility of the English language test requirement with a commitment to multiculturalism;*
- *wider consultations with multicultural communities on their varying needs and requirements (student, worker, home maker, elderly/retired etc.) to better facilitate English language proficiency over an extended timeframe; and*
- *the development of strategic partnerships to deliver and promote integrated service pathways and joined-up collaborative approaches in delivery of English language proficiency*

5. Demonstration of integration

- 5.1. The language and terminology that we use to frame concepts is important. The language of inclusion serves an important purpose, 'it reminds us that we should aim to have a society,

¹⁷ Fincher, R., Iveson, K., Leitner, H., & Preston, V. (2014). Planning in the multicultural city: Celebrating diversity or reinforcing difference? *Progress in Planning*, 92: pp1-55.

¹⁸ <http://www.multicultural.vic.gov.au/regional-advisory-councils/rac-publications>

¹⁹ <http://www.multicultural.vic.gov.au/regional-advisory-councils/rac-publications>

²⁰ <http://www.multicultural.vic.gov.au/regional-advisory-councils/rac-publications>

whose members feel that they belong. This is the basic idea of inclusion: to ensure that people are brought into the fold.²¹

- 5.2. In the current climate of significant movements of people across the globe, it is understandable that Western governments like Australia are concerned to signpost expectations that migrants should embrace the rights and responsibilities of liberal democracies. The language of integration however, must be reframed to be consistent with the worthwhile intent of Australian multiculturalism, that integration is a two-way process that also incorporates inclusion and acceptance.
- 5.3. There is a sense in which integration can be confused with assimilation which Australian multiculturalism has moved away from. A report by the National Multicultural Advisory Council (NMAC, 1999) advised that 'integration, in the broad sense, does not imply minority cultures giving way totally to a dominant culture. Instead, they influence the dominant culture which is modified to some extent by the newer cultures'.²² Thus the NMAC recognised the two-way dynamic that operates when we all become more integrated to one another.
- 5.4. The NMAC were of the view that, 'integration does not encourage ongoing cultural diversity', because 'everyone is expected to adopt the integrated culture'.²³ The report concludes that the term 'multiculturalism' has served the Australian community well and best describes our positive acceptance of the reality and significance of our cultural diversity and the proactive approach to addressing the challenges and opportunities arising from it.
- 5.5. The NMAC (1999) recommended continued use of the term 'multiculturalism', with the addition of the prefix 'Australian' wherever appropriate, to recognise that our implementation of multiculturalism has been uniquely Australian.²⁴ This was heavily influenced by 'opinion polls' suggesting broad support at the time. Many years later support for Australian multiculturalism has not waned.
- 5.6. Canada has shown how compassion, positive narratives and political leadership have galvanized a nation towards positive outcomes for newly arrived refugees. Under the Trudeau Government, good will has ensured that all players involved in Canada's overall immigration system are able to broaden their conversations to consider the humanistic aspect of migration. This allows for discussions at a broader level to support all communities and not just newly arrived cohorts. The change in political narrative at the highest level of government around immigration and multiculturalism has influenced how the Canadian people, and all levels of government, view and support refugees²⁵.

²¹ *Inclusion, citizenship and race* (28 April 2017). Speech given to Australian Education Union Victoria Principals Conference, Melbourne by Dr Tim Southphommasane, Race Discrimination Commissioner. Retrieved 1 June 2017: <https://www.humanrights.gov.au/news/speeches/inclusion-citizenship-and-race>

²² National Multicultural Advisory Council (1999). *Australian multiculturalism for a new century: Towards Inclusiveness*. Commonwealth of Australia: Canberra

²³ National Multicultural Advisory Council (1999). *Australian multiculturalism for a new century: Towards Inclusiveness*. Commonwealth of Australia: Canberra

²⁴ National Multicultural Advisory Council (1999). *Australian multiculturalism for a new century: Towards Inclusiveness*. Commonwealth of Australia: Canberra

²⁵ <http://www.multicultural.vic.gov.au/regional-advisory-councils/rac-publications>

- 5.7. The Scanlon Foundation has found consistent support for multiculturalism and high levels of agreement with the proposition that ‘multiculturalism has been good for Australia’. The 2013-2016 survey results demonstrate consistent support for multiculturalism of between 83%-86%.²⁶
- 5.8. Migrants need to experience greater acceptance and inclusion in order to integrate. While independence and participation is encouraged, settlement and integration can be challenging, particularly for arrivals from non-English speaking backgrounds. A high proportion of skilled migrants (45%), for example, have no pre-arrival links in Australia. Of all the migrant streams (other than Family Reunion), humanitarian entrants are more likely to have links in Australia before arriving.²⁷ One participant at a VMC Women’s forum in 2015 stated that, ‘after working in Australia for 16 years I don’t feel respected.’
- 5.9. Progression to citizenship is part of our nation building exercise. The original intention of Australia’s migration program was that the country’s population would be increased approximately one per cent per year through natural increase, and one per cent through migration.²⁸ Migration continues to shape us as a nation. Since the 1980s there has been continued focus on economic imperatives and skilled migrants. However, all migrants have capacity to contribute to Australian society.
- 5.10. In keeping with our international obligations, Australia accepts predetermined numbers of humanitarian entrants, migrants who may face greater challenges in successful settlement. Victoria has received 33% of Australia’s annual humanitarian intake over the past five years.
- 5.11. One aspect of the economic contribution to Australia made by humanitarian entrants is that they tend to spend their entire lives and raise their families in Australia, to a greater extent than other migrant visa category groups, and have the lowest rate of settler loss,²⁹ at almost half that of other visa categories.³⁰ Investing in the successful settlement and long term inclusion of these groups therefore, makes sound social, civic and economic sense for Australia.

Recommendation

The VMC recommends that the Australian Government considers:

- *leading ongoing discussions with federal, state and local government leaders on the importance of political leadership, positive narratives and resources around multiculturalism and settlement of new arrivals.*

²⁶ Markus, A (2016) *Mapping Social Cohesion. The Scanlon Foundation surveys 2016*. Monash University: Melbourne.

²⁷ Australian Survey Research Group Pty Ltd. (2011, April). *Settlement Outcomes of New Arrivals*. Retrieved December 12, 2016, from Commonwealth Department of Social Services:

https://www.dss.gov.au/sites/default/files/documents/01_2014/settlement-outcomes-new-arrival_access.pdf

²⁸ Klapdor, M., Coombs, M. & Bohm, C. (2009) *Australian citizenship: a chronology of major developments in policy and law*. Parliament of Australia, Department of Parliamentary Services: Canberra.

²⁹ Settler loss refers to the extent to which arrivals subsequently leave Australia permanently.

³⁰ Hugo, G. (2011). *A Significant Contribution. The Economic, Social and Civic Contributions of First and Second Generation Humanitarian Entrants*. Department of Social Security, Canberra. Accessed by: https://www.dss.gov.au/sites/default/files/documents/01_2014/economic-social-civic-contributions-booklet2011.pdf

- *the notion of 'integration' in a holistic manner that encompasses:*
 - *the rights and responsibilities of applicants; and*
 - *the responsibility of the wider community to facilitate integration through demonstrations of acceptance and inclusion in local communities, workplaces, and school and business communities.*