**Omnibus Amendments Passed on Refugee Platform resulting from Labor for Refugees proposals to the National Policy Forum Working Group**

Migration and Refugees

205.Labor believes in dealing with the complex issue of those seeking Australia's protection by giving expression to the values of compassion, fairness and generosity. These are values which are at the heart of the Australian identity.

206. Labor will treat people seeking our protection with dignity and compassion and in accordance with our international obligations, the rule of law and core Australian principles of fairness and humanity. **Labor will legislate to enshrine our international obligations into Australian domestic law.**

207. Labor recognises that, under the Refugee Convention, asylum seekers have the right to seek protection and asylum and that, regardless of the mode of arrival, this is not illegal under Australian or international law. Accordingly, Labor rejects the practice of referring to asylum seekers as 'illegals'.

208. Labor believes that as a country Australia must not harm people.

209. The issue of those seeking protection is both a global and regional one. Accordingly, in order to achieve a long-term resolution to the issue, it must be dealt with through international cooperation and not unilateral action. Within our region, Australia must play a leadership role.

210.A fundamental principle in treating those seeking protection with humanity is to provide as much certainty as possible. An aspiration of certainty in all matters around asylum seekers, including the duration of assessing refugees' claims, must underpin Australian policy.

211.**Labor will work to ensure that those in detention facilities are treated with dignity and respect and have access to an appropriate standard of care and substantive access to health and education services while held in immigration detention centres (IDCs).**

**International Engagement**

212. Labor will seek to lead debate on the new agreements and understandings required to ensure that the Refugee Convention and the international protection system function effectively over the long-term, including encouraging countries in our region to provide protection to those in need.

213. Recognising that irregular movement is a regional issue that requires a co-operative regional approach, Labor will engage with Australia's neighbours to seek innovative and effective solutions to the irregular movement of people through the region. This approach will include multilateral engagement, particularly through the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (the Bali Process), and bilateral arrangements of a type envisaged by the Regional Cooperation Framework agreed at the Bali Process Ministerial Conference in March 2011.

214. The phenomenon of people smuggling has a long history arising from the need for people to escape from danger and persecution. Labor also recognises that those who decide to leave a country in perilous circumstances have the right under the Refugee Convention to determine their means of departure. However, recognising the risk to life of people travelling on unsafe, unseaworthy and overcrowded boats, Labor supports measures to reduce such journeys by working with regional neighbours and the Office of the United Nations High Commissioner for Refugees to eliminate any pull that people smugglers may have over vulnerable protection claimants by:

Addressing people smuggling at its source;

* Pursuing strong regional and international arrangements which provide access to protection in countries of first asylum to deter secondary movements of asylum seekers;
* Developing the capacity, both in countries of first asylum and transit countries, to improve living standards and protection outcomes for asylum seekers who may be vulnerable targets of people smugglers;
* Expediting the claims for refugee status by asylum seekers in the region; and
* Increasing the humanitarian intake of genuine refugees from source and transit countries to create an orderly pathway to resettlement in Australia and provide asylum seekers with an alternative to irregular boat travel to Australia.

215. Noting that Pacific Island nations have a particular vulnerability to the effects of climate change, and that these nations have expressed a clear desire for Pacific peoples to continue to live in their own countries where possible, and acknowledging Australia's unique responsibilities in the Pacific, Labor will:

* Support Pacific Islanders to remain in their homelands as the first response to this challenge;
* Work to assist with intra-country relocations when citizens have to be moved from low-lying areas to higher ground; and
* In the event that in the longer term permanent migration becomes necessary for some Pacific Islanders, work in close consultation with the region to ensure that appropriate settlement is achieved.

216. Labor will continue Australia's contribution to international aid efforts to alleviate the pressing humanitarian needs of displaced persons.

Humanitarian Migration Programme

217. Labor aspires to progressively increase Australia's humanitarian intake to 27,000 places per year.

218. In continuing Australia's generous humanitarian program, Labor will provide appropriate support for the travel and resettlement of refugees and others requiring Australia's protection.

**Australia's Border**

219. For the Australian people to have confidence and trust in the integrity of our migration system, Labor will fund and maintain robust border security measures that support the orderly processing of migration to our country and protect our national interest and our national borders.

220. Labor will ensure that asylum seekers who arrive by irregular means will not be punished for their mode of arrival.

221. Labor is united in its commitment to prevent further loss of life at sea of vulnerable children, women and men. Labor will:

* Meet its obligations to the maritime principle of safety of life at sea which requires a response to assist in the rescue at sea of vessels in distress;
* Consider introducing further penalties for serious people smuggling offences; and
* Ensure repatriation of crew members who are proven to be juveniles.

222.To support Australia's strong border security regime, Labor will maintain:

* An architecture of excised offshore places; and
* The non-statutory processing on Christmas Island of persons who arrive unauthorised at an excised place, except where other arrangements are entered into under bilateral and regional arrangements.

223.**Labor will take advice from the UNHCR in relation to any arrangements with third countries to ensure that resources and commitments provide appropriate settlement support services to refugees, including health and welfare services.**

224.**Labor is committed to ensuring there is a strong, independent voice within government to advocate for the rights, interests and well-being of children seeking asylum within the immigration system, including those in immigration detention. Labor will appoint an officer independent of the Department of Immigration and Border Protection, backed by the administrative resources and statutory powers necessary to pursue the best interests of those children, including the power to bring court proceedings on a child's behalf. This will be done without reducing the Minister's obligations in relation to unaccompanied non-citizen children.**

225.**Labor will not pay people smugglers to engage in any form of people smuggling.**

**Immigration Detention**

226. Under Labor's policies, the presumption will be that unauthorised arrivals who enter for the purpose of seeking asylum will, after appropriate checks, be detained only if the need is established.

227. Labor believes that community-based processing is the most reasonable, humane and cost effective approach for supporting asylum seekers while their claim for protection is assessed.

228. Labor's humane and risk-based immigration detention policies and practices will be guided by key immigration detention principles, namely:

**Two groups will be subject to mandatory detention.**

* **All unauthorised arrivals, for management of health, identity and security risks to the community. Labor will strive to ensure this is for no longer than 90 days; and**
* **Unlawful non-citizens who present proven unacceptable risks to the community;**
* ~~Three groups will be subject to mandatory detention. Labor will strive to ensure that this is for no longer than 90 days.~~
  + ~~All unauthorised arrivals, for management of health, identity and security risks to the community. Labor will strive to ensure this is for 90 days only;~~
  + ~~Unlawful non-citizens who present proven unacceptable risks to the community; and~~
  + ~~Unlawful non-citizens who have been proven to persistently refuse to comply with their visa conditions;~~
* Detention that is indefinite or otherwise arbitrary is not acceptable and the length and conditions of detention, including the appropriateness of both the accommodation and the services provided, will be subject to regular review;
* Detention in an IDC is only to be used as a last resort and for the shortest practicable time;
* People in detention will be treated fairly and reasonably within the law;
* ~~People in detention will be provided an appropriate standard of care including the provision of health and education services;~~ **People in detention will be provided an appropriate standard of care including the provision of health, mental health and education services; and**
* Conditions of detention will ensure the inherent dignity of the human person.

229. **Labor supports the UN Convention on the Rights of the Child. Accordingly Labor's** humane and risk-based immigration detention policies and practices will include a commitment to ensure that after the necessary health, identity and security checks every humanly practical effort will be taken to remove children and their families from immigration detention centres (IDCs) into alternative suitable arrangements.

230.**Labor will not detain, process or resettle lesbian, gay, bisexual, transgender or intersex refugees or asylum seekers in countries which have criminal laws against any of these communities as it makes these places unsafe environments for all of them.**

231. Labor will ensure that all Australian Government involvement in detention facilities it operates or funds is subject to transparent, independent oversight. Provisions for this oversight will be reflected in all contracts with service providers. Labor in government will use its best endeavours to provide for this oversight in any relevant international agreements.

232. Recognising the inequities of the policy of charging immigration detainees a daily maintenance rate while in immigration detention, Labor extinguished such detention debts and will oppose any attempts to reinstate this practice.

233. As soon as the reasons for mandatory detention have ceased every effort must be made to remove asylum seekers from IDCs through community detention or the granting of bridging visas with work rights. Means-tested access to migration assistance, along with access to appropriate social services, will be provided while the merits of an asylum seeker's application are assessed.

234. The provision of services at IDCs will remain with private sector contractors for the term of the current contracts. In evaluating the future form of detention facility service provision the views of all stakeholders, including the relevant trade unions must be taken into account.

235.**Labor will legislate to impose mandatory reporting of child abuse in all offshore and onshore immigration detention facilities.**

**Refugee Assessment**

236. Labor believes protection claims made in Australia should be assessed and reviewed on the individual merits with procedural fairness ensuring that our international human rights obligations are met. Accordingly:

* The assessment and review of protection claims will be underpinned by robust, efficient and transparent processes that ensure fair and consistent outcomes, including access to review and independent advice;
* The assessment and review of protection claims must be independent and free from any political or diplomatic interference;
* The processing of protection claims must be streamlined to enhance the quality of decision-making, to provide more efficient pathways for prompt resolution of visa status and to alleviate the courts' immigration case-load burden; and
* The Stone Review process will be maintained as an important mechanism for ensuring the fairness of Australia's security assessment system.

237. Labor will require the National Security Legislation Monitor to advise on establishing other mechanisms for:

* Independent review of the adverse security assessments that ensures procedural fairness while recognising that processes may be required to protect intelligence sources and methodology; and
* The management of those whose adverse assessment is upheld.

238. Labor will explore options other than indefinite detention, including third country resettlement, to deal with refugees with adverse security assessments in a way that does not jeopardise Australia's national security interests.

239. Reporting on the '90 day rule', which requires that refugee status determinations are concluded within 90 days from the time of application, has been an important accountability measure in ensuring that the Government operates in a timely way in assessing protection applications.

240. Labor in Government will reintroduce the 90 day rule into the Migration Act.

241. The existing fast track assessment process under the auspices of the Immigration Assessment Authority and the limitation of appeal rights does not provide a fair, thorough and robust assessment process for persons seeking asylum.

242. Labor in Government will abolish this fast track assessment process.

243. Labor believes the Refugee Convention plays a critical role in Australian law. Referring to the Refugee Convention in the Migration Act 1958 is good legislative practice.

244. Labor in Government will reintroduce the appropriate references to the Refugee Convention into the Migration Act.

245. Protection visa applications made in Australia ~~should~~ **will** be assessed by Australians on Australian territory.

246. Under legislation passed by Labor, complementary protection claims should be considered by way of the protection visa framework.

247.**Labor will work to ensure that asylum seekers have access to appropriate, independent, government-funded legal advice while working through their claims for protection.**

248.**In assessing asylum claims where the fear of persecution arises from a person's LGBTI status, the fact that the country the person is fleeing has criminal penalties for engaging in consensual homosexual sex is sufficient of itself to establish that fear of persecution is well-founded, and any assessment of the asylum seeker's identity and fear must take account of the very different manifestations of LGBTI identity that other cultures, especially ones profoundly hostile to LGBTI people, necessarily engender.**

249.**Labor will ensure that asylum seekers who self-identify as LGBTI will be assessed by officers who have expertise and empathy with anti-discrimination principles and human rights law.**

**Australia's Protection**

250. Those found to be owed Australia's protection under the Refugee Convention, Complimentary Protection or and other international instruments will be given permanent protection under the Migration Act.

251. Those not found to be owed Australia's protection under the Refugee Convention, Complimentary Protection or and other international instruments will be promptly returned only after any relevant legal avenues have been exhausted.

252.**Labor supports the existing definition of 'serious harm' and 'persecution' including the current risk threshold of the 'real chance test'.**