Submission to the Department of Immigration and Border Protection Discussion Paper on Introducing a Temporary Visa for Parents

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Overview and policy context

The Department of Immigration and Border Protection (DIBP) has proposed a new temporary visa for parents that could be held for up to five years and renewed on an ongoing basis (DIBP 2016, 9). Although it is unclear from DIBP’s Discussion Paper, it would appear that this visa would replace the permanent Contributory and Non-Contributory Parent Visas through which migrant parents currently enter Australia. Such a policy approach is consistent with a recent policy recommendation by the Productivity Commission of Australia in its Report on Australia’s Migrant Intake (Productivity Commission 2016, 485, recommendation 13.8).

The assumption embodied in DIBP’s Discussion Paper is that the introduction of a temporary visa for parents is inevitable and that debate should revolve primarily around the structure that such a visa comprises. It is our view that the proposal for such a temporary parent visa is complex, problematic and could have unintended consequences. We therefore suggest that much more detailed research and evaluation should be undertaken, before an in-principle commitment is made to introduce such a temporary visa for parents.

Given our position, this policy submission is divided into four parts. First, we outline our overall objections to a temporary visa for parents. Second, we respond to the terms of the Inquiry of the Department of Immigration and Border Protection (DIBP), suggesting best possible responses to the various questions posed, in the event that the proposal for a Temporary Parent Visa is pursued. Third, we propose an alternate model, which combines the creation of a bespoke, short-term Temporary Visa for Parents with the continuation of the non-contributory permanent visa category with a shift to a lottery-style selection process, eliminating 30+ year waiting times. This would also see the abolition of the contributory category and some provision of permanent parent visas on discretionary compassionate grounds. We conclude Part Four with some projections as to the likely uptake of the Temporary Visa proposed by government. Estimation is rendered difficult given the assumptions required to project potential demand for the Temporary Visa for Parents.

1. Concerns with the introduction of a temporary visa for parents

We have several concerns with the Temporary Visa in its proposed form including: i) whether it will operate as a temporary visa; ii) the normative implications for Australian multiculturalism and democracy; iii) the potential risks of financial, 

1 Under the Productivity Commission’s (2016, 482-485) recommendation, the introduction of such a Temporary Visa would occur alongside the diminution of the two current permanent visas but not necessary in full replacement of it. Compassionate permanent visas would be retained in certain instances. While the government has not signaled its intentions in this regard, we note that since 2003 the contributory parent visa has eclipsed the non-contributory parent visa as the main entry category: Given that a temporary long stay visa for parents is likely to have a lower visa charge as it is projected to have less impact on public finances, we anticipate that the same dynamics would be at play – that is, the temporary visa pathway would soon become the dominant option for parents and both permanent categories would decline in relative importance. The exact relationship between the proposed temporary visa and existing permanent pathways for parents requires clarification by government.
emotional and physical abuse of migrant parents; iv) possible unintended costs and logistical challenges; and v) the potential racialised and gendered impacts of the proposed visa changes. Each of these concerns is considered in turn.

Will the Temporary Visa actually be temporary?
A primary concern is that the visa, as proposed, is temporary in name only. As conceived, it allows for a stay of up to five years and then enables parent migrants “to renew their visa for further periods of up to five years at a time.” Notwithstanding the fact that the discussion paper seeks input on the length of a “waiting period” before a parent visa can be renewed (which presumably means that the visa holder will have to leave Australia for some specified period of time), on the current available facts, the proposal for five-year renewable visa essentially amounts to the creation of a visa that allows for a visa holder to live in Australia on an continuing and indefinite basis without extending to that person any of the rights, entitlements and social protections, yet that ordinarily accompany permanent resident status, including a pathway to citizenship after four years.2

Implications for Australian multiculturalism and democracy
Australia is a country that prides itself on the successful integration of immigrants through its multicultural architecture and the maintenance of a settler society. One of distinctive features of Australia’s migration history is that it has been citizenship-centred; new migrants have generally enjoyed a relatively straightforward pathway to permanent residency and citizenship from the point of arrival onwards. Throughout the 20th Century this set Australia apart from comparable democratic countries that had either a high-levels of temporary migrant “guest workers” (as was the case in Europe) or high levels of undocumented migrants (as in the USA) The Australian practice fostered integration through inclusion, by ensuring that over time migrants would have the same rights, entitlements and obligations as other Australians. In this context it seems surprising to us that the government would consider initiating a visa that will lead to the creation of a subset of long-term temporary residents who are limited in their access to health and social security systems and rights of franchise. In fact, “limiting the burden on Australia’s health care system” is a key argument presented in favour of the introduction of the Temporary Visa (DIBP 2016, 9). However, the potential inequalities that could flow from this for temporary migrants compared with Australian citizens and permanent residents are under addressed in the Discussion Paper. We return to these issues below.

We argue that to permanently exclude on-going residents from full membership of the Australian political community runs counter to basic democratic principles, which require that every adult person who lives within the confines of the nation on an ongoing basis is given the opportunity to cast a vote at elections, to be effectively represented and to have an equal say in the affairs of the state.

These critiques are similar to concerns we have raised about the overall shift in

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2 The Discussion Paper states that an aged parent can “lodge a permanent visa application” if they wish (DIBP 2016, 11) however, does not clarify what that visa would be for. Considering that the permanent aged parent visas would be abolished or the quotas further reduced (see footnote 1) it is unclear whether this means that the individual could apply under other permanent residency streams. However, given the age restrictions on most forms of skilled immigration, it is unclear what these other pathways to permanent residency might be for this cohort of migrants.
Australia towards a more temporary immigration program that is occurring in various areas of the immigration programme, including low skilled immigration, international student post-study visas and New Zealand immigration and the differential rights, privileges and obligations that are emerging based upon visa status (Mares 2016; Boucher 2016).

**Potential risks for power asymmetry, dependency and abuse of migrant aged parents under the new Temporary Parent Visa**

We submit that the Temporary Parent could open up the possibility for exploitation and abuse. While we have no doubt that the majority of sponsors will be motivated by good intentions, overtime family dynamics can produce unfortunate outcomes. As the migrant parent will often be entirely reliant on their sponsor -- not only for the continuation of their visa, but also their access to health care (and in some cases income, food and accommodation) -- this renders the migrant highly vulnerable should family relations deteriorate. A parent might, for example, find themselves pressured into providing excessive amounts of unpaid housework or childcare, expected to contribute labour or financial resources to a family enterprise, or be at risk of other forms of physical, emotional and financial elder abuse. These risks can become exaggerated as a migrant ages or develops cognitive conditions, such as dementia or Alzheimer’s disease, the risk of which increases with age.

**Logistical and implementation challenges**

In its current form, the visa presents logistical and implementation challenges. The assumption that the Australian public will not need to shoulder any of the costs of this visa is unrealistic. The following scenarios could provide challenging cases that would not be easily addressed through the proposed structure:

- Unforeseen circumstances could result in a growing number of cases in which private health insurance is inadequate or where an excess must be paid and the sponsor is unable to pay it. We note that the largest source of complaints to the Private Health Insurance Ombudsman concern benefits, including “hospital policies with unexpected exclusions and restrictions” (Commonwealth Ombudsman 2016, 58). A woman diagnosed with breast cancer may find, for example, that while her private health insurance covers hospital treatment, it does not fully cover all the associated diagnostic tests leading potentially to tens of thousands of dollars in out of pocket expenses (see ABC 730 2015)
- The sponsor’s family is either unwilling or unable to fully support the parent migrant in a time of urgent need. In these scenarios, emergency medical services provided through public hospitals or paid through the Medicare system, may be relied upon; and
- These scenarios could lead to appeals for invocation of the Minister for Immigration and Border Protection’s public interest powers (under sections 351, 417 and 501J of the Migration Act 1958) to intervene in particular cases to confer visa extensions or permanent residence. The Minister’s public interest powers are powers of last resort: that is they can only be activated in response to cases following a merits review tribunal decision. What this means in practice is that in order to reach the Minister in compassionate and compelling circumstances, applicants must first jump though a series of administrative hoops. Appeals to invoke ministerial discretion are thus
typically resource intensive and time consuming, and put increased demand upon the bureaucracy and legal services. Such potential additional costs flowing from the introduction of a new temporary parental visa are hard to quantify but should not be ignored.

Speaking about the analogous temporary Super Visa in Canada, a senior immigration bureaucrat made the following observations with regard to appeal opportunities for migrant parents:

‘It [the Super Visa] has some risks. Like I say, generally speaking that population was traditionally getting Visitor Visas anyway, but the risk might derive from if we have an extended period where we don’t – where the parent and grandparent sponsorship program for permanent resident status if it were to be much smaller, then you could have motivation for a parent staying in Canada a long time and eventually making a humanitarian compassionate applications and they can insist and that’s a risk there. So it would partly depend on how accessible the permanent resident program is in future years, and what proportion of long stay parents may wish to access agency system’ (Senior Immigration Bureaucrat, Citizenship Immigration Canada interviewed by Anna Boucher, 14 August 2013).

As is apparent from this quotation, the central concern for government here is the interrelationship between temporary and permanent pathways for parent visa holders. If the permanent pathways are unduly narrowed, there is the risk that this can place more pressure on the judicial system through attempts to seek rights to remain on humanitarian and compassionate grounds. This point relates to our argument above (see footnote 2) regarding the viability of introducing a temporary visa at the same time permanent modes of entry are reduced.

**Potential racialised and gender impacts of temporary visa**

Finally, there are likely to be both racialised and gender-specific impacts to these proposed visa changes. As has been documented elsewhere, women and individuals from Culturally and Linguistically Diverse Backgrounds are overrepresented within the parent visas categories (Boucher 2014; DIAC 2009). These patterns reflect not only the higher numbers of recent arrivals from new migration source countries whom seek to bring over their elder parents, but also the higher rate of elderly women left in the home country than men who are thereby reliant on these visas; a product of women’s longer life expectancy. It is important to remember that in many countries in the world, it remains dangerous for women, especially elderly women, to live alone and women have lower accumulated assets upon which to retire (a point that we return to below).

As has been documented in analysis of the introduction of a temporary parent visa in Canada (the “Super Visa”), the introduction of such temporary parent visas holds both gender and racialised implications due to women’s higher representation in this cohort of immigrants (Chen and Thorpe 2015) and due to a global gender wage between men and women that manifests strongly in retirement. Furthermore, the imposition of restrictions upon access to welfare and health services in old age through the creation of a temporary visa will have a larger and differentially negative effect upon women given the higher reliance of female migrants upon such services. Although now somewhat dated, a report by the Department of Immigration and
Multicultural Affairs in Australia, estimated that ‘the cost of health care, residential care and social security payments for parent entrants was approximately $48,000 for males’ but ‘$78,000 for females’ (cited by Gallus, 2000: 17163). This can be attributed to the longer life expectancy of women and lower personal savings, resulting in smaller co-contributions to pension and other savings over the life course. These effects are a product of women’s disproportionate engagement in unpaid work and child rearing. Birrell and Rapson (1998: 28) also demonstrate that while male and female immigrants over 65 had similar rates of reliance on social security as a percentage of their intake, as there were many more aged female immigrants, there were also much higher numbers of women (more than double) on payments. Blocking the access of migrant parents to such payments through the creation of a temporary visa category will therefore have gendered effects.

Writing on the Canadian experience, Chan and Thorpe (2015) argue that an intersecting racialised and class barriers also operate for entry through the temporary Super Visa class in Canada:

‘Given that immigrants and racialized individuals are faced with higher unemployment rate and more precarious work, and given the persisting inequalities in income (Teelucksingh and Galabuzi 2005; Das Gupta 2006), raising the income threshold for sponsorship applicants effectively produces racialized financial barriers… We should also note that for those who can afford to apply for the costly Super Visa, the approval rate is higher for US and European countries and substantially lower for countries in Africa, Asia, and the Middle East’ (Chen and Thorpe 2015, 91, citing OCASI 2012 and Neborak 2014).

If the visa, bond and health charge costs of the Temporary Parent Visa are set at a high level, this result could impact upon migrant parents and their sponsors from some source countries more than from others.

2. Responses to specific questions in the Discussion Paper

1. Should age limits apply to applications for this visa? If so, how would these be determined?

No. The presumption behind the question appears to be that the potential risk and cost of parent migrants to the Australian public increases with age. While this may be true in a statistical sense, an age limit will be of limited efficacy in determining risk in individual cases. Furthermore, an age limit would be discriminatory.

2. A key consideration is what, if any, work rights should be included with this visa. In what situations would temporary parent visa holders need to work?

Work rights should not accompany any Temporary Parent Visa. As we have argued elsewhere, Australia already has a large number of temporary visas that while ostensibly for non-work purposes, bring with them an array of worker rights. These include working holiday maker, international student and post-study visas (Boucher 2016; Mares 2016). If the primary purpose of the visa is to enable overseas parents “to visit children and grandchildren,” then the addition of work rights to this visa
would muddy the waters and open up the possibility of this visa being used in ways that were not foreseen or intended. There is circumstantial evidence that these visas may be affecting the labour market for domestic Australian workers in some instances (Productivity Commission 2015; Boucher 2016; Senate 2016). While the arguments in favour of permitting work rights for aged parents might reduce some concerns around economic dependency upon sponsors that can contribute to elder abuse, it is also important to acknowledge that likely use on these working rights will be limited. As the Productivity Commission (2016, 477, Figure 13.5) notes, the median age of entrants into the Contributory Parent Visa is the mid-50s and the Non-Contributory Parent Visa is around 70 years of age. Furthermore, existing parents have reduced rates of labour force participation (6.8 per cent for Non-Contributory Parents and 27.1 per cent for Contributory Parent), which along with Humanitarian entrants are among the lowest of any visa holders (Productivity Commission 2016, 476). These data suggest that demand for working rights among this older population might not be that pronounced in any case, aside from the labour market arguments against the conferral of such rights.

However, it is important to note the lack of work rights will not stop some proportion of Temporary Parent visa holders from participating in the labour market, even if in the shadow economy. Certain areas are likely to be more prevalent than others. For example, small business employment where the family unit who is the sponsor is also the employer. This will pose unique difficulties to detect and manage in terms of compliance with any visa conditions that bar work.

3 How long should any waiting period be before a parent can reapply for a subsequent visa?
If a five-year, renewable visa is proposed, then it seems to us to be arbitrary to impose any kind of waiting period in between renewal of that visa. Unless the period were substantial (for example longer than one year), it would be little more than an inconvenient formality designed to maintain the legal fiction that this is a temporary rather than a permanent visa. To require older migrants -- some of whom may suffer from health or bodily challenges in travelling -- to leave Australia for an extended period of time for the purposes of renewing a visa, would be both arbitrary and depending upon the individual’s health condition, unethical.

4 What limits should be applied to the number of temporary parent visas available each year? Should there also be a limit on the total number of temporary parent visas at any point in time?
The question of quotas or levels of a Temporary Aged Parent Visa requires some estimates of potential demand. We note that the Discussion Paper provides no data on such demand for a Temporary Aged Parent visa. Yet, this is crucial information for responding to the Discussion Paper.3

3 We requested data from the Department of Immigration and Border Protection on the number of foreign parents who are currently making use of existing workarounds (such as repeated periodic 12-month stays on a 600 subclass visitor visa) in order to spend extended periods with their adult children in Australia, but were advised that this data is “not readily available”. Such data would provide further indications of the potential demand for the proposed new temporary parent visa.
Despite the lack of data, we anticipate that demand will be substantial, given that at 30 June 2016 there was already a pipeline of 50,540 applications for the non-contributory parent category and 29,591 applications for the contributory parent category (Department of Immigration and Border Protection 2016b) and that these visas are restricted in eligibility to parents who meet the balance of family test (Department of Immigration and Border Protection 2016a). There are therefore likely to be applicants who are ineligible for current permanent visa categories because they do not satisfy the balance of family test and who would be likely to seek the proposed long-term temporary parental visa were it available (to which it does not appear that the Balance of Family Test would apply). As we outline in Part 4 below, entry into a Temporary Visa could range between 50,000 and up to 200,000 if the current stock of potential sponsors shift their preferences to the Temporary Visa over the permanent options.

In outlining arguments in favour of this Temporary Visa, the Productivity Commission (2016, 482) included reduction of the existing pipeline of visa applicants as one of its motivations. Capping the Temporary Parent Visa would vitiate its policy intent of alleviating the current backlog and could instead contribute to it. Finally, if selection criteria were applied in order to allocate places within a fixed quota, this could raise ethical concerns over how to select within the category of applicants.

5 What factors need to be considered as to whether there should be a limit to the total time a person can stay in Australia on successive parent visas?

As we set out in Section 3 below, if the proposal is for a temporary visa then it should be clearly and decidedly temporary (e.g., maximum 12-month stay followed by a minimum 6-month absence prior to renewal). This would facilitate extended visits at important life junctures such as marriage, childbirth and serious accident or illness. As suggested in the Productivity Commission’s report on Australia’s Migrant Intake (2016, 482), this revamped 12-month temporary visa could be accompanied by the creation of a (permanent) “compassionate parent visa” to be provided in rare circumstances, such as if Australian resident children were killed in an accident and the foreign grandparents were the most appropriate alternative carers for the orphaned grandchildren.

6 This visa will not provide a pathway to permanent residence. Given the estimated lifetime cost to the budget identified in the Migrant Intake to Australia report, are there any circumstances where permanent residence should be available to parents?

To state that a renewable five-year visa “will not provide a pathway to permanent residence” is a contradiction in terms since it clearly does provide for a parent migrant to be permanently residing in Australia (in any common sense understanding of the English language), while nevertheless seeking to deny that migrant the formal legal status and privileges that permanent residence confers.

If the concept of a renewable five-year visa becomes reality, then the second five-year visa should, in our view, provide a clear pathway to permanent residence. The reason we argue this is that we believe it is unethical to create circumstances in which on-going residents of Australia are forced to live indefinitely on temporary visas.
Even if this suggestion is rejected, we believe that there will be other circumstances in which it will be necessary to make permanent residence available on humanitarian grounds, particularly if the parent migrant lacks the financial resources, physical capacity or familial networks to adequately care for themselves back in their home country. Such circumstances might include cases of domestic violence and elder abuse within the sponsor family, situations where a sponsor child dies or suffers from a debilitating injury or mental illness or is for other reasons no longer able to adequately support their migrant parent. (This is not an exhaustive list since it is impossible to fully anticipate the range of situations in which compelling compassionate circumstances will arise).

Visa applicants

7 What, if any, level of English language proficiency should the parent be required to have reached as a prerequisite for this visa? Alternatively, should a minimum level of English language be a requirement in order to apply for a subsequent parent visa?
Given that the stated purpose of the visa is to give parents “the opportunity to visit children and grandchildren who live in Australia” (DIBP 2016, 3), we do not see that there should be any English language requirements attached to this visa (otherwise it will be seen as a discriminatory visa only fully available to migrants of highly-educated or English speaking backgrounds). Our submission corresponds with our position outlined above that the visa should not have a labour market dimension. However, given that effective integration of migrants into the broader Australian community depends in large part on English language skills, and since the visa is proposed essentially creates the conditions for permanent settlement without accompanying rights and privileges, we propose that migrant parents should have the same access to English language training available to permanent family stream migrants should their desire.

8 Are there any specific groups of parents (for example parents who have young grandchildren living in Australia) who should be afforded priority access to this visa?
No

9 New applicants for this visa will always have to pass a comprehensive health assessment. Note elderly parents in particular generally become more fragile and less healthy as they age. To what extent should a person’s health status be a consideration if they apply for subsequent parent visas?
This question relates to the contradictory aspects of the policy proposal. If the intention is to create a temporary visa then it should be truly temporary; it is unreasonable to require that a migrant leave Australia after five years residence and de facto settlement because of a deterioration in their health. As the central rationale behind a temporary visa is to offset the health costs onto the individual migrant and their sponsor (DIBP 2016, 9), the implications of deteriorating health would appear to be at least partially addressed through the visa design (in particular, the requirement to take out private health insurance) and should not operate as an additional selection criteria. If there are concerns that private health insurance will not be sufficient to cover the medical costs of potentially unanticipated health problems, then this suggests that the rationale behind the temporary long-stay visa is flawed from the
outset.

Sponsors

10 Australian citizen sponsors will be given higher priority under the new arrangements, as generally they have been contributing to Australia for a greater period of time. Under what circumstances should non-citizen Australian sponsors be given priority?

There are particular groups of long-term permanent residents who do not take out citizenship because this would require them to renounce their existing citizenship. (Japan and Norway for example, do not allow dual citizenship). Such people should arguably be given special consideration as although long-term residents, they are more restricted than other permanent residents in their decisions about whether or not to take out Australian citizenship.

11 If a financial bond is imposed on the sponsor to offset potential future health costs incurred by the visa holder, what form should this take—that is an upfront one-off payment, a contingent loan arrangement, payment in instalments (such as through a second VAC) or payment into a government investment? A contingent loan investment would present the least financial imposition upon migrant sponsors however, this might present challenges to government in recouping costs in the event of default and will likely only defer financial difficulties for such sponsors. The other options presented, in particular the one-off payment, would appear to raise equity considerations, particularly for female migrants and sponsors from poorer source countries. This consideration intersects with the gender discrimination behind the policy proposal outlined above insofar that a global gender wage gap also reduces women’s access to accumulated liquid assets over the life course.

12 What (if any) limits should be placed on the total liability of sponsors where their parent incurs significant health or aged care costs not covered by their private health insurance? Regardless of the rules put in place, liability would in any case be contingent on the sponsor’s capacity to pay.

13 In the event that the holder of a parent visa is unable to depart Australia due to illness or accident:

- what responsibility should be borne by the sponsor and their immediate family and
- to what (if any) extent would it be reasonable for these costs to be borne by the Australian community?

Even if formal contractual responsibility resides with the sponsor and their immediate family, it is practically inevitable in some circumstances that the Australian community will also need to bear a share of the costs. It is conceivable, for example, that a sponsor may need to provide full time care for their ailing parent and therefore be unable to work. The sponsor may then be compelled to cease formal employment and draw on government benefits such as Carer’s Allowance as the parent were not able to access the Aged Pension, Disability Support Pension or subsidised nursing home services due to their temporary status. This example demonstrates that even if a
Temporary Parent Visa were effective in removing migrant access to welfare or health payments, in supporting their parent, the permanent resident or citizen sponsor might access government services that would otherwise not be required to access, thereby elevating the cost to government.

14 If a sponsor dies, in what circumstances, and what timeframe, should their parent be required to leave Australia
- what liability should remain with their immediate family and
- in what circumstances should their immediate family be able to take over the sponsorship to enable the parent to remain in Australia?

There would appear to be no reason to require the parent migrant to leave Australia if the immediate family is able and willing to fulfil sponsorship requirements. In such instances, there is no obvious reason why sponsorship should not be transferable. If the immediate family is unwilling or unable to continue sponsorship, then the parent should be allowed at least three months after the death of their child sponsor before being required to depart Australia.

15 Should there be an option for parents of minor children to be sponsored on the child’s behalf? Who should be allowed to take on this role and what liability for sponsorship obligations should apply to them?

Yes. This raises a separate issue, which is the lack of clear permanent residency pathways for the foreign parent of Australian citizen children. Currently there is no pathway for the foreign parent of an Australian citizen child to seek residency if the foreign parent is not in an ongoing relationship with the Australian parent and if no partner visa was applied for prior to the conclusion of the relationship. This failure to provide an adequate pathway results in unmeritorious visa applications (including for protection visas) by foreign parents seeking a route to ministerial intervention (Mares 2015; ABC Radio National 2015). The current lack of pathways is in breach of Australia’s commitments under the Convention on the Rights of the Child 1989 to which it is a signatory. In order to give proper effect to these provisions of the Convention, the foreign parent of an Australian citizen child should be able to apply for such a parental visa himself or herself, based on the relationship to his or her Australian citizen child. In most of these cases, the parent is, in any case, already residing in Australia on another temporary visa (such as a student visa) so the proposed extension of this visa would be more fit for purpose.

16 In what circumstances should it be an option or requirement for couples to lodge a joint-sponsorship of a parent?

In cases where the Australian sponsors are a couple, it would be preferable for joint

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4 In particular Article 9.1 that states that “a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child” and Article 9.3 that states that the state “shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.” Whether Australia as a signatory to the Convention of the Rights of the Child is formally bound under domestic law remains contested, in large part as the Convention has not formally been incorporated into domestic law. The Convention was previously referred to in ministerial guidelines but these explicit references to these obligations were removed by Minister Dutton in 2016 (see Mares 2016, 92).
sponsorship to be the default category, but it should not be a necessary requirement.

**Costs**

17 What factors need to be considered in setting the level of the VAC for the new visa to adequately reflect the extended stay available?
As Temporary Visa holders will be excluded from government welfare, require private health insurance and be ineligible for permanent residency, additional costs imposed on either the sponsor or the applicant seem unnecessary, except for a nominal amount to prevent frivolous applications. A Visa Application Charge similar to a Working Holiday visa ($355) is appropriate. Concerns about possible costs imposed on collective goods such as infrastructure should be weighed against the benefit of providing the Temporary Visa for the community. Levying additional fees and charges specifically on these potential migrants would single them out unfairly.

18 In what circumstances should refunds be available for applicants who want to withdraw an existing permanent visa application and apply for the new temporary parent visa?
In all cases.

19 What might constitute a suitable level of annual income available to the applicant for their period of time in Australia, noting they will not have access to government support services? Should the source of this income be the sole responsibility of the parent, or should their Australian child be allowed to contribute to this?
By way of guidance, in Canada, the income threshold for an individual is set at the Low Income Cut-Off (LICO) of $CA23,647 per annum for an individual (MSG Canada Insurance Inc 2016). These assets requirements are now calculated over three years rather than one year and have been increased by 30 per cent since 2011 (Chen and Thorpe 2015, 81). We propose that if an annual income level is set, it be the same as the Aged Pension in Australia for single person, or couple if both parents are migrating. If the sponsoree possesses access to an overseas aged pension through portability agreements, s/he should be able to include this stream in the calculation of income. At the same time, the discriminatory potential of this rule should be noted insofar that the majority of portability agreements between Australia and other nations have been reached with governments of rich, Western European nations (Boucher and Carney 2013, footnote 143).

3. Alternate policy recommendation: Short-term Aged Parent Temporary Visa and continuation of existing permanent non-contributory model
The position of the Department of Immigration and Border Protection, as stated in the Discussion Paper, is that “parents should have the opportunity to visit children and grandchildren who live in Australia as long as parents and their sponsors can satisfy community expectations and that their stay in Australia does not have an undue cost impact on the Australian community” (DIBP 2016, 3). We submit that this can be achieved without the creation of a new five-year temporary visa. We suggest that an alternative arrangement would be the creation of a multi-entry parental visitor visa
valid for one year that requires departure from Australia for a minimum period of at least six months before it can be renewed. A visa allowing for a 12-month stay appears to us to provide a sufficient amount of time to enable foreign parents to visit and support an adult child at particularly momentous turning points in their lives, such as a marriage, the birth of a new child, a personal tragedy or devastating illness. The creation of a separate subclass, distinct from the subclass 600-Visitor Visa, would enable monitoring and data collection of the use of this parent visa category, as well as differentiated requirements for private medical insurance and the posting of any bonds deemed necessary. Such a specialist tourist visa could supplement existing permanent entry for parents.

Maintenance of the permanent visa categories would require the Australian public to shoulder the associated costs, while enjoying both public and private benefits. In our view, this would require a significant expansion of the existing non-contributory parent visa category to accommodate demand without the current unreasonable waiting times. We would recommend the scrapping of the contributory visa category. In our view the contributory visa category runs counter to fundamental principles of fairness, since is effectively turns family reunion into a channel for richer families only, especially if the visa costs are raised significantly as was recommended in the Productivity Commission report (2016, recommendation 13.8, 485).

To address the waiting period associated with a small supply of non-contributory parent visas and a large demand, as demonstrated by the current 30-year wait, we propose a lottery system to determine who is granted visas. The Productivity Commission has established the large financial cost associated with permanent parent visas, explaining the relatively small number offered each year. However a permanent parent visa category allows additional certainty for families and has been a tradition of Australia's Migration Program, with strong links to migrant communities. It is clear that the current 30 year waiting period for the non-contributory component of the visa is not feasible. By the time a visa is granted, the age of the migrant may preclude migration itself, undermining the entire visa category. To address this, the annual supply of permanent non-contributory visas should be allocated in a lottery-style process. While there is no certainty with regard to a lottery process, there are no waiting periods and provides for improved planning, based on year-to-year outcomes. Further, a lottery system will reduce the average age on migration, conferring additional benefits for parents who do receive a non-contributory parent visa and improving program outcomes. Unless the government is able to win the support of the Australian community to expand the non-contributory parent visa quota to a number that does not create excessive waiting lists, then we believe a lottery would be a fairer system for allocating scarce places than one based on a capacity pay a high visa application charge. The lottery process would be straightforward. Examples of lottery-based migration are the Diversity Visa in the United States and the Pacific Access Categories in New Zealand.

4. Potential demand for a Temporary Five-Year Parent Visa

It is difficult to project potential demand for a Temporary Parent visa. The lack of information and data to build assumptions limits projections. Furthermore, as parent
migration, as a form of secondary chain migration, is linked to overall migration projections, the principle question of the capacity to project overall migration is tied into this calculation. Despite these challenges, the following section details a number of possibilities in relation to potential demand.

Here is the Net Overseas Migration age profile for 2014-15 (ABS, 2016):

Table 1: Net Overseas Migration, 2014-15, Age profile

<table>
<thead>
<tr>
<th>Number</th>
<th>Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>All ages</td>
<td>176529</td>
</tr>
<tr>
<td>0 to 4</td>
<td>10990</td>
</tr>
<tr>
<td>5 to 9</td>
<td>10858</td>
</tr>
<tr>
<td>10 to 14</td>
<td>9285</td>
</tr>
<tr>
<td>15 to 19</td>
<td>34292</td>
</tr>
<tr>
<td>20 to 24</td>
<td>46327</td>
</tr>
<tr>
<td>25 to 29</td>
<td>21280</td>
</tr>
<tr>
<td>30 to 34</td>
<td>16617</td>
</tr>
<tr>
<td>35 to 39</td>
<td>9685</td>
</tr>
<tr>
<td>40 to 44</td>
<td>6952</td>
</tr>
<tr>
<td>45 to 49</td>
<td>2274</td>
</tr>
<tr>
<td>50 to 54</td>
<td>2777</td>
</tr>
<tr>
<td>55 to 59</td>
<td>1556</td>
</tr>
<tr>
<td>60 to 64</td>
<td>1984</td>
</tr>
<tr>
<td>65+</td>
<td>1652</td>
</tr>
</tbody>
</table>

Table 1 highlights the youthful age profile of most new migrants to Australia. Only six per cent of net overseas migrants in 2014-15 were aged over 45. This relates to policy parameters for both temporary and permanent migration that preference youth and in some cases, explicitly exclude older migrants, from entry. An important point to make here is that if these younger migrants remain in Australia, they will age, as will their parents in the sending country. At some point, they may wish to reunify with their parents, which creates demand for aged parent migration.

To help demonstrate the existing demand for parent migration, as at 30 June 2016, there were 50,544 applications pending for the non-contributory parent visa and 29,591 applications pending for the contributory parent visa (DIBP, 2016b). These are equal to 33 and 4 year waiting periods, respectively (DIBP, 2016b).

Together, the age profile of new migrants and the pipeline for parent visas demonstrate a significant level of demand for parent migration to Australia. This is the starting point for our projections of the demand for a potential Temporary Parent Visa.

**Projection for future migrants**
There are number of primary assumptions which have to be made to showcase different projections for a Temporary Parent visa:

- What is the projected overall NOM?
- What proportion of migrants want to sponsor their parents?
• How many parents are actually sponsored?

The following projections are based on future flows of net migrants, using the current profile of Net Overseas Migration (ABS, 2016). For simplicity, only four Net Overseas Migration categories are shown: International Students, Working Holiday, Temporary Skilled and Permanent Skilled. This excludes a number of other visa categories and means the figures are conservative in nature. As above, there is no ability to provide a level of specificity for these projections given the unknown trends. These projections are intended to showcase different possibilities with regard to a potential new visa product.

Projection One (ABS, 2016):

<table>
<thead>
<tr>
<th>Sponsorship rate</th>
<th>Students</th>
<th>Working Holiday</th>
<th>Temporary Skilled</th>
<th>Permanent Skilled</th>
</tr>
</thead>
<tbody>
<tr>
<td>5%</td>
<td>1 parent</td>
<td>3,518</td>
<td>1,368</td>
<td>545</td>
</tr>
<tr>
<td></td>
<td>1.25 parents</td>
<td>4,398</td>
<td>1,710</td>
<td>681</td>
</tr>
<tr>
<td></td>
<td>1.5 parents</td>
<td>5,277</td>
<td>2,052</td>
<td>817</td>
</tr>
<tr>
<td>10%</td>
<td>1 parent</td>
<td>7,036</td>
<td>2,736</td>
<td>1,089</td>
</tr>
<tr>
<td></td>
<td>1.25 parents</td>
<td>8,795</td>
<td>3,420</td>
<td>1,361</td>
</tr>
<tr>
<td></td>
<td>1.5 parents</td>
<td>10,554</td>
<td>4,104</td>
<td>1,634</td>
</tr>
<tr>
<td>15%</td>
<td>1 parent</td>
<td>10,554</td>
<td>4,104</td>
<td>1,634</td>
</tr>
<tr>
<td></td>
<td>1.25 parents</td>
<td>13,193</td>
<td>5,130</td>
<td>2,042</td>
</tr>
<tr>
<td></td>
<td>1.5 parents</td>
<td>15,831</td>
<td>6,156</td>
<td>2,450</td>
</tr>
</tbody>
</table>

Projection Two (ABS, 2016):

<table>
<thead>
<tr>
<th>Sponsorship rate</th>
<th>NOM 150,000</th>
<th>Working Holiday NOM 175,000</th>
<th>Temporary Skilled NOM 200,000</th>
<th>Permanent Skilled NOM 225,000</th>
<th>Permanent Skilled NOM 250,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>5%</td>
<td>1 parent</td>
<td>5,674</td>
<td>6,620</td>
<td>7,566</td>
<td>8,511</td>
</tr>
<tr>
<td></td>
<td>1.25 parents</td>
<td>7,093</td>
<td>8,275</td>
<td>9,457</td>
<td>10,639</td>
</tr>
<tr>
<td></td>
<td>1.5 parents</td>
<td>8,511</td>
<td>9,930</td>
<td>11,348</td>
<td>12,767</td>
</tr>
<tr>
<td>10%</td>
<td>1 parent</td>
<td>11,348</td>
<td>13,240</td>
<td>15,131</td>
<td>17,023</td>
</tr>
<tr>
<td></td>
<td>1.25 parents</td>
<td>14,185</td>
<td>16,550</td>
<td>18,914</td>
<td>21,278</td>
</tr>
<tr>
<td></td>
<td>1.5 parents</td>
<td>17,023</td>
<td>19,860</td>
<td>22,697</td>
<td>25,534</td>
</tr>
<tr>
<td>15%</td>
<td>1 parent</td>
<td>17,023</td>
<td>19,860</td>
<td>22,697</td>
<td>25,534</td>
</tr>
<tr>
<td></td>
<td>1.25 parents</td>
<td>21,278</td>
<td>24,825</td>
<td>28,371</td>
<td>31,917</td>
</tr>
<tr>
<td></td>
<td>1.5 parents</td>
<td>25,534</td>
<td>29,790</td>
<td>34,045</td>
<td>38,301</td>
</tr>
</tbody>
</table>

The two projections show different potential demand for a Temporary Parent visa. Projection One shows how, using the Net Overseas Migration flow from 2014-15, different assumptions will result in different demand across the main visa classes. While no temporary visa holders will be able to sponsor a Temporary Visa until they are a permanent resident, these Net Overseas Migration figures reflect likely future permanent residents. Projection One demonstrates different assumptions around sponsorship and the number of parents to show a large range is possible for future migration flows. It is likely trends will differ across visa categories, given the different demographic profiles.
Projection Two outlines the possibilities associated with different NOM projections. While the most recent rate of NOM has declined from the high point of 2008-09 over a longer time period, it is highly likely different rates of NOM will occur (Treasury, 2015). For example, using the Treasury's Fourth Intergenerational Report, that projected a NOM of 225,000, the possible range of Temporary Parent visas fluctuates between 8,500 and 38,000 per year, depending on the rate of sponsorship and average number of parents (Treasury, 2015).

It is important to note these are simply projections. It may be the case these assumptions are not borne out and sponsorship rates of greater than 20 per cent occur, as well as a higher average for the number of parents. As there is no analogous visa and data on the aged parent usage of existing Tourist Visa could not be accessed, the projections are intended as illustrative.

The existing demand for permanent parent migration, combined with the likely fluctuations in Net Overseas Migration, it is likely a ‘Temporary Parent’ visa will attract significant demand. For example, if the visa were in place today and attracted a 10 per cent sponsorship rate from Net Migrants and averaged 1.5 parents, the number of Temporary Parents would equal approximately 25,000. For comparison, this is more than double the rate of net migration for temporary skilled migrants in 2014-15 (ABS, 2016). This would be approximately three times larger than the current allocation of permanent parent visas each year.

The projections above are based on the rate of Net Overseas Migration for future migration flows. This does not account for possible demand from existing residents and citizens living in Australia today. When available, it is highly likely a large number of applications will be submitted in the first and second year. No estimate of likely demand will be accurate however it is possible anywhere between 50,000 and 200,000 parents of existing residents and citizens may apply given the existing demand and queues for permanent parent visas. Furthermore, for reasons outlined above, capping the Temporary Parent Visa would not only vitiate its policy intent, it would also raise ethical concerns over how to select within the category of applicants.

Capping or limiting the number of Temporary parent visas seems in direct conflict to the purpose of the visa, which is to remove the existing waiting time. If a cap were imposed, it would be very difficult to establish what an appropriate number would be given the existing demand for this visa is likely strong and will grow into the future. As the projections outline, a cap of anything less than 10,000 will likely see the immediate emergence of another queue for a different type of parent visa or pressure upon ministerial appeals.

**Summary of Position**

The proposed Temporary Parent Visa is complex, problematic and could result in a number of serious unintended consequences. Due to these concerns, we believe that additional research and evaluation should occur before a Temporary Visa is considered as a viable policy option.

Inherent in the Temporary Parent Visa proposal are serious implications for established migration norms in Australia. Abolishing permanent parent visas and removing any transition to permanent residency for residents who hold a temporary
visa will create a new policy context that could be challenged by migrant communities, many of whom hold Australian citizenship.

There are gendered, racial and class implications for parent migration that must be researched and modelled in greater detail given how they will shape the flow of new parent migrants on temporary visas before such a visa is created.

The alternative model put forward is centred on a temporary visa, which is deliberately shorter in nature, combined with a new selection process for permanent non-contributory parent visas.

Potential demand for this Temporary Visa is projected using a number of simple assumptions. The results demonstrate the possibility of a significant new migration category to Australia, especially as Net Overseas Migration continues to grow.

References


Commonwealth Ombudsman (2016), Annual Report, Commonwealth Ombudsman,
Canberra


Department of Immigration and Citizenship (DIAC). 2009, unpublished data of entrants, gender disaggregated in the aged parent categories provided to author from Statistics Unit, DIAC. “Unstated sex” admissions are excluded. This unstated category varied from 0 to 96 persons per intake year over the sample period.


