



BRIEFING

Amended Recommendation 9.2 for Cabinet Committee, 6 August 2018

Date:	2 August 2018	Priority:	Medium
Security classification:	In Confidence	Tracking number:	0433 18-19

Action sought		
	Action sought	Deadline
Hon Iain Lees-Galloway Minister of Immigration	Note the attached amended recommendation to take to Cabinet on Monday 6 August, alongside supporting talking points	3 August 2018

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Siân Roguski	Manager, Immigration Policy	04 901 3855	s 9(2)(a)	✓
Misty Parbhu	Senior Advisor	04 896 5319	N/A	

The following departments/agencies have been consulted
N/A

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments

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Purpose

This briefing provides you with an amended recommendation to take to Cabinet on Monday, 6 August, that includes a sunset clause for the current regionalisation recommendation (recommendation 9.2) that provides a two-year open post-study work visa for students that study at Level 4 to 6 and non-degree Level 7 outside of Auckland. This briefing includes talking points to support a discussion at Cabinet as well as additional information previously provided to you regarding the estimated impacts of the changes, should they be required.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Agree** to introduce a three year sunset clause to recommendation 9.2 to enable those parts of the sector that are most affected by the changes (Institutes of Technology and Polytechnics (ITPs) and Private Training Establishments (PTEs)) to be able to successfully transition, over time, to new immigration settings;
- Agree / Disagree*
- b **Agree** to amend the current recommendation 9.2 as follows (amended text in italics):
to provide a two-year open post-study work visa for students studying Level 4 to 6 and non-degree Level 7 qualifications outside of Auckland *provided study is completed by December 2021, at which point the entitlement for post-study work rights reverts to those set out in recommendation 9.1.*
- Agree / Disagree*
- c **Note** the attached amended additional recommendation to take to Cabinet on Monday, 6 August, alongside supporting talking points;
- Noted*
- d **Note** that Minister Hipkins will take the Cabinet paper with the amended recommendation to Cabinet in your absence;
- Noted*
- e **Forward** a copy of this briefing to Minister Hipkins.

Siân Roguski
Manager, Immigration Policy
MBIE

02 / 08 / 2018

Hon Iain Lees-Galloway
Minister of Immigration

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Feedback from Cabinet Economic Development Committee

1. You discussed your paper, *Proposed Changes to Immigration Settings for International Students: Outcome of Consultation*, with your Ministerial colleagues at Cabinet Economic Development Committee (DEV) on Wednesday, 1 August.
2. At the discussion at DEV, it was agreed that the paper would be referred to Cabinet on 6 August for further consideration [DEV-18-MIN-0147 refers] and that an additional recommendation is being considered in relation to the proposal to regionalise the policy changes for study at non-degree Level 7 and below.
3. Currently, there are two proposals relating to those studying non-degree Level 7 and below. These are:
 - 9.1 to provide a one-year post-study open work visa for students studying Level 4 to 6 and non-degree Level 7 qualifications with an additional year for Graduate Diplomas towards registration with a professional or trade body; and
 - 9.2 to provide a two-year open post-study work visa for students studying Level 4 to 6 and non-degree Level 7 qualifications outside of Auckland.
4. The amended recommendation adds a sunset clause to proposal 9.2 above, at which point the entitlement for post-study work rights for all those studying Level 4 to 6 and non-degree Level 7 qualifications, regardless of location, will revert to proposal 9.1 above.
5. We are proposing to amend current recommendation 9.2 as follows (amended text in italics):
 - 9.2 to provide a two-year open post-study work visa for students studying Level 4 to 6 and non-degree Level 7 qualifications outside of Auckland *provided study has been successfully completed by 31 December 2021, at which point the entitlement for post-study work rights reverts to those set out in recommendation 9.1.*
6. The proposed additional recommendation is set out in Annex One.

Officials recommend introducing a three year sunset clause

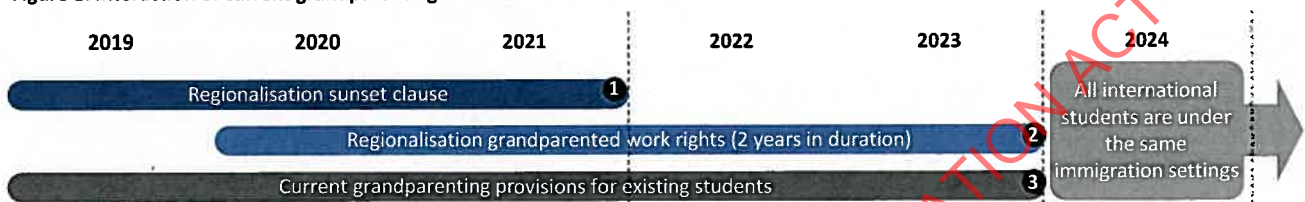
7. A three year sunset clause is proposed. The purpose of the sunset clause is to enable those parts of the sector that are most affected by the changes (Institutes of Technology and Polytechnics (ITPs) and Private Training Establishments (PTEs)) to be able to transition, over time, to the new immigration settings. It also supports current work underway by Tertiary Education Commission (TEC) on the long-term viability of ITPs, and ensures that Government's goals for regional growth are not undermined.
8. The Tertiary Education Commission (TEC) is due to report back to the Minister of Education at the end of September 2018, and the Minister of Education to Cabinet by the end of 2018, on the options for moving to a strong and viable ITP sector.
9. Significant system changes can take a number of years to fully unfold. A three-year period will allow the sector time to incorporate the transition to a higher value system into its planning. The three-year period also lines up with Education New Zealand's view of the required transition period to a higher value international education system, a goal which is signalled in the International Education Strategy.

Interaction of sunset clause with existing grandparenting provisions

10. To operationalise this recommendation, students studying at non-degree Level 7 and below outside of Auckland will be entitled to two years of post-study work rights if:

- They have studied at a level, and for a length of time, that entitles them to post-study work rights; and
 - they have successfully completed their study by 31 December 2021.
11. Figure 1 below sets out how the proposed sunset clause of three years (and associated post-study work rights) interacts with grandparenting provisions in place for current students.
 12. It shows that the regionalisation sunset clause will end in December 2021 (1) with the associated grandparented work rights (which are for a total of two years in duration) extending to the end of 2023 (2)¹, aligning with the grandparenting provisions for existing students, which also come to an end in 2023 (3).

Figure 1: Interaction of current grandparenting and additional sunset clause



13. From 2022, all **new** international students studying Level 4 to 6 and non-degree Level 7 qualifications, regardless of location of study, will be entitled to one year of post-study work rights with an additional year for Graduate Diplomas towards registration with a professional or trade body.

Risks

14. There is a risk that providers, students and agents will be uncertain as to which students are entitled to what work rights. Communications materials are being prepared to ensure that the changes to immigration settings are understood.

Annexes

Annex One: Amended Recommendation 9.2 – Sunset Clause

Annex Two: Talking Points to support discussion on changes to immigration settings for international students including the amended recommendation on Proposal Two for Cabinet, Monday, 6 August

Annex Three: Talking Points to support discussion on updated recommendation on Proposal Two for Cabinet, Monday, 6 August

Annex Four: Estimating the impact of changes to Post-study Work Rights

¹ Full year student visas expire as at 31 March, which means there is potential for some two year work visas to run through to June 2024.

Annex One: Amended Recommendation 9.2 - Sunset Clause

Proposal Two

Current recommendations:

- 9.1 to provide a one-year post-study open work visa for students studying Level 4 to 6 and non-degree Level 7 qualifications with an additional year for Graduate Diplomas towards registration with a professional or trade body; and
- 9.2 to provide a two-year open post-study work visa for students studying Level 4 to 6 and non-degree Level 7 qualifications outside of Auckland.

Proposed additional recommendation:

Amend 9.2 as follows (amended text in italics):

- 9.2 to provide a two-year open post-study work visa for students studying Level 4 to 6 and non-degree Level 7 qualifications outside of Auckland *provided study is completed by December 2021, at which point the entitlement for post-study work rights reverts to those set out in recommendation 9.1*

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Annex Two: Talking points to support discussion on changes to immigration settings for international students

Why are these changes being made?

There has been significant growth in New Zealand's international education sector over the last few years, particularly at the sub-degree level. This growth has been associated with some negative consequences, including:

- a decline in the skill level of people granted permanent residence; and
- fraudulent and unethical behaviour from some education providers, agents and employers leading to the exploitation of international students.

I am proposing changes to post-study work rights, in line with three main policy objectives:

- to ensure that post-study pathways for international students are fit-for-purpose and contribute the skills and qualifications New Zealand needs;
- to reduce the likelihood of students being exploited by unscrupulous employers, education providers and agents; and
- to minimise losses of genuine students to the export education industry.

What are the changes being made?

I am seeking agreement to the following changes:

1. to remove the employer-assisted post-study work visas at all levels;
2. to provide a one-year post-study open work visa for students studying Level 4 to 6 and non-degree Level 7 qualifications, with an additional year for Graduate Diplomas towards registration with a professional or trade body;
3. to provide a two-year post-study open work visa for students studying Level 4 to 6 and non-degree Level 7 qualifications outside Auckland;
4. to provide a three-year post-study open work visa for degree Level 7 or above qualifications; and
5. to require international students studying Level 8 qualifications to be in an area specified on the Long Term Skills Shortage list in order for their partner to be eligible for an open work visa, and in turn the partners' dependent children to be eligible for fee-free domestic schooling.

Why have the proposals changed?

Consultation on proposals for changes to the immigration settings for international students was carried out in June 2018. Over 2,000 submissions were received and officials met with a range of stakeholders. As a result of the feedback received through this process, I considered changes were needed.

These changes include an added incentive for international students to study outside Auckland, which seeks to support the Government's aims to lift productivity in the regions.

I believe the totality of these changes support the Government's broader plans for a high quality international system that will generate educational, economic, social and cultural benefits to New Zealand.

I consider we are still achieving the objectives intended, while also retaining New Zealand's competitive settings.

How do these changes align with the Government's priorities for international education?

The changes to post-study work rights are in line with the aims of the New Zealand International Education Strategy, which seeks to support the sector in striving for a sustainable, quality education offering that generates increased value to New Zealand.

What are the expected impacts of the proposals regarding post-study work rights?

Table Two in the Cabinet paper outlines the resulting entitlements for post-study work rights as a result of the changes:

Table Two: Resulting entitlements for post-study work rights as a result of the changes

Type of qualification		Current post-study visas	Final changes	Change in entitlement
Level 7 degree and above qualifications		One-year open and two-year employer-assisted	Three years open	Total number of years the same
Non-degree Level 7 qualifications	Auckland	One-year open and two-year employer-assisted	One year open, and an additional year for Graduate Diplomas towards registration with a professional or trade body	Visa reduction of two years, except for Graduate Diplomas towards registration with a professional or trade body which will be eligible for an additional year to work towards full registration
	Outside Auckland	One-year open and two-year employer-assisted	Two years open	Visa reduction of one year
Level 4-6 qualifications of a two year duration	Auckland	One-year open and two-year employer-assisted	One year open	Visa reduction of two years
	Outside Auckland	One-year open and two-year employer-assisted	Two years open	Visa reduction of one year
Level 4-6 qualifications of less than two years duration		None	None	None

There is likely to be a reduction of international students studying at lower-levels as a result of these changes but I believe that the quality of New Zealand's education system stands on its own merits and there will continue to be students who choose New Zealand for the education quality, the lifestyle and the experience.

New Zealand's policy settings will continue to be competitive overall in relation to our key comparator countries and more competitive for students studying at degree level and above.

In the 2017 year, there were around 12,000 first time student visas likely in sub degree levels 4 to 7. This 12,000 represents the upper bound impact, implying that 100% of international students studying at sub-degree level would have to choose to not come to New Zealand as a result of these changes. I consider this is extremely unlikely.

All of these international students will get less work entitlements than they do now. However, under the revised option in place to support regional growth, some of these people will have two years of open work rights compared to one year open and two years employer assisted.

Based on what the data shows in terms of demand changes due to previous policy shifts, officials have estimated:

- **the significant scenario** is a 50% reduction in demand for this group – that is, we could see 6,000 fewer new international students come for this level of study per year. This would flow through to around 4,600 fewer post-study workers from this cohort, if around 76% go on to work. For this demand impact to happen, we would be seeing an impact five times higher than what has been observed following changes to the Skilled Migrant Category settings. These changes have undoubtedly had a much bigger effect on reducing the chance of getting residence following a student pathway at lower levels of study.
- **the minimal impact scenario** is a 10% reduction in demand – that is, we could see around 1,200 fewer new international students come for this level of study per year. This would mean about 900 fewer post-study workers staying on to work from this cohort. This equates more closely to the impact we've observed as a result of the recent Skilled Migrant Category changes, which largely impacted the same group. However, the full impact of these changes may not have flowed through as yet.

Under the significant scenario, we would expect that if half of the reduction of students came from ITPs and half were from PTEs, then the estimated tuition revenue impact would be \$37.5 million for ITPs and \$21 million for PTEs.

Under the minimal impact scenario, we would expect that if half of the reduction of students came from ITPs and half were from PTEs, then the estimated tuition revenue impact would be \$7.5 million for ITPs and \$4.2 million for PTEs.

Students studying at non-degree level 7 and below are still coming to study in New Zealand even though the pathways to residence have been tightened. If these students are migration motivated, most are likely to consider temporary visas, such as Essential Skills, and other pathways are still viable enough options to be worth pursuing. Officials consider that this makes the minimal impact scenario more likely.

What will happen to current students?

Current settings will be grandparented, so they will not impact current post-study work visa holders or current students who are undertaking a qualification that, once completed, will meet the qualification requirements as set out in current immigrations.

I considered this was fair to those international students who had come to New Zealand to study on the basis of current settings.

Existing settings will be grandparented from the date of announcement in August 2018. This mitigates the risk in a spike in applications from international students at lower levels trying to take advantage of the more generous settings. We expect that the grandparenting provision will last for five years, with the number diminishing each year.

Annex Three: Talking Points to support discussion on updated recommendation on Proposal Two for Cabinet, Monday, 6 August

I am proposing a three year sunset clause, the purpose of which is to enable those parts of the sector that are most affected by the changes (Institutes of Technology and Polytechnics (ITPs) and Private Training Establishments (PTEs)) to be able to transition, over time, to the new immigration settings.

This approach will also support current work underway by Tertiary Education Commission (TEC) on the long-term viability of ITPs, and ensures that Government's goals for regional growth are not undermined.

Significant system changes can take a number of years to fully unfold. A three-year period will allow the sector time to incorporate the transition to a higher value system into its planning.

This approach also aligns with Education New Zealand's view of the required transition period to a higher value international education system, a goal which is signalled in the International Education Strategy.

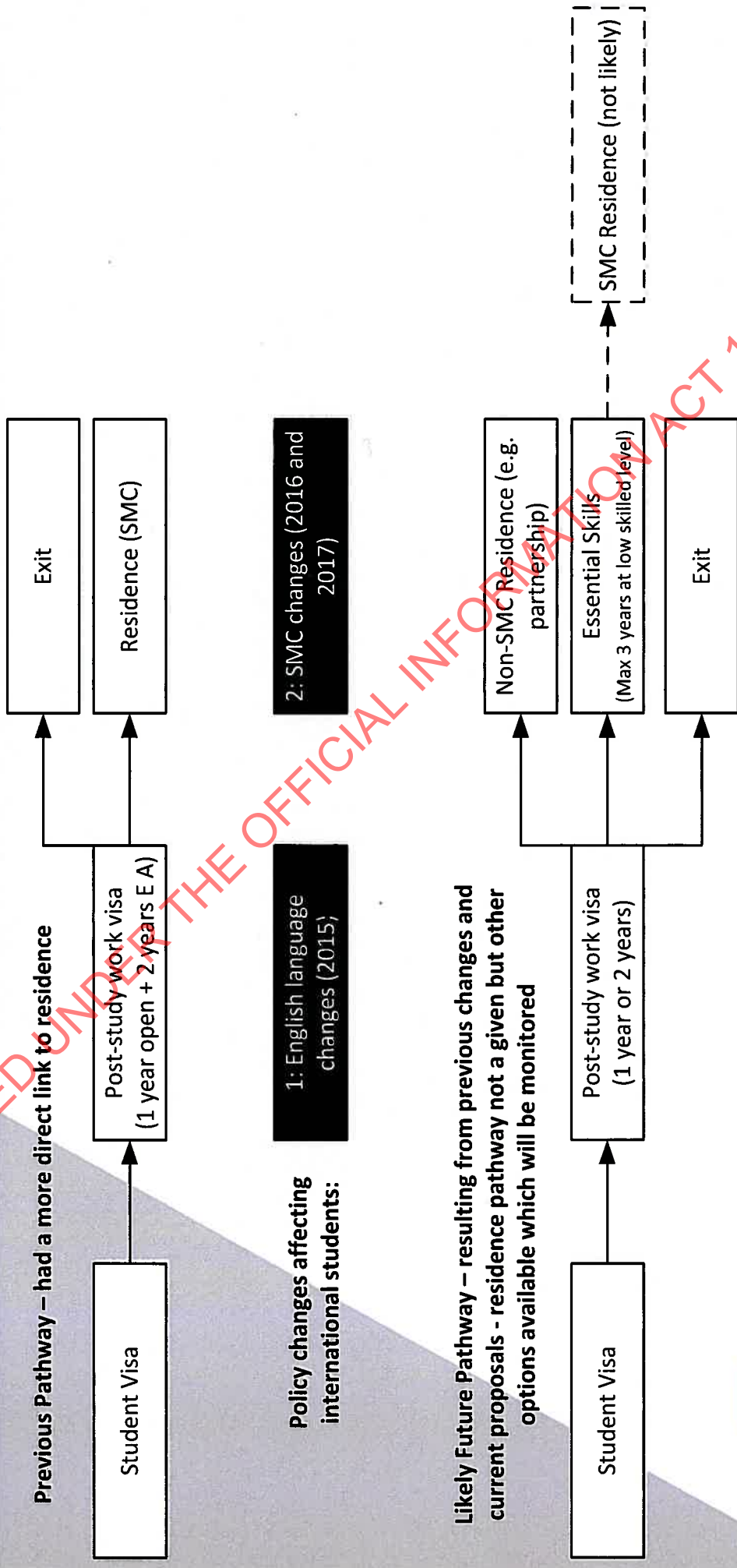
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Annex Four: Estimating the impact of changes to Post-study Work Rights

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Estimating the impact of changes to Post-Study Work Rights

Pathways exist for students motivated by permanent migration. These have been tightened as a result of previous policy changes. The proposed changes further tighten the pathways leading to a better alignment with Government's objective to best meet the New Zealand labour market's qualification and skill needs.



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Estimating the impact of changes to Post-Study Work Rights

Impacts of policy changes	Estimated change in demand (actual change in # of students)	Overall skills / qualifications of students	Exploitation of international students	Labour market displacement	Tertiary sector	Export value of onshore international education
1. Previous (2015) English Language changes (NZQA Rule 18 change)	↓ Large Significant decrease in demand (4,000 decrease in First Time Student Visa approvals between 2015 and 2016)	↑ Increase as impact was concentrated at lower levels of study and targeted to ensure students had the language skills required to benefit from study in English	↓ Decrease as impact was concentrated at lower levels of study and English skills required to navigate and understand NZ system	↓ Decrease as total student numbers decrease	↓ Decrease concentrated at PTE	↓ Decrease as a result of fewer students at PTEs
2. Skilled migrant category changes (2016 and 2017)	↓ Small decrease	↑ Increase as the points criteria were modified to reward higher qualified and skilled migrants	↓ Decrease as reduction in students at lower levels of study	↓ Decrease as student numbers at lower levels of study decrease	↓ Decrease concentrated at ITPs and PTEs	↓ Decrease as a result of fewer students at PTEs and ITPs
3. Consultation proposals	↓ Small to medium decrease – see scenarios overleaf	↑ Increase as incentivises higher levels of study	↓ Decrease	↓ Decrease (as student numbers decrease)	↓ Decrease concentrated at ITPs and PTEs (sub degree providers) ↑ Increase for degree providers	↓ Decrease as a result of fewer students at PTEs and ITPs ↑ Small increase degree providers
4. Current proposals *compared to consultation proposals	↑ Small increase – *see scenarios overleaf	↓ Decrease*	↓ Decrease	↑ Increase*	↑ Small increase* concentrated at regional providers	↑ Small increase* concentrated at regional providers

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Estimating the impact of changes to Post-Study Work Rights

Possible demand-side response scenarios resulting from the changes and underlying assumptions

Scenario one: significant impact

This scenario assumes:

- That students are more uncertain of their ability to continue to work in New Zealand (and ultimately achieve residence) and that this ability is a key driver of their choice to come to New Zealand to study.
- At most 76% of first time students go on to a work visa of some type.
- Based on 50% of first time students studying at non-degree level 7 and below deciding not to come to New Zealand, there will be:
 - A **6,000 drop** in the number of first time student visas
 - A **4,600 drop** in the number of 'finishers' in this group who go on to work visas

This scenario is equivalent to a behavioural response five times bigger than that observed following the changes to tighten the points criteria for the Skilled Migrant category, and the Essential Skills changes, which have had a greater practical impact on a students' pathway to work and residence.

- The new proposal (i.e. to grant one additional year of post-study work rights to students studying outside of Auckland) would be likely to reduce these impacts in the short term by a small amount. We would expect the market to adjust quite quickly to shift provision to the regions.

Common assumptions

- The availability of post-study work rights is just one component of the international education offering and factors in the decision-making of prospective students to New Zealand. Others include: affordability, quality of education, safety and visa/entry requirements.
- New Zealand's offering in regard to post-study work rights remains competitive following the changes: only less favourable than Canada (but more favourable than Australia, USA, Ireland and the UK).
- There will be small positive changes (i.e. increases in enrolments) in student demand for bachelor degree-level study and above given the behaviour of this cohort of students is not to stay in New Zealand following completion of study. These changes in demand have not been included in the scenarios.
- The focus of the scenarios is on non-degree Level 7 or below study, given that it is this group of students who have their post-study work rights negatively affected. Based on an analysis of cohorts of 'finishers' (i.e. the number of students flowing out of the international education system in a single calendar year), this analysis shows that for 'finishers', one year after finishing study approximately:
 - 76% go onto a work visa of some type
 - 20% leave New Zealand
 - 4% go onto something else (e.g. to residence)
- The above cohort analysis is borne out by analysis looking at student pathways 5 years post study: one-third of all students studying at non-degree level and below have left New Zealand after 5 years.

The key difference modelled under the two scenarios is students' perceptions of how difficult it will be to continue to work (and ultimately achieve residence) through policies other than the post-study pathway, following the proposed changes:

- We have not modelled any 'contagion' affect, i.e. we have assumed that only those students who have their work rights affected will have a behavioural response.
- Grandparenting of existing work rights will limit the impact on existing students, and therefore it is assumed that students currently in New Zealand will not alter their behaviour and leave mid-study. While existing students make up a large number of new student visa applications each year, we assume because of the grandparenting these students will continue to apply for additional visas at the same rate as they do now.
- First time student visa numbers have been falling in recent years but this has levelled off since 2016 (see figure two in Annex Three) and for the 2018 year it has been assumed that first time student visas for the affected cohort would have stayed stable at around 12,000, absent of any changes.

Scenario two: minimal impact

This scenario assumes:

- Students continue to be confident of their ability to work in New Zealand (and ultimately achieve residence), at the same level as observed following the changes to tighten the points criteria for Skilled Migrant Category (SMC).
- New Zealand continues to market itself to non-degree Level 7 or below study.
- Providers adjust their education offerings to appeal to prospective students.
- Education agents and immigration advisers provide advice on alternative pathways to students, to enable them to continue to work and gain residence in New Zealand.
- Based on the 10% fall in first time student visas following the change in SMC, there will be:
 - A **1,200 drop** in the number of first time student visas
 - A **900 drop** in the number of 'finishers' who go on to work visas
- This scenario is equivalent to a behavioural response similar to that observed following the changes to tighten the points criteria for the Skilled Migrant category, and the Essential Skills changes, which have had a greater impact on a students' pathway to work and residence.
- The new proposal (i.e. to grant one additional year of post-study work rights to students studying outside of Auckland) would be likely to reduce these impacts in the short term by a small amount. We would expect the market to adjust quite quickly to shift provision to the regions.



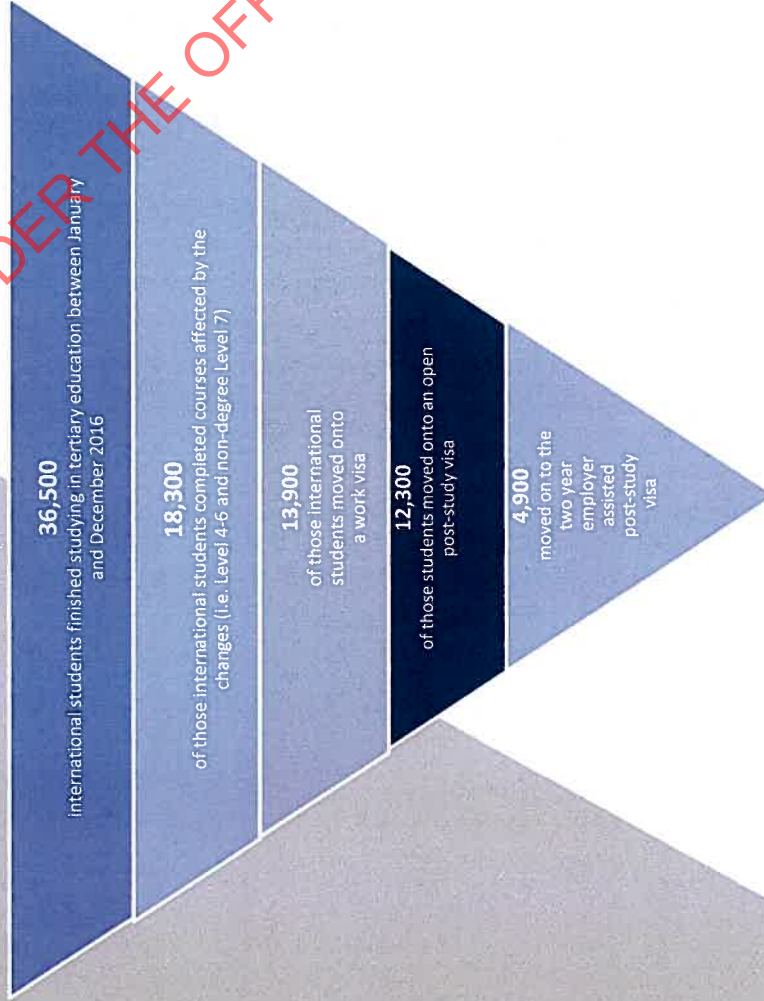
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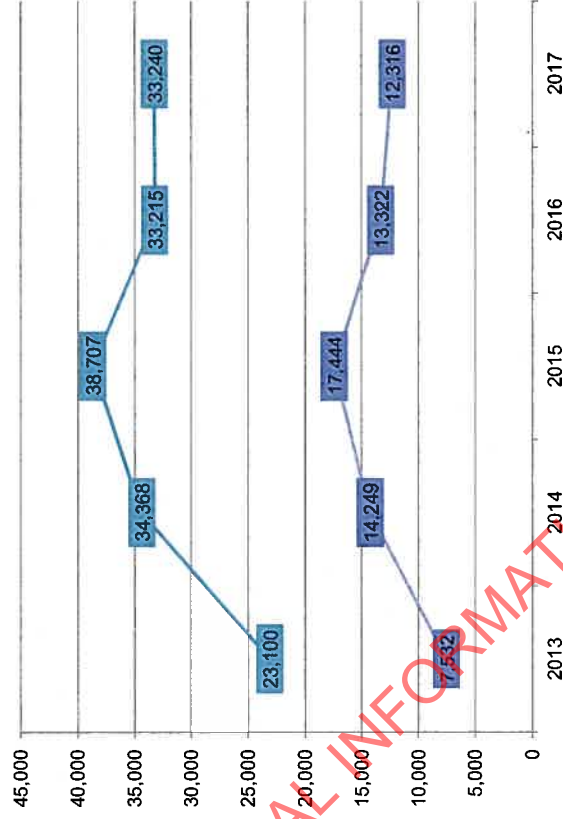
Estimating the impact of changes to Post-Study Work Rights

Based on an analysis of the post-study behaviour of the 2016 cohort of international students finishing their study, approximately 70% of students in the affected group (non-degree Level 7 and below) went onto a work visa

Over time there has been a reduction in the numbers of students entering the immigration system at the tertiary level.



Trend in student visa applications approved at tertiary level from 2013-2017



Total first time student visa applications approved

First time student visa applications approved at Level 4 - 7 non-degree

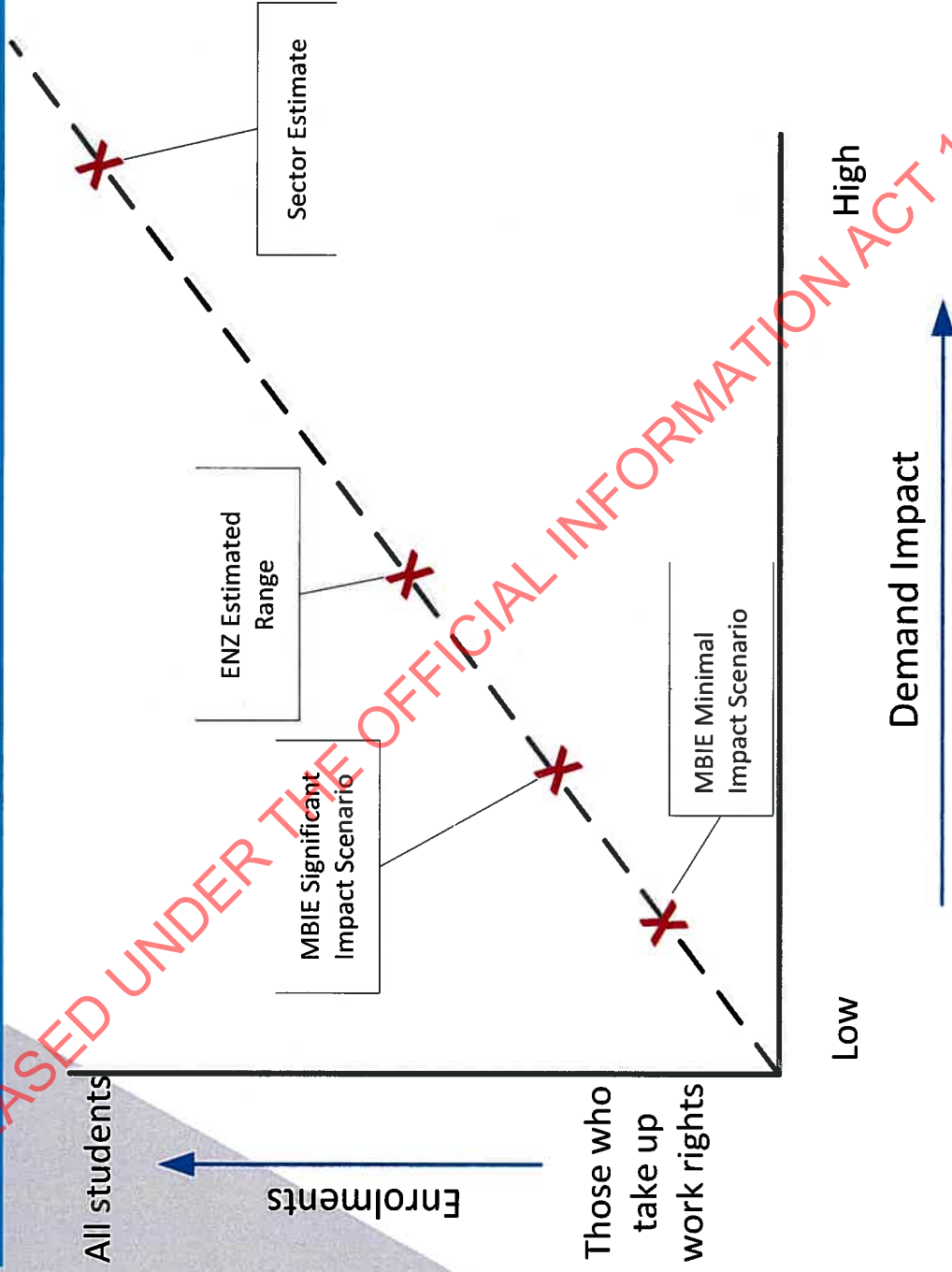


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Estimating the impact of changes to Post-Study Work Rights

There have been a range of estimates from various sources. The figure below reflects the range of sub degree impacts from different assessment assumptions.



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