



31 March 2026

Submission to the Department of Home Affairs in response to the *Discussion Paper: Australia's Humanitarian Program 2026-27*

The Andrew & Renata Kaldor Centre for International Refugee Law at UNSW Sydney (Kaldor Centre) is pleased to provide a submission concerning the Department of Home Affairs' *Discussion Paper on Australia's Humanitarian Program 2026-27* (the Discussion Paper).

The Kaldor Centre is the world's leading research centre dedicated to the study of international refugee law. Founded in October 2013, the Kaldor Centre undertakes rigorous research on the most pressing displacement issues in Australia, the Asia-Pacific region and around the world, and contributes to public policy by promoting legal, sustainable, and humane solutions to forced migration.

This submission addresses the following questions outlined in the Discussion Paper: 1) *the composition of Australia's 2026-27 Humanitarian Program*; 2) *existing priorities within the Special Humanitarian Program and changes to sponsors*; and 3) *other reforms to program eligibility or prioritization*.

We recommend that:

- the 2026-27 Humanitarian Program prioritise those with the greatest protection needs;
- the onshore and offshore streams of the Humanitarian Program be unlinked, to unlock more resettlement places for 2026-27;
- the Australian government lift the ban on the resettlement of refugees from Indonesia;
- complementary pathways be additional to the offshore Humanitarian Program;
- sponsorship limitations on the 'legacy caseload', which prevent people from sponsoring family under the Special Humanitarian Program, be lifted, especially where the limitations serve to separate children from their families;
- a labour mobility pathway for skilled refugees be made permanent within Australia's skilled migration program, to help meet Australia's commitments to support the expansion of complementary pathways;
- a new emergency visa be created to facilitate people's entry into Australia at times of humanitarian crisis, and to ensure that they receive adequate protection while here.

Our recommendations are set out in full below. Please do not hesitate to contact us if we can be of further assistance.

Yours sincerely,

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1. The composition of Australia's 2026-27 Humanitarian Program

a. We recommend that the 2026-27 Humanitarian Program prioritise those with the greatest protection needs.

For more than forty years Australia's Humanitarian Program has maintained dedicated resettlement places for refugees considered to be most in need of protection. Many of these individuals have been referred by the United Nations High Commissioner for Refugees (UNHCR). This commitment to the protection of people in particularly vulnerable circumstances has been an important expression of international solidarity, amid record global levels of displacement. More recently, however, the number of these places, particularly those referred by UNHCR, has declined in proportion to the rest of the Humanitarian Program.¹

We recommend that the 2026-27 Humanitarian Program prioritise those with the greatest protection needs, identified through engagement with trusted intermediaries such as UNHCR and community-led referrals. This will help to ensure that Australia's resettlement program meets the needs of those who will most benefit from this pathway, within the context of other durable solutions. We welcome new initiatives such as the Bridge to Safety Program, and note that for sustainability purposes these programs should be supported through assisted passage services.²

b. We recommend that the onshore and offshore streams of the Humanitarian Program be unlinked to unlock more resettlement places for 2026-27.

Since the mid-1990s, the Australian government has maintained a policy of offsetting the number of onshore protection visas against the number of resettlement places in the offshore humanitarian program. This means that the more people granted protection within Australia, the fewer the number of resettlement places. This approach is 'highly unusual'.³ It reduces the number of resettlement places available, and in recent years has contributed to significant backlogs in the processing of onshore protection visas.⁴ In 2024-25, the number of places in the onshore stream was just over 4000.⁵ If, as the Discussion Paper indicates,⁶ the 2026-27 Humanitarian Program will be maintained at 20,000 places, then unlinking the onshore and offshore components would unlock a valuable number of additional places for resettlement.

c. We recommend that the Australian government lift the ban on the resettlement of refugees from Indonesia.

Since mid-2014, refugees registered with UNHCR in Indonesia have been ineligible for resettlement in Australia. This ban has meant that several thousand refugees, including children, are living in precarious situations, without work rights and with real difficulty accessing healthcare or education. People trapped without a reasonable prospect of resettlement or other durable solution may be more likely to risk dangerous cross-border or sea journeys. As set out in the Kaldor Centre's *Principles for Australian Refugee Policy*,

¹ Refugee Council of Australia, [2026-27 Pre-Budget Submission](#) (February 2026) 2.

² Ibid.

³ Jane McAdam and Fiona Chong, *Refugee Rights and Policy Wrongs: a frank, up-to-date guide by experts* (NewSouth, 2019) 47.

⁴ Refugee Council of Australia, [Breaking the Link: how separating onshore protection visas from offshore humanitarian resettlement will help address Australia's messy visa system](#) (June 2023) 2; Refugee Council of Australia, [2026-27 Pre-Budget Submission](#) (n 1) 3.

⁵ Department of Home Affairs, [Onshore Humanitarian Program 2024-25](#) (2025) 1.

⁶ Department of Home Affairs, [Discussion Paper Australia's Humanitarian Program 2026-27](#) (2026) 1.

'restrictions on resettlement based on someone's date, mode or place of arrival should be removed, including for refugees registered with UNHCR in Indonesia'.⁷

2. Existing priorities within the Special Humanitarian Program and changes to sponsors

a. We recommend that complementary pathways be additional to the offshore Humanitarian Program.

The expansion of complementary pathways 'on a more systematic, organized, sustainable and gender-responsive basis' is a key objective of the Global Compact on Refugees, a landmark agreement to which Australia committed in 2018.⁸ At the Global Refugee Forum in 2023, the Australian government pledged to gradually expand complementary pathways to 10,000 places per year.⁹ Yet current policy settings fall short of this ambition. Currently, Australia offers a range of education, skilled, family reunion and community sponsorship pathways. Some of these are permanent pathways, while others are in a pilot stage. However, with the exception of the Skilled Refugee Labour Agreement Pilot (SRLAP), most fall within the Humanitarian Program and are therefore not truly *complementary* to Australia's refugee and Special Humanitarian intakes. In Australia and internationally, leading non-government organisations have emphasised that the additionality of complementary pathways 'is key to crafting more comprehensive, diverse, and sustainable solutions for displaced populations'.¹⁰ We therefore recommend that complementary pathways be additional to places within the Humanitarian Program.

b. We recommend that sponsorship limitations on the 'legacy caseload', which prevent them from sponsoring family under the Special Humanitarian Program (SHP), be lifted, especially where the limitations serve to separate children from their families.

We note that the Discussion Paper intends to maintain the sponsorship limitations on the 'legacy caseload' of refugees who arrived in Australia by boat on or after 13 August 2012, preventing them from sponsoring family via the SHP. These sponsorship limitations should be lifted to allow refugees in this cohort to sponsor family members on an equal basis as other refugees and permanent visa holders, especially where the limitations serve to separate children from their families.

As they stand, these limitations arguably constitute a penalty, imposed on a particular cohort of refugees because they entered Australia by boat without prior authorisation. Such penalties are prohibited by Article 31 of the 1951 Convention relating to the Status of Refugees. Article 31 is 'central to the object and purpose of the [Refugee Convention] ... because it ensures that refugees can gain access to international protection effectively, without being penalized for breaches of immigration and other laws'.¹¹ Article 31 'warrants a broad interpretation reflective of its aim to proscribe sanctions on account of illegal entry or presence'.¹² Thus,

⁷ Kaldor Centre, *Principles for Australian Refugee Policy* (rev. March 2022) 19.

⁸ UN General Assembly, [2018 Global Compact on Refugees](#) (2018) 37 [94].

⁹ Refugee Council of Australia, [A Complementary Pathways Program for Australia](#) (May 2025) 1.

¹⁰ Joint NGO Statement, [Consultations on Resettlement and Complementary Pathways \(CRCP\) 2025: 'Thirty years of securing solutions together'](#) (June 2025) 3; [Complementary Pathways for Refugees: Policy Principles](#) (March 2023) 2.

¹¹ UNHCR, 'Non-Penalization of Refugees on account of their Irregular Entry or Presence and Restrictions on their Movements in accordance with Article 31 of the 1951 Convention relating to the Status of Refugees', Guidelines on International Protection No. 14, UN Doc [HCR/GIP/24/14](#) (23 September 2024) para 3.

¹² Guy S. Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (4th edn, OUP 2021) 276-277.

prohibited penalties extend to the denial of rights after recognition of refugee status for those who arrived by irregular means, including the right to family reunion.

The denial of family reunion rights to this cohort of refugees also violates other obligations that bind Australia as a matter of international law. Notably, international human rights law recognises the family as ‘the natural and fundamental group unit of society’ that is entitled to protection by society and the State.¹³ Australia is bound to ensure that families are not subject to arbitrary or unlawful interference.¹⁴ Australia has also committed to respecting the rights of children, including asylum seeking and refugee children. Under the Convention on the Rights of the Child (CRC), Australia is required to take appropriate measures to ensure that asylum seeking and refugee children ‘shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance’ in the enjoyment of their rights.¹⁵ Indeed, the CRC makes specific provision for refugee children who may be separated from their families, including by requiring States to process applications by children or their parents to enter the country for the purpose of family reunification in a ‘positive, humane and expeditious manner’.¹⁶ States are also required to cooperate with international organisations to assist separated refugee children trace and reunite with their family members.¹⁷

In restoring family reunion rights to all refugees on an equal basis, we urge the Department to prioritise the restoration of protective family environments for unaccompanied refugee children. This means giving priority attention to any cases involving unaccompanied and separated refugee children in Australia without their families, or adult refugees in Australia with children who are presently unaccompanied or otherwise in a precarious position in their country of origin or another country of asylum.

3. Other reforms to program eligibility or prioritization

- a. We recommend that a labour mobility pathway for skilled refugees be made permanent within Australia’s skilled migration program, to help meet Australia’s commitments to support the expansion of complementary pathways.**

Many of the world’s refugees are highly educated and highly skilled.¹⁸ As a type of complementary pathway, labour mobility offers a means to connect these individuals with employers in destination countries such as Australia. Through administrative concessions that ease the barriers that may otherwise prevent displaced people from accessing skilled migration opportunities, labour mobility pathways can help refugees to enter and obtain work in another country, based on their skillset and with a view to settling permanently, while enabling employers to fill critical job vacancies.¹⁹

Since 2018, the Australian government has piloted a labour mobility pathway in partnership with Talent Beyond Boundaries. The current scheme, the Skilled Refugee Labour Agreement Pilot (SRLAP), was launched in 2021 and will run to 30 June 2026. As we have recommended

¹³ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 23(1).

¹⁴ *Ibid*, art 17(1).

¹⁵ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 22(1).

¹⁶ *Ibid*, art 10(1).

¹⁷ *Ibid*, art 22(2).

¹⁸ Kaldor Centre, [Submission to the Joint Standing Committee on Migration’s Inquiry into the Value of Skilled Migration to Australia](#) (27 December 2025) 2.

¹⁹ Sally Baker, Stephanie Cousins, Claire Higgins and Massimiliano Tani, ‘Refugees are a valuable but overlooked economic resource, and it is time to update our approach to migration’ (2022) 55(2) [The Australian Economic Review](#), 273-280.

in the Kaldor Centre's recent submission to the Joint Standing Committee on Migration, a refugee labour pathway should be made permanent within Australia's skilled migration program.²⁰

Our recommendation is based on extensive fieldwork across Australia, which we have conducted as part of a four-year Australian Research Council project examining SRLAP outcomes.²¹ This project is led by the Kaldor Centre, in partnership with Talent Beyond Boundaries and the Regional Australia Institute. The project investigates the socio-economic and migration policy settings that inform the ability of small to medium-sized employers in rural and regional areas to fill critical vacancies with highly qualified refugees. We have found that the SRLAP is an effective means of addressing skills shortages in regional Australia and of providing a safe and dignified way for refugees to build new lives in Australia.²²

The SRLAP operates within the Skilled Migration Program, rather than the Humanitarian Program. This additionality is key, because as UNHCR has noted, complementary pathways are designed to *expand* third country solutions, and in doing so to help ease pressure on countries that are hosting large numbers of refugees and enable displaced people to 'contribute to their own future solutions'.²³ To this end, we join the refugee sector in emphasising that Australia's labour mobility pathway should be 'demand driven' rather than subject to a numerical cap.²⁴

b. We recommend that a new emergency visa be created to facilitate people's entry into Australia at times of humanitarian crisis, and to ensure that they receive adequate protection while here.

The existing Humanitarian Program is insufficient to respond to sudden or large-scale humanitarian crises, as the Discussion Paper itself acknowledges.²⁵

The Kaldor Centre's 2024 policy brief on [Ensuring Protection in Humanitarian Emergencies: A Framework for Australia](#) explains the shortcomings of the current policy settings and the need for a more consistent, coherent and equitable response.

As its Executive Summary explains:

In a crisis, moving away from danger is a natural and rational human response. Whereas some people will have the financial resources, immigration documentation and networks to facilitate their rapid departure, others may be unable to move or find themselves 'trapped' by their circumstances. They may have acute protection needs that cannot be addressed unless they can reach a place of safety.

Four recent conflicts in Afghanistan (2021–), Ukraine (2022–), Sudan (2023–) and Gaza (2023–) have seen large numbers of people unable to leave dangerous situations. In each case, Australia's humanitarian response has been different. For some groups, acquiring a visa to escape and travel to Australia has been relatively easy; for others, it has been impossible. Varying visa entitlements also mean that, even among those who do manage to escape, some people have work rights, health

²⁰ Kaldor Centre, [Submission](#) (n 18) 1.

²¹ Australian Research Council grant LP220100286, '[Regional Australia skill shortages and high-skill refugees' employment](#)'.

²² Kaldor Centre, [Submission](#) (n 18) 1.

²³ United Nations High Commissioner for Refugees, *Complementary Pathways for Admission of Refugees to Third Countries: Key Considerations*, UNHCR Division of International Protection (April 2019) 7.

²⁴ Refugee Council of Australia, [2026-27 Pre-Budget Submission](#) (n 1).

²⁵ Department of Home Affairs, [Discussion Paper](#) (n 6) 5.

entitlements and access to a wide range of services, while others are barely surviving. Concerns have been expressed by the refugee sector, affected communities, experts and Parliamentary inquiries about these divergent and, at times, inadequate approaches. As the Refugee Council of Australia has observed, ‘the measures have been uneven, unpredictable and in some cases, created significant gaps in critical support including access to health, education and employment’.

This Policy Brief proposes a framework for humanitarian emergencies which could be activated in whole or in part, depending on the circumstances. The framework would be additional and complementary to Australia’s existing Refugee and Humanitarian Program, and it would provide an equitable and robust foundation to enable agile responses that could be quickly tailored to specific conditions. It envisages both physical and legal mechanisms to facilitate people’s safe and swift departure; clear lines of authority; processes for consultation across different levels of government and with relevant stakeholders; identified reception facilities for evacuees (if physical evacuation is necessary); and a visa with appropriate supports and pathways to durable solutions, including for affected individuals who are already in Australia when a humanitarian emergency is declared.

To be effective, the framework would require multi-sectoral engagement, planning and coordination, particularly in terms of facilitating arrivals and ensuring that people in Australia are properly supported. Its implementation must be human-centred and supported by trauma-informed approaches that recognise and promote people’s dignity, agency and human rights, with special attention given to those with particular needs or in vulnerable circumstances.²⁶

Recommendation 4 of the Policy Brief is that a new emergency visa should be created to facilitate people’s entry into Australia and to ensure that they receive adequate protection while here. This would lead to greater predictability and equity and avoid the ad-hocism of current approaches. It would also assist the government which would have a template at its fingertips, rather than scrambling to find solutions each time an emergency breaks out.

Recommendation 4 proposes that the new visa should:

automatically permit an initial stay of at least 12 months (to provide immediate relief and time to assess conditions in the country of origin), with a pathway to permanent stay if it is not safe, possible or otherwise desirable for individuals to return home. Visas should provide immediate access to services, including Medicare and Centrelink, as well as work and study rights. As a procedural mechanism, a special humanitarian intake should be created for humanitarian emergencies to enable additional visas to be granted above the committed annual number in the Refugee and Humanitarian Program. Anyone who is in Australia at the time when their country of origin is affected by a humanitarian emergency, and whose visa is due to expire, should automatically be granted a visa extension or a bridging visa with the same conditions. This would streamline processing and prevent visas from lapsing.

To date, Australia has used at least 25 different types of visas to respond to humanitarian emergencies. This has resulted in diverse outcomes for those affected, as well as significant distress within diaspora communities in Australia concerned for the safety and welfare of family and friends stuck abroad.

²⁶ Jane McAdam and Regina Jefferies, [Ensuring Protection in Humanitarian Emergencies: A Framework for Australia](#) (Kaldor Centre Policy Brief 15, September 2024) 1 (endnotes omitted).

One of the problems with existing visas is that even those designed for emergencies can be too slow to provide urgent protection. They are not well-suited to emergency responses for groups of people beyond a small number of individuals in immediate danger.

Other visas are issued on a wholly discretionary basis: people must be invited to apply for them, and they cannot transition to a more permanent visa unless the Minister permits them to do so.

While the use of different visas has provided the Australian government with flexibility, it has led to ad hoc and inconsistent approaches. It has also added to challenges and inefficiencies within the visa processing system.

Visas should provide immediate access to services, including Medicare and Centrelink, as well as work and study rights. As a procedural mechanism, a special humanitarian intake should be created for humanitarian emergencies to enable additional visas to be granted above the committed annual number in the Refugee and Humanitarian Program.

Eligibility should be determined on the basis of sound and defensible principles, using past Australian and comparative practices as a guide. Classes of people could be identified as potentially eligible for humanitarian emergency visas, and intersectional approaches should be central to identifying and assisting people through this framework.

Relatives and diaspora communities in Australia could also help to identify people with a connection to Australia (eg family members, past residents, people with links to Australian companies or organisations). The Australian government should identify locally engaged employees (that is, those who have worked for the Australian government or companies in the affected country). This recommendation aligns with past Australian practices of clearly designating a particular cohort for protection (eg Australia's former Special Assistance Category (1991–2000)).

Furthermore, anyone who is in Australia at the time when their country of origin is affected by a humanitarian emergency, and whose visa is due to expire, should be granted an automatic visa extension or a bridging visa with the same conditions. This should not adversely affect their ability to apply for a different visa, including a protection visa.

In our view, 'connections in Australia' should not be an exclusionary criterion for the visa, given that many people in the most vulnerable circumstances may not have any connection to Australia. For example, LGBTQIA+ people may be estranged from family as a result of hostility and discrimination. Young children are unlikely to have studied or worked abroad and may not know of extended family. There are innumerable practical reasons that this criterion would potentially exclude precisely the population of people the emergency visa is meant to serve. It is important not to make generalised assumptions about risk, since this can result in simplistic and selective responses.

A coordination mechanism (outlined in Recommendation 2 of the Policy Brief) should be used to consult with relevant stakeholders about particular cohorts or persons at risk in the affected country who should be prioritised for a visa. DFAT should also identify and work with local organisations and partners in the affected country to identify 'at-risk' people who would be best served by an emergency visa (an approach which aligns with DFAT's own commitment to reinforcing humanitarian localisation and building capacity and engagement with local actors in humanitarian assistance).²⁷ Following such consultation, the Minister for Home

²⁷ Bernard Broughton and Amra Lee, [Evaluation of Protection in Australia's Disaster Responses in the Pacific](#) (Department of Foreign Affairs and Trade and Australian Aid, February 2019) 1–4.

Affairs, in consultation with the Minister for Foreign Affairs, would define the criteria for the visa, which would be set out in policy.

The criteria for qualifying for a visa must be flexible enough to respond to a range of contexts and circumstances, but also sufficiently clear so that they can be implemented in a fair, consistent and non-discriminatory manner.²⁸ This does not mean that the identified cohort in need of protection must be identical in each humanitarian emergency, but rather there must be a transparent process for determining it and consideration of equity and fairness between responses to different humanitarian emergencies. These factors are likely to inspire public confidence in the approach, particularly if such visas are additional to the annual quota and do not encroach on existing allocations. This is important so that different cohorts are not pitted against each other, which may generate resentment (especially within the Australian diaspora community) about who receives a visa and who does not. Furthermore, there should not be a fee for this type of visa, nor should there be a visa pre-application process (as in the case of Afghan Locally Engaged Employee Program). The *Migration Act 1958* (Cth) should be amended to include these requirements.

²⁸ As the Canadian Council for Refugees notes: ‘Where there are differences, there must be a clear and transparent justification. For example, it is not equitable to have caps on numbers for some crises and not for others’: Canadian Council for Refugees, [IRCC’s Crisis Response Framework: CCR Submission in response to IRCC Questions](#) (31 May 2024) 4.