



# Refugee Council of Australia

## **Senate Select Committee on Temporary Migration**

### **SUBMISSION TO THE INQUIRY INTO THE IMPACT OF TEMPORARY MIGRATION**

The Refugee Council of Australia (RCOA) is the national umbrella body for refugees, people seeking asylum and the organisations and individuals who work with them, representing over 180 organisations. RCOA promotes the adoption of humane, lawful and constructive policies by governments and communities in Australia and internationally towards refugees, people seeking asylum and humanitarian entrants. RCOA consults regularly with its members, community leaders and people from refugee backgrounds, and this submission is informed by their views.

RCOA welcomes the opportunity to provide feedback to the inquiry into the impact temporary migration has on the Australian economy, wages and jobs, social cohesion and workplace rights and conditions. RCOA's submission will focus on:

- government policy settings, including their impact on the employment prospects and social cohesion of Australians, including the impact that the COVID-19 pandemic and recession has had on people from refugee and asylum-seeking backgrounds on temporary visas;
- policy responses to challenges posed by temporary migration;
- whether permanent migration offers better long-term benefits for Australia's economy, Australian workers and social cohesion, and
- the impact of wage theft, breaches of workplace rights and conditions, exploitation, and modern slavery on temporary migrants.

## **1 Government policy settings**

### **The impact of COVID-19 on people from humanitarian backgrounds on temporary visas**

1.1 COVID-19 has had a serious impact on all Australians. People on temporary visas, and especially refugees and people seeking asylum, have been hardest hit by the pandemic. COVID-19 has highlighted deep rooted inequalities that have existed for years in our society. For many years RCOA has reported on the devastating impacts of temporary status for refugees and people seeking asylum. Now during the pandemic, these issues are being further exacerbated. The lack of secure employment for people seeking asylum and refugees on temporary visas has placed them at the greatest risk of exposure to COVID-19. Without secure employment and the ability to take sick leave, these people are not able to self-isolate. Further, when they do get sick, they have no safety net in which to fall back on, as they are ineligible for JobSeeker and JobKeeper payments.

1.2 Research commissioned by RCOA has highlighted the devastating impact of COVID-19 on temporary visa holders.<sup>1</sup> Unemployment rates among bridging, safe haven enterprise and temporary protection visa holders are projected to rise from approximately 19.3% to 41.8%, with approximately 19,000 refugees and asylum seekers on temporary visas will losing their jobs because of the current economic downturn. For those that remain employed, weekly wages could fall by an average of \$90 per week, with 92% of workers earning less than the minimum wage.

1.3 The homelessness rate among refugees and asylum seekers on temporary visas is projected to rise to around 12%, which will cost State and Territory governments an additional \$181 million per year in health, justice, social and other services. Increased hospital admissions for mental health

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<sup>1</sup> John van Kooy (2020). "COVID-19 and humanitarian migrants on temporary visas: assessing the public costs. Available at <https://www.refugeecouncil.org.au/covid-19-assessing-the-public-costs/>

conditions, heart attack or stroke, injury and drug overdose, self-harm and other socioeconomic factors could cost State and Territory governments an additional \$23.4 million per year.

1.4 Approximately 97,000 people seeking asylum have been universally excluded from all forms of the economic support packages implemented during the COVID-19 crisis. Unlike other people in Australia, people seeking asylum do not have access to JobSeeker, the Coronavirus Supplement, Economic Support Payments, nor the JobKeeper Subsidy. Such a decision presents a dangerous health risk to the community and is already leaving people homeless, destitute and starving.

1.5 Excluding people seeking asylum from the COVID-19 social security measures presents a significant risk to the health of individuals as well as the wider community. Without a financial safety net, people have been forced to actively look for work (against social isolation guidelines), seek crisis food and accommodation services and have already become homeless. Without a safe home to live in, people cannot follow the health experts' advice to stay home and socially isolate. This presents a serious risk of spreading the virus.

1.6 This situation is growing worse by the day as people seeking asylum and other temporary visa holders lose their only form of income. Charities, which could not cope with the demand for emergency assistance before the pandemic, are now overwhelmed, at a time when they have to work even harder to maintain frontline services because of the spread of COVID-19. Key frontline asylum support services are now receiving more calls each day from people seeking crisis help than at any stage in their history, with many seeing requests increase by 300% since mid-March.

## **People seeking asylum**

1.7 Several reports published in recent years have highlighted the impact of Government's policies on people seeking asylum. RCOA published a report in June 2018 focusing on the precarious situation of this group.<sup>2</sup> We looked at how visa insecurity has been driving this group into destitution and has put them at increasing risk of exploitation at work. People seeking asylum are often on short-term bridging visas which decrease their chances of securing and maintaining employment. This combined with the perpetual limbo they are in have had significant and long-term negative impacts on people's physical and mental health.

1.8 From 2012 to 2015, almost everyone seeking asylum who came by boat was barred from working as a condition of their bridging visas. Currently, the general policy is to grant work rights to those who came by boat and are living in the community (on a bridging visa E) while they are waiting for an initial decision (by the Department of Home Affairs) or a review of that decision (by the Immigration Assessment Authority).

1.9 If a person is found to be a refugee, he or she will be granted a temporary protection visa with work rights. Otherwise, their bridging visa will expire 28 days after the review decision, and they will need to apply for another bridging visa. The general policy for people waiting for a court decision is that, if work rights were granted previously, they will be granted again.

1.10 For many people, renewing bridging visas is a challenging and lengthy process. For some people, the Minister for Immigration personally needs to allow them to apply for another bridging visa ('lifting the bar'). This often means there is a gap between their bridging visas, which affects their employment. However, they are not the only ones who experience this delay. Many of our member organisations and people seeking asylum have told us of difficulties in renewing bridging visas and therefore retaining work rights, often for no apparent reason.

1.11 We have also heard many times that even when the bridging visas are renewed, work rights are inconsistently granted. People seeking asylum who came by plane routinely report that they have lost their work rights when they applied for a bridging visa and have no way of supporting themselves. Some have been forced to leave work as a result and become homeless and destitute. Many spoke of this as a punitive measure to force them to leave Australia before their application is finalised, especially as it is now taking several years for the Department to decide claims for protection for people who have come by plane.

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<sup>2</sup> Refugee Council of Australia (2018). *With Empty Hands*. Available at [https://www.refugeecouncil.org.au/wp-content/uploads/2018/12/With-Empty-Hands\\_FINAL.pdf](https://www.refugeecouncil.org.au/wp-content/uploads/2018/12/With-Empty-Hands_FINAL.pdf)

1.12 Over the past 25 years, people have been supported while seeking asylum through a basic living allowance and limited casework. These support programs were designed so that people can more effectively resolve their claims for protection. In the past few years, and especially since August 2017, the Australian Government has been making it harder for people to access these support programs. This is forcing vulnerable men, women and children into destitution. In 2017, the Federal Government introduced significant changes to the Status Resolution Support Service (SRSS), a change which dramatically reduced the number of people eligible for support.

1.13 These changes can affect anyone who has an unresolved immigration status and is unable to support themselves. Those who have come to Australia by plane and then sought asylum can no longer get support if they have a valid visa which is not a bridging visa. These changes can also affect people who may not be seeking asylum but are vulnerable migrants, such as women who came to Australia on a partner visa but find themselves in a situation of domestic violence. Previously, they could get support via SRSS but now they will be left without any financial or healthcare support if their partner visa is still in effect.

1.14 The Australian Human Rights Commission's *Lives on hold* report<sup>3</sup> published in July 2019, further confirmed the concerns raised in our report and showed a lack of progress in the year since our report was published, despite the continuous advocacy. As mentioned in the previous section, the outbreak of a global pandemic in recent months and the exclusion of people seeking asylum in the Federal Government support packages have only exacerbated their dire situation.

### **Recommendation 1**

*The Refugee Council of Australia recommends that the Australian Government extend the COVID-19 safety net supports to people seeking asylum who have no alternative source of income to ensure that they can pay their rent, cover utilities and avoid homelessness and destitution during the pandemic and economic downturn.*

### **Recommendation 2**

*The Refugee Council of Australia recommends that the Australian Government ensure all people have access to medical care during the pandemic and extend Medicare to people seeking asylum who do not currently have access.*

### **Recommendation 3**

*The Refugee Council of Australia recommends that the Australian Government ensure that people do not lose their visa status. Timely visa renewals or grants, where applicable, should be prioritised to ensure people are able to remain lawful during the pandemic.*

## **Refugees on temporary protection visas**

1.15 People who arrived in Australia by boat after 13 August 2012 (and were not transferred to an offshore processing centre on or after 19 July 2013) can apply for one of the two temporary protection visas: a five-year Safe Haven Enterprise Visa (SHEV) or a three-year Temporary Protection Visa (TPV). Further, people who arrived in Australia by boat before 13 August 2012 and applied for a permanent protection visa, but whose application was not finalised before 18 September 2013, are only eligible for a TPV or a SHEV.

1.16 The SHEV is a new temporary protection visa that was introduced in late 2014. It was designed to encourage refugees to move to regional areas. To be eligible for a SHEV, a person must declare an intention to work or study in a designated SHEV zone within Australia. NSW was the first state to opt in to the SHEV scheme in July 2015. By October 2016, all states and territories announced the postcodes which would be part of the scheme.

1.17 There are over 31,000<sup>4</sup> people in Australia who arrived by boat between 13 August 2012 and 1 January 2014 and are part of the so-called 'Legacy Caseload'. They are now either on a TPV or a

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<sup>3</sup> Australian Human Rights Commission (2019), *Lives on hold: refugees and asylum seekers in the 'Legacy Caseload'*, <https://humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/lives-hold-refugees-and-asylum-seekers-legacy>.

<sup>4</sup> Department of Home Affairs, *IMA Legacy Caseload: Report on Processing Status and Outcomes* (May 2020), <https://www.homeaffairs.gov.au/research-and-stats/files/ima-legacy-caseload-may-2020.pdf>.

SHEV or still awaiting the finalisation of their protection visas and on a bridging visa subclass E. In addition to this group, as of 31 May 2020, there were around 87,000 people who arrived in Australia by air, sought protection, and were on a bridging visa (various subclasses). They are comprised of over 38,000 people who were waiting a decision on the outcome of their protection visas and over 48,000 people who were not granted a Final Protection Visa and remained in Australia at various appeal stages.<sup>5</sup>

1.18 As mentioned, the majority of these people are experiencing the negative consequences associated with their insecure and temporary visas, especially in the areas of employment, education, and social cohesion.

1.19 As Table 1 highlights, there are fundamental differences in support services and future rights (for example, citizenship and family reunion) between refugees on permanent and temporary protection visas. While people in both groups have been found to be owed protection by the Australian Government, it is only their mode of travel or time of arrival that made them subject to a vastly different set of policies. Even in areas that people in both groups may seem to be entitled to the same level of support, like employment, the secondary and hidden impacts of temporary visas should be considered. When people can never become citizens or for many even permanent residents, they are unable to access certain types of employments. When people have to re-apply for a visa every three or five years with no guarantee that they can get another visa, they are at risk of being deprioritised and perceived as unreliable in the work place. This is even more the case in the competitive job market of today and likely in the short- and medium-term future. As mentioned previously, people seeking asylum are in a situation that is even more difficult.

**Table 1: Rights and entitlements for Permanent Protection Visa holders and Temporary Protection Visa holders**

	<b>Permanent Protection Visa</b>	<b>Temporary Protection Visa</b>
Education	Same entitlements as other permanent residents at all levels	Access to primary and secondary education on the same basis as permanent residents; can access tertiary education but ineligible for Federal Government higher education loans and Commonwealth-supported places
Employment	Permission to work and access to employment support services	Permission to work and access to basic access employment support services
English language tuition	Access to the Adult Migrant English Program and Skills for Education and Employment program	Access to the Adult Migrant English Program and Skills for Education and Employment program
Family reunion	Eligible to sponsor family members for resettlement (with restrictions for people who arrived by boat or without visas)	Ineligible to sponsor family members for resettlement
Freedom of movement	Freedom of movement within Australia; can leave and re-enter Australia without forfeiting visa	Freedom of movement within Australia but must notify the Department of Home Affairs of any change of address within 28 days; can only travel overseas if there are "compassionate or compelling circumstances" necessitating travel and only with written approval from the Minister
Healthcare	Access to Medicare	Access to Medicare
Income support	Access to full range of social security benefits on the same basis as other permanent residents, subject to relevant eligibility requirements	Not eligible for full range of social security benefits. Access to Special Benefit, Family Tax Benefit and a range of ancillary income support payments, subject to relevant eligibility requirements
Residency	Immediate permanent residency with opportunity to apply for citizenship after four years	Visa valid for three to five years. People on TPV are ineligible to apply for any kind of permanent visa or citizenship. People on SHEV who have met SHEV pathway requirements can apply for other visas, including permanent visas but need to meet the requirements of those visas without any concessions. This is unachievable for the majority of SHEV holders.

<sup>5</sup> Department of Home Affairs, *Monthly Update: Onshore Protection (Subclass 866) Visa Processing- May 2020 (31 May 2020)*, <https://www.homeaffairs.gov.au/research-and-stats/files/monthly-update-onshore-protection-866-visa-processing-may-2020.pdf>.

	Permanent Protection Visa	Temporary Protection Visa
Settlement services	Access to Humanitarian Settlement Program (HSP) services (unless the person lived in the Australian community prior to the visa grant) and settlement (SETS) services	Access to Specialised and Intensive Support only (for those who have been assessed as requiring that support)

## Safe Haven Enterprise Visas (SHEVs)

1.20 As discussed earlier, the SHEV was introduced in 2014 to encourage people who are found to be refugees to move to regional Australia. If they do so, they will be able to apply for another temporary visa, with the hope (but distant reality) of eventually moving onto a permanent visa. However, the current visa system and support services have not produced these intended outcomes, with most people not residing in a regional location, nor able to utilise the pathway options.

1.21 A move to regional areas where there might be issues related to isolation and lack of infrastructure, combined with only limited government support, can create (and has created) significant challenges. We have argued that while the SHEV may encourage the greater movement of refugees to regional areas, it offers very little support to people who embark on those journeys, who need to tackle new challenges and navigate local areas that may not have traditionally hosted refugees.

1.22 When RCOA held a targeted consultation with member organisations to discuss the SHEV in 2016 and 2017, the consensus was that by limiting the support available to SHEV holders, the Australian Government denied people a chance to realise their full potential and also put added pressure on existing services. As one member organisation elaborated:

*We believe it is counter-productive to restrict access to settlement support services for temporary humanitarian visa holders, as this will significantly inhibit the settlement of these visa holders and create additional difficulties for them and for services working with them over the longer term. It is likely to place increased pressure on the few services those on temporary humanitarian visas will have access to, such as torture and trauma survivor rehabilitation services, and services may need to expand their activities beyond what they are funded for in order to try and fill the gap in service provision. It will also put pressure on unfunded refugee community organisations.*

1.23 Service providers in regional areas told us that there is no established system to alert them to the arrival of people on SHEVs to their area, given their lack of access to services. In 2016 a service provider in Armidale explained:

*There is no formal process of knowing if they're in town. There is no referral process to link them in with community health organisations even though they are entitled to support of resettlement health and that kind of thing. I have heard from other members working in the community that people with SHEV visas often have problems to do with social isolations when they get to new communities and that mental health support would be very valuable health resource for them.*

1.24 Four years later, service providers, people on SHEVs who move to regional areas, and the wider regional community continue to remain in the dark.

1.25 Service providers and member organisations in regional areas also consistently told us of their concerns that SHEV holders have insufficient information about the regional areas and the requirements of their visas. A gap in information could be ameliorated if they had access to casework support and other settlement services.

1.26 A key reason for the failure of the SHEV to attract people to work in regional areas is the lack of a realistic pathway to permanency for people who do work in a regional area. If a person, or a member of their family unit, for a total of 42 months (3.5 years), work in a SHEV area and not receive social security benefits, or study full-time in that area (or a combination of the two), they will meet SHEV pathway requirements. Once a person on a SHEV meets the visa pathway, they are then able

to apply for certain other skilled, family and student visas. However, they are not guaranteed those other visas and must meet the specific requirements of the subsequent visa.

1.27 Many of these subsequent visas are out of reach for refugees on a SHEV, even if they fulfil the visa pathway. The criteria of these other visas are incredibly onerous and prohibitive for most people. This is especially true because people on a SHEV are not able to access any federal government education support which would support them to attain the skills and education required for many of these visas. As such, the SHEV has failed to provide a realistic incentive for people to move to regional areas, and therefore failed in its policy intention in encouraging regional settlement.

1.28 Many refugees on SHEVs will not meet the SHEV pathway requirements as they are not realistic. According to the data obtained under freedom of information by RCOA, only around 3,500 of the 11,500 people on a SHEV are currently residing in a designated SHEV region (30%). While the SHEV pathway does not require that a person reside in a regional area (only that they work or study in one), it is likely that those not living in a regional area are also not working in one. It is likely that most people on a SHEV are not fulfilling the pathway requirements.

1.29 There are many factors as to why SHEV pathway requirements are not realistic. They are mainly associated with the challenges related to migration to regional areas. Those challenges need targeted and intensive support to overcome and a carefully considered policy; none of those are applicable to the roll out of the SHEV.

1.30 Not all regional and rural areas have sufficient employment opportunities to sustain regional migration. It is important to consider the realistic employment opportunities of regional areas before pushing for greater regional settlement of refugees. The impact of climate change, for example, through recent droughts, on employment opportunities in the agriculture sector needs to be further and carefully considered. We have argued previously that settlement is much more successful when refugees are regarded not merely as a temporary supply of labour, but rather as active citizens and community members. Currently, there seems to be a narrow focus only on providing refugees with low-paid and low-skilled employment. This is not only wasting considerable potential, it negatively affects the fabric of the society and refugees' self-worth.

1.31 The lack of proper infrastructure and services also pose an obstacle to successful integration. Accessibility of healthcare, especially specialised health services, is a central issue with regards to rural and remote settlement. There are also consistent reports of limited educational opportunities in some regional and rural regions. Lack of a proper public transport system reduces people's mobility and is a reason why isolation is felt more intensely for some.

## **Family reunion ban**

1.32 The current visa conditions on the SHEV and TPV explicitly prohibit family reunion. Refugees on these temporary visas have been separated from their family members for over seven years, and are unlikely be reunited for at least four more years under current policies (e.g. if a SHEV holder fulfils the visa pathway and secures a permanent skilled visa). As people on TPVs and SHEVs have been found to be in need of refugee protection, it is likely that their immediate families require urgent protection as well. Positive settlement – including full economic participation and optimal health and well-being – is only possible when people are assured of the safety of their family members. Studies show that people cannot settle and start a new life while separated from their family.

1.33 Refugees that have been separated from, and are not supported in reuniting with, their families, are often impacted psychologically, socially, and financially, while the wider Australian community also suffers from increased financial and social cohesion costs.<sup>6</sup> There are, therefore, significant economic benefits that come with family reunion. People who are reunited with their family can focus on settling into their new community: finding a job, buying a house and contributing to the Australian community. Conversely, people who are still separated from their family cannot put down roots until they know their family members are safe as well. Remittances that currently flow from Australia would be re-directed into the Australian economy, and there is clear evidence that health outcomes would improve once families are safely together.

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<sup>6</sup> Refugee Council of Australia (2016). *Addressing The Pain of Separation for Refugee Families*.

1.34 Familial or ethnic connections to a community are critical for settlement's success. Performing an important role in facilitating integration through providing practical support and relieving experiences of trauma, the family unit is something that should be maintained. The nature of regional Australia, and the reality that the vast majority of migrant intake is allocated to metropolitan areas, means that these connections are often not present to help settlement.

1.35 It has been six years since the re-introduction of the temporary protection visa regime. There is abundant evidence about the challenges these visas create. Many organisations have put forward practical recommendations that can address some of those challenges, even if the current temporary visa regime remains. If there remains no capacity for engagement and willingness to change some of the policies and practices, the significant potential of people on SHEVs and TPVs will be lost.

## **2 Policy responses to challenges posed by temporary migration**

2.1 In the absence of a response from Federal Government, it has been the local communities, volunteer groups and local councils that have mobilised to address the growing challenges people on TPVs and SHEVs are faced with. Groups like Rural Australians for Refugees have been working on the ground to support people on a SHEV who move to regional areas despite their ineligibility for some of the mainstream services. They have worked to link people to employment, health services and to ensure they can get the appropriate advice before they move.

2.2 On many occasions, community groups have come together to organise "look-see visits" so people can properly assess a region they intend to relocate to and make informed decisions. In some regions, like Leeton in NSW, it has been the local councils that played a significant part in supporting people on a SHEV or people seeking asylum who live in their local area.

2.3 State peak and community organisations, as well as representatives from community legal centres and community health services, have formed working groups to discuss the issues related to TPVs and SHEVs. These groups meet frequently with people on TPVs and SHEVs to ensure they receive proper information and are linked to appropriate support services. The NSW TPV/SHEV Working Group is one of those groups which has been able to form a good working relationship with agencies at state level and with the NSW state government.

2.4 Unfortunately, the main issue is that all these efforts at the community level cannot ultimately effect change if there is no leadership and coordination at the Federal level. If policies relating to temporary protection remain as they are, communities can only react to issues as they arise, as they are unable to address the root causes of the issues. When, for example, people remain ineligible for important services, no amount of community goodwill can replace a funded casework service that has the resources to support people holistically. Volunteer groups should only ever complement those services; they cannot replace them and should not be expected to do so.

### **Recommendation 4**

*The Refugee Council of Australia recommends that Temporary Protection Visas (both TPVs and SHEVs) be abolished and that people on these visas be granted permanency immediately. In the absence of this recommendation being implemented, we recommend the following alternatives.*

### **Recommendation 5**

*The Refugee Council of Australia recommends that permanent visas are available to all refugees on a SHEV or TPV who meet the SHEV pathway. This can be achieved by modifying the criteria of existing permanent skilled visas.*

### **Recommendation 6**

*The Refugee Council of Australia recommends that the SHEV pathway be modified to reduce the amount of time that refugees need to work or study down to one year (12 months cumulative), to recognise the impact of COVID-19 on the Australian economy in the coming months and years.*

### **Recommendation 7**

*The Refugee Council of Australia recommends modifying the SHEV pathway to allow refugees to meet the pathway requirement by working in a designated and/or critical sector or industry impacted by COVID-19, regardless of the location of employment. Critical sectors and industries affected by and likely to experience labour shortfalls due to COVID-19 and international border closures, should be deemed ‘designated SHEV industries’ for the revised SHEV pathway. This will enable refugees not only to meet the SHEV pathway by working in regional areas, but also by working in designated industries which have chronic labour shortages or are critical sectors. SHEV industries should be designated in consultation with industry bodies.*

### **Recommendation 8**

*The Refugee Council of Australia recommends that the Government ensure that family members overseas can be included in subsequent visa applications of SHEV or TPV holders who meet the current SHEV pathway.*

### **Recommendation 9**

*The Refugee Council of Australia recommends that all refugees on temporary protection visas, including SHEVs, should have access to settlement support services, similar to other refugees and humanitarian entrants. As a minimum measure, people on Safe Haven Enterprise Visas who move to regional areas should have access to a full suite of settlement support services, including casework support. By doing that, service providers will be better informed of the number of people holding SHEVs in their area and will be better prepared to properly assist them.*

## **3 Permanent migration impacts**

3.1 As highlighted in Table 1, there are fundamental differences between what is offered by a permanent protection or Refugee and Humanitarian Program visa as opposed to those temporary protection visas i.e. TPVs and SHEVs. This section focuses on the benefits of permanent protection as experienced by refugees who have Permanent Protection visas and those who have arrived the Australia’s annual Refugee and Humanitarian Program which include visa subclasses 866, 200, 201, 202, 203 and 204.

3.2 The current temporary protection regime means that recognised refugees do not receive the legal certainty of permanency nor do they receive the same supports as people from similar backgrounds who arrived via the Refugee and Humanitarian Program or received their Permanent Protection visas after applying onshore. The lack of a permanent visa has placed refugees in an ongoing state of ongoing legal limbo and has kept children and families separated indefinitely. The temporary protection regime has inflicted significant human suffering, as noted in the Senate Legal and Constitutional Affairs Committee’s 2006 Inquiry into the Administration and Operation of the Migration Act 1958 (Cth).<sup>7</sup> This harmful type of protection is riddled with ongoing uncertainty, limiting refugees’ ability to re-build their lives, develop their economic potential and fully contribute to communities they are living in.

### **Enabling settlement and social cohesion**

3.3 There is widespread public support for immigration in the interest of social cohesion. The eleventh Scanlon Foundation Mapping Social Cohesion national survey provides insight into the ability of Australia to maintain a socially cohesive society.<sup>8</sup> It found that Australians continue to support the notion that Australia is an ‘immigrant nation’. The survey revealed that only a small minority (14%) rejected the statement that ‘immigrants improve Australian society by bringing new

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<sup>7</sup> [Inquiry into the Administration and Operation of the Migration Act 1958 \(Cth\)](#)

<sup>8</sup> <https://scanlonfoundation.org.au/wp-content/uploads/2018/12/Social-Cohesion-2018-report-26-Nov.pdf>

ideas and cultures'. Over 80% of respondents in 2018 agreed that immigration is good for both the economy and bringing new ideas and cultures into Australia.

3.4 Settlement can be viewed as a personal transition for migrants as they develop a sense of belonging in their new community. A study commissioned by the former Department of Immigration and Citizenship (DIAC), "Settlement Outcomes of New Arrivals," identified the level of comfort felt by a migrant following their arrival in Australia as the most crucial component of their settlement outcomes.<sup>9</sup> Many refugees on SHEVs have told us that being required to move to regional areas as part of the SHEV pathway to study or work has meant that they have had to cut ties with their ethnic communities and community groups in metropolitan areas. These were the people with whom they felt most comfortable with, as they connect with them spiritually, ethnically and socially. Refugees on SHEVs told us that this compounded their marginalisation and isolation both socially and economically.

3.5 Data from the Australian Government's longitudinal study Building a New Life in Australia (BLNA), which tracks the settlement of Humanitarian arrivals, has highlighted that interactions between refugees and the broader Australian community becomes easier over time. However, refugees on TPVs/SHEVs report to us that their interaction with the wider community is hindered by their insecure and temporary visas. One man in his thirties living on a SHEV, having arrived in Australia by boat in December 2012, described his experience interacting with the Australian community as:

*I do not feel welcome in Australia, because I constantly worry that I may be returned back to my country of origin. For the past 8 years I feel confined to my 4 meters room as I do not feel certain about being allowed to remain in Australia. I cannot even begin to interact with the wider Australian community as much as I want to. Most of the times I feel isolated as I cannot connect to any community and even the settled refugee communities as I cannot relate to their connection and comfort of rebuilding their lives afresh.*

3.6 According to the former Department of Immigration and Citizenship's own findings, "time lived in Australia affects a number of aspects of settlement, such as better language skills and increased education and employment."<sup>10</sup> However, the length of time that refugees on TPVs/SHEVs have lived in Australia has compromised key aspects of settlement, such as education and meaningful employment. This delay in building a new life has impacted their engagement with the wider community. Conversely, humanitarian arrivals over the same time have been able to become more settled in Australia and tend to participate more in their communities. Refugees on TPVs/SHEVs feel more and more isolated, leading to further marginalisation and isolation from the rest of the community and to a feeling of being "outcasts".

3.7 Australia's settlement support is ranked as one of the best in the world. Recent analysis commissioned by the Australian Government found that investing in refugees translates into investing in Australia.<sup>11</sup> However, refugees on TPVs and SHEVs are barred from accessing vital settlement services that refugees arriving through the Refugee and Humanitarian Program receive.<sup>12</sup> Excluding people from support services based on their mode of arrival contradicts settlement best practice that the Australian Government promotes globally.

### **Permanency leads to trauma recovery**

3.8 Studies by mental health experts have found that refugees on temporary protection visas (such as TPVs and SHEVs) experience higher levels of anxiety, depression and post-traumatic stress disorder when compared to refugees with permanent visas, despite similar backgrounds and

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<sup>9</sup> Australian Survey Research Group Pty Ltd, 2011, Settlement Outcomes of New Arrivals (Study for Department of Immigration and Citizenship, April 2011), p.1.

<sup>10</sup> Department of Immigration and Citizenship (DIAC), 2011, "Settlement outcomes of new arrivals", 2011 [https://www.dss.gov.au/sites/default/files/documents/01\\_2014/settlement-outcomes-new-arrival\\_access.pdf](https://www.dss.gov.au/sites/default/files/documents/01_2014/settlement-outcomes-new-arrival_access.pdf)

<sup>11</sup> Commonwealth of Australia, Department of the Prime Minister and Cabinet, 2019. "Investing in Refugees, Investing in Australia: the findings of a Review into Integration, Employment and Settlement Outcomes for Refugees and Humanitarian Entrants in Australia". <https://www.homeaffairs.gov.au/reports-and-pubs/files/review-integration-employment-settlement-outcomes-refugees-humanitarian-entrants.pdf>

<sup>12</sup> PPVs (including subclasses 866, 200, 201, 202, 203 and 204): <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing>

experiences.<sup>13</sup> Data from the Australian Government's longitudinal study Building a New Life in Australia (BLNA) demonstrates that 89% of refugees who arrive through Australia's Humanitarian Program have experienced traumatic events prior to migrating.<sup>14</sup> Some of these pre-migration experiences include forced separation from loved ones, land and community, religious persecution, extreme deprivation in living conditions, violence, imprisonment and kidnapping, torture, human rights violations, and experience living through natural disasters and wars.<sup>15</sup>

3.9 Refugees on temporary visas have experienced the same traumas that refugees who have arrived through the Refugee and Humanitarian Program, but the lack of permanency of their protection status is a huge impediment to their trauma recovery. This is especially true in the past six years since the re-introduction of the temporary protection regime. Refugees on temporary protection visas have not had the opportunity to heal from their pre-migration traumas, and they have and are experiencing a multiplication of psychological stressors arising from protracted uncertainty due to their legal status. They report to have never felt safe and also carry unresolved traumas they have had from the time they fled.

3.10 Although trauma recovery is multi-faceted, there are certain prerequisites to creating a conducive environment to healing and recovery. Research proposes that there are three states of trauma recovery: 1.) establishing safety and security; 2.) acknowledging and consolidating traumatic memories, and 3.) moving from isolation to social connection.<sup>16</sup> Establishing safety in the post-migration phase for refugees and people seeking asylum can mean safety from the past by finding safety in the present.

3.11 Refugees on temporary protection visas tell us that they fear being returned back to harm, as the Australian Government requires them to demonstrate over and over again their need for protection at the expiry of their three-year (TPV) or five-year (SHEV) visas. This indefinite cycle of having to prove their protection needs and the related fear that they will be sent back to danger they have fled, not only impedes recovery but also contributes to further trauma. From an everyday lived-experience stand point, refugees on temporary protection visas do not even qualify for the first stage of trauma recovery that will lead to closure and consolidation of their past trauma. They are left in perpetual uncertainty.

3.12 Given the importance of feeling safe and secure in the present, permanent visas are a significant determinant for trauma recovery. According to a recent study in Australia<sup>17</sup> of 1,085 refugees on both secure and insecure visas, those people on insecure visas reported significantly greater PTSD, depression symptoms, and thoughts of 'being better off dead'.<sup>18</sup> They were also 2.5 times more likely to report having a suicide plan than refugees with secure visas. For over 31,000 people who are part of the Legacy Caseload, their persistent state of limbo has directly contributed to these poor outcomes.<sup>19</sup>

3.13 Refugee trauma is exacerbated when future visa security is not established: insecure, temporary visas prohibit recognised refugees from taking the vital first steps in their recovery from their experiences of persecution and forced movement. This trauma is exacerbated by nearly eight years of ongoing anxiety about their legal status, job insecurity, expiration of protection visas they have been granted that are limited to three or five years, and separation from family members who themselves are in urgent need of protection. Permanent visas for people that Australia itself has recognised as requiring refugee protection have an important role to play in reversing these acute and long-term mental health implications for refugees currently on temporary protection visas. In the words of people surviving on a temporary protection visas:

*We need closure of our traumas, not compounding of our traumas through temporary protections such as SHEVs and TPVs when we are recognized as refugees. No number of*

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<sup>13</sup> <https://www.mja.com.au/journal/2006/185/7/comparison-mental-health-refugees-temporary-versus-permanent-protection-visas>

<sup>14</sup> <https://aifs.gov.au/publications/settlement-experiences-recently-arrived-humanitarian-migrants>

<sup>15</sup> <https://www.psychology.org.au/getmedia/66518b6a-b200-4c73-98cc-d990109ebb0d/03-ACP-Vol-30-1-2019-Puvimanasinghe-et-al.pdf>

<sup>16</sup> <https://www.psychology.org.au/getmedia/66518b6a-b200-4c73-98cc-d990109ebb0d/03-ACP-Vol-30-1-2019-Puvimanasinghe-et-al.pdf>, p. 11, accessed on 20 July 2020

<sup>17</sup> <https://www.tandfonline.com/doi/full/10.1080/20008198.2019.1688129>

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

*psychological support or interventions can help us than permanent legal protection. This will give us long term certainty, safety from harm, and sanctuary to thrive.*

### **Long-term entrepreneurial benefits for Australia's economy**

3.14 Meaningful employment is widely recognised as the most vital step for successful settlement in a new country. The grant of permanent visas to refugees holding temporary protection visas is an important opportunity for strengthening the Australian economy. Refugees are wrongly perceived as being a drain on Australia's social support systems, and there is widespread debate about their levels of unemployment and ability to make positive economic contributions. These negative perceptions are frequently unfounded, and when given the opportunities that come with permanent residency, refugees are able to make significant economic contributions to both the region they are settled in and to Australia as a whole. Permanent visas significantly unlock the huge and long-term economic potential of refugees.

3.15 A great number of refugees have had well-established careers before coming to Australia and then suffer substantial occupational downward mobility and loss of occupational status as a result of their forced migration.<sup>20</sup> The capacity for refugees to leave low-paid and low-skilled jobs decreases the longer they remain in those industries, due to loss of original skills and missed opportunities for networking and career progression.<sup>21</sup> For these reasons, refugees turn to starting their own businesses.

3.16 There is ample research that provides evidence that refugees arriving on humanitarian visas are the most entrepreneurial group of migrants and nearly twice as likely to be entrepreneurs as Australian taxpayers as a whole.<sup>22</sup> The Centre for Policy Development's report *Seven Steps to Success* provides an analysis: humanitarian migrants earned a quarter (25.6%) of their income in 2013-14 via their own businesses.<sup>23</sup> By contrast, only 14.8% of other migrant groups who arrived through family visas and 11.8% of migrants who had arrived on a skilled visa since 2000 earned their income from their own unincorporated businesses.<sup>24</sup> In 2013-14, refugees had a higher median income from their own businesses (\$15,716) than Australian taxpayers in general (\$10,960), and then either skilled migrants (\$11,717) or family migrants (\$13,559).<sup>25</sup> Overall, refugees are more entrepreneurial than the average population and other groups of migrants, not just in Australia but in other developed countries.

3.17 There are many reasons for this entrepreneurial success within refugee populations. Pre-migration experience, such as fleeing violent conflicts, or being pushed to make difficult and life-threatening decisions to find safety either through boat, plane or on foot has given them extra agility in taking business risks. Agility combined with necessity sets them up to be entrepreneurs.

3.18 This agile approach to the Australian employment market is also indicative of their desire to seek agency, with many people from refugee backgrounds having experienced exploitation, de-skilling and the struggle of starting afresh in a new country with a very different economic market. Having suffered immense hardship, refugees are resourceful, and the employment market mechanics do not permit adequate use their skills. Entrepreneurship is a way to control their lives, take charge and compete in a market unfamiliar to them, with a willingness to learn and grow.

3.19 This unique entrepreneurial agility of refugees was highlighted in a 2017 case study from the University of Technology Sydney titled *From Boats to Business*.<sup>26</sup> It showcased the experiences of

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<sup>20</sup> Refugee Council of Australia (2010). *What Works* Available at [https://www.refugeecouncil.org.au/wp-content/uploads/2010/06/What-Works\\_Employment-report\\_2010.pdf](https://www.refugeecouncil.org.au/wp-content/uploads/2010/06/What-Works_Employment-report_2010.pdf).

<sup>21</sup> *Ibid.*

<sup>22</sup> *Seven Steps to Success* (2019). Available at <https://cpd.org.au/wp-content/uploads/2019/04/Seven-Steps-to-SUCCESS.pdf><https://cpd.org.au/wp-content/uploads/2019/04/Seven-Steps-to-SUCCESS.pdf>

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*, p. 16.

<sup>25</sup> *Ibid.*, p. 20.

<sup>26</sup> <https://www.uts.edu.au/sites/default/files/2017-10/From%20Boats%20to%20Businesses%20Full%20Report%20-%20Web.pdf>

Hazara entrepreneurs in Adelaide. Many of the entrepreneurs in the study had previously spent time in immigration detention, and the majority had arrived in Australia by boat prior to 2010.

3.20 Nabi Baqeri, a refugee and a former Nauru detainee who arrived in Australia by boat in 2001 with a risk-taking and entrepreneurial spirit, became an Australian fruit-picking millionaire.<sup>27</sup> During the harvest, his farm employs 40 staff, and it is Baqeri's job to manage them and oversee operations. His resilience comes from his refugee background and the certainty of Australia as his new permanent home.

3.21 Like Nabi, hundreds of refugees who have sought protection and arrived by boat in Australia have since excelled in business and entrepreneurship. The economic and social benefits of refugees' remarkable skills in starting and sustaining businesses has generated a better life not only for their families but also for their communities, their employees, and for the broader Australian society.

3.22 Punitive policies that have hindered thousands of refugees from starting their businesses is a missed opportunity, a cost to both refugees and to the Australian economy. Temporary visas actively hinder refugees from establishing their businesses. Providing a permanent visa will enable refugees to succeed and contribute to Australia. A Rohingya refugee who holds a Temporary Protection Visa said:

*I started my catering business four years ago, one year after I was granted a TPV. My business was doing well in the first three years. I had great hopes of expanding my business across metropolitan Sydney. My temporary protection visa expired a year ago. Since then, waiting for the visa, uncertainty about the second round of refugee status determination, reapplication and fear of being returned took away my ability to continue my business. So about a year ago I stopped investing further in this business as there was no motivation to continue in the midst of a legal limbo. This year around April, I could no longer keep up with the wage of the workers and rent in light of a health crisis. When JobKeeper was announced I found out that I and my staff were not entitled to that subsidy. I closed my business. My temporary protection visa status stole away an opportunity to grow my business, contribute to my community through my business and to the wider Australian economy, especially at times of financial crisis.*

#### **Recommendation 10**

*The Refugee Council of Australia recommends that the Committee note the economic analysis that details the benefits that extending permanency to refugees on temporary visas would have on the Australian economy in the short- and long-term.*

## **4 Impact of wage theft, breaches of workplace rights and conditions, exploitation, and modern slavery on temporary migrants**

4.1 People seeking asylum on bridging visas with work rights and refugees on TPVs/SHEVs are particularly vulnerable to workplace exploitation. As a report by WEStJustice found:

*Employment is widely recognised as the most vital step for successful settlement in a new country. However, recently arrived migrant and refugee workers face many barriers. Finding employment is difficult. For those who do find work, exploitation is widespread. Exploited workers are not aware of their rights, and rarely access help to enforce the law. Temporary migrant workers, women and young people face additional barriers. Exploitation continues unabated and employers gain a competitive advantage by breaking the law, while companies that do the right thing are disadvantaged.*

4.2 Refugees and people seeking asylum on temporary visas are particularly vulnerable to exploitation and many forms of wage theft in the workplace due to the precarious nature of their situation. Their insecure visas disadvantage them in securing sustainable, properly-paid and meaningful jobs. Their lack of knowledge about workplace rights and services and their worries over

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<sup>27</sup> <https://www.smh.com.au/national/x-20151215-glndw.html>

the impact that complaints could have on their protection visas means that this group is at high risk for exploitation.

### **Impact of COVID-19 on unemployment and the risk of exploitation**

4.3 RCOA's research from July 2020 highlights that the 'coronavirus recession' has led to increased unemployment, underemployment and financial stress for many Australians.<sup>28</sup> Because many refugees and people seeking asylum are employed in low-income and insecure jobs, they are particularly vulnerable to the impact of a recession. RCOA estimates that 19,000 refugees and asylum seekers on temporary visas will lose their jobs because of the current economic downturn.

4.4 Unemployment rates among bridging, safe haven enterprise and temporary protection visa holders are projected to rise from approximately 19.3% to 41.8%. For those that remain employed, weekly wages could fall by an average of \$90 per week, with 92% of workers earning less than the minimum wage.

4.5 Refugees and asylum seekers who become unemployed, leave the labour force or live below the poverty line are at high risk of poor health and homelessness. RCOA predicts that increased hospital admissions for mental health conditions, heart attack or stroke, injury and drug overdose, self-harm and other socioeconomic factors could cost State and Territory governments an additional \$23.4 million per year.

4.6 The lack of a basic safety net for people seeking asylum living in the Australian community means that people will be forced to work in exploitative environments in order to earn any income to try and cover basic needs like rent, utilities, and food.

### **Exploitation in the form of wage theft**

4.7 There are reports that employers of refugees often do not follow the award guidelines, with some employers preying on their lack of knowledge about their entitlements. Refugees on TPVs/SHEVs have told us that when they became aware of their underpayment, they were worried about reporting exploitative workplace practices because they feared not being able to find alternative employment.

4.8 Exploitation of refugee workers is reported to be rife both in regional areas and in metropolitan areas. Across a variety of industries, there are examples of workers underpaid or not paid at all. As a young man in his early 20s living on a SHEV said:

*I worked in Hobart, Tasmania and in Sydney intermittently in various low skilled labouring jobs mainly for sub-contractors. I found that at almost every instant, especially at the end of the project/job finishing; the bosses would tell you to expect a full pay but then would delay and eventually send the amount in instalments, often then underpaying the total amount by not paying the last installation. I have always found it difficult for me to potentially jeopardise a person's career and source of income and this stopped me from undertaking any reporting.*

4.9 Wage theft can be complex: many refugees and people seeking asylum have told us that their employer requested an ABN as a pre-requisite to starting work. There is very little knowledge amongst refugees and people seeking asylum on bridging visas about whether their rights are infringed by virtue of working on an ABN. For many, due to the nature of their highly casualised work, they rarely ask questions or raise concerns about their lost entitlements as they move jobs between different independent contractors.

4.10 Many refugees, especially those on temporary visas, work as independent contractors.<sup>29</sup> Despite the fact that an employer cannot ask someone to get an ABN as a condition of employment, a considerable number of refugees on temporary protection visas continue to work on an ABN, even after being employed for over 12 months and are deprived of their entitlements, amounting to wage theft.

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<sup>28</sup> John van Kooy (2020). "COVID-19 and humanitarian migrants on temporary visas: assessing the public costs. Available at <https://www.refugeecouncil.org.au/covid-19-assessing-the-public-costs/>

<sup>29</sup> [https://www.westjustice.org.au/cms\\_uploads/docs/westjustice-employment-is-the-heart-of-successful-settlement-report.pdf](https://www.westjustice.org.au/cms_uploads/docs/westjustice-employment-is-the-heart-of-successful-settlement-report.pdf) p12.

4.11 RCOA's previous research findings and other studies have established that specialist services targeting refugees are the most effective way of addressing unique gaps faced by disadvantaged groups.<sup>30</sup> Targeted education which involves a face to face component has had the most impact on raising awareness and confidence in workers that are marginalised.

### **Modern slavery impacting refugees and people seeking asylum**

4.12 We are concerned that refugees on temporary protection visas and people seeking asylum on bridging visas are at risk of modern forms of slavery. Refugees and people seeking asylum on temporary visas, including those on bridging visas with or without work right, who are struggling to maintain an income and have no safety net, may be exposed to some of the risk factors associated with modern slavery.

4.13 According to the Australian Red Cross guide *Addressing Modern Slavery*,<sup>31</sup> modern slavery has an element of deception, forced labour, and deceptive recruiting for labour or services. Refugees on temporary protection advise that they work long hours and are often paid per diem as opposed to on an hourly basis. They are rarely paid according to the required award rate system. This payment arrangement is very common in many refugees' countries of origin, where rate-bargaining is common practice. Refugees on insecure visas do not challenge this practice in Australia, either through lack of knowledge or because of fear of reprisal.

4.14 The Red Cross' guidelines also recognise the lack of access to representative workers' organisations and collective agreements as a contributing factor to exacerbating modern slavery. Often, refugees and people seeking asylum come from work environments in their countries of origin where workers' rights groups are not as active. Many refugees and people seeking asylum are not familiar with the culture of exposing the exploitation through organised channels such as worker unions and collective agreements. This increases the risk of silence and under-reporting. The fear of repercussions on future immigration decision also plays a major role in people's willingness to engage in formal processes to address exploitation and modern slavery.

4.15 Another risk factor in relation to modern slavery is the complex employment relationships many vulnerable workers find themselves in. For instance, jobs in the construction industry include casual roles such as bricklayer, painter, and tiler. These roles are often offered for a weekly or monthly period, depending on the size of the contract. These types of roles are often secured through sub-contracts managed by another contractor. This confusing web within the contracting environment means that people on temporary visas often do not know who is employing them and leaves them at risk of exploitation.<sup>32</sup> Without being able to trace a direct line of accountability where employers may have failed in their duties, refugees on temporary protection visas and those on bridging visas are increasingly exposed to elements of modern slavery in Australia.

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<sup>30</sup> <https://www.refugeecouncil.org.au/what-works-report/>

<sup>31</sup> Australian Red Cross, *Addressing Modern Slavery*. Available at <https://www.redcross.org.au/getmedia/49f34bf5-d438-4aa4-bd9e-d2412ff8b08a/Addressing-Modern-Slavery-Report-Final.pdf.aspx>. p. 2.

<sup>32</sup> *Ibid*, p. 4.

## **5 Summary of recommendations**

### **Recommendation 1**

*The Refugee Council of Australia recommends that the Australian Government extend the COVID-19 safety net supports to people seeking asylum who have no alternative source of income to ensure that they can pay their rent, cover utilities and avoid homelessness and destitution during the pandemic and economic downturn.*

### **Recommendation 2**

*The Refugee Council of Australia recommends that the Australian Government ensure all people have access to medical care during the pandemic and extend Medicare to people seeking asylum who do not currently have access.*

### **Recommendation 3**

*The Refugee Council of Australia recommends that the Australian Government ensure that people do not lose their visa status. Timely visa renewals or grants, where applicable, should be prioritised to ensure people are able to remain lawful during the pandemic.*

### **Recommendation 4**

*The Refugee Council of Australia recommends that Temporary Protection Visas (both TPVs and SHEVs) be abolished and that people on these visas be granted permanency immediately. In the absence of this recommendation being implemented, we recommend the following alternatives.*

### **Recommendation 5**

*The Refugee Council of Australia recommends that permanent visas are available to all refugees on a SHEV or TPV who meet the SHEV pathway. This can be achieved by modifying the criteria of existing permanent skilled visas.*

### **Recommendation 6**

*The Refugee Council of Australia recommends that the SHEV pathway be modified to reduce the amount of time that refugees need to work or study down to one year (12 months cumulative), to recognise the impact of COVID-19 on the Australian economy in the coming months and years.*

### **Recommendation 7**

*The Refugee Council of Australia recommends modifying the SHEV pathway to allow refugees to meet the pathway requirement by working in a designated and/or critical sector or industry impacted by COVID-19, regardless of the location of employment. Critical sectors and industries affected by and likely to experience labour shortfalls due to COVID-19 and international border closures, should be deemed 'designated SHEV industries' for the revised SHEV pathway. This will enable refugees not only to meet the SHEV pathway by working in regional areas, but also by working in designated industries which have chronic labour shortages or are critical sectors. SHEV industries should be designated in consultation with industry bodies.*

### **Recommendation 8**

*The Refugee Council of Australia recommends that the Government ensure that family members overseas can be included in subsequent visa applications of SHEV or TPV holders who meet the current SHEV pathway.*

**Recommendation 9**

*The Refugee Council of Australia recommends that all refugees on temporary protection visas, including SHEVs, should have access to settlement support services, similar to other refugees and humanitarian entrants. As a minimum measure, people on Safe Haven Enterprise Visas who move to regional areas should have access to a full suite of settlement support services, including casework support. By doing that, service providers will be better informed of the number of people holding SHEVs in their area and will be better prepared to properly assist them.*

**Recommendation 10**

*The Refugee Council of Australia recommends that the Committee note the economic analysis that details the benefits that extending permanency to refugees on temporary visas would have on the Australian economy in the short- and long-term.*