

Sunday, 9th April 2023

To whom it may concern,

Migration Amendment (Australia's Engagement in the Pacific and Other Measures) Bill 2023, and the Migration (Visa Pre-application Process) Charge Bill 2023 submission

Overview of the Council

The introduction of the Migration Amendment (Australia's Engagement in the Pacific and Other Measures) Bill 2023, and the Migration (Visa Pre-application Process) Charge Bill 2023 represents the first time in the Australian migration system whereby merit is something that is ended in terms of the ability of someone to acquire a visa to enter Australia.

Firstly, the Cook Islands Council of Queensland opposes the fundamental concept of the lottery system being proposed by the bill. The lottery concept ends merit as the basis of entry into Australia on the basis of anything other than the place of residence of an individual. Fundamentally, this disregards the migration patterns of Polynesian peoples around the Pacific.

When the Minister said in his second reading speech *"For the Pacific engagement visa ballot, this will be a nominal registration charge of \$25. Regulations prescribing a charge would be disallowable by the Parliament. The Migration Amendment (Australia's Engagement in the Pacific and Other Measures) Bill 2023 provides that any visa pre-application process charge is to be paid at the time of registration and establishes that the regulations may make provisions for remissions, refunds and waivers of, and exemptions to, the charge."* – this casually overlooks the fundamental mechanism at the centre of the visa and the issues it creates.

By weight of population as well, there will be bias towards our Melanesian brothers and sisters in Papua New Guinea and a bias against the smaller nations being included. This is unfair to the smaller nations the government is trying to engage with.

Secondly, the Cook Islands Council of Queensland opposes the exclusion of the Cook Islands from participation in the scheme. Whilst we have residency rights in New Zealand thanks to the constitutional arrangements that govern the Cook Islands, the decision of the Australian Government to essentially exclude what Australia sees as 'New Zealand's problem' is discriminatory by definition.

If the government believes in what Minister Conroy stated in the second reading debate when he stated that *"the visa program will address the under-representation of some of Australia's closest neighbours in our permanent Migration Program. In 2021-22, less than 1,000 permanent migrants came from Pacific Island countries and Timor-Leste. That's a mere 0.7 per cent of the total migration program of 143,556 from that year."*, then why would the government consider leaving out all of the smallest countries in the region just because they are New Zealand territories? It is preposterous to suggest that these communities should not be considered as a part of the Pacific migration into Australia.

When DFAT states on its website that *"Priority is being given to countries with limited permanent migration opportunities to Australia, or citizenship rights with New Zealand, France and the United States."*, it is stating that it wishes to continue to send mixed messages about how and on what terms it wishes to engage with our people. If Australia wishes to engage with the Pacific, it needs to engage with the whole of the Pacific on an even basis without picking and choosing between our Pacific brothers and sisters.

Thirdly, the dual citizen pathway is not addressed in this concept. It is not clear as to whether or not the Samoan, Tongan and other Pasifika communities within New Zealand will be treated differently as those based in home countries. It is the view of the Cook Islands Council of Queensland that as well as the Cook Islands being

included in the scheme, there should be no difference in treatment between people in home countries and those residing in New Zealand.

Engagement with the Cook Islands Community

The Cook Island diaspora in Queensland runs from Cairns through to the Gold Coast. Our community has come into Australia at different points from the 1970s through to the present day. The Cook Islands Community in Queensland migrates into Queensland through New Zealand as flights from Rarotonga primarily come into Australia via Auckland. This means that there is a significant Cook Islander community along that migration pathway.

Aside from Senator Paul Scarr, there is no other elected representative at any level of government who has shown any consistent or deep desire to engage with our community. Bureaucracy has also shown our community that they believe we are just 'Kiwis' and not a distinct nation. This bias against our people is reinforced by both components of the bill and underlying policy that we oppose.

From the second reading debate of the bill, we note the comments of Andrew Wallace MP from the Sunshine Coast who stated that *"Permanent residency that ultimately leads to citizenship in Australia is far too important to be decided by having your name pulled out of a hat. This has the potential to turn Australia's immigration system on its head. Our migration system, as it stands, is built on an ambition to attract skilled migrants who contribute to our economy and our community. Instead, this Labor government want to sign applicants up to some ludicrous visa style lottery. They want to take their chances instead of thinking, consulting and legislating common sense immigration policies. That is what Labor have done time and again for the last 12 months. They make bold promises and realise they can't deliver on those promises, so they come up with a half-baked idea, throw it to the parliament and hope to flesh it out with some oratorical flourishes. It is policy on the run once again from an incompetent Labor government."* We completely agree with the sentiments expressed by this member, despite the partisan political flourishes expressed by the member that we do not necessarily endorse as a non-partisan organisation.

Whilst there are moves separately to deal with the New Zealand pathway to citizenship and subsequent voting rights that we support, the government simply does not appear to understand that there are people who migrate via New Zealand who are not necessarily just New Zealanders.

When the explanatory memorandum states that *"The Bill does not use the expression "ballot"; however, in this Explanatory Memorandum, the word "ballot" is used as a convenient shorthand to describe the visa pre-application process. Selection via the ballot will be a legal requirement to apply for a visa where this requirement is specified as a visa application validity requirement in the Migration Regulations 1994 (the Migration Regulations)."*, it shows that the Department thinks that it will be able to engage with the region, by putting eligible names in a hat and expecting that there will be any engagement in a "ballot" from small nations proves that the government has not thought through how disrespectful the ballot concept is to people from smaller nations in the Pacific.

The Auckland component

The Cook Islands Council of Queensland wishes to highlight to the government that considering that Auckland is the biggest Polynesian city in the world. Pacific Islanders who hold passports from Pacific nations who are residing in New Zealand should not be exempt from these Pacific pathways. It is not uncommon for communities in New Zealand to be larger than the population in home countries.

Australia historically has never understood the Pacific or the migration patterns into New Zealand which has resulted in the development of the Pasifika communities into Australia. Whilst the Cook Islands population is

barely 10,000 people, the 80,532 Cook Islands Kūki 'Āirani in New Zealand shows the difference in population size. This is something that needs to be considered.

There are similar discrepancies for the Niuean community, who are exempt from the bill.

There are also similar numbers between the Samoan and Tongan community as well.

The design of the ballot and the underlying policy does not recognise this.

Conclusion

The Cook Islands Council of Queensland recommends the following to the government in relation to this proposal before this enquiry:

- The 'ballot' proposal in the bill must be replaced with a merit based system as per the rest of the immigration system.
- The Cook Islands, Niue, Tokelau, New Caledonia and French Polynesia should be treated the same as the rest of the Pacific covered by this scheme. Discrimination in the Pacific is not OK.
- Pacific diaspora's with the appropriate passports residing in New Zealand should not be treated differently than those in the home countries.

Warmest regards,

Archie Atiau | President
Cook Islands Council of Queensland Inc