



Minority Report by the Hon. Dr Sharman Stone MP

- 1.1 The Committee established three considerations to inform and balance its assessment of community based detention alternatives. These considerations are that community based detention alternatives must:
- ensure a humane, appropriate and supportive living environment for those waiting resolution of their immigration status
 - maintain a robust and enforceable immigration system that operates with integrity throughout arrival, assessment, resettlement or departure processes for unlawful non citizens, and
 - provide cost effective and appropriate value for money.¹
- 1.2 The above informed my response to the inquiry, as well as the re-emergence of significant numbers of unauthorised arrivals since the changes to Government policy in August 2008.
- 1.3 The recommendations made in this report would undoubtedly be seen as a further softening of this Governments response to people smugglers and their clients.
- 1.4 I do not support the new “bridging framework” which is articulated in particular in recommendations 2, 3, 8 and 10. In my considered opinion the proposed new bridging visa framework does not comprehensively meet the agreed considerations and criteria, nor does it help to deter people smugglers from targeting Australia as a preferred destination.
- 1.5 Recommendations 2, 3 and 8 describe the majority of the committee’s view that unlawful non-citizens be diverted out of detention before their security, health and identification status check is completed. These ex
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1 Paragraph 5.2 in the Committee’s second report of the inquiry into immigration detention.

detainees are then to be transferred into the community within a 'bridging visa framework'. The entitlements and support to accompany the bridging visas are described in Recommendation 8:

The Committee recommends that the Australian Government reform the bridging visa framework to ensure that people are provided with the following where needed:

- basic income assistance that is means tested
- access to necessary health care
- assistance in sourcing appropriate temporary accommodation and basic furnishing needs, and provision of information about tenancy rights and responsibilities and Australian household management, where applicable, and
- community orientation information, translated into appropriate languages, providing practical and appropriate information for living in the Australian community, such as the banking system, public transport and police and emergency contact numbers.

1.6 Recommendation 10 refers to the proposal that these bridging visa holders also have full work rights:

The committee recommends that the Australian Government reform the bridging visa framework to grant all adults on bridging visas permission to work, conditional on compliance with reporting requirements and attendance at review and court hearings.

1.7 As unemployment continues to climb, it cannot be assured that asylum seekers can readily step into and keep employment. As well the perception of additional competition in the work place will cause more stress to Australians in the workforce as they compete to gain or hold what work is still available in the contracting economy. Looking for work as a non-English speaking background person with no ability to indicate a long term stay in the job would be extremely difficult. Alternatively placing the person (and their family) on welfare could colour their future attitudes to the advantages of finding work and earning an independent living in a very difficult economic climate.

1.8 In fact, most detainees do not stay for an extended period of time in secure detention, and all detention centres are now upgraded in their facilities, or have been recently funded for further upgrades. The possibility of mental breakdown due to long terms in detention is therefore significantly reduced. The committee took evidence that as at 1 May 2009 47% of stays in detention were for less than one month. 72.1% of the stays were for

periods of less than three months, and processing times for those in the recent boat people surge are being shortened all the time.

- 1.9 We heard compelling evidence from a number who work to support detainees released part way through their processing into the community that:

Increased use of bridging visas without a substantially enhanced provision of support may result in some people being no better off, or even worse off than in immigration detention.²

- 1.10 Given the severe reductions in staffing and funding now applying to the Department of Immigration and Citizenship (DIAC), including some 600 less staff since the 2008-09 budget, it is important that resources are not diverted away from all efforts to even more efficiently and swiftly finalise the inquiries to establish the identity, health and security status of individuals in detention.
- 1.11 If detainees were to spend even fewer weeks in detention before being consigned to a very long time on a bridging visa, with no resolution of their status, this would not represent an improvement on the current situation. The Department's support, oversighting and monitoring of those on bridging visas, the surety requirements and regular personal reporting required of those on the bridging visas would be resource intensive, and debilitating for those continuing in status limbo.
- 1.12 It should be noted that children and minors and an accompanying parent or guardian have been offered alternative community based accommodation since 2005. Recommendation 9 implies that this is not the case.
- 1.13 As well, it is more likely under the new framework proposal that every rejected asylum seeker claim would lead to an administrative, ministerial and judicial challenge to this decision (whatever was possible) if the detainee understood that their time (months/years) during the appeal process would be spent in the community with full work or full income support and other rights. Time wasted in dealing with vexatious claims is a cost that could otherwise be committed to settling more refugees in our country.
- 1.14 A better alternative for those unlawful non-citizens currently in detention as they seek a resolution to their asylum seeker status is for DIAC to commit every possible resource to resolving the individual's status, with

2 Refer to chapter 3 in the Committee's second report of the inquiry into immigration detention.

additional resources committed to do this work if required. If their claim is rejected, the individual should continue to be detained in one of the excellent transit facilities until swiftly deported. If they choose to appeal, they should remain in detention until the appeal is resolved. Where the individual's claim is successful, they would then be swiftly transitioned out of detention into the community to begin their new life, with no ambiguity about their status remaining.

- 1.15 Those (the majority) who are granted bridging visas for a short period due to an overstay of a tourist visa or the like are currently well served by the current efficient arrangements, and do not require an alternative framework
- 1.16 Whether all unlawfully arriving non-citizens should in the future be granted conditional residency status in the first instance was not within the scope of this investigation, however, given the surge in asylum seeker numbers now arriving via people smuggling, the government should consider this and other options as a deterrent to help save lives and injury during the unsafe sea voyages.
- 1.17 The new schema does not therefore represent value for money or cost effectiveness, nor is it more just or humane robust or enforceable. It also fails to send a message to people smugglers that Australia should not be targeted as a favoured destination.

The Hon. Dr Sharman Stone MP