Subheading: Strengthening the Test for Australian Citizenship — Discussion paper
Strengthening the Test for Australian Citizenship

The Migration Institute of Australia ("the MIA") as the peak organisation for Registered Migration Agents appreciates the opportunity to make this submission on the Australian Government’s discussion paper *Strengthening the Test for Australian Citizenship*¹ ["the Discussion Paper”].

This submission is informed by the MIA’s deep knowledge of migration matters, survey results and reports from its member Registered Migration Agents.

Australian Citizenship is a privilege that carries with it responsibilities and obligations. However, there is a danger that the proposed changes to the criteria for meeting the Australian citizenship test may be unattainable for many current permanent residents of Australia and should be re-examined.

If we can be of further assistance, please contact the MIA on (02) 9249 9000

Yours faithfully,

Angela Julian-Armitage
MIA National President

1 June 2017

MIA Recommendations

Recommendation 1

The MIA recommends that no change be made to the twelve-month period of permanent residency required before an application for Australian citizenship can be made.

Recommendation 2

The MIA recommends that if changes are made to the Australian citizenship requirements, that transitional arrangements be made for those who have held a permanent resident visa for one year and who previously held temporary visas for at least three years.

Recommendation 3

The MIA recommends that the English requirement for citizenship should be set at functional English.

Recommendation 4

The MIA recommends that there should be no stand-alone English test.

Recommendation 5

The MIA recommends that those who have already provided evidence of having the required level of English for a previous visa application should not be required to demonstrate their English language ability again.

Recommendation 6

The MIA recommends that specific details of the Citizenship Test questions and the type of test be made available for public comment as soon as possible and before the legislation is placed before Parliament.

Recommendation 7

The MIA recommends that there be no limit on the number of times and applicant can sit for the Citizenship Test.
Recommendation 8

That specific details of what constitutes “integration” and the methods by which integration will be assessed be made available for public comment as soon as possible and before the legislation is placed before Parliament.

Recommendation 9

The MIA recommends that the values of “tolerance”, “fair play” and “compassion” be retained in the Australian Values Statement.

Recommendation 10

The MIA recommends that the term “freedom of enterprise” be removed from the proposed Australian Values Statement.

Recommendation 11

The MIA recommends that the method by which adherence to Australian Values will be assessed and the undertaking that citizenship applicants will be made available for public comment as soon as possible and before the legislation is placed before Parliament.

Recommendation 12

The MIA recommends that the Government should as a matter of urgency demonstrate that migrants and refugees are not being unfairly targeted by the proposed changes to Australian Citizenship requirements.

Recommendation 13

The MIA recommends that the Government should as a matter of urgency demonstrate that Australia is still a welcoming and inclusive nation.
Strengthening the Test for Australian Citizenship

Reasons for the proposed changes

The proposed changes to Australian Citizenship requirements as described in the Discussion Paper arise from the recommendations of the Final Report, National Consultation on Citizenship 2015, Australian Citizenship, Your Right, Your Responsibility² [“the Report”], conducted by Senator Fierravanti-Wells and Mr Philip Ruddock.

When proposals are made to change such important legislation, it is worthwhile examining the reasons for such proposals, the impact of those proposals and the likelihood of the proposed changes remedying identified issues and problems.

It is difficult to determine the factual reasoning for this proposal to strengthen the Australian citizenship test. The changes appear to be based on opinion, rather than evidence-based research. At the Senate Estimates Hearing on 23 May 2017, a senior Department of Immigration and Border Protection (DIBP) official, responded when asked about the consultations that were undertaken to inform those changes recommended by the Report … “as well as public consultations … the Report was also informed by some research that was collated by our department for Mr Ruddock and Senator Fierravanti-Wells from research into other international models and studies”.

However, the only reference to research in the Report are two references made to the July 2015, OECD Indicators of Immigrant Integration, which reported that Australia has one of the highest levels of citizenship uptake in the world. Apart from that, the Report appears entirely informed by opinion (“Australians are concerned”, “many suggested”, “respondents also noted”, “there was a range of views”, “in view of the strong emphasis the community places on English language”, “people felt”, “concerns were widely held”, “there was broad support”, “most respondents viewed …”, “some respondents believed”, “a small group of respondents supported …”, “there was support for …”).

Similarly, the Discussion Paper provides no empirical evidence or lucid reasoning for the proposal to strengthen the Australian citizenship test.

The proposed changes to Australian Citizenship requirements as outlined in the Discussion Paper are aimed at achieving greater civic engagement, integration and social cohesion. “Integration” is a common theme in most of the proposed changes. Yet there is no indication in either the Report or the Discussion Paper that there have been significant issues or problems with the level of civic engagement and integration and social cohesion in Australia to date.

In recent times and in many comparable Western countries, public concerns have arisen about levels of migration and refugee intakes, as well as disaffection among the citizens of many Western countries with governments’ policies on the economy and migration issue. It is therefore not surprising that Australia has joined the ranks of those countries where “demographic shifts, economic transformation, and party politics make immigration a central issue” and where “immigration has brought about profound change to conceptions of national membership and belonging in nation-states”. Indeed, “research on immigration and citizenship has become one of the fastest growing areas in political science, with an increasing number of articles in major disciplinary journals”.

There is also a great deal of discussion and many scholarly articles in the Western world about the intent of governments and policy makers about promoting civic integration through citizenship requirements. These are succinctly summarized in a paper that, although primarily about Scandinavian immigration, has analysed the situation in comparable Western countries, including Australia, as follows:

i. “The measures mostly associated with civic integration – integration requirements for entry, permanent residence and naturalization – are often justified as ways to incentivize and motivate immigrants to acquire certain capacities, attitudes and knowledge that allows them to participate in the labour market, civil society and democracy …”

ii. “… integration requirements also serve as a civic screening mechanism to keep out those (potential) immigrants who are more difficult to integrate …”

iii. “… civic integration policies may have symbolic goals, e.g. to signal to host populations, either that the competence and ability of governments to control the country’s borders, or their concern to maintain and strengthen cultural cohesion and national identity.”

Which of these goals the Australian government is attempting to achieve is difficult to discern, given the lack of publicly available sound reasons behind the proposed changes to the requirements for Australian citizenship and the likely effects of the changes. It would appear that strengthening the Australian citizenship test represents a shift away from incentivising and motivating migrants to develop attributes that promote participation in Australian society, as the system was designed to do in the past. The focus of these proposed changes and the political rhetoric that surrounds the debate has moved firmly to using citizenship as a civic screening tool and border control mechanism.

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Neither the Report nor the Discussion Paper provide any explicit indication that there is a problem with current levels of civic engagement and integration in Australia. The assertion by the Australian Government in the Discussion Paper that it places the highest priority on the safety and security of all Australians and that “recent terrorist attacks around the world have justifiably caused concern in the Australian community” lends support to the notion of civic screening and border control. Yet neither the Report nor the Discussion Paper provide any explicit information about how the proposed changes to Australian Citizenship requirements will improve the safety and security of all Australians. Recent research indicates that these changes may not achieve the desired outcomes of promoting civic integration “… no one has investigated whether integration requirements actually select the immigrants most likely to (further) integrate”.5 With little empirical evidence as to the effectiveness of such policies in improving the safety and security of Australian citizens, the government’s argument that this will be improved appears unsound and conflated.

**Adverse consequences of proposed changes**

If the Australian Government has evidence that the proposed Australian Citizenship requirements promote civic integration and will thereby improve the safety and security of all Australians it should make such evidence public. If such evidence does not exist, the proposed changes are at best merely symbolic and at worst pander to an overly strident section of Australian society. The Australian government must carefully consider the possible adverse consequences of the proposed changes for those who wish to apply for Australian Citizenship.

**Diminution of social cohesion**

The proposed changes if enacted will result in a significant number of people not being able to attain Australian citizenship or having their citizenship delayed. From a public policy perspective, the ultimate concern is the reaction of significant numbers of people currently living in Australia who are affected by these changes. A possible diminution of social cohesion may arise from having a substantial number of people feeling marginalised and inferior, and losing trust in Australia, its Government, its immigration bureaucracy. Losing whatever sense these applicants may have had of belonging in Australia, does not enhance social cohesion and seems at odds with attempts to improve safety and security in Australia.

**Proposed changes give mixed signals**

On the one hand the proposed changes can be seen as an implicit retreat from multiculturalism. The Discussion Paper asserts that “We are the most successful multicultural society in the world” and states that “The 2015 National Consultation on

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5 Borevi K, Jensen KK & Mouritsen P, The civic turn of immigrant integration policies in the Scandinavian welfare states, Comparative Migration Studies, 20 March 2017]
"Citizenship – Your Right, Your Responsibility" indicated strong community support for strengthening the test for Australian citizenship”. However, the proposed changes may also be seen as “a shift in focus from concerns of the collective identities of immigrants to a preoccupation of defining and strengthening the host national identity” which could be seen as pandering to right-wing concerns about migration.⁶

Another signal that is sent is that the Australian Government is not particularly concerned about losing the trust of potential citizens by retrospectively changing the requirements for citizenship and having an adverse impact on those who may have made life plans based on their understanding of current system.

**Proposed changes to residency requirements**

The proposal intends to increase the general residence requirement an applicant for Australian citizenship to a minimum of four years permanent residence, immediately prior to their application for citizenship.

The proposal is intended to ... "make Australia’s residency requirements for citizenship more in line with the United Kingdom, New Zealand, Canada and the United States of America." ⁷ Why it is desirable to have similar residency requirements to these other countries is unclear. The populations of these countries do not necessarily appear to be safer and more secure than those living in Australia as a result of these longer residency requirements. Indeed, recent terrorism and mass shooting events suggest that these countries are less secure and safe.

**Greater examination of integration**

The only reason offered in the Discussion Paper for the proposed residency requirement is that: “increasing the minimum period of permanent residence required to qualify for citizenship will enable greater examination of an aspiring citizens’ integration with Australia”.

This raises several questions and concerns:

i. What form does this “integration” take and how will it be demonstrated or assessed?
ii. How will this “greater examination” be undertaken?
iii. The term “greater examination” suggests some form of surveillance.
iv. Why are four years required to assess this “integration”?

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⁷ DIBP Senior Officer, Senate Hansard, Legal and Constitutional Affairs Committee, Tuesday 23 May 2017
Why only permanent residence?

There are also no valid reasons provided for the four years residence requirement to be satisfied by permanent residence only. Currently the general residence requirement is four years, but three of those years can be on a temporary visa. The proposed changes do not allow for any period of temporary residence to count towards the residency requirement.

It is perhaps pertinent that the DIBP recently seems to have decided that temporary residence leading to permanent residence is not desirable.

The Secretary of the DIBP stated at the Senate Estimates Hearing on 23 May 2017: "The pattern is people have become complacently attuned to using the 457 visa, which started with a particular rationale in mind, and they have been churning through the 457 process ... as a proxy pathway into permanent migration. The government has made it very clear. ... Over time, things will correct, because expectations will change pathways into citizenship. ... there has been a diminution or a closing of the aperture for citizenship ultimately, to emerge from temporary skilled visa”...

It will come as a surprise to many that going from a Subclass 457 visa to a permanent residence visa is no longer a legitimate and acceptable pathway to permanent residency and ultimately citizenship. Indeed, in the past the Subclass 457 visa program was officially described as a “try before you buy” method for Australian employers to trial overseas workers and for overseas worker to trial life and work in Australia. It has now apparently metamorphosed into a misuse or abuse of Australia’s visa system.

It is extremely galling to the MIA that the DIBP Secretary also said at that Hearing that: The “ ... old 457 scheme, which has become, to some extent—I will use this slightly colourful language—bloated out and a proxy pathway to permanent residency. We have not touched on this yet but one of the main lines of concern that Ms Noble has been confronted with in her consultations is a little bit of what you are saying but, more predominantly, from the migration-agent sector, they are saying, 'But hang on, what do I say to my client? This was their pathway into permanent migration.' That is the proof—perfect, if you like—that the program had become distorted as to its original purpose.

Apart from insulting Registered Migration Agents (including those who are lawyers) who have properly assisted clients in achieving a recognised and legitimate pathway from temporary residence to permanent resident to citizenship, what sort of message is this sending to those Australian citizens who have used that valid pathway? They complied with the Australian laws and government policies of the time, but are now viewed as having been complicit in distorting the purpose of the migration program and they are now somehow “suspect” or tainted.
This is a contemporary misrepresentation of the original goals and purpose of a long-term migration program and of visa applicants, who would surely demonstrate positive ‘integration’ into Australian society, as measured by the current proposals. These visa holders contribute to Australia’s economy, they are employed, pay taxes and bring skills that are needed in Australia. The DIBP’s statement demonstrates the obscure reasoning behind some of these changed requirements.

There can be no meaningful difference between the integration of someone who has had four years permanent residence and someone who has had three years residence on a temporary visa and one year on a permanent visa. In fact, many permanent residents have been in Australia for a significant amount of time on temporary visas before obtaining permanent residency. Prior to obtaining permanent residence they may have held a student visa, a Subclass 457 visa, a provisional Partner visa, a business visa or be an New Zealand citizens on a Subclass 444 visa. The time spent on temporary or provisional visas could be in excess of 7 years with a combination of certain temporary visas.

Many of these people have already had sufficient time to integrate with Australian society and will have ample evidence of integration. An extra three years on a permanent visa is unnecessary to compile further evidence.

The requirement of four years of permanent residency creates an immense gap between people who come here on a provisional visa, such as a partner visa or people who come to Australia on a permanent visa through the General Skilled Migration program. Is someone who lives in a regional area on a temporary Subclass 489 Regional Skilled visa for two years before they gain their permanent Subclass 887 Regional Skilled visa less integrated than someone who arrives in an Australian city directly on a permanent Subclass 189 Independent Skilled visa? In reality, a migrant, whether temporary or permanent, living in a regional area is far more likely to be integrated into a community than those living in a large city.

**Adverse consequences of proposed residency requirement**

**New Zealand Citizens**

The case of many New Zealand citizens holding Subclass 444 visas is compelling. Many have been long term residents in Australia and following the recent introduction of the "New Zealand" Stream of the Subclass 189 visa (through the Migration Legislation Amendment (2017 Measures No. 2) Regulations 2017) the process for becoming a permanent resident of Australia has become more streamlined. However, they will then need to wait a further 4 years before becoming eligible for Australian Citizenship, despite having resided in Australia perhaps for many years.
Resident Return Visa Holders

Holders of Resident Return Visas (RRV) (Subclasses 155 and 157) may be disadvantaged by the changes. Earlier adjustments to the RRV were designed to encourage permanent residents to take out Australian citizenship as soon as possible. Resident Return Visa holders who genuinely need to spend significant periods overseas may never be able to achieve Australian citizenship because of the residence requirement or because of a perceived lack of “integration” in Australia. With the increased globalisation of the labour market and business, working overseas is becoming a common career path, even for native-born Australians. Many migrants who would appear to demonstrate the very attributes desired in potential Australian citizens, may not be able to meet the residency test for citizenship, may abandon their Australian permanent residency and consider the options offered by other countries. Australia could potentially lose some of the “best and brightest”.

Migrants’ life plans destroyed

Most MIA Members have assisted their clients through the process of obtaining temporary and then permanent visas. They know the genuine desire their clients have to become Australian citizens, and the time, money and effort they have spent to achieve this goal.

Many of their clients may have made other decisions regarding their immigration if they had known that their ultimate goal of Australian citizenship would take longer than anticipated or in some cases even be unattainable.

People expend considerable time and effort at significant financial cost to achieve genuine life goals such as Australian citizenship. They should be reasonably confident that the rules will not change significantly during this time, unless there were some drastic reason of public significance. There is no evidence that such a reason exists for the proposed changes to the residency requirements.

Creating disadvantage within families

The MIA is concerned that disadvantage may be created within the family unit by these proposed changes. A person who has been sponsored to Australia by their Australian citizen partner, for example, may live in this country for many years and give birth to Australian citizen children, but never be able to attain the level of English required to attain Australian citizenship. They will not share the benefits of citizenship with the rest of their family. Some may have little access to English classes due to their locality or have little time to study due to family obligations. More disturbingly, some Australian partners could exert undesirable control over the visa holder by preventing them gaining sufficient English language skills and independence.
Delaying or stopping opportunities to obtain some Australian Government jobs

The proposed residency requirements will prevent some people from being able to apply for specific government jobs and programs which require Australian citizenship. Many of these jobs require high level technological and scientific skills and have far reaching benefits to Australia.

Delaying opportunities for family reunion

The residency requirements may greatly disadvantage many migrants (especially refugees) who require citizenship to be able to sponsor their family members to live in Australia. This begs the question of how this delay benefits social cohesion and civic integration. Many migrant families, for example, are provided with contact and support in a new community through their children’s schools. Separating families in this way is not only inhumane, but delays the opportunities for integration for those affected.

Transitional options

Many MIA Members report that their clients and former clients who have already obtained permanent residence are extremely disappointed and in some cases angry at this proposal and that they will be adversely affected by this change. Particularly disappointed are those who, after holding temporary visas for several years, have recently obtained permanent residence, or who have had it for one year. Their hopes for citizenship will be frustrated for at least three more years. If four years’ permanent residence is required, there should be a waiver or transitional arrangements for these people.

Permissible absences from Australia

Permissible absences from Australia during the period of residency required for Australian citizenship must allow for people to spend extended time overseas for extenuating family matters (such as illness) and for employment or business purposes. Many people with genuine overseas commitments and responsibilities could spend more than 12 months overseas in a four-year period. Their commitment to and integration in Australia should not be automatically doubted because of this.

Consideration should be given to permitting realistic absences from Australia to allow permanent residents to meet the residency requirement for Australian citizenship. The four-year permanent residency requirement seems to be an unnecessary hurdle. There does not appear to necessarily be any difference between the integration that can occur on either a temporary or a permanent visa, yet people will no longer be able to count their time as temporary residents toward the residence requirement for citizenship.
The new requirement will achieve little other than frustration, disappointment, stress and a poorer attitude to Australia. This is not conducive to promoting social cohesion.

Recommendation 1

The MIA recommends that no change be made to the twelve-month period of permanent residency required before an application for Australian citizenship can be made.

Recommendation 2

The MIA recommends that if changes are made to the Australian citizenship requirements, that transitional arrangements be made for those who have held a permanent resident visa for one year and who previously held temporary visas for at least three years.

Proposed changes to English language requirement

It is intended that applicants will need to demonstrate a required level English language listening, speaking, reading and writing skills as the result of a stand-alone test before being able to sit the citizenship test. The required test result is Competent English.

Public support for English: basic, adequate, functional or competent?

The Discussion Paper states that: “There is strong public support for ensuring aspiring citizens are fully able to participate in Australian life, by speaking English, our national language”. This statement is most likely correct. In a poll conducted by the Australian National University (ANU) in 2015 on the Australian National Identity, 92 per cent of respondents believed that the ability to speak English is important to being ‘an Australian’. 65 per cent believed that it is very important. 8

However, the question asked in that poll ... “How important do you think...it is to be able to speak English” ... provides only opinion and cannot be considered empirical evidence of any great weight. The level of English respondents thought was required was not explored or tested in any specific or technical way.

The Senate Estimates Hearing on 23 May 2017 was informed that: “One of the strong findings of the Fierravanti-Wells and Ruddock consultation process [the Report] was the importance of people being able to speak English to their ability to integrate and positively contribute and conduct their lives within the Australian community.” The Report did not mention of any specific level of English that had any accurate technical meaning, recommending “adequate” rather than “basic English”.

There is a good reason for this lack of specification. Most people do not have any knowledge or understanding of levels of English and how they are measured. This lack of knowledge may well extend to policy makers. The Minister for Immigration and Border Protection is quoted as saying that… “We increase that to IELTS Level 6 equivalent, so that is at a competent English-language proficiency level, and I think there would be wide support for that as well.” However, Competent English is above the level required for university entrance by international students wishing to study in Australia.

**Competent English**

To the layperson, “competent” English is likely to mean “satisfactory” or “adequate”. In the International English Language Testing System (IELTS) “competent” has quite a different meaning and is a far higher level than “satisfactory”.

The IELTS test has four bands: Reading, Writing, Speaking and Listening. For some levels of English a minimum score is required in each band. For other levels an average score across the bands is required. Scores range from 1 to 9.

The Department of Immigration and Border Protection uses the following skill level descriptors and the acceptable IELTS score for each level:

- **Functional** average 4.5 in each band
- **Vocational** 5 in each band
- **Competent** 6 in each band
- **Proficient** 7 in each band
- **Superior** 8 in each band

The current requirement for citizenship is a basic knowledge of the English language. This is tested by the applicant undertaking the Australian Citizenship Test. There is no stand-alone English test.

**No logical reason for the requirement to have Competent English**

The Report recommended that the English requirement should be “adequate”, not “basic” English. The Discussion Paper provides no reason why the requirement should be raised to “competent” English (ie, IELTS 6 in each band of Reading, Writing, Listening and Speaking).
The DIBP Secretary informed the Senate Estimates Hearing on 23 May 2017 that: “The government has taken the decision, based on ... [the Report] ...to both lift the level of functional English capability to the equivalent that a permanent skilled migrant would have to be equipped with—that is, the level of competent, which is six on the nine-point scale”.

When asked at that Senate Estimates Hearing if the DIBP had produced or sought any further advice on the level of English required for migrants to successfully integrate, the DIBP Secretary answered that: “It is a bit circular. The government, under the other changes that relate to temporary and skilled and permanent visas, has determined that Level 6 is the aim point for competency as it relates to permanent skilled migrants, and so logically ... you would extend that to say that is where we want to gain our citizens from. There is an exception to that because through our refugee and humanitarian program we bring people in as permanent residents, of course for reasons to do with our humanitarian and compassionate imperatives, and then equip them with English language capability through more intensive intervention. I do not want you to think that it is going to be universal in that sense”.

That same Senate Estimates Hearing was informed by DIBP officials that the proposed changes “will bring us into line with other countries, for example Canada”. Canada does not have a stand-alone English test, instead applicants are required to take part in short, everyday conversations about common topics, understand simple instructions, questions and directions, use basic grammar, including simple structures and tenses, and show that they know enough common words and phrases to answer questions and express themselves in a citizenship interview. A layperson would most likely consider this to be an “adequate” level of English.

A spokesperson for the Australian Government, Senator Sinodinos, when questioned on this change to the level of English required, stated that: “The level we want is reasonable in all the circumstances. We are trying to get skilled people. It will take pressure off Adult Migrant Education Service (AMES) and that money can go to other things. We should not get hung up about English, the important thing is that we are sending a signal as a community that we want to celebrate what we are as Australians and that becoming part of the Australian family carries with it a set of rights and responsibilities.”

Senator Sinodinos also stated that his parent did not speak English when they came to Australia from Greece and learnt it here. He did not elaborate on whether this was to an ‘adequate’ or ‘competent’ standard.

There are many people, including many clients of MIA Members, who are disturbed by the proposed English requirement, because the change to require an IELTS result of 6 in each band is unreasonable and unattainable for many people.

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9 Senator Arthur Sinodinos, ABC Radio National 20 April 2017
Many Australians who undertook all of their schooling in Australia would not achieve Competent English. To require a level of IELTS 6 is to expect migrants to pass a higher level of English than that to which we educate many of our own children. Even the English level required for overseas students to study in Australia is only IELTS 5.5.

A further problem with the requirement of IELTS 6 in each band is that many people may be more proficient in speaking and listening, rather than reading and writing. They are still able to function very adequately in Australia. The MIA is aware through its Members’ reports that many overseas students who successfully pass Australian university courses are unable to achieve IELTS 6 in each band in one IELTS test sitting. The DIBP will only accept the results from one test, not multiple tests. Many students attempt multiple tests and achieve varying results in each test in the four bands.

Nevertheless, DIBP Secretary Pezzullo informed the Senate Estimates Hearing on 23 May 2017 that: “The government took a view that for someone to be permanently living amongst us as a fully capable, functioning, fully equipped citizen, they needed the English language capability that was the equivalent of a permanent skilled direct entry migrant”.

At that Senate Estimated Hearing on 23 May 2017, questions were asked about why Competent English was now required and why previous generations of migrants who did not have this level of competence in the English language have been fully functioning Australian Citizens and what research had been done to inform the change. These questions elicited responses that times have changed since the 1950s and 1960s, it is harder to get less-skilled jobs, being able to communicate with your fellow citizens in a common language is a unifying thing and the long-standing literature supports the case that the better English language you have, the greater success you will have both in integration, particularly in the broader labour market, and not just in the low-skill work areas.

The Secretary, the Government, the Report and the Discussion Paper have not provided any evidence that Competent English should be the minimum for migrants to successfully integrate, contribute and conduct their lives in Australia or explained how hundreds of thousands, if not millions, of native-born Australians are able to be productive members of this society without having Competent English.

Adverse consequences of the proposed English requirement

A significant number of people will never satisfy the English language requirement

The results of the Adult Migrant English Program (AMEP) provides a useful insight into why many permanent resident migrants may never satisfy the proposed English language requirement. AMEP’s migrant students do not develop English language ability anywhere near the equivalent of IELTS 6.
Henry Sherrell, a Research Officer in the Development Policy Centre at the Australian National University, has made a comprehensive analysis of the results of the AMEP 510 hours course between 2004 and 2012. This analysis revealed that zero per cent of the migrants undertaking the AMEP, achieved a score equivalent to IELTS 6, and seven per cent achieved a score equivalent to IELTS 4.5.

In an analysis of AMEP enrolments between 2004 and 2012, Sherrell shows that “somewhere north of 30,000 people each year would be ineligible for Australian citizenship under the new rules. While a proportion will increase their English proficiency with time, outside the classroom, language proficiency research shows that this is a slow and gruelling process”.

“Using conservative estimates of the three key elements – AMEP enrolment trends, the rate of English proficiency improvement over time, and net migration trends – anywhere between 30,000 and 40,000 new migrants each year are highly unlikely to meet the proposed English proficiency level for Australian citizenship in their first decade of settlement.”

Refugees
The IELTS 6 requirement will have an adverse effect on a significant proportion of refugee migrants, who understandably seek Australian citizenship, and many of whom have limited schooling or are illiterate in their own languages. 35 per cent of humanitarian migrants score the equivalent of an IELTS 2 after their AMEP classes finish.

Unskilled secondary visa holders and parents
Other cohorts of migrants who will be adversely affected by the IELTS 6 requirement as identified previously in this paper will be partner visa holders (especially female if they are unskilled and “stay-at-home” parents with limited opportunities to improve English skills) who did not need to pass an English test for their Partner visa. They may be the parents of children who may well be better able to achieve IELTS 6 than themselves.

Business Visa holders
Some business visa holders could also find themselves unable to gain Australian citizenship. There is no English language threshold requirement for applicants for the Significant Investor Visa (Subclass 188 and 888). Many business visa holders from non-English speaking backgrounds with limited English language ability have created trade and business opportunities, economic growth and employment for Australia. Despite this they may never be able to satisfy the proposed English language requirement. They also may not be in a position to spend time attending English class for which they have never previously had a need to attend.


An underclass of embittered residents

The IELTS 6 requirement may have the regrettable effect of creating an underclass of embittered people. The new English requirement has been described by the clients of various MIA Members as a disgraceful proposal which is elitist, discriminatory, does not treat all permanent residents equally and serves no discernible purpose.

“Over time, this will generate a growing population of people excluded from citizenship. It’s impossible to say with any certainty what this will look like over the long term, but the available evidence suggests a substantial number of people will never receive Australian citizenship.”

“To have a significant cohort of migrants who are unable to achieve Australian citizenship because of what they would see as an unreasonable requirement is very concerning. The adverse effect on social inclusion and cohesion would be highly regrettable and quite against what the Government says is its purpose with these changes.”

Functional English should be sufficient

If there must be a level for migrants to gain citizenship, that level should be Functional English. However, that should be demonstrated (as it is now) by passing the current Australian Citizenship Test. Functional English allows a person to “function” in Australia.

Levels of English language ability lower than Competent do not prevent people from integrating into Australian society. Our multicultural society has many languages, and integration is possible through using a combination of English and a native language. Indeed, some nations have more than one official language. Singapore, with four official languages, is an example where varying languages has not adversely affected integration.

Many Australian citizens would relate to an MIA Member who stated: ‘A number of my own past family members died after living in Australia for decades with only passing English but they were still devoted and excellent citizens’.

Recommendation 3

The MIA recommends that the English requirement for citizenship should be set at functional English.

Recommendation 4

The MIA recommends that there should be no stand-alone English test.

12 ibid
Exemptions to English requirement

It is pleasing that people currently exempt from sitting the Australian citizenship test, for example, applicants over 60 years of age, or under 16 years of age at the time they applied for citizenship or those with an enduring or permanent mental or physical incapacity, will continue to be exempt from English language testing.

If the proposed English language requirement is enacted, an exemption should also be granted to permanent residents who have already proven that they have achieved at least Competent English in their previous visa applications. They should not have to sit another stand-alone test, regardless of how old the previous test result is.

Recommendation 5

The MIA recommends that those who have already provided evidence of having the required level of English for a previous visa application should not be required to demonstrate their English language ability again.

Proposed changes to strengthen the test for Australian citizenship

It is intended to strengthen the test for Australian citizenship through the addition of new test questions about core Australian values, and the privileges and responsibilities of Australian citizenship.

The Discussion Paper states that applicants will be tested on whether they have an adequate understanding of Australian values and a belief in the importance of those values. This will be demonstrated by answers to questions in relation to: Allegiance, Values (democratic beliefs, freedoms, equality and integration).

It is likely that the Citizenship Test will be a multiple-choice test. DIBP Secretary Pezzullo has clearly indicated on many occasions, and most recently in the Senate Estimates Hearing of 23 May 2017, that in the face of having to find in the 2017-21 period just under $1 billion in cumulative productivity measures, efficiencies and cost-containment measures: “The only way in which this will be able to be achieved is through a significant program of business transformation and automation ...and the adaptation of [the] workforce to very high-end, technologically advanced, working environments and systems. The clerical administrative model of the last century, which saw public servants working largely on paper files, will be replaced by a digital model where case and other tactical information is held in shared data repositories, including cloud-based systems where artificial intelligence, or AI, enhanced programs will prompt cases and other specific information to human analysts and decision-makers”. Secretary Pezzullo further indicated at that hearing that there would be cuts to visa and citizenship processing staff.
It is difficult to understand how a multiple-choice test could test a person’s “understanding and commitment to” shared values. Under the new requirement applicants must also demonstrate their integration into the community by providing “evidence”. It is difficult to see how the careful and fair examination and assessment of that evidence could be done electronically.

It is possible that visa and citizenship processing may be outsourced by the DIBP “If the private sector can do that more efficiently and more cheaply”. It that were to happen there would need to be very clear publicly available guidelines on how the understanding and commitment to shared values would be assessed. Much more information is required about how the test will achieve its objectives before any informed opinion can be made.

It is regrettable that as with the processing of visa applications, the processing of citizenship applications is most likely going to take longer if only because of the overall increase in citizenship applications (even if fewer will be able meet new requirements) and DIBP staffing cuts. It will be humanitarian applicants who will be most affected, as their applications have particularly intensive and time-consuming identity checking. The Citizenship program “has doubled in size in the last five years and ... the number of humanitarian entrants has quadrupled. So it has grown by 397 per cent to 21,000 a year at the same time”.

It is envisaged that there will be questions seeking to confirm an applicant’s loyalty to Australia and its people, particularly when the applicant holds multiple citizenships. There needs to be clarification about the implications of this. Is an applicant who holds dual citizenship required to confirm that his/her allegiance is stronger to Australia than to the other country? What might be the impact of making such an assertion and how might that information be treated by the other country?

It is also likely that there will be questions about attitudes to particular behaviours which are illegal in Australia. It has been suggested that these may include female genital mutilation, child marriage and violence towards women. While there have been media reports about some people of migrant backgrounds perpetrating these crimes, is there evidence of sufficient numbers to warrant their specific mention in the Citizenship test?

There are any number of extremely serious crimes which could be specified in the Citizenship test but it would be generally deemed inappropriate as these are matters for the police and courts. Questions in the Citizenship Test about attitudes to serious crimes, some of which have been perpetrated by migrants and reported widely in the media, have the danger of being seen as targeting migrants and to be yet another example of pandering to bigotry and prejudice to send certain messages to extremist or disenchanted voters.

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13 Senior DIBP Officer, Senate Hansard, Legal and Constitutional Affairs Committee, Monday 22 May 2017.
14 Senior DIBP Officer, Senate Hansard, Legal and Constitutional Affairs Committee, Monday 22 May 2017.
It is, of course, also possible that answers to Citizenship Test questions may not be truthful. It is extremely unlikely that someone is going to admit to not being in favour of our core values. If an applicant’s later actions as an Australian citizen indicated that they had not given truthful answers in the Citizenship test, what will be done? More information is required on this.

**Recommendation 6**

The MIA recommends that specific details of the Citizenship Test questions and the type of test be made available for public comment as soon as possible and before the legislation is placed before Parliament.

**Limit of three attempts to pass the citizenship test**

The proposal that applicants will have three attempts to pass the citizenship test and a two-year ban on making a new application after a previous application is unacceptable.

This proposed restriction, of all the proposed changes, seems to have the least purpose and unfairly targets those from non-English speaking backgrounds and in particular refugees, whose level of English is generally lower than other migrants and who may be most likely to require more than three attempts to pass the test.

Any limitation on the number of attempts to sit the test will also mean that it will take longer for many refugees to be able to apply for citizenship.

**Recommendation 7**

The MIA recommends that there be no limit on the number of times and applicant can sit for the Citizenship Test.

**Proposed requirement to demonstrate integration**

It is intended that applicants will need to demonstrate their integration into the Australian community by providing, for example, documentation to the effect that the people who can work are working, or are actively looking for work or seeking to educate themselves; that people are contributing to the community by being actively involved in community or voluntary organisations; that people are properly paying their taxes and ensuring their children are being educated. Applicants’ criminal records and adherence to social security laws are also relevant.
Integration is a recurring theme in the proposed changes to the requirements for Australian Citizenship. There are references to higher levels of integration and fully participating in society. This necessarily raises the question of what is meant by integration, to what extent is integration necessary, if there is a problem with current levels of integration and how can the extent of integration be assessed?

The Discussion Paper provides some examples of integration, but we will have to wait for any further details. The DIBP Secretary at the Senate Estimate Hearing on 23 May 2017 when asked how someone’s integration could be measured responded: “... How do you measure for that? Obviously, we will refine the measures and put those to government, but things like AVOs and evidence of a differentiated view as to, for instance, the educational rights of boys and girls would be taken into account.

“What would this ultimately constitute? It would constitute a character-style assessment not in negative terms— I do not want for a moment to say that the analogy would be a section 501, because this is a positive assessment.

... “When we fully spell out the measure once the legislation is presented to the parliament, I will be able to add to that answer.”

It would actually be much more useful and transparent if the specifics were available for comment now. It there was ever a case of the devil being in the detail it is in relation to the meaning, evidence and assessment of “integration”. It is too late to comment once the legislation is presented to Parliament and it makes this current consultation appear to be less than genuine.

The DIBP Secretary provided further information at that Senate Estimates Hearing: “Obviously, to be blunt about it, for a multiple-choice test that indicates that you understand that living by Australian values includes an adherence to gender equality, for instance, you could assume—as Mr Dutton said and, from memory, the PM said as well—most people would answer that nominally by ticking the correct box. Have you demonstrated, have you lived by that belief? That will be the subject of assessment.”

It would seem from the Secretary’s comments that the assessment of integration will probably involve tick boxes. The extent to which any other evidentiary documentation would be required and how much checking for negative things such as Apprehended Violence Orders (AVOs) will be conducted by the DIBP is as yet unknown.

The MIA does support the addition to police checks undertaken as part of citizenship applications, the assessment of any conduct that is inconsistent with Australian values, such as domestic or family violence, criminality including procuring or facilitating female genital mutilation and involvement in gangs and organised crime.
Recommendation 8

That specific details of what constitutes “integration” and the methods by which integration will be assessed be made available for public comment as soon as possible and before the legislation is placed before Parliament.

Proposal to strengthen the Australian Values Statement

It is intended to strengthen the Australian Values Statement in application forms for visas and citizenship to include reference to allegiance to Australia and require applicants to make an undertaking to integrate into and contribute to the Australian community.

The Discussion Paper states that Australian Values are based on: respect for the rule of law, liberty and individual dignity; diversity, mutual respect, inclusion, fairness and compassion; freedom of thought, speech, religion, enterprise and association; parliamentary democracy, civic duties; equality of men and women, equality before the law, equal opportunity for all.

It does not list “tolerance”, “fair play” and “compassion”, which are in the current Australian Values Statement. There seems no reason to remove these and they should be retained. The proposed statement does add “freedom of enterprise”, which is not in the current Australian Values Statement. This latter is rather surprising as other values listed generally involve matters and behaviours associated with human rights, dignity and fairness. The introduction of “freedom of enterprise” which is an economic/political philosophy is quite out of place as the freedom of the free market can sometimes treat people in undesirable ways. If it were named “freedom of capitalism” it would not be included. The inclusion of this “freedom” should be removed as it is inconsistent with the other values.

A further addition to the proposed Australian Values Statement was foreshadowed by the DIBP Secretary at the 23 May 2017 Senate Estimates Hearing: “The Prime Minister has made very clear, as has the Minister for Immigration and Border Protection, this will include your adherence to a work ethic, a value of work ethic. So by extension, given the government policy direction—and I note I am sitting next to the Minister for Employment and she, I think, is in furious agreement—we will need to revise that value statement at least to that effect.”

At that same Hearing the DIBP Secretary provided a glimpse into how the Australian Values Statement may be enforced: “… because it is now going to be assessed rather than just simply acknowledged at the citizenship stage, in the interests of procedural fairness and natural justice, should these citizenship changes pass the Senate, we will
also have to codify under the Migration Act a much stronger, in fact, enforceable—and I do not mean in a criminal justice sense—adherence to those values because four years down the track you will not be in a position to say, ‘I didn’t know that not only did you want me to sign a bit of paper saying I kind of acknowledge this, but I have to live by those values’, otherwise the hurdle to citizenship can never be jumped.

As part of the suite of measures that the government will be placing before the parliament after the consultation period ends for citizenship testing reform, on 1 June, embedded in that will be a stronger—I am using the term ‘enforceable’ here in a slightly loose way—mode of adherence to the Australian values statement, which will actually start when your permanent residency period starts. Otherwise, four years hence you will be none the wiser in a sense as to what we are going to be assessing.”

Requiring an undertaking to integrate into and contribute to the Australian community is unacceptable, unless it is known what this entails and what is expected of someone who makes that undertaking. It is also unacceptable that this information is not available at this current time.

**Recommendation 9**

The MIA recommends that the values of “tolerance”, “fair play” and “compassion” be retained in the Australian Values Statement

**Recommendation 10**

The MIA recommends that the term “freedom of enterprise” be removed from the proposed Australian Values Statement.

**Recommendation 11**

The MIA recommends that the method by which adherence to Australian Values will be assessed and the undertaking that citizenship applicants will be made available for public comment as soon as possible and before the legislation is placed before Parliament.

**Proposal to strengthen the pledge of commitment**

It is intended to strengthening the Pledge of commitment in the *Australian Citizenship Act 2007* to refer to allegiance to Australia; and extending the requirement for individuals aged 16 years and over to make the Pledge of commitment to all streams of citizenship by application, including citizenship by descent, adoption and resumption. The MIA believes this to be reasonable and uncontroversial.
It is intended that applicants for citizenship by conferral on the grounds of being born in Papua, born to a former citizen or under statelessness provisions, will no longer be exempt from making the Pledge. The MIA believes this to be reasonable and uncontroversial.

Exemptions to making the Pledge on grounds of physical or mental incapacity, or age (under 16 years of age) will remain in place. The MIA believes this to be reasonable and uncontroversial.

Conclusion

The Discussion Paper exposes serious deficiencies and demonstrates a lack of lucid reasoning for this proposed strengthening of the Australian Citizenship test. It is disappointing to the MIA that more specific details which would allow for meaningful comment are not included in the Discussion Paper.

Further information about the proposed changes is released in a disparate fashion, through comments from Government spokespersons, media reports and from evidence given at the Senate Estimates Hearing of 23 May 2017. This may be taken as an indication of a level of disrespect for those who may be most affected by the proposed changes and who should be informed of the details and implications of the changes as soon as possible.

The decision to set the much higher requirements for citizenship approval and the retrospective nature of the changes without any obvious purpose, only serves to negatively impact the attitudes of those affected by these changes.

One of the most regrettable features of the proposed changes and the manner in which they have been promulgated is that they are likely to have adverse consequences which will result in the antithesis of what the Government says it is trying to achieve.

“Citizenship is an important mechanism to foster integration and make people feel fully connected and committed to Australia. There is a risk, however, that if citizenship is too hard to attain, a two-tier system of permanent residency will develop in Australia: those who are full citizens, and those who failed to become citizens – though they are permanent residents.”\(^\text{15}\)

There is a real concern that the Government’s genuine and justifiable concerns about the threat of terrorism and other illegal and anti-social behaviours have become conflated with political exigencies to counter trends which indicate a dissatisfaction with the political process.

\(^{15}\) Alex Reilly, Deputy Dean and Director of the Public Law and Policy Research Unit, Adelaide Law School, University of Adelaide, The Conversation, 20 April 2017

http://theconversation.com/explainer-the-proposed-changes-to-australian-citizenship-76405
The lack of well-articulated reasons for the proposed changes to the requirements for Australian citizenship gives these proposals the appearance of dog-whistle politics. The proposed changes have the appearance of being a mechanism for exclusion.

The likely adverse consequences of these proposed changes, as detailed above, adds to the unfortunate impression that a welcoming and inclusive Australia is a thing of the past.

**Recommendation 12**
The MIA recommends that the Government should as a matter of urgency demonstrate that migrants and refugees are not being unfairly targeted by the proposed changes to Australian Citizenship requirements.

**Recommendation 13**
The MIA recommends that the Government should as a matter of urgency demonstrate that Australia is still a welcoming and inclusive nation.