



Australian Citizenship... A Common Bond

Government Response to the Report of the
Australian Citizenship Council
May 2001

Australian Citizenship... A Common Bond

Government Response to the Report of the
Australian Citizenship Council

© Copyright: Commonwealth of Australia 2001

ISBN 0-642-70523-2

This work is copyright. It may be reproduced in the whole or in part for study or training purposes subject to the inclusion of an acknowledgement of the source and no commercial usage or sale. Reproduction for purposes other than those indicated above, require the prior written permission from the Commonwealth available from AusInfo. Requests and inquiries concerning reproduction and rights should be addressed to the Manager, Legislative Services, AusInfo, GPO Box 1920, Canberra, ACT 2601.

Foreword

On 18 February 2000 I launched the Australian Citizenship Council's Report *Australian Citizenship for a New Century*. The Council's Report has been very positively received by the community and I would like to record my deep appreciation to Sir Ninian Stephen as Chair and all Council Members for their outstanding contribution to Australian citizenship.

The Government is pleased to note the Council's conclusion that Australian citizenship is a success story and that Australian citizenship policy and law are working well. However, the Government shares the Council's view that we can do more with our citizenship, both in its broad and legal sense. In this response we introduce a number of initiatives to build on the concept of Australian citizenship as a unifying force in our community and to help create an even more robust Australian citizenship for the 21st Century.

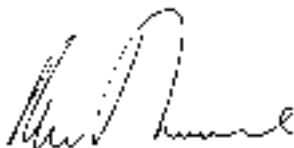
The Government's response is designed to encourage all Australians to value their citizenship and to reflect on its meaning, particularly during the Centenary of Federation.

We have adopted a range of ideas which will provide a focal point for the community on citizenship.

We will also make a special effort to encourage more eligible non-citizens to take up Australian citizenship in the Centenary year.

The emphasis in relation to Australian citizenship law and policy is on continuity rather than change and no changes are to be made to the basic criteria for the grant of Australian citizenship. However, we will legislate to tighten aspects of the character provisions and widen some provisions to benefit children and young adults.

Australian citizenship is an important common bond for all Australians, whether Australians by birth or by choice. The combined effect of the initiatives outlined in the Government's response to the Australian Citizenship Council's Report deal with the very nature of our society and the essence of being Australian. As such, they are relevant to each and every Australian.



Philip Ruddock

Minister for Immigration and Multicultural Affairs

Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs

May 2001

Overview

The Commonwealth Government welcomes the Australian Citizenship Council's Report '*Australian Citizenship for a New Century*' and considers it to be a most important contribution to the contemporary discussion of Australian citizenship – a matter of relevance to all Australians.

The Australian Citizenship Council undertook, as part of its preparatory work, a public consultative process based around its Issues Paper "*Contemporary Australian Citizenship*". Some 6,000 copies of the Council's Issues Paper were widely distributed both in Australia and overseas and 200 responses were received. The Government circulated some 6,000 copies of the Council's final Report to community groups, contributors to the Council's Report, local councils and State/Territory Governments, to seek the community's reaction to its conclusions and recommendations. Over 110 responses were received from both within Australia and overseas, and many letters and e-mails have taken up specific matters contained in the Council's Report. The views of all contributors have greatly helped inform the development of the Government's response.

The Government agrees with the Council's view that, overall, the law and policy relating to Australian Citizenship are working well and that, over its fifty years of existence, the legal status of Australian Citizenship has been a major success story in providing a new legal status for those in Australia at the time of its introduction and having welcomed over three million newcomers into the Australian community as fully participating members.

The Government also believes that still more can be made of Australian citizenship, as a unifying concept, particularly by extending the focus to shared civic values in addition to the legal status of Australian Citizenship. The Centenary of Federation provides a unique opportunity to promote Australian citizenship in both its broader and legal senses.

Australian Citizenship... A Common Bond

Australian Citizenship is a common bond at the heart of a unified and inclusive Australia and it is our shared civic values that underpin Australian citizenship, in both the broad and legal sense and serve to unify us as a nation. Australian citizenship and its defining,

unifying role is for all Australians. The Government therefore, strongly welcomes a community focus on citizenship that will bring Australians closer together.

The Government will establish an Australian Citizenship Day to further highlight Australian citizenship as a unifying force within the community with activities and initiatives designed to reinforce the benefits of unity. 17 September, the anniversary of the renaming of the *Nationality and Citizenship Act* in 1973 to the *Australian Citizenship Act 1948*, will be celebrated for this purpose, each year from 2001.

The Government will continue to provide opportunities for Australian citizens to publicly 'affirm' their loyalty to Australia and its people, at appropriate occasions. The 'affirmation' is based on the wording of the Australian Citizenship Pledge used by migrants when they become Australian Citizens and affirmation ceremonies could be usefully undertaken as part of the celebrations of Australian civic values during the Centenary of Federation and beyond. Most Australians have not previously had an opportunity to express their commitment to Australia, and the response at a number of occasions where these initiatives were trialed during the 50th anniversary of Australian citizenship was very positive. Accordingly, the Government will continue to build on these initiatives as part of its overall effort to promote civic values during the Centenary year.

The Government will continue to support the process of reconciliation in the community and support practical initiatives which will enable Aboriginal and Torres Strait Islander peoples to share in the general success of the community, as an important part of a fully inclusive Australian citizenship.

The Government endorses the Council's view that the small differential of responsibilities and privileges between Australian Citizens and permanent residents should not be widened. However, full civic participation is to be encouraged and it is important that we strive for a unified and inclusive Australian community from both the legal and broad perspective of Australian citizenship.

Australian Citizenship in the Centenary Year



The Government endorses the Council's emphasis on the importance of the Centenary of Federation in the context of Australian citizenship. The Centenary of Federation is a time when Australians are reflecting on the civic values that unite us as a nation one hundred years later, so this provides an ideal focal point for citizenship activities.

In addition to the initiatives relating to the establishment of an Australian Citizenship Day and affirmation ceremonies for Australians, the Government wishes to give due emphasis to the legal status of Australian Citizenship.

The Government is conscious that there are currently some 950,000 permanent residents who are eligible to take out Australian Citizenship but have not yet taken that step. A special effort is therefore to be made during the Centenary of Federation year to promote the concept of Australian citizenship in the wider community and to encourage its acquisition by some of these eligible non-Citizens.

The Government will continue to encourage civics and citizenship education in the Australian community and will pursue further initiatives through the Adult Migrant English Program (AMEP). These initiatives will give migrants an opportunity to learn, among other things, about the responsibilities and privileges of Australian Citizenship, Australia's representative democracy, legal system and history. This will assist migrants in meeting the requirements for Australian Citizenship.

Refining Australian Citizenship Policy and Law, including:

- Initiatives for Young Australians
- Strengthened Integrity Measures
- Loss of Australian Citizenship

The Government agrees with the Council that Australian Citizenship law and policy are mostly about right and working well and that the focus for the future of Citizenship law be on continuity rather than change.

The Government agrees that the overall inclusive and non-discriminatory approach to Australian Citizenship, that is characterised in current Australian Citizenship law, of welcoming, without undue barriers, migrants and humanitarian entrants who come to Australia as part of the planned migration and humanitarian programs, should continue as the basis for future Australian Citizenship policy and law.

Accordingly, the Government agrees that the basic criteria for the grant of Australian Citizenship should neither be made harder nor easier.

Equally the Government agrees that the decision to take out Australian Citizenship is an important life choice which should be taken voluntarily and be indicative of a commitment to Australia.

Clearly, some aspects of Australia's Citizenship legislation need, over time, to evolve to reflect the changing values of the Australian community and the Government will implement the recommendations of the Council in relation to those areas where Citizenship law requires a strengthening of existing integrity measures and further enhancements.

The Government will pursue some enhancements to the *Australian Citizenship Act 1948* in the interests of younger Australians. An extension of the descent and resumption provisions will give young adult Australians more opportunities to acquire Australian Citizenship. Also, children who acquire Australian Citizenship with their parents will be given their own Citizenship certificates.

The integrity of the acquisition of Citizenship process will be strengthened in relation to 'good character' by increasing the time limits before a person with multiple serious convictions can be considered for Citizenship. Other integrity measures include the insertion of a requirement to be of 'good character' when resuming Australian Citizenship, given the passage of time, in some cases, between loss and resumption of Citizenship.

The Government is disposed to support the Australian Citizenship Council's recommendation to repeal section 17 of the *Australian Citizenship Act 1948* (which provides for loss of Australian Citizenship upon acquisition of another Citizenship). However, given the significance of this change to longstanding Australian Citizenship law and practice, it is important that the community has a further opportunity to express its views. Accordingly, the Government intends to issue a discussion paper inviting community views on this specific issue before making a final decision.

The following section contains the Government response to each of the 64 recommendations made by the Australian Citizenship Council.

Responses to the Council's Recommendations

The Report of the Australian Citizenship Council, *Australian Citizenship for a New Century*, made 64 recommendations to the Government. The Government Response to these recommendations is as follows.

Citizenship Serving Australia and Australians

Recommendation 1: The Council **recommends** that the Commonwealth Government take a lead in promoting not only the broad civic values that unite Australians but also the legal status of Australian Citizenship within the Australian community.

Government Response: *The Government believes that the civic values that underpin Australian citizenship, together with the legal status of Australian Citizenship, are central unifying elements in Australia's diverse society. They are at the heart of a unified and cohesive Australia and are symbolic of that unity. The Government agrees that more needs to be done to improve community understanding of these civic values and their role in bringing the nation closer together, as well as to promote the acquisition of Australian Citizenship by eligible persons.*

The Australian Compact

Recommendation 2: The Council **recommends** that immediately preceding the Centenary of Federation year the Commonwealth, State and Territory parliaments make a non-partisan declaration on the significance of, and values contained in, the 'Australian Compact' developed by the Council and that their members adopt the seven basic principles of the 'Compact', with its commitment:

- To respect and care for the land we share;
- To maintain the rule of law and the ideal of equality under the law of all Australians;
- To strengthen Australia as a representative liberal democracy based on universal adult suffrage and on freedom of opinion;
- To uphold the ideal of Australia as a tolerant and fair society;
- To recognise and celebrate Australia as an inclusive multicultural society which values its diversity;
- To continue to develop Australia as a society devoted to the wellbeing of its people;
- To value the unique status of the Aboriginal and Torres Strait Islander peoples.

Government Response: *The Government considers that the idea of an 'Australian Compact' is an innovative one and acknowledges that the values in the text proposed by the Council are embedded in Australian society, institutions and value statements in one form or another. However, the Government believes that there is no strong community demand for an additional value statement sponsored by Government and therefore does not intend to pursue a declaration at this time.*

Recommendation 3: The Council **recommends** that the Australian Compact be used as the foundation for a promotion strategy to encourage Australians to strengthen their civic values as citizens and, in the hundredth anniversary year of their Commonwealth, to proclaim their belief in and commitment to certain declared civic values.

Government Response: *See the Government Response to Recommendation 2.*

Recommendation 4: The Council **recommends** that a small, accessible, easy-to-understand booklet be prepared, explaining the seven principles of the 'Australian Compact'. To begin with, this could be available for distribution during the Centenary year. But many other uses could be found for it following the Centenary year.

Government Response: *See the Government Response to Recommendation 2. Although the Government does not intend to sponsor a booklet on the Compact, it will continue to prepare other material which will assist the community in understanding citizenship and civic values.*

Recommendation 5: The Council **recommends** that all political leaders (including Local Government leaders) use the 2001 Centenary of Federation commemorations to launch to a wider audience the Australian Citizenship Pledge, and the concept of affirmation ceremonies for Australian Citizens and Australians, as a normal part of the Centenary ceremonies, with the aim of further extending their use when the Centenary commemorations are over.

Government Response: *The Government believes that the Australian Citizenship Pledge, a statement of commitment made by those about to become Australian Citizens, and affirmation ceremonies for Australian Citizens, using a modified form of the Pledge that has been developed for this purpose, are both expressions of commitment to the core civic values which are at the heart of being Australian. The Government further believes there is significant value in the promotion of both the Pledge and affirmation ceremonies by political and other key community leaders, particularly in the context of wider activities to celebrate the Centenary of Federation.*

See also the Government Response to Recommendations 12, 13 and 14 in relation to affirmation ceremonies.

Recommendation 6: So that there will be a continuing means of expressing Australian civic unity in an attractive form, the Council **recommends** that appropriate authorities disseminate throughout the year the Australian Citizenship Pledge, along with the Joint Parliamentary Statement on Racial Tolerance unanimously passed by Parliament on 30 October 1996, the principles of Australian multiculturalism enunciated by the National Multicultural Advisory Council in its Report *Australian multiculturalism for a new century: Towards inclusiveness* (April 1999) and adopted by the Commonwealth Government and any document that comes out of the reconciliation process.

Government Response: *The Government agrees that there is significant value in promulgating materials that give memorable expression to civic belief, including through the distribution of posters for use at Citizenship ceremonies, schools and appropriate public places, and will pursue opportunities for doing this throughout the Centenary year.*

The Government notes that significant dissemination of civic related materials already takes place. Posters of the Australian Citizenship Pledge, for example, are made routinely available for display during Citizenship ceremonies and given to children who take out Australian Citizenship. During 1999, the 50th anniversary of Australian citizenship, a range of anniversary pins and badges were also distributed while citizenship kits containing a range of citizenship-related information and other materials were disseminated to schools across the nation.

Core Civic Values and Australian Multiculturalism

Recommendation 7: The Council welcomes the National Multicultural Advisory Council's recommendation that support for core civic values should be the first of the four principles of Australian multiculturalism and adoption of these principles by the Commonwealth Government and **recommends** that the principles of the 'Australian Compact' should play an essential part in discussion on the civic values involved in 'Australian multiculturalism'.

Government Response: *In the 'New Agenda for Multicultural Australia' the Government has adopted the four principles of Australian Multiculturalism recommended by the National Multicultural Advisory Council. The Government considers that discussion of the civic values involved in Australian Multiculturalism can proceed independently.*

Looking for the Distinctive

Recommendation 8: The Council **recommends** that, as a Centenary of Federation project, an international conference in comparative government and comparative political culture be arranged, with representatives from a range of countries. This would in itself be a

unique contribution to the study of comparative government and comparative political culture and it might also prompt serious consideration in Australia of what it is that is distinctive in the Australian polity.

Government Response: *The Government will seek to encourage academic institutions to arrange an international conference in comparative government and comparative political culture.*

Recommendation 9: In view of what would be the Australia-wide, national and international focus of the proposed conference in comparative government and comparative political culture (see Recommendation 8), the Council **recommends** that seed funding be provided by the Commonwealth Government through the Immigration and Multicultural Affairs portfolio to assist in the organisation of the conference.

Government Response: *While the Government will seek to encourage the organisation of an international conference, direct seed funding will not be provided.*

Civics and Citizenship Education

Recommendation 10: The Council strongly endorses the *Discovering Democracy* program, a significant Commonwealth initiative of civics and citizenship education in schools, and **recommends** that it continue to be part of the Australian school curriculum and that it be extended to Years 11 and 12.

Government Response: *The Government strongly supports civics and citizenship education in the school system as a means of enhancing Australians' ability to participate in, and contribute to, community life as informed and responsible citizens. This would benefit both individuals and the wider community.*

The Discovering Democracy program, which was funded at \$18 million over the four years 1997–2000, has been allocated additional funding of \$13.4 million over the four years to 2004 to allow this successful program to become further embedded in Australian schools. Further consideration will be given to extending the program to Years 11 and 12.

General Citizenship Material

Recommendation 11: The Council **recommends** the continuing production and distribution of citizenship educational and promotional material, including booklets, posters and pins, by the Department of Immigration and Multicultural Affairs, for wide distribution at Australian Citizenship conferral ceremonies and other appropriate functions and occasions beyond the fiftieth anniversary year.

Government Response: *The Government provides considerable materials designed both to educate about Australia and aspects of the Australian way of life, and to promote Australian Citizenship more broadly. This will be continued.*

Materials include a booklet, What it Means to be an Australian Citizen, which provides a brief summary of Australia's history, heritage, symbols, institutions and laws and is distributed to all applicants for Australian Citizenship. As well, the Government produces a range of promotional posters, citizenship kits, lapel pins and badges for use at Citizenship conferral ceremonies and other citizenship related functions. During 1999, citizenship kits incorporating booklets and other materials were distributed to Australian schools as part of broader activities to mark the 50th anniversary of Australian citizenship.

Affirmation Ceremonies for Australian Citizens

Recommendation 12: The Council **recommends** that affirmation ceremonies for Australian Citizens be conducted at appropriate formal civic occasions. Local Government should be encouraged to continue to provide on an ongoing basis after completion of the 50th anniversary year voluntary affirmation ceremonies for Australian Citizens as an extension of established procedures for conducting Australian Citizenship ceremonies for new Australian Citizens. State and Territory Governments should also be encouraged to include affirmation ceremonies at appropriate formal civic occasions which they convene.

Government Response: *Affirmation ceremonies provide an opportunity for Australian Citizens (those born in Australia and those who have acquired Australian Citizenship), if they wish to do so, to publicly affirm their commitment to Australia and its people, its civic principles and institutions. Many of these people would not have previously had such an opportunity.*

The Government notes that a number of affirmation ceremonies were authorised by the Minister for Immigration and Multicultural Affairs, the Hon Philip Ruddock MP, as a pilot project during 1999, in the context of activities to mark the 50th anniversary of Australian citizenship. They proved very successful, with many Australians embracing the opportunity to affirm their loyalty to Australia and its people at a number of ceremonies around the country.

The Government will continue to encourage the conduct of affirmation ceremonies for Australian Citizens.

See also the Government Response to Recommendations 13 and 14.

Affirmation Ceremonies for Citizens and non-Citizens

Recommendation 13: The Council **recommends** that State and Territory Governments as well as schools and community groups be encouraged to conduct affirmation ceremonies at appropriate occasions using a modified affirmation suitable for all Australians, including those who are not Australian Citizens.

Government Response: *The Government notes that affirmation ceremonies have no status in law and no legal effect and that, in this context, there is no requirement for the Minister for Immigration and Multicultural Affairs, or his delegate, to preside over the affirmation.*

Affirmation ceremonies should be voluntary at all times and should be conducted at appropriate occasions.

It is important to note that affirmation ceremonies are of significant symbolic importance, both to participants and the wider community, and should be conducted with dignity. To this end, the Department of Immigration and Multicultural Affairs will develop and promulgate a framework for conducting affirmation ceremonies for adults distinguishing, in particular, between the text of the affirmation suitable for Australian Citizens and the text suitable for all members of the Australian community, including those who are not Australian Citizens.

Whilst the Government will continue to encourage the conduct of affirmation ceremonies on appropriate occasions, the Government will consult on the appropriateness of use of affirmation ceremonies in schools.

See also the Government Response to Recommendations 12 and 14.

Recommendation 14: The Council **recommends** that the Commonwealth and State Centenary of Federation Councils promulgate the idea of affirmation ceremonies among those organising government and community events for commemorating the Centenary of Federation in 2001.

Government Response: *The Government will assist the Commonwealth and State Centenary of Federation Councils to promote the concept of affirmation ceremonies during the Centenary of Federation in 2001, including through the development of a framework for the conduct of affirmation ceremonies and the provision of appropriate promotional and other products.*

See also the Government Response to Recommendations 12 and 13.

Australian Passports

Recommendation 15: The Council **recommends** that a statement be included on Australian passports to the effect that the bearer is an Australian Citizen.

Government Response: *The Government believes that there is important symbolic value in the inclusion on Australian passports of a statement to the effect that the bearer is an Australian Citizen. The Government will facilitate this.*

Annual Citizenship Day

Recommendation 16: The Council **recommends** to Government the proposal of the 1999 National Schools Constitutional Convention that a Citizenship Day be established to allow all in Australia to celebrate their Australian Citizenship.

Government Response: *The Government will establish an Australian Citizenship Day on 17 September (the anniversary of the renaming of the Nationality and Citizenship Act 1948 to Australian Citizenship Act 1948).*

Responsibilities and Privileges, and Differential Between Australian Citizens and Permanent Residents

Recommendation 17: The Council **recommends** that there be no widening of the current differential in responsibilities and privileges between Australian Citizens and permanent residents. The Council believes that the decision to acquire Australian Citizenship is an important life choice, which should be taken voluntarily and be indicative of a clear commitment to Australia. It should not be an expedient step taken to obtain access to a particular benefit.

Government Response: *The Government is conscious that Australian Citizenship should be taken up voluntarily and agrees that differentials in responsibilities and privileges should not be introduced as a basis for encouraging take-up of Australian Citizenship.*

Recommendation 18: The Council **recommends** that the group of eligible permanent residents who are able to vote in Australian elections be encouraged to apply for Australian Citizenship along with all other eligible non-Citizens.

Government Response: *The Government will include this group as part of the target audience in promoting acquisition of Australian Citizenship.*

Encouraging Eligible Permanent Residents to Become Australian Citizens

Recommendation 19: The Council **recommends** development and implementation of an ongoing strategy to encourage eligible permanent residents to acquire Australian Citizenship. This strategy should also aim to encourage knowledge and awareness of Australian Citizenship and civics within the community.

Government Response: *Whilst recognising the already high Citizenship rate of eligible overseas born, the Government will develop a strategy to encourage take-up of Australian Citizenship by eligible persons who have been in Australia for many years as well as to continue the high take-up rates of recent arrivals.*

Recommendation 20: In the Council's view, the Centenary of Federation, 2001, a significant national milestone, would provide an ideal focal point for a heightened Citizenship promotional campaign. The Council therefore **recommends** development and implementation of an enhanced campaign for 2001 encompassing the same goals as the ongoing strategy.

Government Response: *The Government will take the opportunity presented by the Centenary of Federation in 2001 to promote the acquisition of Australian Citizenship.*

The Australian Citizenship Pledge

Recommendation 21: The Council **recommends** that no change be made to the current Australian Citizenship Pledge of Commitment made by those about to become Australian Citizens.

Government Response: *The Government will retain the existing Australian Citizenship Pledge of Commitment.*

Citizenship and Commonwealth Administration

Recommendation 22: The Council **recommends** that the Department of Immigration and Multicultural Affairs be renamed to include 'Citizenship' in its title to more explicitly reflect the importance of Citizenship and the Commonwealth's role.

Government Response: *The Government will give further consideration to the inclusion of 'Citizenship' in the name of the Department of Immigration and Multicultural Affairs when the administrative arrangements are next considered.*

Indigenous Australians and Citizenship

Recommendation 23: Believing that reconciliation and the completion of the passage of indigenous people to full realisation of their citizenship in Australia are, in the deepest sense, intimately linked, the Australian Citizenship Council wishes to offer the Council for Aboriginal Reconciliation its strongest support and **recommends** continued government and community involvement in the reconciliation process.

Government Response: *The Government encourages continuing community involvement in reconciliation and supports practical initiatives which will enable Aboriginal and Torres Strait Islander peoples to share in the general success of the community.*

Refining Australian Citizenship Law and Policy: The Current and Future Environment

Recommendation 24: The Council **recommends** that the overall inclusive and non-discriminatory approach to Australian Citizenship, that is characterised in current Australian Citizenship law, of welcoming, without undue barriers, migrants and humanitarian entrants who come to Australia as part of the planned migration and humanitarian programs, continue to be accepted by governments as the basis for future Australian Citizenship policy and law.

Government Response: *The Government accepts that these principles underlying Australian Citizenship are a fundamental strength of Australian society and its citizenship and will continue to apply them.*

Acquiring Citizenship – (1) By Birth

Recommendation 25: The Council **recommends** that the current provisions relating to the acquisition of Australian Citizenship by birth remain unchanged, but that the Government monitor the use of section 10(2)(b) of the *Australian Citizenship Act 1948* and take appropriate action to tighten this provision if evidence of abuse emerges.

Government Response: *The Government will monitor the use of section 10(2)(b) and consider appropriate action if evidence of abuse emerges.*

Acquiring Citizenship – (3) By Descent

Recommendation 26: The Council **recommends** that the current provision of the *Australian Citizenship Act 1948* which specifies that children born overseas must be registered as Australian Citizens by descent before they turn 18 years of age, be extended to enable registration before a child turns 25 years of age.

Government Response: *The Government agrees that young people should have an adequate period after reaching their majority to decide for themselves whether they wish to apply for Australian Citizenship by descent. Between the ages of 18 and 25, most young people examine their identity and future. The Government will extend the age limit for registration to 25 years to provide young people and their parents with greater latitude in making such a significant decision, with major personal implications, as registering for Australian Citizenship by descent. In line with requirements for grant of Australian Citizenship to persons over the age of 18, the Government will introduce a character requirement for registration of Australian Citizenship by descent for people over the age of 18.*

Acquiring Citizenship – (4) By Grant

Residence requirements

Recommendation 27: The Council **recommends** that the current residence requirements for acquisition of Australian Citizenship in the *Australian Citizenship Act 1948* be retained.

Government Response: *The Government will maintain the current residence requirements for acquisition of Australian Citizenship.*

Discretionary provisions relating to residence requirements

Recommendation 28: The Council **recommends** that the residence discretions be retained without change, other than section 13(4)(b)(iii) of the *Australian Citizenship Act 1948* relating to residence in Papua New Guinea, which should be repealed as it is no longer used.

Government Response: *The Government will repeal section 13(4)(b)(iii) as it is no longer used.*

Recommendation 29: The Council **recommends** that the Government carefully monitor all residence discretions in the *Australian Citizenship Act 1948* and take appropriate action to tighten the provisions should a trend of abuse emerge.

Government Response: *The Government will monitor use of the residence discretions and consider appropriate action should a trend of abuse emerge.*

Residence concessions for the Australian Defence Force

Recommendation 30: The Council **recommends** that the existing residence concession in the *Australian Citizenship Act 1948* for people who have completed not less than three months' relevant service in the Australian Defence Force be retained and extended to include persons who previously completed six months service as full-time serving members of Australia's reserve forces.

Government Response: *The Government is aware that while Australian Citizenship is now a requirement for serving in Australia's reserve forces, this has not always been the case. There may, therefore, be some people who have in the past spent substantial periods of time in the reserve forces and who have not yet acquired Australian Citizenship. The Government believes that this service should be taken into consideration in the context of acquisition of Australian Citizenship and will amend the legislation accordingly.*

Other discretions

Recommendation 31: The Council **recommends** that the current provisions in the *Australian Citizenship Act 1948* providing a discretion to grant Australian Citizenship to a child under the age of 18 be retained.

Government Response: *The Government will retain the current discretion to grant Australian Citizenship to a child under 18.*

Recommendation 32: The Council **recommends** that the current provisions in the *Australian Citizenship Act 1948* providing a discretion to grant Australian Citizenship to a permanent resident spouse, widow or widower of an Australian Citizen be retained.

Government Response: *The Government will retain the current discretion to grant Australian Citizenship to a permanent resident spouse, widow or widower of an Australian Citizen.*

Knowledge of English

Recommendation 33: The Council **recommends** that the existing 'basic' English language requirement for grant of Australian Citizenship in the *Australian Citizenship Act 1948* be retained as well as the current arrangements for testing this requirement at interview.

Government Response: *The Government will retain the existing 'basic' English language requirement and testing arrangements for grant of Australian Citizenship and notes that the response to Recommendation 34 opens up a supplementary avenue for Citizenship applicants to meet the 'basic' English language requirement.*

Recommendation 34: The Council **recommends** that completion of either 300 hours of AMEP English language tuition or the Certificate in Spoken and Written English II (CSWE II) be accepted for the purpose of satisfying the English language requirement for the grant of Australian Citizenship.

Government Response: *The Government considers that completion of 300 hours of English language tuition through the Adult Migrant English Program or attainment of the Certificate in Spoken and Written English II would each be indicative of English language skills of a sufficient level to meet the 'basic' English language requirement for the grant of Australian Citizenship. The Government considers, therefore, that these achievements should be recognised as meeting the specified 'basic' English language requirement.*

Recommendation 35: Acknowledging that English language skills are advantageous in relation to civic participation, the Council **recommends** that new migrants without functional English be actively encouraged to avail themselves of their opportunities under the Adult Migrant English Program (AMEP) in order to increase their opportunity to participate fully in the Australian community.

Government Response: *The Government agrees that English language skills are an important element in the successful settlement of migrants into Australia and their full integration in the wider community and will continue to encourage new migrants without functional English to avail themselves of their opportunities under the Adult Migrant English Program.*

Knowledge of the responsibilities and privileges of Australian Citizenship

Recommendation 36: The Council **recommends** that completion of the Adult Migrant English Program (AMEP) Citizenship course element be accepted for the purpose of satisfying the 'responsibilities and privileges' requirement for grant of Australian Citizenship.

Government Response: *The Government considers that completion of the Adult Migrant English Program Citizenship course element (currently being developed) would be indicative of a level of understanding of the responsibilities and privileges of Australian Citizenship sufficient to meet the relevant requirement for grant of Australian Citizenship. The Government considers, therefore, that, for people who complete this course element, there is no need to further test this requirement.*

Recommendation 37: The Council **recommends** arrangements for testing the 'responsibilities and privileges' requirement for grant of Australian Citizenship at interview be retained.

Government Response: *The Government will retain the existing requirement for testing the 'responsibilities and privileges' criterion for grant of Australian Citizenship noting that the Government's response to Recommendation 36 opens up a supplementary avenue for Citizenship applicants to meet the 'responsibilities and privileges' requirement.*

Character requirements

Recommendation 38: The Council **recommends** that the policy in relation to 'good character' be amended to remove the requirement that a 'reasonable amount of time will need to have passed since the last crime was committed to establish a pattern of good behaviour'. Instead the policy should require the passage of a reasonable amount of time since a person is free of obligation to the Court in order to establish a pattern of good behaviour.

Government Response: *The Government places considerable emphasis on character considerations in the context of grant of Australian Citizenship. Good character is an essential requirement for Citizenship applicants to be granted full membership of the Australian community.*

The Government will amend Citizenship policy so that grant of Australian Citizenship is only possible where a reasonable amount of time has elapsed since an applicant has remained free of obligation to the Court (not merely since the last crime was committed). This represents a desirable tightening of Citizenship policy.

See also the Government Response to Recommendation 39.

Recommendation 39: The Council **recommends** that section 13(11) of the *Australian Citizenship Act 1948* which prescribes prohibitions on grant of Australian Citizenship be extended to provide that where any person who has been sentenced to two or more periods of imprisonment, of twelve months or more, that person cannot be granted Citizenship within ten years of being free of obligation to the Court.

Government Response: *The Government believes that it is appropriate for repeat offenders to be subject to a more significant prohibition on the grant of Australian Citizenship relative to 'one off' offenders. Extending the prohibition for repeat offenders to ten years (from two years) will provide a more appropriate length of time for these applicants to demonstrate good character for the purposes of grant of Australian Citizenship. The Government will therefore extend the bar on grant of Citizenship in section 13(11) of the Act from two years to ten years after the expiration of the most recent confinement in a prison, in those cases where a person has been sentenced to imprisonment for a period of not less than twelve months on more than one occasion.*

In addition, the Government will take the opportunity to correct an anomaly in the legislation. The legislation currently provides for a prohibition on the grant of Australian Citizenship where the applicant has been released from serving part of a sentence of

imprisonment on parole or upon licence to be at large or upon giving a relevant security during any period where action can be taken in respect of the person under Australian law. The Government will extend the prohibition to also include situations where the applicant has been released from serving the whole of a sentence of imprisonment.

See also the Government Response to Recommendation 38.

Fees

Recommendation 40: The Council **recommends** that fees for applications for grant of Australian Citizenship (and other appropriate Citizenship applications) continue to be charged on a cost recovery basis with appropriate concessions and exemptions.

Government Response: *This recommendation is in line with the Government's broad policy that the cost of services provided by the Government should, where possible, be borne primarily by the beneficiaries of these services, with appropriate safeguards in place. The Government will continue with this approach.*

Concessional fee

Recommendation 41: The Council **recommends** that the existing list of pensions which give rise to Citizenship fee concessions be kept under review to ensure that it reflects pensions and benefits for people suffering permanent financial disadvantage.

Government Response: *The Government will keep the list of pensions that give rise to Citizenship fee concessions under review .*

Fee exemptions

Recommendation 42: The Council supports the existing fee exemptions for former British child migrants and previous applicants for Australian Citizenship who did not meet the residence requirements and reapply within three months of becoming eligible and **recommends** that they continue.

Government Response: *The Government will retain the existing fee exemptions for former British child migrants and previous applicants for Australian Citizenship who did not meet the residence requirements and reapply within three months of becoming eligible.*

War veterans

Recommendation 43: The Council **recommends** that in addition to the residence concession, no fee be payable in regard to an application for grant of Australian Citizenship if a person has served for a period of not less than three months in the Australian Defence Force.

Government Response: *The Government is aware that while Australian Citizenship is now a requirement for serving in the Australian Defence Force, this has not always been the case. The Government recognises, and is grateful for, the commitment of people who have served under the Australian flag, sometimes at times of war, in the Australian Defence Force. In recognition in the Citizenship context of their significant contribution to the nation, the Government will exempt people who have served for not less than three months in the Australian Defence Force, from paying the application fee for grant of Australian Citizenship.*

Time limit between grant and conferral

Recommendation 44: The Council recommends that the *Australian Citizenship Act 1948* be amended to provide a power to revoke the grant of a Certificate of Australian Citizenship between approval and conferral in the following circumstances: where a person does not take the Australian Citizenship Pledge within twelve months of being approved for Citizenship without an acceptable reason; where a person comes to the attention of the Department of Immigration and Multicultural Affairs, prior to conferral, as no longer satisfying the requirements of section 13 of the Act; and where it is subsequently discovered that a person did not meet the provisions for grant.

Government Response: *The Government considers that it would be desirable to amend the legislation to prevent final conferral of Australian Citizenship on individuals in prescribed circumstances, for example where a person has not or does not continue to meet legislative requirements. It would also eliminate in most circumstances extended delays between approval and conferral. The Government will amend the legislation accordingly.*

Recommendation 45: The Council **recommends** that the *Australian Citizenship Act 1948* be amended to provide that if a person granted a Certificate of Australian Citizenship has been charged with, or is under investigation for a crime or for cancellation of a visa, the Minister has a power to defer for up to 12 months the conferral of Australian Citizenship, to enable it to be established whether the requirements for grant of Australian Citizenship continue to be met.

Government Response: *The Government considers that this is a desirable extension of the existing power to defer a decision to grant Australian Citizenship where there are strong character grounds to do so. The legislation will be amended accordingly. The Minister's power to defer conferral, however, will not be subject to merits review, having regard to the absence of such review rights in relation to the Minister's existing power to defer grant of Australian Citizenship.*

Citizenship ceremonies

Recommendation 46: Recognising the positive effects of introducing new Citizens to their local community through Citizenship ceremonies conducted by Local Government councils, and the generally high level of achievement by Local Government councils in this area, the Council **recommends** that the conduct of public ceremonies by Local Government councils be the principal means of conferral of Australian Citizenship, but that no special arrangements for direct funding be introduced.

Government Response: *The Government considers that public ceremonies continue to be the most desirable way of welcoming new Citizens into Australia's multicultural society and that Local Government Councils continue to be best placed to conduct such ceremonies given their historic role in this area. While it is acknowledged that this longstanding practice is an example of a function performed by Local Government on behalf of the Commonwealth with no direct financial support for that function, the Government will retain the current arrangements.*

Recommendation 47: The Council **recommends** that all applicants for Australian Citizenship be encouraged to participate in public ceremonies and that private ceremonies continue to be held only on a limited basis where appropriate.

Government Response: *The Government will retain the current arrangements.*

See also the Government Response to Recommendation 46.

Recommendation 48: The Council **recommends** that current arrangements, which provide for State/Territory Government involvement in the conduct of Australian Citizenship ceremonies for special events, from time to time, are appropriate and sufficient at this time.

Government Response: *The Government will retain the current arrangements providing for State/Territory Government involvement in Australian Citizenship ceremonies for special events.*

Losing Citizenship – (1) By Acquiring Another Citizenship

Recommendation 49: The Council strongly **recommends** that section 17 of the *Australian Citizenship Act 1948* (which provides for loss of Australian Citizenship on acquisition of another Citizenship) be repealed so that Australian Citizens over the age of 18 do not lose their Australian Citizenship on acquisition of another Citizenship.

Government Response: *The Government is disposed to support the Australian Citizenship Council's recommendation to repeal section 17 of the Australian Citizenship Act 1948 (which provides for loss of Australian Citizenship on acquisition of another Citizenship). However, given the significance of this change to longstanding Australian Citizenship law and practice, it is important that the community has a further opportunity to express its views. Accordingly, the Government intends to issue a discussion paper inviting community views on this specific issue before making a final decision.*

Reciprocal Arrangements with other Countries

Recommendation 50: The Council **recommends** that existing reciprocal arrangements between Australia and other countries for the exchange of Citizenship acquisition information remain lapsed or, where necessary, be formally terminated.

Government Response: *The Government agrees that these arrangements are outdated and will pursue discussions with relevant countries as necessary to give effect to termination.*

Losing Citizenship – (2) By Serving in the Armed Forces of a Country at War with Australia

Recommendation 51: Under section 19 of the *Australian Citizenship Act 1948* (the Act), an Australian Citizen who serves in the armed forces of a country at war with Australia automatically ceases to be an Australian Citizen. The Council **recommends** that section 19 of the Act remain unchanged.

Government Response: *The Government will retain the existing provision whereby an Australian Citizen who serves in the armed forces of a country at war with Australia automatically ceases to be an Australian Citizen.*

Losing Citizenship – (3) By Deprivation

Recommendation 52: The Council **supports** the existing Australian Citizenship policy and law on deprivation of Australian Citizenship which limits deprivation of Australian Citizenship to specific circumstances involving fraud in relation to migration or Citizenship applications and to where a serious crime was committed before grant of Australian Citizenship. The Council also considers that the current requirement for conviction of an offence in relation to fraud or an offence committed before grant of Australian Citizenship before the Minister's deprivation power arises, is an important safeguard which should continue.

Government Response: *The Government will retain the existing provisions for deprivation of Australian Citizenship noting that these provisions were strengthened in 1997.*

Deprivation of Citizenship of suspected war criminals

Recommendation 53: The Council **recommends** that the current provisions for the deprivation of Australian Citizenship in the *Australian Citizenship Act 1948* be retained unchanged.

Government Response: *The Government will retain the current provisions for the deprivation of Australian Citizenship in the Australian Citizenship Act 1948.*

See also the Government Response to Recommendation 52.

Losing Citizenship – (4) By Renunciation

Recommendation 54: The Council **recommends** that the provisions for the renunciation of Australian Citizenship contained in section 18 of the *Australian Citizenship Act 1948* be retained.

Government Response: *The Government will retain the existing provisions for renunciation of Australian Citizenship.*

Recommendation 55: As there is currently no recovery of costs involved in processing an application for renunciation of Australian Citizenship, the Council **recommends** that a fee be charged for people wishing to renounce their Australian Citizenship. The fee should be set to recover processing and administrative costs, in line with other Citizenship fees.

Government Response: *The Government will set an appropriate fee in due course.*

See also the Government Response to Recommendation 40.

Reacquiring Australian Citizenship

Recommendation 56: The Council **recommends** that the *Australian Citizenship Act 1948* be amended to allow persons who renounce their Australian Citizenship before the age of 25 in order to retain another Citizenship to reacquire Australian Citizenship up to the age of 25 if they meet the usual requirements for resumption of Australian Citizenship.

Government Response: *The Government considers that it is appropriate to allow this limited widening of the resumption provisions (whose application is otherwise generally limited to situations of loss of Australian Citizenship through acquisition of another Citizenship). Many young people re-examine their identity and future around the time that they reach their majority. The Government agrees that young people who renounce at a relatively young age, and therefore before they are in a position to make a fully informed decision, should have an adequate period after reaching their majority to resume their Australian Citizenship, particularly in view of the major associated implications. The Government will amend the legislation accordingly.*

Recommendation 57: To maintain the integrity of the Citizenship acquisition process, the Council **recommends** that the resumption provisions in the *Australian Citizenship Act 1948* be amended to require that an applicant for resumption of Australian Citizenship satisfy a good character requirement.

Government Response: *The Government considers that it is appropriate to require an applicant who seeks to resume Australian Citizenship after losing it, to be of good character. The Government will amend the legislation accordingly.*

Citizenship Certificates for Children

Recommendation 58: The Council **recommends** that the *Australian Citizenship Act 1948* be amended to provide, at no additional charge, individual certificates of Australian Citizenship to all children under 16 years of age who acquire Australian Citizenship with their parents.

Government Response: *The Government considers that provision of certificates to children is an appropriate way to recognise the individual Citizenship status of children and will facilitate them having appropriate Citizenship documentation upon reaching adulthood. The Government will amend the legislation accordingly.*

Amendment/Replacement of Certificates

Recommendation 59: The Council **recommends** that current provisions of the *Australian Citizenship Act 1948* allowing the Minister to amend a Certificate of Australian Citizenship if desirable or replace a Certificate of Australian Citizenship in limited circumstances be retained and that policy maintain a balance between the desirability of a client's request for amendment and a need to prevent fraud.

Government Response: *The Government will retain the existing provisions relating to amendment of Certificates of Australian Citizenship and will ensure that a balance between a client's request and fraud prevention is maintained.*

Citizenship and Migration Agents

Recommendation 60: The Council **recommends** that the Department of Immigration and Multicultural Affairs continue to monitor the situation and if more evidence emerges indicating that provision of Citizenship advice needs to be included in the regulatory scheme for the provision of migration advice, the Government should take appropriate action.

Government Response: *The Government will continue to monitor the provision of citizenship advice. If evidence emerges indicating a need for this advice to be included in the regulatory scheme for the provision of migration advice, appropriate action will be taken.*

Sub-section 44(i) of the Australian Constitution

Recommendation 61: The Council supports Recommendation 2 in the Report of the Standing Committee on Legal and Constitutional Affairs, on *Aspects of Section 44 of the Australian Constitution*, in particular that there be a requirement for intending candidates and members of Parliament to be Australian Citizens, but **recommends** that further consideration be given by government to the issue of how to more appropriately measure 'undivided loyalty to Australia' for intending candidates for Parliament and members of Parliament.

Government Response: *The Government is committed to seeking opportunities to progress review and public debate of issues related to s44(i) of the Australian Constitution.*

Refining the Structure of the *Australian Citizenship Act 1948*

Recommendation 62: The Council **recommends** that the Government take the opportunity, when making substantive amendments to the *Australian Citizenship Act 1948*, to also 'tidy up' the Act, to improve presentation so that it is logically organised, numbered, consistent, with related matters dealt with together, and ensuring that the balance of matters dealt with between the *Australian Citizenship Act 1948* and the *Australian Citizenship Regulations* conforms to modern standards.

Government Response: *The Government will proceed with any 'tidy up' with lower priority than substantive changes to the Australian Citizenship Act 1948.*

Recommendation 63: The Council **recommends** that a Reader's Guide be drafted for the *Australian Citizenship Act 1948* to make it more accessible.

Government Response: *The Government will arrange to have a Reader's Guide to the Australian Citizenship Act 1948 prepared.*

Recommendation 64: The Council supports the current Preamble to the *Australian Citizenship Act 1948* and **recommends** that it remain unchanged.

Government Response: *The Government will retain the existing Preamble to the Australian Citizenship Act 1948.*