



*A place to stand MaraeMelbourne*



**AUSTRALIAN CITIZENSHIP - YOUR RIGHT, YOUR RESPONSIBILITY.**

A submission to the Australian Government Department of Immigration and Border Patrol.

**Presented to: The Department Immigration and Border Patrol**

**Senator the Hon Conchetta Fierravante-Wells**

**By:**

**Raina Smith**

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**Melbourne, Australia | Poi Piripi, Ahitereiria**

**Date:**

**31 August 2015**

## INTRODUCTION

MaraeMelbourne acknowledges and pays respect to the Traditional Owners of Country. We acknowledge that as we live, work, celebrate and walk on country, we do so mindful of our responsibilities and obligations to the First Australians.

MaraeMelbourne acknowledges the Commonwealth of Australia for the opportunity to contribute to this important discussion. We acknowledge that living in Australia requires us to respect and uphold our obligations to the laws of this country.

MaraeMelbourne acknowledges those from all nations (nga hau e wha – the four winds of the earth) with whom we share this space and this country. We have learned that although our journeys have been very different, we share the same aspirations of better lives for our families. We are committed to sharing this journey with multicultural communities from a place of respect - of one to the other.

MaraeMelbourne acknowledges all New Zealanders that have chosen to make Australia their home. This submission has been provided as a voice for New Zealanders; but more especially for the 200,000 living in this country as ‘unprotected citizens.’

MaraeMelbourne also speaks this voice for the 166 New Zealanders detained in detention centres across Australia. It is not the tikanga (role) of Marae to exclude or judge; it is the responsibility to manaaki and awhi (care and support) those in need. MaraeMelbourne acknowledges the many groups/organisations/individuals that are providing this much needed support for the New Zealand community in Australia.

*“He aha te mea nui o tenei ao.*

*Maku e ki atu,*

*He tangata, he tangata, he tangata.*

*Tihei Mauri Ora”.*

*“If you were to ask me what is valued above all else in this world,*

*My response is humanity/mankind is valued above all else”.*



Raina Smith

**Chief Executive Officer**

**MaraeMelbourne Our Marae...Our Place.**

## **AUSTRALIAN CITIZENSHIP**

A discussion paper: Australian Government Department of Immigration and Border Patrol : <http://www.border.gov.au/about/reports-publications/discussion-papers-submissions/australian-citizenship-your-right-your-responsibility>

### **Australian citizenship – your right, your responsibility**

**Citizenship is a cornerstone** of Australia's inclusive and pluralist democracy. Together we have built a modern nation on the idea that people can get ahead if they are prepared to 'have a go'. Still, in a world in which terrorists are reaching out to our community, we cannot be complacent about our future as a strong, safe and cohesive society. It is time for a national conversation about the role of citizenship in shaping our future.

There are many ways to become an Australian citizen. Regardless of how we gain it, Australian citizenship is an extraordinary privilege requiring a continuing commitment to this country. Australian citizens enjoy privileges, rights and fundamental responsibilities.

We need to ask ourselves whether the responsibilities of Australian citizenship are well enough known and understood. Do we do enough to promote the value of citizenship, particularly among our young people? Have we got the balance right between the safety of our community and the rights of the individual? How should we deal with citizens who act against the best interests of our country?

As a nation, we have found unity in our diversity and respect in our differences. We should continue to welcome people to make this country their home. That is non-negotiable. But our welcome cannot be a one-way street. All Australians should respect the values of freedom, democracy, the rule of law and mutual respect. Regardless of our heritage, as citizens, our first duty is to Australia.

What does the threat from terrorism mean for our efforts to realise a strong, safe and prosperous nation? How might we all develop a greater appreciation of Australian citizenship and its privileges and obligations?

What does the threat from terrorism mean for our efforts to realise a strong, safe and prosperous nation? How might we all develop a greater appreciation of Australian citizenship and its privileges and obligations?

### **AUSTRALIAN VALUES AND THE RESPONSIBILITIES AND PRIVILEGES OF AUSTRALIAN CITIZENSHIP.**

Our citizenship laws define who is, who can become, and who can stop being an Australian citizen. Australian citizenship was first defined in law in the *Nationality and Citizenship Act 1948*, and came into force on Australia Day 1949.

Since then, more than 4.5 million people have chosen to become citizens. Today, almost half our population were born overseas or has at least one parent who was born overseas.

The privileges, freedoms and benefits of living in Australia are balanced by responsibilities. All Australians are responsible for respecting and protecting our country and ensuring that our commitment to a decent society embraces all Australians.

Core Australian values include:

- constitutional government;
- respect for the freedom and dignity of the individual;
- freedom of speech and religion;
- commitment to the rule of law and allegiance to Australia;
- parliamentary democracy;
- a spirit of egalitarianism that embraces mutual respect, tolerance, fair play, compassion for those in need and pursuit of the public good; and
- equal rights before the law and equality of opportunity for all.

Australian citizens have an obligation to:

- obey the law;
- defend Australia should the need arise; and
- vote in federal and state or territory elections, and in referenda.

Australian citizens have privileges, including but not limited to being able to:

- apply for an Australian passport and re-enter Australia freely;
- receive help from an Australian official while overseas;
- access Medicare and Centrelink payments where applicable.

### **Increasing the value of citizenship**

Since the introduction of Australian citizenship, much has been done to increase awareness, understanding and the value of Australian citizenship, including:

- 1993: Changes to the *Australian Citizenship Act* 1948 to recognise Australian citizenship as a common bond uniting all Australians and involving reciprocal rights and obligations.
- 1993: Introduction of the Pledge of Commitment to ensure new citizens commit to the Australian nation and people.
- 2001: Launch of Australian Citizenship Day, celebrated on 17 September each year, to increase community awareness of Australian citizenship.
- 2002: Changes to allow Australian citizens to acquire citizenship of another country without losing their Australian citizenship ('dual citizenship').
- 2006: Introduction of the Parliament and Civics Education Rebate, which helps schools bring students in Years 4-12 to Canberra on a civics and citizenship education excursion.
- 2007: A new *Australian Citizenship Act* written in plain English and a citizenship test to ensure prospective citizens appreciate Australia's laws and values.

- 2009: Agreement to Civics and Citizenship under the Australian Curriculum to reinforce understanding of what it means to be an Australian citizen. The broader Australian Curriculum includes skills development in areas including personal and social capability, which complement the Civics and Citizenship learning area.

The Government is confident that we can build on this foundation so Australians have a stronger understanding of the meaning and value of citizenship.

## **MARAEMELBOURNE: AUSTRALIAN CITIZENSHIP OUR RIGHTS OUR RESPONSIBILITIES**

MaraeMelbourne advises that these submissions are informed by the ongoing work/activities/events that the organisation has been involved with over the past decade. Throughout this time MaraeMelbourne has been actively engaged in supporting the social; cultural and economic needs/challenges/celebrations of the Maori and Pasifika communities of Victoria. MaraeMelbourne accepts that these submissions may not reflect the views of all members of these communities.

- MaraeMelbourne accepts that citizenship is a privilege and the rights and responsibilities that come with this privilege are to be respected by the holders of these rights. MaraeMelbourne accepts that the Commonwealth of Australia has obligations to uphold and protect the rights and responsibilities of its citizens and the integrity of the process of citizenship as the duty bearers of these rights.
- MaraeMelbourne submits that citizenship should not be considered as an ‘extraordinary privilege’ but rather as a privilege that is ‘ordinarily available’ to all that may seek access to these rights; and in turn embrace the responsibilities and obligations of citizenship.
- MaraeMelbourne submits that the attainment of citizenship as an ordinary ‘rite of passage’ must be considered by the Commonwealth to ensure an inclusive and pluralist society. Within the ‘rite of passage’ the rights and responsibilities of citizenship can be taught and learned by those bearing the rights (Commonwealth) and those seeking to own these rights (citizens).
- MaraeMelbourne submits that the single most important rite of passage towards citizenship must always be the equitable right to access this rite of passage. This access should be provided to all that arrive in Australia; irrespective of their means of arrival. The process of accepting new arrivals as future citizens of Australia and empowering their pathway towards citizenship provides equity of access.

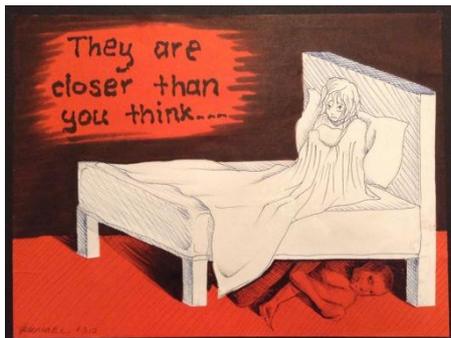
### **Migration: new arrivals**

- MaraeMelbourne submits that the identity markers ‘illegal immigrant’ and ‘boat people’ be removed from the vernacular of Australia’s Department of Immigration and Border Protection dialogue.
- MaraeMelbourne submits that new arrivals/migrants/refugees/immigrants be classified/referred to and treated as human beings.

- 🌀 MaraeMelbourne submits that the labelling of people as ‘boat people’ and ‘illegal immigrants’ is derogatory and demeaning. These labels imply that a person’s place of origin is a boat or that they have attained an ‘illegal identity’ as a human being. The use of these identity markers reflects a nation that has not moved out of the shadows of its historical past. The spectre and divisiveness of White Australia will remain if the stigma of boat person or illegal immigrant is continuously attached to new arrivals.
- 🌀 MaraeMelbourne submits that Australia expedites the current processing of entry into Australia of all detainees in detention centres offshore including:
  - those seeking political asylum or refuge from war torn nations/despotic rulers/persecution/vilification or other conditions that make their lives unbearable;
  - those that need to reunite with loved ones that they were forced to leave behind.
- 🌀 MaraeMelbourne submits that a more efficient and responsible method of receiving and processing applications to receive migrants to this country be developed.

### National security

- 🌀 MaraeMelbourne submits that the messages for consideration in this discussion paper; national security, terrorism; revocation of rights are concerning as they appear to promote an agenda of fear.



The concept of ‘terrorists reaching out to our community, [therefore] we cannot be complacent about our future as a strong, safe and cohesive society’ is inappropriate – misleading and totally irresponsible. They are evocative of the ‘yellow peril’ and the ‘reds under the beds’ days – they are inflammatory and it is difficult to understand what place they have in a national discussion about citizenship?

### Terrorism

- 🌀 MaraeMelbourne submits that it is difficult to discern a clear distinction between an act of terrorism and a criminal act. It is a view supported by the Australian Human Rights Commission: ‘... the definition of a terrorist act has been criticised as being so broad its meaning is unclear.’ The Commission went further and was critical of attempts to enact counter-terrorism laws without adequate scrutiny of their human rights implications.
- 🌀 MaraeMelbourne submits that terrorism is a crime and the process for clarifying, defining and dealing with these acts must remain with the judiciary. It follows therefore that a national discussion that seeks to consider the revocation of citizenship rights as a consequence of a terrorist act should not find a home in a discussion about citizenship.

- 🇳🇿 MaraeMelbourne submits that a national discussion about citizenship should be prefaced with supporting promoting and enhancing citizenship from a positive space - not from a place of fear that seeks to impose punitive outcomes.

## **COMMUNITY CONSULTATIONS**

### **‘It’s time for a national conversation about the role of citizenship in shaping our future.’**

- 🇳🇿 MaraeMelbourne submits that the seven community consultations nationwide and the online submissions that closed 30 June 2015 – post dating all seven community consultations is an exclusionary process.
- 🇳🇿 MaraeMelbourne submits that the subject of citizenship has been ‘undervalued’ and in this context the commonwealth has failed in its duty as the bearers of these rights to its citizens, the owners of these rights.

### **Do we believe that Australian citizenship is currently valued? How is this demonstrated?**

- 🇳🇿 MaraeMelbourne submits that access to the privileges and rights of citizenship is the single most important value attributed to citizenship by the New Zealand communities. Since 2001 an estimated 200,000 New Zealanders are either excluded or face significant challenges to access pathways towards citizenship. Simply put – they can come and go as they please and they can work here freely. However if things should go wrong they are not entitled to any help. They are also restricted in their pathways towards permanent residency and therefore citizenship.
- 🇳🇿 For New Zealand citizens that hold dual Australian citizenship, the exclusion of their fellow New Zealanders from this pathway is concerning. Most would like to see the laws changed to provide equal access to these rights and privileges for their fellow countrymen.

### **What more can the Commonwealth Government and the community do to ensure Australian citizens understand and respect the privileges and obligations of citizenship?**

- 🇳🇿 MaraeMelbourne submits that the national conversation about citizenship for the New Zealand community must revolve around reinstating the rights of 200,000 New Zealanders that arrived after 26 February 2001. These arrivals have been intentionally disenfranchised from obtaining access to citizenship and within this exclusion they are restricted/denied access to social service support.
- 🇳🇿 MaraeMelbourne submits that the removal of these previously long held rights has to some degree eroded the respect by the broader New Zealand community for the Commonwealth of Australia.

## **LEGISLATION AND POLICY**

**26 February 2001**

☞ MaraeMelbourne submits that the process used to remove these rights and privileges by the government of the day John Howard, Prime Minister of Australia and Helen Clarke, Prime Minister of New Zealand, were non-compliant with the existing laws of both countries and is disrespectful of the ANZAC relationship.

☞ MaraeMelbourne submits that the following laws/agreements have been violated by the removal of these rights;

- The United Nations Universal Declaration of Human Rights;
- The Racial Discrimination Act (1975) Australia;
- The ANZAC arrangements.

### **The United Nations Universal Declaration of Human Rights (1986)**

The United Nations Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations on 10 December 1948. The core principles of human rights set out in the Universal Declaration of Human Right include indivisibility, equality and non-discrimination, and that human rights simultaneously entail both rights and obligations from duty bearers and rights owners.

The Australian Government has agreed to uphold and respect many of the human rights treaties including the International Convention on the Elimination of All Forms of Racial Discrimination (1969).

The convention reaffirms that discrimination between human beings on the grounds of race, colour, religion, ethnicity or national and social origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State. Article: 1 (3) of the convention states that:

Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization; it does provided that such provisions do not discriminate against any particular nationality.
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☞ MaraeMelbourne submits that the exclusion of New Zealanders arriving in Australia after the 21<sup>st</sup> February 2001 is discriminatory and therefore a violation of The United Nations Universal Declaration of Human Rights.

### **The Racial Discrimination Act Australia (1975)**

The Racial Discrimination Act Australia (1975) protects people across Australia from unfair treatment on the basis of their race, colour, descent, or national or ethnic origin in different areas of public life. It also makes racial vilification against the law. Section 9 of the Racial Discrimination Act (1975) confirms:

‘It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.’

6 MaraeMelbourne submits that the Family and Community Services Legislation Amendment (New Zealand Citizens Act) 2001 violates the Racial Discrimination Act (1975) as it has preferenced a group of new arrivals based on their ethnicity and national place of origin.

### **The Family and Community Services Legislation Amendment: (New Zealand Citizens Act) 2001.**

On the 26th Feb 2001 the Australian government signed an Agreement with the New Zealand government regarding cooperation on social security matters. The long title of the Act describes it as: ‘An Act to amend the social security law and certain other laws in relation to residence requirements.’ These ‘certain other laws’ included the redefinition of the Special Category Visa for all newly arrived New Zealanders to Australia from 26 February 2001.

Under the new arrangements all new arrivals to Australia from New Zealand after 26 February 2001 are granted a Special Category Visa subclass SC 444. This visa provides unlimited stay and work rights in Australia but does not provide access to social security benefits including unemployment benefits.

These new arrivals fall into the non protected category of people living in Australia with restricted or no access to rights/social support services and pathways to citizenship.

New Zealand citizens who entered Australia before the changes are not affected by this change unless they have moved abroad for a significant period and then relocated back to Australia after February 2001.

Marae Melbourne’s experience with service providers confirms that the consequences of this Act are creating significant social issues and challenges across communities. Of significance is the over-representation of Maori and Pasifika individuals:

- in the juvenile justice and penal system;
- an increased disengagement of young people from education;
- an increased number of homelessness;
- domestic violence issues;
- increased concerns about suicide and youth depression.

The South East Local Learning and Employment Network December 2012 report documents these concerns.

### **The Māori and Pasifika Young People of the South East Region of Melbourne (2012)**

Anecdotally, there appears to be an over-representation of Māori and Pasifika youth in Victoria’s Youth

Justice System. However, obtaining data to support this is difficult as the Department of Human Services is reluctant to release ethno specific data on youth detention rates. Victoria's Youth Parole Board and Residential Board noted in their most recent annual report that (8.5%) of the young people sentenced to detention during 2011/12 were from Māori and Pacific Island backgrounds. This continues the trend of over-representation of this group which was noted in last year's annual report. The Board identified a need to develop culturally appropriate strategies to meet the rehabilitation needs of these young people and awarded a scholarship for this research.

The Youth Referral and Independent Person Programs that operate from 126 police stations around Victoria reported in the six months from December 2011 to May 2012 that the number one country of birth for clients born overseas was New Zealand. Of the 30% of their clients identified as culturally and linguistically diverse, New Zealand Māori, Samoans and Cook Islanders featured in their top ten CALD groups.

Victoria Police's 2011/12 Crime Statistics show New Zealand is the number one country of birth of overseas born offenders. The Police believe the issues stem from a range of complex factors such as:

- financial strain;
- dysfunctional homes;
- issues of family violence;
- additionally, parents' work all hours resulting in a lack of supervision of these young people;
- the young people who come into contact with Police are usually disengaged from school completely and have disengaged themselves from their families also.

### **Amendment to Section 501 of the Migration Act (2014)**

MaraeMelbourne expresses serious concerns at the number of New Zealanders impacted by the amendment to section 501 of the Migration Act (2014). This amendment increased the power of the Immigration Minister to cancel visas. The amendment provides a mandated arrangement for visas to be cancelled for people who have a conviction of 12 months or more imprisonment, or for people who have been here on a visa and have been convicted of a sexual offence against a child. The amendment confers a power on the Minister to cancel the visa of an individual involved in a serious crime if the Minister feels it is in the national interest to do so.

🗨️ MaraeMelbourne's concerns over the amendment and the impact on New Zealanders is that:

- the powers invested in the Minister to cancel visas is too broad and accountability for decisions are difficult to challenge and to evaluate;
- the amendment runs interference with the judicial process in relation to the sentencing of criminal activities. The imposition of sentences by the judiciary must be upheld as the process to deal with crime. Upon completion of the sentence, the mandatory cancelling of visas is an additional sentence/punishment not imposed during sentencing.
- it removes the rights of visa holders to seek rehabilitation in communities that many of them have lived in all their lives. Many, as in the case of Joanne Gordon–Stables have to leave children/siblings

and other family members behind: <http://www.abc.net.au/news/2015-02-24/convicted-criminals-have-visas-cancelled/6254120>

*'Skye Mallon's mother, Joanne Gordon-Stables, had her visa cancelled. Ms Gordon-Stables has been jailed twice for drug offences and is set to be deported to New Zealand, where she has not lived for nearly 40 years. 'She's lived in Australia all her life without even realising she had a visa to be taken,' Ms Mallon said. "She was done for drug charges and she was incarcerated for 12 months but only served six months of that. 'She received a letter before she got out saying that she was going to have her visa cancelled. 'She's depressed; it really upsets her that she won't be able to see her children.'*

## **DETENTION CENTRES**

MaraeMelbourne has concerns over the statistics pertaining to the numbers of New Zealand citizens in detention centres awaiting deportation. The statistics provided by the Department of Immigration and Border Protection confirm that:

- From January 2013 to December 2013: there were NO New Zealanders detained in detention centres;
- From January 2014 to December 2014: there were NO New Zealanders detained in detention centres;
- From January 2015 to February 2105: there were NO New Zealanders detained in detention centres;
- From March 31<sup>st</sup> 2015 these statistics changed significantly.

### **March 31<sup>st</sup> 2015**

As at 31 March 2015, there were 1848 people held in immigration detention facilities. Of these 1848 people, around 22.6% were from Iran, 9.8% were Sri Lanka, 8.1% were from China, 6.5% were from Vietnam and 4.5% were from New Zealand.

See Table 1 as below:

<b>Nationalities</b> People in Immigration Detention Facilities as at 31 March 2015	<b>Adult Male</b>	<b>Adult Female</b>	<b>Child (18 years) Male</b>	<b>Child (18 years) Female</b>	<b>Total</b>
Iran	279	82	34	23	418
Sri Lanka	159	11	9	3	182
China	119	30	0	0	149
Vietnam	104	12	1	3	120
<b>New Zealand</b>	<b>78</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>84</b>
Malaysia	58	18	2	2	80
Stateless	57	11	6	5	79
Iraq	59	5	2	8	74
Afghanistan	70	2	0	0	72
Other	499	65	15	11	590
<b>Total</b>	<b>1482</b>	<b>242</b>	<b>69</b>	<b>55</b>	<b>1848</b>

### April 30th 2015

As at 30 April 2015, there were 1914 people in held immigration detention facilities. Of these 1914 people, around 22.9% were from Iran, 9.7% were from Sri Lanka, 7.9% were from China, 6.5% were from Vietnam and 6.1% were from New Zealand. This represents:

- 1.6% increase in the number of New Zealanders detained from the previous month;
- an additional 32 New Zealanders detained in one month;
- 29 additional Adult Males; and
- 3 additional Adult Female New Zealanders detained within a month;
- New Zealanders were the 5<sup>th</sup> largest population detained following Iran, Sri Lanka, China and Vietnam.

See table 2 as below:

<b>Nationalities</b> People in Immigration Detention Facilities as at 31 March 2015	<b>Adult Male</b>	<b>Adult Female</b>	<b>Child (18 years) Male</b>	<b>Child (18 years) Female</b>	<b>Total</b>
Iran	292	86	34	26	438
Sri Lanka	161	12	9	3	185
China	117	35	0	0	152
Vietnam	105	14	2	3	124
<b>New Zealand</b>	<b>107</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>116</b>
Stateless	59	10	7	5	81
Afghanistan	77	2	0	0	79
Iraq	57	6	3	8	74
Malaysia	44	20	2	2	68
Other	511	63	12	11	597
<b>Total</b>	<b>1530</b>	<b>257</b>	<b>69</b>	<b>58</b>	<b>1914</b>

### May 31st 2015

As at 31 May 2015 there were 2 026 people held in immigration detention facilities. Of these 2 026 people, around 22% were from Iran, 9.7% were from Sri Lanka, 8.0% were from China, 7.2 % were from New Zealand and 6.5% were from Vietnam.

This represents:

- 1.1% increase in the number of New Zealanders detained from the previous month;
- an additional 29 New Zealanders detained in one month;
- 27 additional Adult Males; and
- 2 additional Adult Female New Zealanders detained within a month;
- New Zealanders were the 4<sup>th</sup> largest population detained following Iran, Sri Lanka and China.

See Table 3 as below:

<b>Table 3: People in Immigration detention by nationality as at 31<sup>st</sup> May 2015</b>					
<b>Nationalities</b> People in Immigration Detention Facilities as at 31 March 2015	<b>Adult Male</b>	<b>Adult Female</b>	<b>Child (18 years) Male</b>	<b>Child (18 years) Female</b>	<b>Total</b>
Iran	301	85	36	24	<b>446</b>
Sri Lanka	170	14	9	3	<b>196</b>
China	129	31	2	1	<b>163</b>
<b>New Zealand</b>	<b>134</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>145</b>
Vietnam	107	20	2	3	<b>132</b>
Stateless	66	11	7	5	<b>89</b>
Afghanistan	84	2	0	0	<b>86</b>
Iraq	59	7	3	7	<b>76</b>
India	59	3	5	5	<b>72</b>
Other	531	64	14	12	<b>621</b>
<b>Total</b>	<b>1640</b>	<b>248</b>	<b>78</b>	<b>60</b>	<b>2026</b>

### June 30th 2015

As at 30<sup>th</sup> June 2015 there were 2 013 people held in immigration detention facilities. Of these 2 013 people, around 21.6 % were from Iran, 9.3% were from Sri Lanka, 7.8% were from New Zealand, 7.7 % were from China and 6.5% were from Vietnam.

This represents:

- 0.07% increase in the number of New Zealanders detained from the previous month;
- an additional 13 New Zealanders detained in one month;
- 13 additional Adult Males; and
- \*01 Adult Female New Zealander deported / released within a month?
- New Zealanders the 3<sup>rd</sup> largest population detained following Iran and Sri Lanka.

See Table 4 as below:

<b>Table 4: People in Immigration detention by nationality as at 30<sup>th</sup> June 2015</b>					
<b>Nationalities</b> People in Immigration Detention Facilities as at 31 March 2015	<b>Adult Male</b>	<b>Adult Female</b>	<b>Child (18 years) Male</b>	<b>Child (18 years) Female</b>	<b>Total</b>
Iran	302	75	35	22	<b>434</b>
Sri Lanka	166	13	7	2	<b>188</b>
<b>New Zealand</b>	<b>147</b>	<b>*10</b>	<b>0</b>	<b>0</b>	<b>157</b>
China	117	37	1	0	<b>155</b>
Vietnam	108	17	3	2	<b>130</b>
Stateless	80	2	0	0	<b>82</b>
Afghanistan	59	7	7	4	<b>77</b>
Iraq	59	5	3	2	<b>69</b>
India	51	5	5	6	<b>67</b>
Other	547	79	12	16	<b>654</b>
<b>Total</b>	<b>1,636</b>	<b>250</b>	<b>73</b>	<b>54</b>	<b>2,013</b>

## July 31st 2015

As at 31st July 2015 there were 2015 people held in immigration detention facilities. Of these 2015 people, around 20.4% were from Iran, 8.9% were from Sri Lanka, 8.2% were from New Zealand, 7.4% were from China and 6.2% were from Vietnam.

This represents:

- 0.04% increase in the number of New Zealanders detained from the previous month;
- an additional 9 New Zealanders detained in one month;
- 5 additional Adult Males; and
- 4 additional Adult Female New Zealanders detained within a month;
- New Zealanders the 3<sup>rd</sup> largest population detained following Iran and Sri Lanka.

See Table 5 as below:

<b>Nationalities</b> People in Immigration Detention Facilities as at 31 March 2015	<b>Adult Male</b>	<b>Adult Female</b>	<b>Child (18 years) Male</b>	<b>Child (18 years) Female</b>	<b>Total</b>
Iran	293	67	32	20	412
Sri Lanka	159	11	7	2	179
<b>New Zealand</b>	<b>152</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>166</b>
China	118	31	1	0	150
Vietnam	107	14	2	1	124
Stateless	62	8	7	4	81
Afghanistan	78	2	0	0	80
Iraq	63	4	4	3	74
India	58	5	3	2	68
Other	571	80	14	16	681
<b>Total</b>	<b>1,661</b>	<b>236</b>	<b>70</b>	<b>48</b>	<b>2,015</b>

- 6 The number of New Zealanders detained by the Commonwealth as at 31<sup>st</sup> July 2015 almost doubled over the five month period from March 2015 to July 2015. Anecdotal data indicates that the majority of these detainees will be of Maori/Pasifika ethnicity. This is concerning as the increase of numbers indicates that section 501 of the Migration Immigration Act appears to be applied to most/all New Zealanders in prison.
- 6 MaraeMelbournes primary concern is the lack of information that can negate the implication suggested by the statistics - that New Zealanders incarcerated for over 12 months may be preferenced and indeed be the only recipients of this amendment? MaraeMelbourne would like clarification of this query/concern from the Department of Immigration and Border Patrol.
- 6 MaraeMelbourne submits that offenders that have completed their sentences should be provided with an opportunity to rehabilitate back into community and to do so successfully they need the support of their families. This is the process for citizens who have also committed crimes and completed their respective sentences.
- 6 The application of the Act also fails to recognise that these visa holders are disengaged from access to support services that may prevent and reduce these figures.

**What place do you see for civic programmes in schools? Are there other locations, such as libraries, online or community groups, where civics information could be provided?**

🇺🇲 MaraeMelbourne submits that there is a role within school programs and all of the above suggested venues to teach young people and others of the values of citizenship and their responsibilities towards these values. However providing the information to those disconnected from pathways to citizenship will not increase their opportunities or strengthen their eligibility to achieve this goal. What is required is a review of the current laws that govern access to these pathways.

**How can more Australians be encouraged to participate in civic life to build strong, inclusive and sustainable communities?**

🇺🇲 MaraeMelbourne acknowledges that the need to participate in civic life builds stronger and therefore more sustainable communities. MaraeMelbourne acknowledges that the framework of multiculturalism seeks to promote this participation across all communities in Australia. The existence of Multicultural commissions and other government and non-government agencies that target a positive approach to building stronger communities are commendable. However, MaraeMelbourne submits that multiculturalism can unintentionally become divisive as those seeking to respect, tolerate and understand differences are inadvertently supporting the ‘us’ and ‘them’ location of identity. Multiculturalism must find a direction that shifts the concept of diversity as a difference to be understood and respected to a place where diversity becomes main stream.

🇺🇲 MaraeMelbourne submits that multiculturalism is not a concept that Maori feel connected to or necessarily value as relevant to their settlement in Australia. This disconnection can be attributed partly to the connections that Maori retain to their cultural roots. In this context Maori often don’t ‘unpack their bags’ in Australia. They also experience a different migration journey from many settlers in Australia. As this journey is very different there is little to no shared experience or understanding of the journeys of other settlers.

**CITIZENSHIP, ELIGIBILITY AND PLEDGE**

**The Government is considering** developing a stronger framework for the citizenship test and the Pledge of Commitment to strengthen the integrity of the citizenship programme. Possible areas for strengthening the citizenship framework include:

- Including questions about allegiance and more questions about the rule of law, values and democratic rights and responsibilities in the citizenship test.
- Limiting the number of times a person can sit the citizenship test before their application may be refused.
- Standardising English language requirements to ensure new citizens have adequate language ability, taking into account particular circumstances such as age.

- Appropriate penalties for cheating on the citizenship test.
- Requiring more individuals to make the Pledge at a ceremony by reducing exemptions and applying it to those who gain citizenship by descent, adoption and resumption.
- Strengthening the Pledge and Preamble to the Citizenship Act to include words about allegiance to Australia and an undertaking not to act contrary to that allegiance.
- Clarifying that Australian-born citizens and those who have citizenship by descent, are bound by the responsibilities and privileges of citizenship as set out in the Preamble.
- Requiring a signed undertaking to abide by the pledge if approved for citizenship.

**Are these the areas of the citizenship test and the Pledge that should be examined? Are any areas more important than others?**

🇺🇸 MaraeMelbourne submits that to strengthen the integrity of the citizenship programme, there needs to be an inclusion in the values of citizenship that reflects those of the First Australians. These values need to be mandatorily included in the Pledge, to both add value to the Pledge and to teach new citizens the place of the First Australians in this country.

*'We will know we have achieved our vision when Aboriginal and Torres Strait Islander history, culture and rights are a proud part of our everyday life'* Reconciliation Australia 2006.

🇺🇸 MaraeMelbourne submits that the inclusion of the values of the First Australians in the Nationality and Citizenship Act (1948) supports Reconciliation Australia.

🇺🇸 MaraeMelbourne submits that the areas proposed for strengthening by the Commonwealth are punitive measures that are designed to create barriers and exclusion to achieving citizenship. These measures will almost succeed in making citizenship an 'extraordinary privilege.'

🇺🇸 MaraeMelbourne submits that if citizens by descent are also bound by the rules of citizenship then these same citizens must also be considered for its revocation should they commit an act that the Commonwealth is proposing as worthy of revocation? If not these intentions become rhetorical.

**What other areas do you think should be investigated?**

🇺🇸 MaraeMelbourne submits that the citizenship framework being considered has negative and almost punitive innuendos throughout the document. The framework focuses on penalties and the adherence to laws and what should happen should these adherences be breached? There are no incentives offered in the framework that would encourage or support citizens to be respectful of the integrity of citizenship. The framework promotes an almost tyrannical message about citizenship. It speaks of allegiance; of penalties; of the laws of the land and limitations and standardising the English language. All of the abovementioned assumes that citizens do not inherently understand the rights responsibilities and obligations of citizenship.

- 6 MaraeMelbourne submits that all who apply for citizenship are aware of these messages and requirements and adding more requirements does not equate to adding value or integrity.
- 6 MaraeMelbourne submits that there should be no further investigation of the context of this framework but rather an investigation as to how best to add value to the citizenship framework.

**Should the eligibility requirements be strengthened through, for example, requiring persons to have a longer period of permanent residency before applying for citizenship?**

- 6 MaraeMelbourne submits that there should be NO extension of time added to the permanent residency period before applying for citizenship.
- 6 MaraeMelbourne submits that there needs to be a reinstatement of the rights to access citizenship for the estimated 200,000 New Zealanders that had these rights taken away from them in 2001.

**The obligation of citizenship in an age of home grown terrorism**

**Our success as a** unified and cohesive nation created from a diversity of cultures, ethnicities and faiths could be challenged by a home-grown threat from people who reject our values and are prepared to resort to violence to impose ideological, political or social change. The recent Counter-Terrorism Review concluded that Australia has entered a new, long-term era of heightened terrorism threat, with a much more significant ‘home grown’ element. It assessed that the threat of terrorism in Australia is rising along with the number of known sympathisers and supporters of extremists. Thousands of young and vulnerable people in the community are susceptible to radicalisation.

The scale of involvement by Australian civilians in the conflict in Syria and Iraq far outstrips any previous conflict. There are at least 100 Australians fighting with or supporting terrorist groups in Iraq and Syria. Australian security agencies are investigating close to 160 people in Australia who are actively supporting extremist and terrorist groups. The overwhelming majority of these people are young people. This includes a small number who have planned to conduct terrorist attacks here.

Last September, the Government raised the National Terrorist Threat Level to HIGH. Our security agencies assess that a terrorist attack in Australia is likely. Since then, we have seen an attack in Melbourne and the Martin Place siege. Other attacks have been disrupted. Twenty-three people have been arrested and charged as a result of counter-terrorism operations in the last eight months – one third of all terrorism-related arrests since 2001.

The Government is serious about countering home-grown terrorism. We are investing \$1.3 billion in new counter-terrorism capabilities and we have systematically updated our national security legislation to give our law enforcement and security agencies the powers they need to tackle the threat of home-grown terrorism.

Robust security and law enforcement efforts are essential. So too are stronger efforts to counter radicalisation in the community. We are developing new programmes to challenge terrorist propaganda and to provide an

alternative narrative based on Australian values. All Australian governments are working with local communities to counter violent extremism.

As part of this overall strategy, we want to examine how we might build on existing citizenship laws to help deal with the terrorism threat.

Citizens who become involved in terrorism are rejecting Australia's values and commitment to a safe and harmonious society. Support for, or involvement in, politically motivated violence is not acceptable. So it is reasonable to consider measures to act against those who betray the allegiance inherent in their citizenship of our nation.

### **Revocation of citizenship for dual nationals engaged in terrorism**

**Dual citizenship strengthens the** social and economic fabric of our nation. The ability of Australian citizens to also be citizens of other countries gives people more freedom to move in an increasingly globalised world. It has strengthened our links with other nations, including in our region. Dual citizenship recognises there are Australians who have close connections to Australia and to another country as well.

However, Australian citizenship has never been unconditional. Since 1949, there have been provisions for the automatic loss of citizenship when a dual citizen serves in the armed forces of a country at war with Australia. Arguably, Australians who engage in a serious act of terrorism do not deserve to remain Australian citizens. The United States, New Zealand, the United Kingdom, France and many other European countries have powers to revoke citizenship on broad national security grounds. Canada has legislation which will come into force in the near future.

The Government intends to modernise the Australian Citizenship Act to enable the Minister for Immigration and Border Protection to take action in the national interest to revoke the Australian citizenship of dual citizens who engage in terrorism that betrays their allegiance to Australia. These powers would be used against dual citizens who join or support listed terrorist groups such as Daesh, or engage in terrorist acts alone. They would apply to dual citizens who engage in terrorist activities here in Australia or on foreign soil, including that of our friends and allies.

The Government is also considering enabling the Minister to revoke Australian citizenship where there are reasonable grounds to believe the person *is able* to become a national of another country under their laws and would not be made stateless, as is the case in UK law. In the UK it is possible to revoke the citizenship of a person who has a legal right of access to the citizenship of another country, even if that right has not been exercised. Any new law would need to be consistent with our international legal obligations not to make a person stateless.

Measures to broaden the grounds for revocation, while very serious, should be proportionate given the severity of threats to national security. There would be safeguards – including judicial review – to ensure there are appropriate checks and balances on their operation.

**In what circumstances should a holder of Australian citizenship be regarded as having forfeited citizenship?**

🗨️ MaraeMelbourne submits that there are no circumstances that a holder of citizenship rights should have these rights revoked. Citizenship once attained is a lifelong privilege that cannot be extinguished by any Act of any government. The question posed seeks to declare a moral/ethical position about citizenship. This is not the role of the duty bearers of citizenship and this action can be seen to be an attempt by the Commonwealth to appoint itself as the ethical and moral gate keepers of these rights. The dangers of this appointment can be seen in recent events when a young person (Harun Causevic) was incarcerated with no evidence based on a judgment made that he was a danger to the community; where a city (Flinders Street Melbourne Operation Fortitude 28 August 2015) is brought to a standstill because keepers of rights decide to stop and search at random. In as much as we must respect our citizenship this same rule must apply to the Commonwealth.

🗨️ MaraeMelbourne has expressed views in relation to the discussion about the act of terrorism and how these acts must be dealt with through the judiciary system. What is concerning is the constant narrative that the Commonwealth promotes in relation to terrorism and the leaps from that discussion that this government seeks to empower. The Martin place siege was a criminal act; those that acquire weapons for the purpose of committing a crime are criminals; those that commit crimes to promote an ideology are criminals. The relabelling of acts of crime and of criminals to one of terrorism provides an opportunity for the Commonwealth to construct a system to deal with these criminals that is outside of the current judiciary. This should not be permitted to happen in a democratic and therefore transparent society. The responsibility of authorised bodies including Border Patrol is to investigate and when necessary arrest criminals and the responsibility must end there.

**Should the powers of revocation apply to citizens when the Minister has reasonable grounds to believe that the person is able to become a national of another country or territory under their laws and where it would not leave that person stateless?**

🗨️ MaraeMelbourne submits that there should be NO grounds available for a Minister to have powers to revoke a person's citizenship.

**What limitations and safeguards should apply to laws enabling the revocation of the citizenship of Australians engaged in terrorism?**

🗨️ MaraeMelbourne submits that there should be NO grounds available for a Minister to have powers to revoke a person's citizenship. MaraeMelbourne argues that terrorism is a crime and those involved with committing crimes in Australia must be dealt with by the judiciary. This ensures the accountability of the Commonwealth to its citizens; to its laws and vice versa.

## **Suspension of privileges for Australian citizens engaged in terrorism**

**To ensure there are** consequences for all Australians who engage in terrorism, not just dual citizens, should we consider additional powers like suspending certain privileges of citizenship? There are legal obligations that may limit the Government's ability to suspend certain privileges. There are already circumstances where some privileges of citizenship are suspended with broad community acceptance. For instance Australians serving prison sentences of more than three years have their voting rights suspended while they are imprisoned. The Commonwealth Government is concerned that citizens who deliberately undermine our nation may have benefited from Government support. These people could be deemed to have abused the trust placed in them and the privileges they have gained through their citizenship. It was in this light that, in November 2014, the Australian Government legislated to allow for welfare payments to Australians to be cancelled on national security grounds.

Australian citizenship has to mean something. When citizens conduct themselves in ways at odds with their allegiance to Australia, a line has to be drawn.

Privileges of citizenship are fundamentally linked to an ongoing commitment to Australia and participation in Australian society. If citizenship is the contract by which we all abide, at what point is it broken and what should be the consequences when it is?

### **Should certain privileges of citizenship – such as the right to vote in elections and receive consular assistance – be able to be suspended for Australian citizens engaged in terrorism?**

🗨️ MaraeMelbourne submits that acts of terrorism are criminal acts and must be dealt with by the judiciary. A fundamental responsibility of the Commonwealth as the bearers of citizenship rights is to provide consular support to its citizens. This right should not be revoked or suspended for any Australian citizen under any circumstance. The rights belonging to the citizen must remain intact irrespective of his / her actions that may result in a criminal conviction.

### **If so, which privileges would be reasonable to suspend and under what circumstances?**

🗨️ MaraeMelbourne submits that the rights of an Australian citizen are paramount over any circumstance that they may either find / or put themselves into. In this context the responsibility of Commonwealth is to support its citizens to access appropriate services and resources required to respond to the given circumstance - no more and no less.

### **How might we guard against unintended consequences?**

🗨️ MaraeMelbourne submits that the only way to guard against unintended consequences is to not engage in the act of revocation of rights. As previously stated – the responsibility of the bearers of these rights is to support the owner of the rights to access appropriate services and resources required to respond to the given circumstance – no more and no less.