



Australian Federation  
of Islamic Councils

# A Migration System for Australia's Future

A SUBMISSION TO THE  
COMMONWEALTH DEPARTMENT OF  
HOME AFFAIRS

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## Executive Summary

Migration has always been an integral part of the Australian story. Australia's current economic, cultural and social strength would not have been achieved without the contribution of generations of migrants over the last century – people from all over the world bringing the best of their myriad cultures, faiths, customs and practices into a harmonious modern society that we all now identify as Australia.

AFIC is pleased that the Commonwealth is reviewing the Migration strategy for the nation and is pleased to make the following recommendations based on this submission.

1. As a general principle the migration system should not be an unreasonable burden or challenge to this movement across borders but should facilitate the process of migration as much as possible.
2. Any future Migration Strategy needs to include a program of work to change public perception about the need for migration from a holistic perspective – to ensure the country's economic future, building a tolerant and accepting community and a population base that is globally aware and connected.
3. While a system may be objectively non-discriminatory it can still be open to perceptions of bias due to government priorities or other factors. Any future migration strategy must include checks and balances to ensure that it is truly non-discriminatory
4. We would encourage Government to align more resources to support migrants generally post arrival to improve their language proficiency but for there not to be a requirement for a certain level as a pre-condition to any stage of the migration, residency or even citizenship processes.
5. There needs to be holistic support that covers the full range of needs that new migrants will require to ensure they can successfully settle and integrate into Australian.
6. It is recommended that the family violence provisions be expanded out to other temporary visas to provide a pathway to permanent residency for those who have applied for permanent residency as dependents and for a revised process for the assessment of what constitutes family and domestic violence and how it is proven to have happened.
7. We submit that there should be separate allocation of visas for cases of financial contribution or guarantees and these need to be processed in a timely manner. This quota should be in addition to, and not detract from, the normal intake.
8. Family visas have a positive social and economic benefit to Australian society and should be maintained.

9. In a future strategy it will be important to understand what the drivers are for such a low transition from temporary to permanent status of skilled migrants to explore ways to respond to this growing phenomenon.
10. We support and endorse previous recommendations submitted by the Committee for the Economic Development of Australia, that:
  - I. *“The Federal Government should strengthen identification of skill shortages and eligible occupations for skilled visas in the skilled occupation list to increase confidence in the process by:*
    - a. *Being more transparent about the data and methods used in assessing whether occupations are included on skilled occupation lists.*
    - b. *Immediately reviewing the Australian and New Zealand Standard Classification of Occupations (ANZSCO) codes to ensure they align with current and emerging labour trends, particularly the impact of technology.*
    - c. *Establishing an independent committee, like the Migration Advisory Committee in the UK, to undertake analysis, consultation and advice on the formulation of skilled occupation lists.*
  - II. *The Federal Government should remove the requirement for labour market testing once the skills shortage list process has been strengthened.*
  - III. *The Federal Government should immediately introduce a dedicated, streamlined path for intra-company transfers of employees to Australia.*
  - IV. *The Federal Government should improve the operation of the Skilling Australia Fund Levy by:*
    - a) *Aligning the use of the Skilling Australia Fund Levy to training initiatives that alleviate the skill shortages driving skilled migration.*
    - b) *Changing the point of levy collection from the visa nomination stage to the visa approval stage so that employers do not incur the levy if a visa nomination is refused.*
  - V. *The Federal Treasurer should task the Productivity Commission with undertaking a review of the Temporary Skill Shortage visa program every three to five years to guide future changes to policy settings.”*

## 1. Introduction

The movement of people—individuals, families, tribes, and entire communities— has shaped and transformed the history of humankind. Groups of people have migrated for many reasons: economic, religious, political, as well as for education and cultural exchange. Masses have also migrated to escape conflict, persecution, natural disaster, and harsh living conditions. This movement, historically, was a relatively easy and open process. It has only been in modern times with the rise of nation states and sovereign borders that the ability of people to migrate has become subject to laws and regulations.

In September 2022 the Minister for Home Affairs announced a broad ranging review into the Australian migration system which is to inform a new government strategy – A Migration System for Australia’s Future. As noted by the Department:

*“The Strategy will ensure the migration system serves Australia's national interests and complements the skills and capabilities of Australian workers.*

*It will establish the core principles on which Australia's migration system will rest, and guide future reform. The strategy will focus on enhancing Australia's productivity.”<sup>1</sup>*

The Australian Federation of Islamic Councils (AFIC) is pleased to contribute to this important discussion for Australia’s future.

The Terms of Reference for the Review<sup>2</sup> note some of the challenges that the new Strategy will seek to respond to. These include:

- An ageing population;
- Slow population growth; and
- Waning productivity

While we deal with the issue of productivity in the substantive submission the link between migration and productivity, we note, is relatively well settled despite an element of opposition in broad society.

However, productivity, while an important driver of the strategy, cannot be the sole or principal objective. Ultimately the link between migration and productivity is about numbers and ensuring a growth in workforce demographics to enable economic growth. How that migration is constituted, we would submit, should be determined in accordance with longer term social and ethical objectives that are not only consistent with, but also lead, what we want our country to stand for. This is noted in the Terms of Reference which states “*we need a new strategic approach that reflects our longer-term interests and core values*”.

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<sup>1</sup> <https://www.homeaffairs.gov.au/reports-and-publications/reviews-and-inquiries/departmental-reviews/migration-system-for-australias-future>

<sup>2</sup> <https://www.homeaffairs.gov.au/reports-and-pubs/files/terms-of-reference-migration-strategy.pdf>

Such an approach values migrants for their intrinsic worth as human beings rather than an economic asset. When a person is valued in this way, they become invested in the society that welcomes them and it is this reciprocated value exchange that, we submit, delivers the greatest contribution to society economically, socially, and culturally. The balance of this submission will explore a number of these factors that we encourage government to be mindful of in the formulation of a future migration strategy.

## 2. Freedom of Movement

Allah, Most Exalted, says in the Quran:

*“...they will reply, “We were oppressed in the land.” The angels will respond, “Was Allah’s earth not spacious enough for you to emigrate?”<sup>3</sup>*

*“Whoever emigrates in the cause of Allah will find many safe havens and bountiful resources throughout the earth.”<sup>4</sup>*

These verses set the overarching principle in relation to migration i.e., that people should be able to migrate freely to remove themselves from harm or oppression or to improve their lot in life and that there is an abundance of wealth and resources in all the lands to meet all our needs.

Furthermore, the issue of migration in Islam is also linked to the Islamic perspective that all lands belong to Allah, Most Exalted, as evidenced in the above verses and hence ‘ownership’ of land and who has the rights to benefit from what Allah, Most Exalted, has provided needs to be considered in this light.

We note that there is an asymmetry in the approach to emigration and immigration in terms of human rights and international law. Article 12 of the International Covenant on Civil and Political Rights states:

*“Article 12*

*1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.*

*2. Everyone shall be free to leave any country, including his own.*

*3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.*

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<sup>3</sup> Holy Quran 4:97

<sup>4</sup> Holy Quran 4:100

4. *No one shall be arbitrarily deprived of the right to enter his own country.*<sup>5</sup>

So, under the ICCPR, nation states cannot restrict an individual from leaving except in very particular circumstances. Of course, to exercise the right to leave, the individual must also have the right to enter another nation state – one of the consequences of modern sovereignty and national borders. However, there is no recognition in international law, be it within the human rights frameworks or elsewhere, of this – all nation states have the unilateral right to determine who crosses their borders.

We accept, for the purpose of this submission, that there cannot be unregulated movement across borders and that being a citizen of a state in these times brings with it many advantages and so entry or acceptance into the nation State must be subject to various requirements (the migration system).

*However, as a general principle the migration system should not be an unreasonable burden or challenge to this movement across borders but should facilitate the process of migration as much as possible.*

### 3. Migration is Essential

One of the continual narratives in public discourse is around the threshold question of whether Australia should or should not allow/encourage migrant settlement regardless of what stream or status it may be. We see this periodically elevated in mainstream media as well as in online discussions whenever there is some public issue that may involve migrants or when economic conditions become challenging. It was certainly a live issue during the COVID Pandemic though in perhaps different ways than normal.

At its simplest, Australia will not achieve economic growth without a strong migration program. If for no reason other than economic self-interest the anti-migration narrative needs to be challenged at all levels and should form a key platform of any strategy moving forward.

As was noted in the 2021 Intergenerational Report<sup>6</sup>:

*“Slower population growth is the main reason for the expected slowdown in economic growth. Australia’s total population is projected to reach 38.8 million in 2060-61. This is lower than previous projections due to the lower level of migration resulting from the COVID-19 pandemic and a lower fertility rate.*

*Migrants are expected to continue to be the largest source of population growth. Migration contributes to economic growth and can help offset population ageing.”*

<sup>5</sup> <https://humanrights.gov.au/our-work/commission-general/international-covenant-civil-and-political-rights-human-rights-your>

<sup>6</sup> [https://treasury.gov.au/sites/default/files/2021-06/p2021\\_182464.pdf](https://treasury.gov.au/sites/default/files/2021-06/p2021_182464.pdf) p.viii

And:

*“...because migrants tend to be younger and higher skilled, this population growth can also support labour force participation and productivity.”<sup>7</sup>*

Page | 8 While the fiscal positives are important, they are not, and should not be, the main or only consideration. As was noted by the Law Council of Australia:

*“However, the Law Council considers that the intangible, social benefits of migrants to the Australian community should also be considered. These include, as stated in the Intergenerational Report, the ‘contributions of migrants to cultural diversity, community connections [and] innovation’”<sup>8</sup>*

The social and cultural benefits of migration are too numerous, and generally well-established in academic circles, to list in this submission. Suffice it to say that in a global environment where connections between and across nations is becoming, not just more frequent, but imperative to respond to global issues such as climate change, the opportunities arising from having a domestic population that understands, appreciates, and already has these connections cannot be understated.

Migration has an overwhelmingly positive impact on a nation and as such migrants should not be seen as ‘competitors’ with, or somehow ‘taking away’ from, non-migrant citizens. Research clearly demonstrates that over time there is always ‘more’ available due to migration rather than ‘less.’

As was noted by CEDA<sup>9</sup>:

*“Despite repeated claims and assertions, the evidence suggests that the success of recent waves of migrants in the labour force does not come at the expense of Australian workers. CEDA modelling using ABS data shows that recently arrived migrants have not had a negative impact on the wages or participation rates of Australian-born workers. On the contrary, our results indicate that, 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”.*

***Any future Migration Strategy needs to include a program of work to change public perception about the need for migration from a holistic perspective – to ensure the country’s economic future, building a tolerant and accepting community and a population base that is globally aware and connected.***

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<sup>7</sup> Ibid p.7

<sup>8</sup> <https://www.lawcouncil.asn.au/publicassets/7c5b8a3b-5861-ec11-9446-005056be13b5/4140%20-%20Australias%202022-23%20Migration%20Program.pdf> par.20

<sup>9</sup> Effects of Temporary Migration: Shaping Australia’s Society Economy, Committee for Economic Development of Australia, 2019 p.18



## 4. Non-Discriminatory

We fundamentally believe that any Migration program must be founded on a principle of equality and be non-discriminatory. We concur with the Law Council of Australia when it stated:<sup>10</sup>

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*“Finally, in relation to questions of social cohesion, the Law Council considers that there is an intrinsic benefit to a robust migrant scheme – both in its impact on society generally and within migrant families. It also considers that social cohesion is enhanced by a non discriminatory migration system and changes could be made to address this, particularly in relation to former boat arrivals.”*

As noted by Jureidini and Hassan:<sup>11</sup>

*“Thus, Islamic teachings associated with hijra [migration] have contributed to the ethical principles relating to the treatment of foreign or migrant communities. It is seen as “a source of ethical norms and social behaviour” associated with brotherhood, economic cooperation, protection and social integration.”*

In this context we are distinguishing between the process of migration, from promoting & providing opportunities through to the finalisation of a visa application process, from how new migrants are supported and treated on arrival. With respect to the former there are areas that can be addressed that would enhance the non-discriminatory nature of a future strategy. This principally applies to any humanitarian program but may also be of relevance to other streams in terms of how priorities are set and justified.

While the non-discriminatory basis of Australia’s migration system has been extolled repeatedly by both sides of politics, particularly after the ‘Asian’ migrant debates triggered firstly by former Prime Minister John Howard (when in opposition) and more recently Senator Pauline Hanson, this hasn’t prevented claims of discriminatory application of government policy since then.

One example of this is in relation to the coalition Government’s response to the situation facing white South African farmers in 2018. The Guardian reported that:

*“The home affairs minister, Peter Dutton, said white South African farmers were hard-working and would contribute to Australia. He said his department would apply “special attention” to their case.”<sup>12</sup>*

There was, quite rightly, an outcry over the apparent preference being shown to a ‘white’ cohort given the dangers faced by black South Africans plus the many other places across the

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<sup>10</sup> Ibid. par.8

<sup>11</sup> Migration & Islamic Ethics, <https://brill.com/display/title/55481> p.3

<sup>12</sup> <https://www.theguardian.com/australia-news/2018/apr/05/australia-says-its-immigration-policy-is-blind-to-race-what-do-the-facts-show>

globe where people were facing severe danger and risk but who did not warrant government preferential treatment – places like Myanmar, Syria, and Iraq in particular.

Another example was first reported in the Weekend Australian in 2008, in this case, former Immigration minister Kevin Andrews sought to change staff in ten countries to ensure an uplift in visas to Christian applicants<sup>13</sup>.

*These instances demonstrate that while a system may be objectively non-discriminatory it can still be open to perceptions of bias due to government priorities or other factors. Any future migration strategy must include checks and balances to ensure that it is truly non-discriminatory.*

## 5. English Proficiency

As a general submission we do not support the imposition of a predetermined level of language proficiency as part of a migration application regardless of the stream. We are not satisfied that sufficient evidence exists to support a pre-arrival level of English proficiency as delivering significantly better outcomes than a supported language learning process post arrival.

While there are several studies that have considered the importance of language proficiency in terms of settlement outcomes including the “Building a New Life in Australia: The Longitudinal Study of Humanitarian Migrants”<sup>14</sup> there does not appear to be any studies that justify the imposition of language proficiency prior to arrival.

A 2014 study, “The Two-Step Australian Immigration Policy and its Impact on Immigrant Employment Outcomes”<sup>15</sup> explored the changes in employment outcomes between two cohorts of migrants – the first being permanent settlers under the ‘old’ regime that existed in the 1980’s through to the mid 1990’s and the second being a group that came under what has come to be known as the two step regime where migrants accessed temporary visas initially before applying for permanent status on-shore. This occurred from about 2000 onwards. Each cohort was then further divided into those people from English speaking (ES) countries and those from non-English speaking (NES) countries. The study then compared employment outcomes over an extended period to assess whether the introduction of the two-stage system had delivered better outcomes or not.

For the purposes of this submission, we looked at the data in relation to NES migrants in each cohort on the basis that the introduction of various language proficiency requirements generally aligns with the introduction of the two-stage system. Hence, we would expect that

<sup>13</sup> <https://www.brisbanetimes.com.au/national/andrews-pushed-for-more-christian-refugees-20080719-gea5hf.html>

<sup>14</sup> <https://www.dss.gov.au/about-the-department/longitudinal-studies/building-a-new-life-in-australia-bnla-longitudinal-study-of-humanitarian-migrants-overview>

<sup>15</sup> *The Two-Step Australian Immigration Policy and its Impact on Immigrant Employment Outcomes*, Robert G. Gregory, CSES, Victoria University, Australian National University and IZA Discussion Paper No. 8061 March 2014

the level of language proficiency prior to arrival of the second cohort would be greater than that of the first group.

Page | 11 We note that the study found in relation to these groups:

*“Despite the rapid growth of student numbers there is only a small short term downward movement in new regime NES employment.”<sup>16</sup>*

And:

*“This fact, considered in isolation, would suggest that the two-step policy change is not important in terms of macro employment outcomes”<sup>17</sup>*

At a macro level there was no statistically significant change in employment outcomes from one group to the next. This despite a greater language proficiency requirement imposed on the second cohort.

Not only was there no significant change in outcome for migrants from NES countries but a comparison of long-term employment outcomes between ES and NES migrants was enlightening. The study found:

*“Second, in both regimes, NES employment is significantly lower than ES employment and labour market integration is slower. Over the first four years after arrival, NES employment is 30-40 per cent lower than ES employment. The large ES-NES employment gap begins to narrow after four years and convergence between the two groups is almost achieved ten years after first arrival.”<sup>18</sup>*

So, over a 10-year period, the employment outcomes for migrants from English speaking countries and those from non-English speaking countries are very similar. We would submit that this demonstrates that a requirement for English proficiency before arrival certainly has no basis in employment outcomes and is perhaps driven by other considerations. The risk of course is that language becomes a de-facto filtering of migrants which may be discriminatory.

***We accept that language proficiency has a direct relationship with settlement outcomes for migrants, particularly those in the humanitarian stream, but there is no evidence to support a requirement for this pre-arrival. We would encourage Government to align more resources to support migrants generally post arrival to improve their language proficiency but for there not to be a requirement for a certain level as a pre-condition to any stage of the migration, residency or even citizenship processes.***

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<sup>16</sup> Ibid p.11

<sup>17</sup> Ibid p.12

<sup>18</sup> Ibid.p.11

## 6. Post Arrival Support

In the Holy Quran Allah, Most Exalted, says:

*“As for those who had settled in the city and embraced the faith before the arrival of the emigrants, they love whoever immigrates to them, never having a desire in their hearts for whatever of the gains is given to the emigrants. They give the emigrants preference over themselves even though they may be in need. And whoever is saved from the selfishness of their own souls, it is they who are truly successful.”<sup>19</sup>*

A fundamental principle within our faith is to support those who migrate and to give them of the best that we have.

The Quranic verse, 4:97, referred to in Section 2 above, also indirectly suggests that those who have authority should take care of refugees, since it speaks of God as the owner of the land. Therefore, the worldly owners and authorities should feel closeness and openness to those who are destitute and oppressed and therefore open the doors of their borders for them. It is, therefore, incumbent in the first place on States and then on people to respect and protect the fundamental rights of those who migrate.

This concept is also enshrined in international human rights as noted by the United Nations which has stated:

*“Rights of international migrants are protected under the 1990 United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (United Nations, General Assembly, 1990). 8 The unanimously adopted Declaration of the General Assembly’s second High-level Dialogue on International Migration and Development in October 2013 has called upon the Member States to reaffirm their commitment to the human rights of all migrants.”<sup>20</sup>*

***That support needs to be holistic and cover the full range of needs that new migrants will require to ensure they can successfully settle and integrate into Australian life including but not limited to:***

- ***Financial support***
- ***Employment***
- ***Language***
- ***Education***

<sup>19</sup> Holy Quran 59:9

<sup>20</sup>[https://www.un.org/en/development/desa/population/publications/pdf/policy/InternationalMigrationPolicies2013/Report%20PDFs/z\\_international%20Migration%20Policies%20Full%20Report.pdf](https://www.un.org/en/development/desa/population/publications/pdf/policy/InternationalMigrationPolicies2013/Report%20PDFs/z_international%20Migration%20Policies%20Full%20Report.pdf)

In addition to the above there is a specific area that we believe needs particular focus and attention in a new migration strategy. This is in relation to how migrant victims of family, domestic and sexual violence are treated and supported.

In the Law Council of Australia<sup>21</sup> submission previously referenced, they cite a study conducted by the Monash University Migration and Inclusion Centre and note:

*“The Monash Study found, relevantly, that temporary visa holders consistently reported proportionately high levels of DFV,66 including controlling behaviours, and much high levels of migration-related abuse and threats.*

*These controlling behaviours include, in order of frequency:*

- *‘Threatens to report you to Immigration or have you deported’.*
- *‘Threatens to withdraw sponsorship’.*
- *‘Threatens to prevent other family members from accessing visas or travelling to Australia.’*
- *‘Threatens to have you deported while your child/ren would remain in Australia.’*
- *‘Threatens to send your children to another country to be cared for by extended family.’*
- *‘Threatens your children in some other way in relation to their visa or your visa and where they will live and grow up.’*
- *‘Tricks or coerces you to return to your country of origin.’”*

The Law Council further notes:

*“Legal practitioners have reported examples in which genuine survivors of extreme forms of family violence have not been met due to the evidentiary requirements. This may be as a result of language barriers, fear of authorities, or an inability to access or afford medical assistance or legal advice.”<sup>22</sup>*

And then recommended an amendment to the Regulations to provide a discretionary power for decision makers to refer such cases to independent experts for a genuine assessment of the risks and potentially then the approval of an appropriate visa. We support this recommendation subject to a credible verification of the veracity of the claim.

Many of the above are consistent with anecdotal feedback we have received from members of our community.

***To ensure the safety of these visa holders and to ensure consistency of approach, it is recommended that the family violence provisions be expanded out to other temporary visas***

<sup>21</sup> <https://www.lawcouncil.asn.au/publicassets/7c5b8a3b-5861-ec11-9446-005056be13b5/4140%20-%20Australias%202022-23%20Migration%20Program.pdf> pars. 89-91

<sup>22</sup> Ibid par.103

*to provide a pathway to permanent residency for those who have applied for permanent residency as dependents.*

## Page | 14 7. Use of Guarantees

We note that the current system makes use of sponsor guarantees or ‘contributions’ in certain visa streams as a means of supporting such applications. In general, we support the use of co-contributions or guarantees with certain provisos. These being:

- Financial contributions or guarantees should not be a condition in humanitarian visas. Where an individual is considered at risk under recognised international laws and covenants then there should be no financial impediment to their migration.
- There needs to be a significant review of the timeframes associated with the processing of these applications. The Law Council of Australia notes:

*“According to the Department’s website, it estimates that new Contributory Parent visa applications lodged that meet the criteria to be queued are likely to take at least 64 months to be released for final processing, while new Parent and Aged Parent visa applications lodged that meet the criteria to be queued are likely to take at least 30 years for final processing.”<sup>23</sup>*

This is completely unacceptable. No one should be required to make a financial contribution for an application that will not be finalised for 30 years. A starting point in this regard would be to make any co-contribution only payable when the application is finalised and not on lodgement.

***We submit that there should be separate allocation of visas for cases of financial contribution or guarantees and these need to be processed in a timely manner. This quota should be in addition to, and not detract from, the normal intake to avoid a situation where individuals who do not have the financial means to make such applications are further disadvantaged.***

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<sup>23</sup> Ibid par.51

## 8. Family & Other Supported Migrant Streams

Parent and partner visas are vital to the overall strategy and need not only to continue but to be expanded and expedited.

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On the face of it these visas, particularly the parent ones, may not appear to have as much of a beneficial impact on the economy as the primary visa holders would but there are other benefits that accrue with them.

In terms of the skilled migration market Australia is in a global competition for new and emerging skills and access to both parental and partner visas are a critical factor in the considerations of skilled migrants who may have several options for migration. Additionally, Australian citizens who have been working overseas are normally highly qualified and pay a higher-than-average amount of tax. Australia would do well to attract these citizens to return and benefit the Australian economy, however, they are unlikely to return if their partners are not granted visas.

With respect to the fiscal benefits of this stream we note that the Intergenerational Report stated:<sup>24</sup>

*“While the Skill stream tends to have higher economic and fiscal benefits, the Family stream and Humanitarian Program have other non-economic benefits, including supporting family reunion, increasing cultural diversity and fulfilling our international obligations.”*

We submit that the full fiscal impact of family visa’s is not well understood and may in fact be underestimated. Fiscal impact of migrants is captured by the Treasury using “*The Fiscal Impact of New Australians model (FIONA)*”. FIONA estimates the fiscal impact of permanent migrants over their remaining lifetimes in Australia. This estimate captures tax revenues and government expenses incurred by Commonwealth, State and Territory Governments that are directly attributable to migrants. Treasury has noted:<sup>25</sup>

*“FIONA currently treats all migrants separately as individuals, rather than estimating the overall fiscal impact of family units who migrate together. While this simplifying approach will not affect the aggregate results, it will affect the estimates of fiscal impact within categories (such as the interpretation of lifetime fiscal impact by age at arrival). Extending FIONA’s results to family units would produce a more complete picture of the migration program.”*

***Family visas have a positive social and economic benefit to Australia society and should be maintained. We agree with the Productivity Commission that migrants are generally more attracted to countries which allow family reunification. Parents assist younger migrant families, particularly those with children, settle into life in Australia, including by providing child-care assistance.***

<sup>24</sup> [https://treasury.gov.au/sites/default/files/2021-06/p2021\\_182464.pdf](https://treasury.gov.au/sites/default/files/2021-06/p2021_182464.pdf) p.23

<sup>25</sup> [https://treasury.gov.au/sites/default/files/2021-12/p2021-220773\\_1.pdf](https://treasury.gov.au/sites/default/files/2021-12/p2021-220773_1.pdf) p.21

## 9. Permanent & Temporary Migration

Australia is one of the few jurisdictions that offers a route to permanent migration without having to have gone through some other process first. However, the use of temporary visas, particularly those based on 'skilled' categories, has now become a greater focus. Data from the Federal Department of Home Affairs shows that since at least 2012-13, over half of all permanent skilled visas were granted to applicants already onshore under the temporary skilled stream.<sup>26</sup>

The United Nations notes:

*"The rationale behind the temporary programmes is based on the theory of labour market segmentation (Piore, 1979), under which labour demands in certain sectors are met with the help of temporary labour migrants from overseas when the labour force in the host country is either unavailable or unwilling to take on those jobs. Usually, activities "at the bottom of the social scale exert little attention and display chronic labour shortages, which foreigners are ready to fill" (OECD, 2001).<sup>27</sup>"*

This raises several issues that need to be considered in formulating the next Migration strategy. Firstly, most temporary visa holders in Australia are in fact student visas and not skilled migrants. This reflects a shift in the education sector to capitalise on what is seen as a lucrative market and as student visas are uncapped this has enabled the tertiary sector, and in particular the VET sector, to maximise their market share in relation to the overseas market. The issue is that the temporary visa program was originally designed to, and is still used as policy driver for, targeting skilled labor shortages.

As CEDA notes:<sup>28</sup>

*"In contrast, student migrants who make up a much larger proportion of temporary visa holders than temporary skilled migrants are far less likely to become permanent residents. Only 16 per cent move to a permanent visa after 20 years."*

The effect of the above is that Australia gets very little real long-term benefit from most temporary visa holders other than the immediate economic benefit as an education exporter. The other consequence of this is that it appears that there is now a pool of individuals who are in this uncertain state in terms of their migration, in effect a perpetual pool of temporary migrants, who are not necessarily aligned in terms of skills with the needs of the economy, and for whom permanent migration and the associated safety nets are always out of reach. CEDA noted that:<sup>29</sup>

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<sup>26</sup> Effects of Temporary Migration: Shaping Australia's Society Economy, Committee for Economic Development of Australia, 2019 p.16

<sup>27</sup> <https://www.un.org/en/development/desa/population/publications/pdf/policy/InternationalMigrationPolicies2013/Report%20PDFs/International%20Migration%20Policies%20Full%20Report.pdf> p.37

<sup>28</sup> Effects of Temporary Migration: Shaping Australia's Society & Economy, Committee for Economic Development of Australia, 2019 p.16

<sup>29</sup> Ibid. p.17



*“Excluding New Zealand citizens, there were an estimated 46,000 people who arrived on a temporary visa between 2007 and 2008 and remained on one at the end of 2016.”*

*In a future strategy it will be important to understand what the drivers are for such a low transition from temporary to permanent status and to minimise any administrative burden and uncertainty for those applicants. AFIC believes that this situation is not in the best interests of either the individuals or the country and urges any future strategy to explore ways to respond to this growing phenomenon.*

## 10. Skilled Migration

In the above section we highlighted the misalignment of the temporary visa scheme with its original intent of responding to skill shortfalls with the emergence of the student visa cohort. Separate to this there is another critical issue that the future migration strategy needs to address. This is in relation to the actual experience of individuals who have entered as skilled migrants.

These issues are best summarised in two studies. Firstly, the CEDA report previously referenced and secondly a study conducted by the South Australian Centre for Economic Studies<sup>30</sup> that looked at the experience of skilled migrants in South Australia under the regional visa scheme.

CEDA summarised the issues as follows:<sup>31</sup>

*“Feedback from business and migration professionals suggests that there is:*

- a lack of transparency in the methodology, analysis and data that underpins the selection of occupations to determine a ‘skill shortage’ in the short-term or a strategic need for an occupation in the medium and long-term;*
- reliance on rigid categories of occupations that have not been reviewed and updated recently to take account of the impact of changes in technology on the labour market;*
- poor appreciation of the global nature of large companies and the extent to which executive talent today is developed across national boundaries within companies, rendering temporary skilled visa requirements an impediment to moving personnel across the world;*

<sup>30</sup> <https://www.adelaide.edu.au/saces/system/files/media/documents/2019-09/saces-economic-issues-52.pdf>

<sup>31</sup> Effects of Temporary Migration: Shaping Australia’s Society & Economy, Committee for Economic Development of Australia, 2019 p.20

- *broad recognition that labour market testing is an inflexible administrative requirement that continues to be imposed despite more stringent occupational lists and international policy makers questioning its effectiveness; and*
- *a skills levy that is paid even in many instances when temporary skilled visa nominations are unsuccessful and spent on training initiatives with only a weak linkage to the skills shortages that drove the need for skilled migration in the first place.”*

We note that the Productivity Commission highlighted similar issues when it stated:<sup>32</sup>

*“However, a number of potential issues have been identified by interested parties which might provide a basis for ‘fine tuning’ of the current arrangements. Examples include removing some of the complexities of different bodies involved in the same or similar processes and improving the information available to prospective immigrants.”*

Up to 40% of recent immigrants in Australia are over-educated (having more qualifications than necessary), making it hard for them to find suitable employment. This is almost four times the level of over-education seen in native-born Australians.<sup>33</sup>

The current system can lead to mismatches between the skills available in the market and those that employers need. One possible reason is the lag between the time employers inform immigration authorities about the skills they most need (or envisage needing in the future) and when migrants enter the labour market, which can be years later.

But the evidence shows we are wasting skills in levels like those of countries that do not implement selective immigration policies. This suggests that immigration policy by itself is not the only tool responsible for migrants’ labour market outcomes. Better coordination between immigration and employment policies is needed if we want to use skills from abroad to fill gaps and become more productive.<sup>34</sup>

As mentioned above, the South Australian Centre for Economic Studies (ACES) looked at the experience of skilled migrants in South Australia under the regional visa scheme and the findings of that study are generally in line with the issues identified by CEDA above. There is clearly a misalignment between the ‘promise’ on application and the reality on arrival for many of these migrants.

The ACES study noted:

*“Many, however, failed to obtain work in their nominated occupation. Close to half (44 per cent) of those in employment or self-employment ended up working in an occupation or field other than the one nominated in their visa application. Furthermore, more than half of those in work (53 per cent) were employed at a level*

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<sup>32</sup> <https://www.pc.gov.au/inquiries/completed/migration-population/report> p.XXXVII

<sup>33</sup> <https://theconversation.com/australias-jobs-and-migration-policies-are-not-making-the-best-use-of-qualified-migrants-90944>

<sup>34</sup> Ibid.

*that they felt was below their previous overseas experience and/or qualification, frequently working casual (19 per cent) or on time-limited contracts (20 per cent).<sup>35</sup>*

They identified the major misalignments as:<sup>36</sup>

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- *not working in a nominated occupation,*
- *unemployment,*
- *underemployment (working fewer than the desired hours) or*
- *over-qualification.*

The most frequently mentioned barrier, reported by 43 per cent of study participants, was the expectation on the part of employers that the job seekers should have local work experience. Related to this, migrants also noted that employers were expecting local references (5 per cent), which they typically were not able to provide. A third group of experience-related barriers include a lack of skills recognition or of local licences or tickets, which were identified by 12 per cent of migrants.<sup>37</sup>

There is also a widely held view that Australian employers discriminated against hiring anyone who didn't have local experience. Migrants thus found themselves in a classic Catch-22 situation – they couldn't get local experience because they didn't have local experience.

Other perceived barriers are that the jobs simply didn't exist, that employers did not recognise overseas qualifications, or were reluctant to hire them because they were foreign and lacked fluency in English.<sup>38</sup>

In relation to all the above matters, CEDA proposed recommendations to embed greater stability, predictability, transparency, and administrative efficiency into the temporary skilled migration program.

These are:<sup>39</sup>

1. *“The Federal Government should strengthen identification of skill shortages and eligible occupations for skilled visas in the skilled occupation list to increase confidence in the process by:*
  - *Being more transparent about the data and methods used in assessing whether occupations are included on skilled occupation lists.*
  - *Immediately reviewing the Australian and New Zealand Standard Classification of Occupations (ANZSCO) codes to ensure they align with current and emerging labour trends, particularly the impact of technology.*

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<sup>35</sup> <https://www.adelaide.edu.au/saces/system/files/media/documents/2019-09/saces-economic-issues-52.pdf> p.9

<sup>36</sup> Ibid. P.13

<sup>37</sup> Ibid. P.15

<sup>38</sup> <https://theconversation.com/theres-one-big-problem-with-australias-skilled-migration-program-many-employers-dont-want-new-migrants-125569>

<sup>39</sup> Ibid p.21

- *Establishing an independent committee, like the Migration Advisory Committee in the UK, to undertake analysis, consultation and advice on the formulation of skilled occupation lists.*

2. *The Federal Government should remove the requirement for labour market testing once the skills shortage list process has been strengthened.*
3. *The Federal Government should immediately introduce a dedicated, streamlined path for intra-company transfers of employees to Australia.*
4. *The Federal Government should improve the operation of the Skilling Australia Fund Levy by:*
  - *Aligning the use of the Skilling Australia Fund Levy to training initiatives that alleviate the skill shortages driving skilled migration.*
  - *Changing the point of levy collection from the visa nomination stage to the visa approval stage so that employers do not incur the levy if a visa nomination is refused.*
5. *The Federal Treasurer should task the Productivity Commission with undertaking a review of the Temporary Skill Shortage visa program every three to five years to guide future changes to policy settings.”*

*AFIC supports the above recommendations by CEDA*

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## 11. Conclusion

The movement of people—individuals, families, tribes and entire communities— has shaped and transformed the history of humankind. Groups of people have migrated for many reasons: economic, religious, political, as well as for education and cultural exchange. Masses have also migrated to escape conflict, persecution, natural disaster and harsh living conditions. Australia has always relied upon and benefited from this movement of people across the globe and needs to continue to do so.

To meet standards that are expected in Australia, we must invest in adequate staffing at every level to ensure that all applications are processed within timeframes that would be considered reasonable in an Australian setting, no application should take more than six months to process regardless of complexity unless the delays are caused by the applicant (and not by other systems).

We applaud the Commonwealth for calling this review into Australia's Migration Strategy and are pleased to take the opportunity to submit the above considerations and recommendations on behalf of the Australian Muslim community.

Page | 21 Yours faithfully



**Dr Rateb Jneid**  
*President, AFIC*



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of Islamic Councils