

**14 September 2017**

**Department of Immigration and Border Protection  
PO Box 25  
Belconnen ACT 2616**

**By Online Submission**

**Policy Consultation Paper  
Visa Simplification: Transforming Australia's Visa System**

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations. FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to government and the broader community. FECCA strives to ensure that the needs and aspirations of Australians from cultural and linguistically diverse backgrounds are given proper recognition in public policy.

FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion, and are formulated with the common good of all Australians in mind.

FECCA welcomes the invitation from the Department of Immigration and Border Protection (DIBP) to make a submission on the process of Visa Simplification.

**Key Message**

FECCA acknowledges that the current visa system can be complicated, time consuming and difficult to navigate so any improvements to this are welcome. However, it is important to ensure that the new system is fair, accessible and easy to understand. In addition, changes should not apply retrospectively. It is crucial that migrants in the existing visa system are not adversely affected by changes.

Migration is central to Australia's continuing economic, intellectual and social success because it brings new skills, knowledge and experience. Migration also contributes to the diversity of our communities because migrants help to build a productive and culturally rich Australian society. As noted by the current Prime Minister, Australia is 'the most successful multicultural society in the world.' Therefore, the new visa system must support and maintain the immigrant tradition by aligning with this reality, not undermining it.

The ability to participate fully in Australian life is dependent upon a person's immigration status. It is critical that there is a pathway to permanency for medium and long-term residents

that ultimately results in citizenship. For migrants to Australia, the granting of citizenship is the pinnacle of acceptance into the Australian community. It is cherished by Australia's migrant communities, and provides much needed security and certainty for those arriving here as humanitarian refugees. Good settlement and social integration outcomes depend on the ability to feel welcome, to contribute and to participate in their new society.

FECCA is very concerned about the proposal to remove elements of the administration of the visa system from relevant government agencies, and to partner with industry or outsource these processes to private sector organisations. We believe that such a system must be managed in a transparent and reliable manner and the best way to do this is through the public sector. A visa system run by a private sector organisation is likely to be very rules based and FECCA argues that this arrangement will reduce capacity for nuance when considering individual circumstances in visa decisions. FECCA believes that there should be a high degree of accountability and scrutiny in matters that so fundamentally shape people's lives. This is best provided via the public sector under the responsibility of a Minister.

We also hold serious concerns regarding the sharing of the personal data that is required for visa applications with commercial organisations. In partnering with industry or outsourcing elements of the immigration system, it is vital that the organisation responsible for the visa decision making is aware of the associated risks and issues. It is necessary to have a set of guiding principles that ensure equity and justice when decisions are made regarding people's rights to live, work and study in Australia. In addition, it must be clearly communicated to the public who is responsible for the system and visa application outcomes and where ultimate responsibility for all decision-making lies. Australia's current immigration system has a reputation for trustworthiness, transparency and reliability and these features must be maintained regardless of any changes.

#### **Reduction in the number of visas**

In reducing the number of visas from 99 to approximately 10, the DIBP must recognise that people entering Australia do so in a range of capacities and for many different reasons. FECCA is concerned that such a reduction may result in the loss of nuance if an individual's unique situation is not considered in its entirety. The reduced number of visas must adequately cover the situation of everyone who wishes to enter Australia on a temporary or permanent basis, or whose situation changes after entering the country.

In any review of the current system, FECCA urges that the priority must be a reduction in wait times and complexity for applicants. Further, a sufficient breadth of choice must be maintained across visa categories to account for a range of circumstances. We particularly urge DIBP to ensure that special needs visa types such as those granted to applicants requiring protection as a result of family or domestic violence, be retained.

FECCA is also concerned about the increased collection, storage, sharing and use of biometric data that may occur if there is a reduction in the number of visas. Although it may contribute towards a more efficient and simplified visa system, we believe that there needs to be very careful and stringent controls on the sharing of information. In addition, rules determining the management of such information must be subject to appropriate public scrutiny.

#### **The value of permanency and pathways to citizenship**

FECCA agrees that there should be a clear distinction between temporary and long-term or permanent residence. However, the new visa simplification system must be flexible enough to allow movement between the different types, without compromising or punishing the individual if their situation changes. Many temporary visitors to Australia may need or want to stay for longer because of a genuine change in their circumstances. For these individuals, this change in circumstance and application for a change in visa should not be taken as evidence of deceit

or malicious intent, and individuals should therefore not be punished through a lack of flexibility to move between visas. In addition, the time that they have already spent in Australia and the contributions they have made should be recognised.

FECCA is concerned about the obstacles applicants currently face when they want to change from a temporary visa or a long-term visa or permanent residence, and encourages the DIBP to ensure that such transitions are as smooth as possible. Australia relies heavily on migrants who arrive through temporary or permanent migration streams. The new visa simplification process should be designed in a way that attracts appropriate cohorts of migrants for the needs of Australia's future prosperity and social cohesion. This is particularly important for rural and regional Australia, and key industry sectors including education, health and technical professions.

The most detailed part of the consultation paper, and the focus of much of the briefings, has been the suggestion that all prospective migrants should be considered either temporary or provisional, with the possible removal of the option of permanent residency on arrival. FECCA believes that all medium or long-term visas should include a pathway to permanent residency and citizenship. Such a pathway should not be made any more complicated than it already is. Many people who arrive in Australia later decide that they want to continue to contribute to this nation as an Australian citizen with all the rights and obligations accorded to citizens. It is important that this pathway is available and the process is easy to understand and navigate.

Permanent residence, at present, can be cancelled on very broad grounds, including on extensive 'character' grounds. FECCA already has significant concerns about the breadth and lack of accountability of the powers to cancel permanent visas. The public interests of national security and protection of the community, in our view, are already amply covered by these provisions and any extension or broadening of these powers should be resisted. Creating fear and insecurity among Australian permanent residents risks harming Australia's successful and cohesive multicultural society.

More generally, it is the view of FECCA, and the tradition of Australia's immigration system, that Australian permanent residents should be encouraged to seek citizenship as soon as practically possible to foster a sense of inclusion and encourage integration. Citizenship is not only an offer of welcome by a host nation; it is also an expression of commitment by an arriving migrant and a compact between the two. Anything which delays or deters this should be resisted.

### **Practical consequences of being provisional or temporary**

FECCA does not believe that a period of provisional residence will enhance the integrity of the visa system or ease the burden on taxpayers. There are already extensive restrictions and waiting periods for eligibility for a wide range of welfare payments. Provisional residence will delay the ability of immigrants to obtain meaningful employment and begin the integration process. This is especially true if they are individuals such as skilled migrants who are already eligible for permanent residency. FECCA recommends that immediate permanent residency should be granted to those who are currently eligible.

FECCA has previously opposed the extension of the residency requirement for citizenship eligibility when it was amended from two to four years. We also oppose any enforced periods of provisional residence because we believe that such periods will limit access to basic resources and services for many new migrants and humanitarian entrants. There is no evidence to show that provisional residency will lead to a more integrated, cohesive society. Indeed, it will have the opposite effect.

As well as the significant symbolic consequences of being treated as 'provisional' or temporary, such classifications have very significant consequences for access to basic social

rights and protections in Australia. With the current policy of temporary protection for refugees who came by boat, and with the large number of people seeking asylum on bridging visas, FECCA is highly aware of the complexities and risks of provisional status in a very practical sense. FECCA believes that any broader shift to provisional periods is likely to create more unnecessary complexity of health and social services. If people are living in Australia in the long term, it would be best if they were able to access essential services as soon as they require this support.

This is particularly the case where a provisional period might be applied to people who have been identified as highly vulnerable, including, but not confined to, refugees and humanitarian migrants. A provisional period for this group will have a negative impact on their health and settlement in Australia, rather than enhance their integration into the community. For them, security and certainty is essential so that they can recover and begin to build new lives.

### **The visa system as a process that supports Australia as a competitive and attractive destination**

FECCA agrees that a simplified visa system should support Australia as a competitive and attractive destination. Long and complicated visa application processes often discourage or deter visitors, especially those who only intend to stay for a short while. The difficulty of navigating a confusing visa system with numerous subclasses can lead to misunderstandings, mistakes and confusion, particularly in the case of those with low English language proficiency. People want to come to Australia but when faced with a tedious visa channel that has few guarantees and multiple conditions and clauses, they may decide to go somewhere else that has more welcoming processes. FECCA recommends that the new visa application forms be much shorter, easier to understand, and information available in different languages.

Any potential new visa system should be cost effective so that there is no need to consult private visa agencies. At the moment, there are very high entry fees for migrants who want to visit or live in Australia. Such inequitable and expensive charges fundamentally overlook the importance of a broad range of immigration to Australian society not just the wealthy. In addition, many potential worthy visitors with limited financial means may find it difficult to overcome such a barrier. FECCA believes that refunds should be available for applicants who want to change their visa application from one type to another. This should include partial refunds where a significant portion of the processing has already occurred or where visas are refused.

Any proposed new visa system must ensure that it is not solely focussed on skilled or other work related visas, especially if this comes at the expense of humanitarian or family visas. All types of visas should be given equal consideration. FECCA is aware that any visa system must be responsive to our economic, social and security interests. However, all three interests are important and need to be treated as such when deciding on who is allowed to enter Australia. This is to ensure fairness and equity for existing Australian citizens who wish to be reunited with family or partners from overseas, as well as potential new migrants.

### **Other concerns**

FECCA would like to highlight concerns about a number of issues that have not been specifically mentioned in the Policy Consultation Paper but have been raised elsewhere such as in roundtable discussions hosted by the DIBP. For example, FECCA and the communities we represent would appreciate further clarity and detail regarding the Community Integration Test and English language requirements.

FECCA fundamentally rejects the idea that a level of English language proficiency be required for individuals to be granted a temporary or long term visas. Such a condition will disadvantage or exclude those who have much to offer Australian society but who may have difficulties achieving English fluency within a designated timeframe. Demanding higher levels of English

to qualify for citizenship will prevent many deserving Australian permanent residents the chance to become full Australian citizens. It also unfairly discriminates against some of the most vulnerable arrivals in Australia including migrants of refugee background and women. FECCA acknowledges that developing English language capacity is an important part of settlement. However, language learning is a lifetime journey and throughout Australia's history, extraordinary contributions have been made by those who may not have achieved a high level of English language proficiency.

### **Conclusion**

FECCA emphasises that any new visa system should not put existing or future visa holders in a position of disadvantage. This process must also be able to take into consideration the unique circumstances of individuals without oversimplification.

FECCA does not believe that a period of provisional residence will enhance the integrity of the visa system or ease the burden on taxpayers and so opposes such a condition. We also believe that the system should be cost effective and accessible to non-English speakers.

FECCA appreciates the opportunity to make a submission on the process of Visa Simplification. We would welcome the opportunity to provide further comment and encourage you to contact the Senior Policy and Project Officer, Dr Alia Imtoul at [alia@fecca.org.au](mailto:alia@fecca.org.au) and the Director, Dr Emma Campbell at [emma@fecca.org.au](mailto:emma@fecca.org.au).