



Australian Government  
Department of Home Affairs

Submission

For decision

PDMS Ref. Number MS20-003084

Date of Clearance: 18 January 2021

To Minister for Home Affairs

Subject Possible Ministerial Intervention under section 195A of the *Migration Act 1958* to grant Final Departure Bridging E visas to Transitory Persons in Held Detention – Group Submission

Timing At your convenience.

Recommendation

That you:

1. indicate whether you wish to consider exercising your power under section 195A of the *Migration Act 1958* (the Act) to grant the persons listed at Attachment A, Humanitarian Stay (Temporary) (subclass 449) visas (HSTV) for seven days and Final Departure Bridging E (subclass 050) visas (FDBVE);
  - if agreed, please sign the decision documents at Attachment B, Attachment C and Attachment D.

intervene / decline to  
intervene

signed / not signed

Minister for Home Affairs

Signature.....

Date: 19/01/2021

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Minister's Comments				
<b>Rejected</b> Yes/No	<b>Timely</b> Yes/No	<b>Relevance</b> <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	<b>Length</b> <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	<b>Quality</b> Poor 1.....2.....3.....4.....5 Excellent <b>Comments:</b>

### Key Issues

1. The Department of Home Affairs (the Department) is referring 64 transitory persons (**Attachment A** refers) who are currently in held detention for your consideration under section 195A to grant Humanitarian Stay (Temporary) (subclass 449) visas (HSTV) for seven days and Final Departure Bridging E (subclass 050) visas (FDBVE).
2. If you are inclined to consider any of the persons listed at **Attachment A** under section 195A, the grant of an FDBVE would provide them with permission to work, in order to be able to support themselves in the community, and with access to Medicare. They would be provided with transitional assistance through the Status Resolution Support Services (SRSS) program, but would not have access to ongoing support.
3. All 64 individuals included in this submission are currently in held detention in Victoria. Current levels of restrictions in place in response to the COVID-19 pandemic could impact the abilities of individuals to find employment and accommodation. International travel restrictions and reductions in international flights may impact on the ability for individuals to depart Australia, if they are willing to do so. The grant of an FDBVE without access to support services may attract criticism from external scrutiny bodies and community groups.
4. If you decline to intervene in any case, that person will remain in detention.

### Background

5. These individuals arrived in Australia as illegal maritime arrivals (IMAs) and their details are outlined in the attached case summaries at **Attachment A**.
6. The 64 individuals have been split into three groups, comprising 25, 24 and 15 individuals respectively, to enable the Department to operationalise your decision, should you choose to intervene. The three groups are listed at **Attachment A**.



**Options for Future Management**

7. Section 195A of the Act provides you with the power to grant a visa to a person in immigration detention and is non-compellable, meaning you are under no obligation to exercise or consider exercising your power. You may consider it in the public interest to grant these persons visas using your power under section 195A of the Act.
8. If you are inclined to consider intervening under section 195A of the Act, the Department considers the grant of a Humanitarian Stay (Temporary) (subclass 449) visas (HSTV) for seven days and an FDBVE valid for six months to be appropriate.
9. For the persons listed in Group 1, the HSTV and FDBVE will come into effect on 20 January 2021. For the persons listed in Group 2, the HSTV and FDBVE will come into effect on 21 January 2021. For the persons listed in Group 3, the HSTV and FDBVE will come into effect on 28 January 2021. The list of individuals in each group can be found at **Attachment A**.
10. The grant of an FDBVE will enable these persons to reside lawfully in the community, while providing more stringent conditions. The following conditions will be imposed on their FDBVEs:
  - conditions to promote engagement - 8401 (report as directed) and 8506 (notify new address);
  - conduct related conditions – 8564 (must not engage in criminal behaviour) and 8566 (not breach Code of Behaviour);
  - study restricted unless under 18 – 8207 (no study).
11. Each FDBVE would be granted with permission to work, providing them the capacity to financially support themselves, reduce the risk of undesirable behaviour in the community and further promote engagement with Status Resolution. They would have access to Medicare but no ongoing access to SRSS, including income support.
12. While residing in the community as the holder of an FDBVE, these persons would be required to abide by the associated conditions. Should any person breach their conditions, they would be liable for consideration of discretionary visa cancellation under section 116.
13. To manage their transition into the community, each person would be eligible for transitional support, under the SRSS program. After this period of support, all support services including specialist services, will generally cease. Transitional support is designed to link people into the services they need to live independently in Australia and bridge the gap between the support provided in immigration detention and the community.
14. If you intervene under section 195A of the Act to grant FDBVEs, the Department will be unable to cancel visas, in order to detain under section 189 of the Act, unless the individual breaches their visa conditions.

**Decline to Intervene**

15. If you decline to intervene in any of these cases, they will remain in detention and the placement of these persons will continue to be reviewed on a regular basis.

**Consultation – internal/external**

16. Status Resolution Network.

**Consultation – Secretary**

17. The Secretary has not been consulted on this submission.

**Client service implications**

18. There are no client service implications.

**Sensitivities**

19. The information contained in this submission is classified and should not be publicly released without the authority of the Department of Home Affairs. In accordance with our longstanding practices, should you wish for unclassified media lines to be prepared in relation to this issue please contact the Home Affairs Media Coordination team – [media@homeaffairs.gov.au](mailto:media@homeaffairs.gov.au).

**Financial/systems/legislation/deregulation/media implications**

20. The Department is unable to provide specific details regarding the financial implications of managing an individual, either in the community or in detention. s. 11C(1)(b)  
s. 11C(1)(b)

Importantly, the Department notes that the costs will be highly dependent on the individual circumstances including level of support required.



**Attachments**

**Attachment A** Brief Case Summaries

**Attachment B** Section 195A Decision Documents – VIC APOD to FDBVE Group 1

**Attachment C** Section 195A Decision Documents – VIC APOD to FDBVE Group 2

**Attachment D** Section 195A Decision Documents – MITA to FDBVE Group 3

**Authorising Officer**

Cleared by:

**s. 22(1)(a)(ii)**

A/g Assistant Secretary  
Status Resolution Branch

Date: **18 January 2021**

Ph **s. 22(1)(a)(ii)**

Contact **s. 22(1)(a)(ii)**, A/g Assistant Secretary, Status Resolution Branch, Ph: **s. 22(1)(a)(ii)**

CC Secretary  
FAS, Immigration Integrity and Community Protection  
Commander, Detention Operations  
Senior Assistant Secretary, Regional Processing & Resettlement  
Senior Director, Status Resolution Network  
Status Resolution Directors, Status Resolution Network



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**EXERCISE OF MINISTERIAL DISCRETION  
UNDER SECTION 195A OF THE *MIGRATION ACT 1958***

**- DECISION INSTRUMENT -**

1. The individuals named in the table below are in detention under section 189 of the *Migration Act 1958* (the Act) and I have considered their cases under section 195A of the Act.
2. I have determined that it is in the public interest to grant these individuals a final departure Bridging E (subclass 050) visa and a Humanitarian Stay (Temporary) (subclass 449) visa.
3. I therefore exercise my power under section 195A of the Act to grant, with an effect date of 20 January 2021, a final departure Bridging E (subclass 050) visa, and a Humanitarian Stay (Temporary) (subclass 449) visa to the individuals named below:

s. 47F(1)



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s. 47F(1)



THE HON PETER DUTTON MP

Minister for Home Affairs

19/01 / 2021

**Sensitive: Personal**

**EXERCISE OF MINISTERIAL DISCRETION  
UNDER SECTION 195A OF THE *MIGRATION ACT 1958***

**- STATEMENT TO PARLIAMENT -**

Exercising my powers under section 195A of the *Migration Act 1958* (the Act), I have decided to grant a visa under this section.

1. These persons are detained under section 189 of the Act as unlawful non-citizens.
2. Having regard to all the circumstances and personal characteristics, I have decided to exercise my discretionary powers under section 195A of the Act as it would be in the public interest to grant these persons a visa.
3. In the circumstances, I have decided that as a discretionary and humanitarian act to an individual with ongoing needs, it is in the interests of Australia as a humane and generous society to grant these persons a Bridging E (subclass 050) visa and a Humanitarian Stay (Temporary) (subclass 449) visa.



THE HON PETER DUTTON MP

Minister for Home Affairs

19/01 / 2021

2020/10

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**EXERCISE OF MINISTERIAL DISCRETION  
UNDER SECTION 195A OF THE *MIGRATION ACT 1958***

**- DECISION INSTRUMENT -**

1. The individuals named in the table below are in detention under section 189 of the *Migration Act 1958* (the Act) and I have considered their cases under section 195A of the Act.
2. I have determined that it is in the public interest to grant these individuals a final departure Bridging E (subclass 050) visa and a Humanitarian Stay (Temporary) (subclass 449) visa.
3. I therefore exercise my power under section 195A of the Act to grant, with an effect date of 21 January 2021, a final departure Bridging E (subclass 050) visa, and a Humanitarian Stay (Temporary) (subclass 449) visa to the individuals named below:

**Group 2: Grant effect date 21 January 2021**

s. 47F(1)




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**Sensitive: Personal**

s. 47F(1)



THE HON PETER DUTTON MP

Minister for Home Affairs

19 / 01 / 2021

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**EXERCISE OF MINISTERIAL DISCRETION  
UNDER SECTION 195A OF THE *MIGRATION ACT 1958***

**- STATEMENT TO PARLIAMENT -**

Exercising my powers under section 195A of the *Migration Act 1958* (the Act), I have decided to grant a visa under this section.

1. These persons are detained under section 189 of the Act as unlawful non-citizens.
2. Having regard to all the circumstances and personal characteristics, I have decided to exercise my discretionary powers under section 195A of the Act as it would be in the public interest to grant these persons a visa.
3. In the circumstances, I have decided that as a discretionary and humanitarian act to an individual with ongoing needs, it is in the interests of Australia as a humane and generous society to grant these persons a Bridging E (subclass 050) visa and a Humanitarian Stay (Temporary) (subclass 449) visa.



THE HON PETER DUTTON MP  
Minister for Home Affairs

19/01 / 2021

2020/10

**Sensitive: Personal**

**EXERCISE OF MINISTERIAL DISCRETION  
UNDER SECTION 195A OF THE *MIGRATION ACT 1958***

**- DECISION INSTRUMENT -**

1. The individuals named in the table below are in detention under section 189 of the *Migration Act 1958* (the Act) and I have considered their cases under section 195A of the Act.
2. I have determined that it is in the public interest to grant these individuals a final departure Bridging E (subclass 050) visa and a Humanitarian Stay (Temporary) (subclass 449) visa.
3. I therefore exercise my power under section 195A of the Act to grant, with an effect date of 28 January 2021, a final departure Bridging E (subclass 050) visa, and a Humanitarian Stay (Temporary) (subclass 449) visa to the individuals named below:

**Group 3: Grant effect date 28 January 2021**

s. 47F(1)



**Sensitive: Personal**

**Sensitive: Personal**

s. 47F(1)



THE HON PETER DUTTON MP

Minister for Home Affairs

19/01/2021

**Sensitive: Personal**



**EXERCISE OF MINISTERIAL DISCRETION  
UNDER SECTION 195A OF THE *MIGRATION ACT 1958***

**- STATEMENT TO PARLIAMENT -**

Exercising my powers under section 195A of the *Migration Act 1958* (the Act), I have decided to grant a visa under this section.

1. These persons are detained under section 189 of the Act as unlawful non-citizens.
2. Having regard to all the circumstances and personal characteristics, I have decided to exercise my discretionary powers under section 195A of the Act as it would be in the public interest to grant these persons a visa.
3. In the circumstances, I have decided that as a discretionary and humanitarian act to an individual with ongoing needs, it is in the interests of Australia as a humane and generous society to grant these persons a Bridging E (subclass 050) visa and a Humanitarian Stay (Temporary) (subclass 449) visa.



THE HON PETER DUTTON MP

Minister for Home Affairs

19/01/2021

2020/10

**Archived:** Friday, 19 February 2021 2:20:49 PM

**From:** s. 22(1)(a)(ii)

**Sent:** Tue, 19 Jan 2021 10:13:58

**To:** s. 47E(d) ; s. 22(1)(a)(ii)

**Cc:** s. 22(1)(a)(ii) ; s. 47E(d) ; s. 22(1)(a)(ii) ; s. 22(1)(a)(ii)

**Subject:** HPRM: FW: MS20-003084 MITA and VIC APOD cohorts [SEC=OFFICIAL:Sensitive]

**Sensitivity:** Normal

**Attachments:**

BVE - HSTV Grant Group 1 Notification Letters - 20 Jan 21.pdf;

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**OFFICIAL: Sensitive**

Dear MITA,

Please see notification letters for Group 1 visa grants, currently scheduled for Wednesday 20 January 2021.

Group 2 and Group 3 notification letters will be emailed through shortly.

Any questions, please give me a call.

Regards,

s. 22(1)(a)(ii)

Ministerial Intervention Section (s195A & s197AB)

Status Resolution Branch | Immigration Integrity and Community Protection Division

Immigration and Settlement Service

s. 22(1)(a)(ii)

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**OFFICIAL: Sensitive**

**From:** s. 22(1)(a)(ii)

**Sent:** Tuesday, 19 January 2021 9:44 AM

**To:** s. 22(1)(a)(ii) ; s. 22(1)(a)(ii) ; s. 22(1)(a)(ii) ; s. 22(1)(a)(ii) ; s. 22(1)(a)(ii)

**Cc:** s. 22(1)(a)(ii) ; s. 22(1)(a)(ii)

**Subject:** RE: MS20-003084 MITA and VIC APOD cohorts [SEC=OFFICIAL:Sensitive]

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**OFFICIAL: Sensitive**

Hi all,

As you have already been advised, the visa grants are scheduled to take place on 20, 21 and 28 January. Please note that the

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order of grants has changed (please see Attachment A). I have asked [redacted] to let us know ASAP of the Minister's decision.

Many thanks

[redacted]

A/g Assistant Secretary

Status Resolution Branch| Immigration Integrity and Community Protection Division

Immigration & Settlement Services Group

Department of Home Affairs

Ph: [redacted] | Mobile [redacted]

Email: [redacted]@homeaffairs.gov.au



**OFFICIAL: Sensitive**

**From:** [redacted]  
**Sent:** Tuesday, 12 January 2021 5:54 PM  
**To:** [redacted]@HOMEAFFAIRS.GOV.AU>; [redacted]  
[redacted]@HOMEAFFAIRS.GOV.AU>; [redacted]  
[redacted]@HOMEAFFAIRS.GOV.AU>; [redacted]@HOMEAFFAIRS.GOV.AU>  
**Cc:** [redacted]@HOMEAFFAIRS.GOV.AU>; [redacted]@HOMEAFFAIRS.GOV.AU>; Justine JONES  
[redacted]@HOMEAFFAIRS.GOV.AU>  
**Subject:** MS20-003084 MITA and VIC APOD cohorts [SEC=OFFICIAL:Sensitive]

**OFFICIAL: Sensitive**

Hi all,

[redacted] has just advised that the Thursday (14 Jan) visa grants may be postponed to the following week, which may also impact the 18 and 19 Jan visa grants (they could also be pushed by a few days). Can you please advise if there will be significant concerns or issues by this change? He will let us know as soon as he has firm new dates.

Many thanks

[redacted]

A/g Assistant Secretary

Status Resolution Branch| Immigration Integrity and Community Protection Division

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Immigration & Settlement Services Group

Department of Home Affairs

Ph: s. 22(1)(a)(ii) | Mobile s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)@homeaffairs.gov.au

The Department of Home Affairs and the Australian Border Force acknowledge the Traditional Custodians throughout Australia and their continuing connection to land, sea and community. We pay respect to all Aboriginal and Torres Strait Islander peoples, their cultures and to their elders past and present.



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**Archived:** Friday, 19 February 2021 2:30:00 PM

**From:** s. 22(1)(a)(ii)

**Sent:** Wed, 20 Jan 2021 13:18:43

**To:** s. 22(1)(a)(ii) s. 47E(d)

**Cc:** s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 47E(d)

**Subject:** HPRM: MS20-003084 - Group 1 visas granted [SEC=OFFICIAL:Sensitive]

**Sensitivity:** Normal

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**OFFICIAL: Sensitive**

Hi All,

Please be advised that the FDBVEs and HSTVs have been granted in systems for Group 1.

Regards,

s. 22(1)(a)(ii)

Ministerial Intervention Section (s195A & s197AB)

Status Resolution Branch | Immigration Integrity and Community Protection Division

Immigration and Settlement Service

s. 22(1)(a)(ii)

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**Archived:** Friday, 19 February 2021 2:26:51 PM

**From:** s. 22(1)(a)(ii)

**Sent:** Wed, 20 Jan 2021 16:56:51

**To:** s. 22(1)(a)(ii) s. 47E(d)

**Cc:** s. 22(1)(a)(ii)

**Subject:** HPRM: RE: MS20-003084 - Group 2 grant letters [SEC=OFFICIAL:Sensitive]

**Sensitivity:** Normal

**Attachments:**

s. 47F(1) VIC 21 Jan 21 BVE - HSTV Grant Group 2 Notification Letters.pdf;

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**OFFICIAL: Sensitive**

Hi s. 22(1)(a)(ii)

Please find attached notification letters for Group 2.

Appreciate you advising approximate times for tomorrow. We will commence granting BVEs in systems around 1030am tomorrow – does this work in regards to your planning?

Regards,

s. 22(1)(a)(ii)

Ministerial Intervention Section (s195A & s197AB)

Status Resolution Branch | Immigration Integrity and Community Protection Division

Immigration and Settlement Service

s. 22(1)(a)(ii)

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**OFFICIAL: Sensitive**

**From:** s. 22(1)(a)(ii)

**Sent:** Wednesday, 20 January 2021 4:53 PM

**To:** s. 22(1)(a)(ii) ; s. 47E(d)

**Cc:** s. 22(1)(a)(ii)

**Subject:** RE: MS20-003084 - Group 2 grant letters [SEC=OFFICIAL:Sensitive]

**Importance:** High

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**OFFICIAL: Sensitive**

Hi M.I team

Thank you very much for your help and assistance today with the FD BVE grants and for preparing the grant letters for Group 1. Your assistance has been greatly appreciated.

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I'm just writing to ask when grant letters may be ready for Group 2 which are scheduled for release tomorrow morning.

We will be going to the MAPOD at 9.15am to undertake the release for Group 2 and would appreciate being able to prepare tonight if possible.

Thank you once again for your assistance.

Kind regards,

s. 22(1)(a)(ii)

a/g Assistant Director – MITA Status Resolution

Melbourne Immigration Transit Accommodation (MITA)

Vic/Tas Status Resolution Services

Status Resolution Network | Immigration Integrity and Community Protection Division

Department of Home Affairs

Ph: s. 22(1)(a)(ii)

E-mail: s. 22(1)(a)(ii)@homeaffairs.gov.au

s. 47E(d)@homeaffairs.gov.au

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From: s. 22(1)(a)(ii)@homeaffairs.gov.au

Sent: Wednesday, 20 January 2021 1:19 PM

To: s. 22(1)(a)(ii) s. 47E(d)@homeaffairs.gov.au

Cc: s. 22(1)(a)(ii)@homeaffairs.gov.au; s. 22(1)(a)(ii)

@HOMEAFFAIRS.GOV.AU; s. 22(1)(a)(ii)

@homeaffairs.gov.au; s. 22(1)(a)(ii)@homeaffairs.gov.au; s. 47E(d)

@homeaffairs.gov.au

Subject: MS20-003084 - Group 1 visas granted [SEC=OFFICIAL:Sensitive]

**OFFICIAL: Sensitive**

Hi All,

Please be advised that the FDBVEs and HSTVs have been granted in systems for Group 1.

Regards,

s. 22(1)(a)(ii)

Ministerial Intervention Section (s195A & s197AB)

Status Resolution Branch | Immigration Integrity and Community Protection Division

Immigration and Settlement Service

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**OFFICIAL: Sensitive**

**OFFICIAL: Sensitive**



Archived: Friday, 19 February 2021 2:00:35 PM

From: [REDACTED]

Sent: Thu, 21 Jan 2021 09:23:18

To: [REDACTED]

Subject: HPRM: VIC Cohort - FDBVE Grants [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]

Sensitivity: High

Attachments: [REDACTED]

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**OFFICIAL: Sensitive  
Personal-Privacy**

Dear Detention Health,

Please be advised the Minister intervened under section 195A of the Act to grant 64 transitory detainees Final Departure Bridging E visas.

Minister Dutton signed the submission on 19 January 2020 and the FDBVEs will come into effect on three separate days.

Apologies for the delay in sending notification, we were advised yesterday of the submission being signed and had a number of urgent requests to respond to yesterday.

Please see below list for effect date for each detainee:

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Ministerial Intervention Section (s195A & s197AB)

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s. 22(1)(a)(ii)

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OFFICIAL: Sensitive**