

745-1192



Senator the Hon Michaelia Cash
Assistant Minister for Immigration and Border Protection

Dr Dennis Jensen MP
Chair
Standing Committee on Petitions
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Dr Jensen

Mr Hunter's and Ms McCarthy's desire to obtain permanent residence

On 3 June 2013 the former Chair of the Standing Committee on Petitions, the Hon. John Murphy MP, wrote to the former Minister for Immigration and Citizenship, the Hon Brendan O'Connor MP, concerning a petition (745/1192) regarding Mr Roger Hugh Hunter and Ms Irene May McCarthy of Metung, East Gippsland and their desire to obtain permanent residence.

The Investor Retirement (Subclass 405) visa was introduced in 2005 to allow self-funded retirees who can benefit Australia through significant investment in state/territory government bonds to reside in Australia during their retirement years. While it does not provide permanent resident status, visa holders are able to remain in Australia indefinitely subject to meeting the criteria for subsequent visa grants.

The intention of the Investor Retirement visa is to ensure that retirees have a minimal impact on the Australian budget in terms of welfare, health and similar costs. To that end, applicants must meet asset and income requirements set at levels deemed necessary to ensure that they are able to finance their ongoing stay in Australia. In addition, they are required to make a significant long term financial investment in Australia and to pay a second Visa Application Charge (VAC) each time they renew their visa. The second VAC is set at a level considered sufficient to help offset any future cost to the Commonwealth.

Investor Retirement visa applicants need to consider a lot of factors when deciding whether to apply for this visa including their ability to meet the financial requirements on an ongoing basis. It must also be taken into consideration that the visa is only a temporary visa and applicants may, at some stage, need to depart Australia to reside in their home country.

I appreciate that, having lived in Australia for 6 years, Mr Hunter and Ms McCarthy wish to become Australian permanent residents. Investor Retirement visa holders are not precluded from applying for a permanent visa if there is one for which they believe they may be eligible. Information on the full range of visa categories, and how to lodge a valid visa application, can be obtained from the Department of Immigration and Border Protection's website at: www.immi.gov.au.

I note that the petition requests that the House of Representatives do all in its power to grant Mr Hunter and Ms McCarthy permanent residence. Neither the Parliament nor the department can grant a permanent visa to a person who does not meet the specific legislative requirements and the Minister for Immigration and Border Protection is only able to intervene in limited circumstances. The requirements for ministerial intervention are set out in the *Migration Act 1958*. An applicant would need to have applied for a visa, had that application refused by the department, and then had the refusal decision reviewed by the relevant tribunal or the courts. It is only after this process that the Minister has the non-compellable power to grant the person a visa in exceptional and compassionate circumstances which are in the public interest. While the contribution Mr Hunter and Ms McCarthy have made while in Australia is appreciated the Minister is unable to intervene to grant them permanent residence at this time.

Thank you for bringing the concerns of the residents and friends of the village of Metung to my attention.

Yours sincerely

Senator the Hon Michaelia Cash

Assistant Minister for Immigration and Border Protection

29/01/2014