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Committee Secretary  
Senate Standing Committee on Legal and Constitutional Affairs  
Department of the Senate, Parliament of Australia

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6 July 2007

Dear Committee Secretary

Please accept this submission to your inquiry into the **Australian Citizenship Amendment (Citizenship Testing) Bill 2007**. I am co-author of *Future Seekers II: Refugees and Irregular Migration in Australia* (Federation Press, Sydney 2006) and author of the book chapter, ‘The Contribution of Migrants to Australian Society’, in G Hage and R Couch (eds), *The Future of Multiculturalism* (Research Institute for the Humanities and Social Sciences, Sydney, 1999).

In principle, I support efforts to help migrants to successfully integrate into the Australian community, including through the acquisition of citizenship. In the absence of constitutional criteria for Australia citizenship, citizenship is necessarily a political concept as much as it is a legal one. The Parliament is entitled to define the conditions of membership of our political community (within the boundaries of international law, including non-discrimination).

#### ***Delegation of Power and Lack of Parliamentary Scrutiny over Politicised Issues***

However, that citizenship is a political concept does not mean that it should be *politicised*. I am foremost concerned about the Bill’s delegation of power to the Minister for Immigration and Citizenship to set the content of the citizenship test. The Bill provides no guidance whatsoever on what the test is designed to include or to achieve. Questions concerning Australian identity, values, history, political life and cultural traditions are highly contested, as indeed they should be in a diverse and vibrant modern democracy based on free speech.

In light of the highly charged, controversial, and politicised national debates that have occurred about the content of Australian values, the interpretation of Australian history, the role of multiculturalism, and the significance of our indigenous heritage, I would not have confidence in leaving the content of the citizenship test to be set by ministerial determination.

While I do not doubt the good intentions and integrity of the Minister for Immigration and Citizenship, public confidence in the impartiality and appropriateness of the test cannot be assured if it is left to one politician to determine its content. Given the fundamental importance of citizenship in determining the shape and future of our community, it is vital to adopt a more transparent, participatory and inclusive approach to setting the test.

This should not only entail a genuine process of community consultation, but ultimately should require Parliamentary approval of the content of the test (whether in broad or specific terms) – and not merely a wide delegation of uncontrolled discretionary power to the minister. Here I note that proposed s 23A(7) of the Act provides that the Minister’s determination is deemed not to be a legislative instrument, thus precluding any possibility of the Senate disallowing the test and, accordingly, removing parliamentary scrutiny of the test’s content.

### ***Deficiency of the Test as a Learning Model***

As for the testing method itself, as a university teacher I am concerned that setting a simplistic multiple-choice test trivialises the process of acquiring Australian citizenship, seemingly for the convenience of minimising the administrative burden and costs on the relevant authorities. Doing so avoids responsibility for helping citizens to acquire a deeper and genuinely useful level of knowledge to assist in their integration.

Questions concerning Australian values, culture, history, and political institutions are frequently open to competing interpretations and different answers, and are not adequately answered by multiple-choice responses. Indeed, a hallmark of good citizenship is the capacity of citizens to think critically and independently about their society and system of government, in ways which will sometimes conflict with received wisdom or official policy.

### ***An Alternative Proposal***

In place of a test, it would be preferable to engage potential citizens in a course, a series of seminars, or other program of instruction, over a period of time, in which they can genuinely learn about the rights and responsibilities of citizens, and the political community which they hope to shortly join. Participatory learning through civics education classes has a much greater chance of cultivating a deep and lasting knowledge of Australia than a one-off test (which encourages rote-learning and whose content is likely to be soon forgotten).

### ***Content of the Test If It Does Proceed***

If the Parliament does choose to proceed with a citizenship test, in my view the questions should focus, in a non-technical manner, on an applicant's familiarity with Australia's system of democratic government, rather than on more opaque and contested cultural, social or political values, or debateable aspects of Australian history.

In addition, the test should assess an applicant's familiarity with the basic values underlying that political system, such as secular and representative democracy, freedom of expression and freedom of religion, non-discrimination, respect for cultural difference, transparent and accountable public administration, ministerial responsibility, and the rule of law (including adherence to international law, equality before the law, and judicial independence).

The test should not attempt to define an official or sanctioned version of Australian identity, culture or history, which risks excluding not only free thinking potential citizens, but may potentially alienate Australian born citizens whose beliefs are at odds with those in the test. Efforts to build community solidarity cannot come at the expense of individual autonomy, where there is no legitimate or rational basis for overriding individual preferences.

### ***Conclusion***

On a personal note, my grandfather recently became an Australian citizen after living here since 1945, when he was de-mobbed from the British Navy after the Second World War. He is now elderly and infirm, and I doubt whether he would have passed a multiple-choice citizenship test. Yet, in my view, after contributing to building the Australian economy, population and society for the last 60 years (not to mention its security during the war), in my view, he is surely entitled to enjoy Australian citizenship, without risking exclusion due to a simplistic, politicised and ill-judged bureaucratic test.

Yours sincerely

