



BRIEFING

Proposed options to meet manifesto commitments regarding post-study and in-study work rights

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|---------------------------------|---------------|-------------------------|------------|
| Date: | 29 March 2018 | Priority: | Medium |
| Security classification: | In Confidence | Tracking number: | 2464 17-18 |

| Action sought | | |
|---|--|--------------|
| | Action sought | Deadline |
| Hon Iain Lees-Galloway Minister of Immigration | Indicate preferred options for changes to post-study work rights Copy to International Education Ministers by 5 April | 5 April 2018 |
| Hon Kris Faafoi Associate Minister of Immigration | For your information | N/A |

| Contact for telephone discussion (if required) | | | |
|--|-----------------------------|-------------|-------------|
| Name | Position | Telephone | 1st contact |
| Siân Roguski | Manager, Immigration Policy | 04 901 3855 | ✓ |
| Misty Parbhu | Senior Policy Advisor | 04 896 5319 | |

| The following departments/agencies have been consulted |
|--|
| Ministry of Education, New Zealand Qualifications Authority, Education New Zealand, Tertiary Education Commission, Ministry of Foreign Affairs and Trade |

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 Withdrawn |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 report provides options on achieving Government's manifesto commitments relating to post-study work rights including attendant benefits and risks of each option, and recommended next steps. It also sets out high level options for potential changes to in-study work rights.

Executive summary

Your manifesto commitments relating to international education and immigration are focused on making changes to limit in-study and post-study work rights to those students undertaking degree-level and above study.

Work rights help make studying in New Zealand an attractive proposition to international students. In-study work rights can help make international study more affordable and provide the opportunity for a fuller New Zealand experience, and post-study work rights can enable students to gain work experience relevant to their New Zealand qualification, as well as a potential pathway to residency in New Zealand. However, it is important that the settings reflect New Zealand's policy objectives and current settings do not achieve this.

As was noted in the November 2017 report *International Education Manifesto Commitments and Immigration Levers* [1104 17-18], work has already been done to better align immigration pathways for international students with New Zealand's needs for highly skilled migrants. The impact of this can be seen in the reduction of international student numbers studying at Private Training Establishment's (PTEs) over the last year. It is likely that New Zealand will continue to experience the impact of these policy changes, in reduced student numbers, over the coming years.

While the number of those coming to study in New Zealand has decreased overall, the impacts of previous growth will continue to be felt as students from the peak of the growth in 2015 and 2016 move through the system into post-study work.

It is against this backdrop that officials have looked at options for changes to post-study work rights, in line with three policy objectives:

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

Options have been provided for changing post-study work visas that meet the objectives above and focus on: the duration of visa offered; the structure of the visa (if it is 'open' or 'employer assisted'); and the duration of study required to be eligible for a post-study visa.

We recommend you agree to removing 'employer assisted' post-study work visas at all levels while retaining 'open' work rights of varying lengths dependent on level of study. This creates stronger signals about the level of skill and qualifications required for pathways to residency while

simultaneously removing one of the avenues employers have used to take advantage of students. We also recommend those studying non-degree New Zealand Qualifications Framework (NZQF) Level 7 qualifications should be required to study in New Zealand for at least two years to be entitled to work rights. This better aligns post-study work rights with students' investment in New Zealand's export education sector and reinforces the message of what New Zealand values for residency.

The international education sector, and its students, impact on a broad range of Government priorities. Immigration settings for the international education sector could contribute to wider government priorities, for example: preventing migrant exploitation; Kiwibuild; and regional economic development. We recommend taking decisions about post-study work rights now while remaining open to further changes as they come out of the developing work programmes in these areas.

We recommend targeted consultation on the recommended proposals for post-study work rights be undertaken directly with tertiary industry peak bodies and student associations. This will include seeking feedback on timings for the introduction of any changes. Officials will report back to you with the results of consultation on 7 June in time for you to discuss with International Education Ministers at the scheduled 11 June meeting. This approach will enable changes to post-study work rights to be confirmed to the sector at the New Zealand International Education Conference that starts 9 August.

You are due to receive advice on in-study work rights in October. s 9(2)(f)(iv)
s 9(2)(f)(iv)

Recommended action

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

- a **Note** the three underlying policy objectives that have been identified for this work:
- to ensure that the pathways for international students, post-study, are fit-for-purpose and contribute to the skills New Zealand needs
 - to reduce the likelihood of students being exploited by unscrupulous employers, education providers and agents
 - to minimise losses of bona fide students and to the export education industry.

Noted

- b **Note** that officials have identified options for making changes to post-study work rights as aligned with manifesto commitments and the policy objectives set out in recommendation a above, and **indicate** your preferred option(s)

| Option | Decision |
|---|---------------------|
| 2A. Remove employer assisted post-study work visas at all levels and retain one year open work visa for those who complete a non-degree level 7 course or below and three years for those who complete a level 7 bachelor degree or above OR | Agree / Disagree |
| 2B. Remove employer assisted post-study work visas at all levels and replace with two year open visa for those who complete non-degree level 7 course or below and three years for those who complete a level 7 bachelor degree or above AND | Agree / Disagree |
| 4. Change requirements so that those studying at non-degree Level 7 are required to do two years of study in New Zealand to be entitled to post study work visas (aligned with current sub-degree requirements). | Agree / Disagree |

- c **Note** that the following options were identified, but not recommended due to their poor fit with policy objectives:
- i) Remove all post-study work rights
 - ii) Require labour market test for post-study work rights

Consultation

- d **Agree** to consult the sector on proposed changes to post-study work rights, through peak bodies and student associations, as well as through a targeted survey to be publicised through existing networks

Agree / Disagree

- e **Agree** officials undertake consultation over 8 May and 5 June 2018

Agree / Disagree

In-study work rights

f s 9(2)(f)(iv)

Noted

g s 9(2)(f)(iv)

Noted

- h **Agree** that officials report back in October 2018 with substantive advice on whether any changes should be made to current settings to in-study work rights and options

Agree / Disagree

Next steps

- i **Agree** proposed timeframes for this work below:

| Date | Action |
|------------------------|--|
| 9 April 2018 | International Education Ministers Meeting to discuss and agree preferred options for consultation on post-study work rights |
| 19 April 2018 | Draft consultation document for consideration and agreement |
| 8 May – 2 June 2018 | Targeted consultation with international education peak bodies and student associations, and via an online survey carried out through existing networks (four weeks) |
| 7 June 2018 | Briefing summarising submissions and final recommendations |
| 11 June 2018 | International Education Ministers Meeting to discuss feedback from public consultation and final recommendations |
| 18 June - 25 June 2018 | Draft Cabinet paper with final changes for departmental consultation |

| | |
|-----------------------|---|
| 28 June – 5 July 2018 | Cabinet paper with final changes for Ministerial consultation |
| 19 July 2018 | Cabinet paper lodged for Cabinet Economic Development Committee (DEV) |
| 25 July 2018 | Cabinet paper considered by DEV |
| 30 July 2018 | Cabinet consideration and decisions |
| 9/10 August 2018 | Changes to post-study work rights announced by Ministers (note this could be be announced as soon as Cabinet has agreed to decisions) |

Agree / Disagree

- j **Note** that you are due to discuss post-study work rights at the next International Education Ministers meeting on 9 April

Noted

- k **Agree**, subject to your feedback and any subsequent finalisation, to forward this paper to International Education Ministers by 5 April to support discussion at the meeting on 9 April

Agree / Disagree



Siân Roguski
Manager, Immigration Policy
 Labour and Immigration Policy, MBIE

Hon Iain Lees-Galloway
Minister of Immigration

29 / 03 / 2018

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Settings for post-study work rights are not fully calibrated to support government's objectives for international education

1. Data shows that an increasing number of international students studying at lower/sub-degree levels or doing short graduate or post graduate diplomas or certificates, and in generic subjects, such as business studies, have been gaining residence, who might otherwise not have been considered suitable for the residence programme had they not studied in New Zealand.
2. Of this group:
 - students who studied sub-degree and post-degree level certificates and diplomas were more likely to stay in New Zealand than students who studied at other levels
 - the most popular field of study for international students, management and commerce, was associated with above average post-study employment rates and below average incomes
 - students who studied information technology or food hospitality and personal services were more likely to stay in New Zealand than students who studied other fields (although this represents a much smaller group than those that studied management and commerce).¹
3. These trends have been identified as a factor in the gradual decline in the average skill level of new residents observed over the last five years. Overall, New Zealand's residence programme values higher levels of study over lower, because research consistently shows that those who complete study at higher level have better outcomes².
4. Government is concerned that international students are particularly vulnerable to exploitation via unscrupulous employers, providers and agents and that current work rights settings could exacerbate this. We know that international students typically work in industries that are more likely to have relatively high rates of non-compliance with labour laws including retail, hospitality and horticulture. While data does not exist that allows an understanding of the scale of exploitation (as a lot of exploitative behaviour is purposefully hidden), international students can be particularly vulnerable to exploitation because of:
 - financial pressures (for example, from higher than expected living costs or loan repayment obligations)
 - wellbeing pressures associated with living far away from familiar supports
 - lack of awareness of employment rights
 - reluctance to report exploitation, especially if there may be immigration consequences
 - the need to secure employment to gain residence (for example, buying job offers or working for less than minimum wage).
5. For example, we are aware that some students are sold a 'pathway to residence' with agents signing up students who then get into heavy debt to pay for their education, and become reliant on work to pay back loans (additional information on issues related to agents is set out in the report *Regulation of Offshore Education Agents* [1528 17-18 refers]). We are also aware of students buying jobs that meet the requirements of their visa or staying with employers that are exploiting them in order to get the relevant experience and points that support residence applications.

¹ This data is from the report *Immigration And Labour Market Outcomes Of International Tertiary Students* [2311 17-18 refers]. This paper provides key findings from research into the common visa pathways and labour market outcomes of former international students in New Zealand (Annex 2 provides some additional information on the Outcomes report).

² See, for example, Ministry of Education's 2013 report: *Looking at the employment outcomes of tertiary education: New data on the earnings of young graduates* which shows that earnings increase with the level of qualification, as do employment rates

6. Analysis of previous I-Graduate surveys found that between 3 to 5 per cent of international students were earning less than the minimum wage. The analysis reflected that Chinese students were more likely to be earning less than the minimum wage than those from India.
7. Some work has been done to combat these issues. For example, Immigration New Zealand has rigorous processes in place for ensuring that international students have access to sufficient financial resources to cover living costs for the intended duration of their study in New Zealand at the point of their visas being granted.
8. In the November 2017 report *International Education Manifesto Commitments and Immigration Levers* [1104 17-18 refers] officials noted that policy changes to the immigration settings supporting international education will have potential implications across other aspects of the international education system, including on New Zealand's competitiveness as an international education destination (and its consequent value to New Zealand's economy), and on provider sustainability.
9. In light of these issues, you directed officials to undertake a review of post-study work rights, to achieve the following objectives:
 - a. to ensure that the pathways for international students, post-study, are fit-for-purpose and contribute to the skills New Zealand needs.
 - b. to reduce the likelihood of students being exploited by unscrupulous employers, education providers and agents.
 - c. to minimise losses of bona fide students and to the export education sector.

Work has been done to ensure bona fide students study in New Zealand and to better align current immigration pathways for international students to New Zealand's need for highly skilled migrants

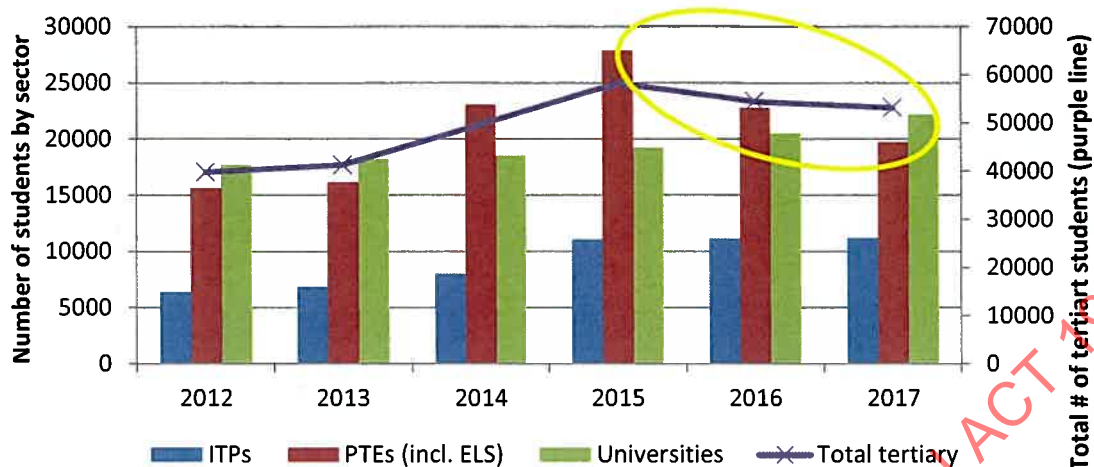
10. The changes included a rebalancing of settings for international students including:
 - strengthening English language proficiency settings*
 - restricting the English language proficiency evidence accepted for international students from high visa decline countries³ to internationally recognised and accepted tests. The number of international students, particularly from India, dropped the following year.
 - changes to Skilled Migrant Category (SMC) settings to better align to New Zealand's needs*
 - increasing the number of points required, changing how points are awarded and introducing a new minimum salary threshold to be able to claim points for a 'skilled job'. These changes were implemented at the end of August 2017 and it is expected that migration-motivated international students will be significantly affected by these changes (although it is too early to confirm this with data).
11. Officials committed to reporting back on how the impact of these changes was tracking to the end of 2017. Data shows that these changes have led to significant reductions in international enrolments at sub-degree level since 2016, with further reductions reflected in 2017 figures.

The impact can be seen in the reduction of international student numbers over the last year

12. Figure 1 reflects a decline of overall growth in the international education sector, largely through a reduction in students studying at PTEs. Universities have continued to experience growth, while ITPs have remained static.

³ Where high percentages of student visa applications have been declined.

Figure 1: International fee-paying tertiary students with valid visas as at December, 2012 - 2017



Source: INZ Visa Data

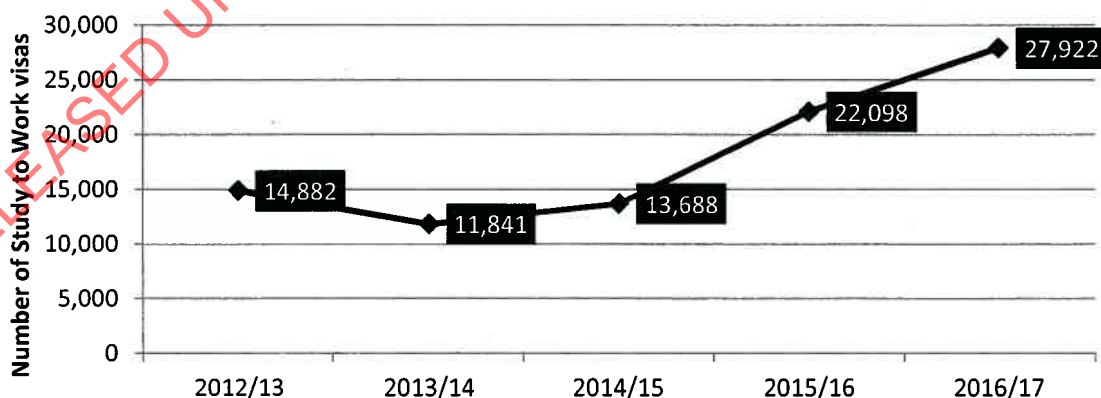
It is likely that there will be further reductions in the numbers of students coming to New Zealand over coming years

13. Figure 1 also shows that the impact of directed policy changes on growth has been, to date, mostly focused on PTEs, which is well-aligned with the intent of the changes. These changes (and their effects) are likely to mean reductions in the number of students studying at sub-degree level.

Simultaneously, the impacts of previous growth will continue to be felt as students from the peak of the growth in 2015 and 2016 move through the system

14. At 30 June 2017, the number of temporary workers present in New Zealand was 16 percent higher than the year before, driven by 34 percent growth in the number of Study-To-Work visa holders (as well as lower levels of growth from other temporary worker visas such as Essentials Skills, Family Work and Working Holiday visa holders)⁴. Since 2012/13 there has been almost a doubling of people in the study to work programme (post-study) from 14,882 to 27,922 in 2016/17, as seen in Figure 2. Given the peak in student growth in 2015 and 2016, the number of those on Study-To-Work visas can be expected to grow further in the next year or so before contracting again.

Figure 2: Growth in number of Study to Work visas



Source: MBIE

⁴ Migration trends and outlook 2017

It is unclear what impacts international students on post-study work visas have on the labour market

15. International students that work, both in-study and post-study, are not subject to labour market testing. As such, we do not have good information on the impact that these students have on the labour market. However, we do know that:

- as at December 2017, Statistics New Zealand reported a 4.5 percent unemployment rate, the fourth quarterly decline in a row. This on its own would suggest that the labour market has been well positioned to absorb the students.
- however, the underutilisation rate, which measures potential labour supply and unmet need for work (such as wanting more hours) was 12 percent.
- Auckland, where the majority of international students are based, has the second lowest regional underutilisation rate in New Zealand
- work done in 2013 on understanding the impact of temporary migration in employment found an overall positive relationship between temporary migrant employment and the employment of New Zealanders and no negative effects on the outcomes of New Zealanders overall.⁵

Post-study work rights are important levers to support international education

Work rights help make studying in New Zealand an attractive proposition to international students

16. When prospective international education students are considering their options, they don't look at New Zealand in isolation, but as one of a number of education options available to them (see Annex One for an example of the different tools countries can use to attract students). The ability to offer in-study and post-study work rights is an important tool for marketing New Zealand's international education offering to prospective students.

Work rights can be used as leverage by providers and agents

17. Work rights are also a lever that agents and providers use to sell New Zealand as a destination. However, there is a risk that some providers and agents use the ability to access work rights, alongside the perceived opportunity of gaining residence, to target potential students, rather than the education offerings they are selling.

Post-study work rights can provide work experience and a pathway to residency in New Zealand.

18. In the post-study space, there are two visas available: a one-year open visa which has no specific requirements attached; followed by a two-year⁶ employer-assisted visa which requires an offer of fulltime work in the same discipline as a student's New Zealand qualification.

19. Post-study work rights provide an opportunity for students to gain practical experience in the area of their qualifications, with work experience increasingly being seen as a significant component of a student's overall education experience.

20. The employer-assisted visa is often vital in enabling ex-students to meet the requirements of the SMC residence visa, because of the opportunity to gain work experience which qualifies them for points towards their application for residence. However, this can mean students who want to gain residence are dependent on employers both to get a job that meets visa requirements and to stay in a job when leaving might mean missing out on residence. Table 1 below sets out the current settings for post-study work rights.

⁵ MBIE (2013) *The rise of temporary migration in New Zealand and its impact on the labour market.*

⁶ This can be up to three years if a student is working towards occupational registration.

Table 1: Current settings for post-study work rights

The 'study-to-work' pathway was designed to allow students with good qualifications to transition from being a new graduate to skilled work in their chosen field in the form of:

- first a one-year 'open' work visa
- followed by a two-year employer-assisted work visa (job-based, must be related to studies, but not labour market-tested).

To be eligible for study-to-work visas, a student must have completed a qualification that would get points under the SMC and meet minimum study duration requirements:

- at least one academic year (30 weeks) at bachelor level (includes Level 7 diplomas), or
- at least two academic years (60 weeks) at sub-degree levels, either as one course or two subsequent courses with a progression (eg Level 5 or Level 6 diplomas and above).

21. Other non-study related temporary visas are available such as Essential Skills visas when jobs are on skills shortages list or where employers can show that they are unable to fill the roles from the existing labour force (i.e. they are required to satisfy a labour market test).

Options for change to post-study work rights

22. Officials have looked at options for changing post-study work visas that focus on:
- i. The duration of visa offered
 - ii. The structure of the visa (if it is 'open' or 'employer assisted')
 - iii. The duration of study required to be eligible for a visa
23. Options have been identified and assessed against alignment with the following policy objectives:
- i. ensures that the pathways for international students, post-study, are fit-for-purpose and contribute to the skills New Zealand needs.
 - ii. reduces the likelihood of students being exploited by unscrupulous employers, education providers and agents.
 - iii. minimises losses of bona fide students and to the export education industry.
24. Each option identified has been assessed against the following criteria:
- I. Fits with the policy objectives
 - II. The potential impact on international student numbers⁷ - note that we expect to be able to apply a more rigorous model for advice due to you in June.
 - III. Risk to export education sector - qualitative assessment: low, medium or high, of the risk to the export education sector in terms of potential loss in revenue/students
 - IV. The ability to operationalise e.g. administer, monitor and enforce.

⁷ In 2017/18 (Mar-Apr – academic year) approximately 55,800 international tertiary students were approved visas to study. Of these visas 36,500 were studying L7 or below at Polytechnics and PTEs and L6 and below at Universities (this also includes visas where no level information was given – circa. 7000 students). Approximately 70% (25,600) of this group will stay on after their study and transfer to another visa, one of these visas potentially being an open-post study visa. However not everyone who stays transfers onto an open post study visa. Depending on the year and the student population we estimate that between 10,000 to 16,000 students transfer to an open –study visa. This is the range of unique (i.e. no person is counted twice) approved open post-study visas for non-degree L7 and below for the last three years.

Of the 55,800 visas in 2017/18, 8,200 were for those studying a L7 course at Polytechnics and PTEs. Applying the same assumptions (that 70% stay) means that about 5,700 will transfer to another visa after their study.

Options for determining eligibility have been framed around level of study rather than field of study

25. Framing options around field of study could have the benefit of linking post-study work rights with the skills New Zealand needs. However there are existing tools and mechanisms that provide clear signals of skill needs, such as the Long Term Skill Shortage List and Essential Skills in Demand List. These lists remain the most appropriate means of responding to specific skills gaps, and are available to former international students should they meet the requirements. Officials consider that an approach that links work rights to field of study wouldn't be easy to keep up-to-date, with a changing environment where New Zealand's value on particular fields of study may frequently change. It would be administratively complex for Immigration New Zealand and would also be difficult to send clear consistent signals to prospective students, providers and agents about whether students would or would not be entitled to post-study work rights.
26. Table 2 sets out options that have been identified for changing post-study work rights, their benefits and risks and whether they are recommended.

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Table 2: Options for changing post-study work rights

| Option | Description | Benefits | Risks | Meets objectives | Potential impact on student numbers | Ease of admin | Risk to industry * L,M, H |
|--|---|---|--|------------------|---|---------------|---------------------------|
| 1. Remove all post-study work rights for students who complete a non-degree NZQF level 7 qualification or below. | Would remove eligibility to post-study work rights, both 'open' and 'employer-assisted' to all those studying a non-degree NZQF level 7 qualification or below. | provide a clear signal about pathways to residency being available only to those studying degree level or above, reduce opportunities for international students to be exploited and be easy to operationalise. | Would have a significant impact on the number of international students coming to New Zealand and significantly reduce New Zealand's competitiveness for international students. Response is not proportionate to the risks of exploitation. | In part | 25,600 (students who study at this level and would be eligible for post-study work rights) | Yes | H |
| 2A. Remove employer assisted post-study work visas for students at all levels and retain: <ul style="list-style-type: none"> one year open work visa for those who complete a non-degree NZQF level 7 qualification or below; and three years for those who complete a level 7 bachelor degree or above <p>Recommended option (either 2A or 2B)</p> | Removes the existing option of a two-year employer-assisted visa which requires an offer of fulltime work in the same area as a student's qualification. Reduces total post-study work rights available by two years for those who complete a non-degree NZQF level 7 qualification or below. | Both options 2A and 2B remove the risks inherent with the employer assisted post study work visa, particularly related to exploitation, such as: <ul style="list-style-type: none"> students buying jobs that meet the requirements of the visa the requirement to either stay with the same employer for two years (even if they are being exploited) to get the relevant experience and points that support residence applications or apply for a variation of conditions if they wish to leave. <p>However, option 2A would likely have the biggest impact on exploitation, because it would clearly cut off an existing pathway to residence from study.</p> <p>Removes the requirement for INZ to assess the relevance of the qualification to the job offer</p> | There is a loss of up to two years of post-study work rights for those studying at non-degree NZQF level 7 or below. As a result, employers may be less likely to invest in hiring and training an international graduate if they aren't confident they will stay with them for two years. The employer assisted component encourages students to seek more skilled employment in areas related to their qualifications which supports transition to residence. Removing this may mean some former students work in low-skill jobs. Students may be disincentivised to study in New Zealand at lower levels if the post-study work rights available are not as attractive. | Yes | 12,000 – 16,000 (the number of students who started studying in 2017 who we predict would be likely to take up work rights) | Yes | M |
| 2B. Remove employer assisted post-study work visas for students at all levels and replace with: | Removes the existing option of a two-year employer-assisted visa which requires an offer of fulltime work in the | <p>(1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100)</p> <p>Better signals the skills New Zealand wants to attract by referencing higher level study. Retains some attraction to students studying</p> | Students may be disincentivised to study in New Zealand at lower levels (including in areas of skills shortages) if the post-study work rights available are not as attractive. The bigger the reduction in available post- | Yes | 12,000 – 16,000 (the number of | Yes | L |

| | | | | | | | |
|---|---|---|--|-----------|--|-----------|----------|
| <ul style="list-style-type: none"> two year open visa for those who complete non-degree NZQF level 7 qualification or below; and three year open visa for those who complete a level 7 bachelor degree or above. <p>Recommended option (either 2A or 2B)</p> | <p>same area as a student's qualification and reduces total post-study work rights available by one year for those who complete a non-degree NZQF level 7 qualification or below.</p> | <p>non-degree level 7 courses or lower who can gain one year (2A) or two years (2B) of New Zealand work experience.</p> <p>NB: Universities NZ and ITENZ have both recommended its removal.</p> <p>Better aligns a student's investment in New Zealand education with the post-study work rights available.</p> | <p>study work rights, the more potential for loss of students. This will have an impact on the viability of some of the providers of export education.</p> | <p>No</p> | <p>students who started studying in 2017 who we predict would be likely to take up work rights)</p> | <p>No</p> | <p>H</p> |
| <p>3. Require students who complete a non-degree NZQF level 7 qualification or below to satisfy a labour market tests. No change to those studying Level 7 degree level or above.</p> | <p>A labour market test is an assessment which determines whether there are New Zealand citizens or residents available to take up a particular role before employers can seek migrant workers to fill a vacancy.</p> | <p>Would ensure minimal job displacement of New Zealanders as a result of international students.</p> | <p>Would remove certainty of what work rights were available for students – they would not be able to confirm post-study work until they had found a job and undergone a labour market test.</p> | <p>No</p> | <p>12,000 – 16,000 (the number of students who started studying in 2017 who we predict would be likely to take up work rights)</p> | <p>No</p> | <p>H</p> |

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Recommended approach

27. We recommend option 2A or 2B: removing the two year employer assisted post-study work visa for students at all levels of study alongside entitling those who complete a non-degree NZQF level 7 qualification or below with either a one year (option 2B) or two year (options 2B) open post-study work visa (one or two years less in total than current entitlements) and those studying at degree level 7 and above with three years (matching current entitlements).
28. This approach:
- Removes 'employer-assisted' work visas, which have been linked to exploitation, thereby helping protect New Zealand's reputation as a place where workers are treated fairly by employers
 - Removes the ability for agents to sell residency through education at NZQF Level 7 non-degree or below
 - Creates simplicity by having only one type of post-study visa ('open')
 - Provides differentiated lengths of post-study work rights that better reflects the differing investments that are made by those studying at different levels
 - Signals clearly the level of skill/qualifications that New Zealand values most for residency purposes
 - (If 2B is chosen over 2A) minimises the total reduction of post-study work rights by one year compared to present settings, which retains New Zealand's competitiveness and minimises export revenue loss, and still allows international students to have significant interaction in the New Zealand labour market.
29. The removal of employer assisted work rights has been advocated for by Universities New Zealand (UNZ) and Independent Tertiary Education New Zealand.
30. UNZ also recommended providing five years of post-study work rights for PHD students. ^{s 9(2)(f)}

s 9(2)(f)(iv)

Option to extend time of study required at non-degree NZQF Level 7 to be eligible for post-study work rights

31. This option, set out in table 3 below, would require those studying at non-degree NZQF Level 7 to do at least two years of study to be entitled to post-study work rights, aligning with the existing requirements for those studying at sub-degree level.

Recommended approach

32. Option 4 provides a change that can be made alongside the recommended option 2A or 2B, or as a standalone measure. It better links entitlements to post-study work rights with the export revenue that New Zealand gains from a student's investment in their education. It is recommended that this option be taken up in tandem with the recommend option 2A or 2B.
33. This option:
- Signals clearly the level of skill/qualifications that New Zealand values most for residency purposes
 - Better aligns access to work rights with students' investment in New Zealand.

Table 3: Option to extend time of study required at non-degree NZQF Level 7 to be eligible for post-study work rights

| Option | Description | Benefits | Risks | Meets objectives | Impact on student numbers | System ready | Risk to industry * L,M, H |
|---|--|---|---|------------------|--|--------------|---------------------------|
| 4. Change requirements so that those studying non-degree NZQF Level 7 qualifications are required to do two years of study in New Zealand to be entitled to work rights (aligned with current sub-degree requirements). This could be done as a standalone measure, or alongside other options. Recommended | Currently there are different minimum study duration requirements for different levels of study. <ul style="list-style-type: none"> at least one academic year (30 weeks) at bachelor level (includes Level 7 diplomas), or at least two academic years (60 weeks) at sub-degree levels, either as one course or two subsequent qualifications with a progression (eg Level 5 or Level 6 diplomas and above). | Better aligns post-study work rights with students' investment in New Zealand's export education industry. Could lead to people studying for longer in New Zealand. Sends a clear message about the value that the immigration system places on degree study and better categorises non-degree NZQF level 7 qualifications with the employment outcomes of graduates. | Would likely have a significant impact on the PTE and ITP sectors and could impact domestic students who benefit from courses at those providers if the courses are no longer able to be run. | In part | 5,700 (accounts for the approximately 70% of students studying at non-degree NZQF Level 7 who transition to post-study work) | Y | M |

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Immigration settings for international education can support other government priorities

34. The international education sector, and its students, impact on a broad range of Government priorities, including:
- Preventing migrant exploitation
 - Kiwibuild
 - Regional economic development
35. The work on post-study and in-study work rights is further advanced than the specific work on preventing exploitation and Kiwibuild. While there may be opportunities to use settings in international education to support better outcomes in these other work areas (and vice versa), further work is required to best understand what this might look like. At this time, it is recommended that you agree to changes to post-study work rights that best meet the stated objectives, but remain open to other opportunities as they arise.

Preventing migrant exploitation

36. Advice is currently being developed for you on options for the type, and scope, of an inquiry into migrant exploitation with the purpose of eliminating the exploitation of all workers, particularly migrants [2600 17-18 refers].
37. The changes being recommended to post-study work rights address some specific settings that currently facilitate the potential exploitation of students. However, there are limits to the impact that changing post-study work right settings can have on the exploitation of international students. Any changes made as a result of this report will not inhibit the adoption of further recommendations for changes to current immigration settings that may also reduce the exploitation of international students.

Supporting regional development: the Provincial Growth Fund and regional skills and labour shortages lists

38. Regional economic growth is a core component of the Government's strategy for economic growth. Work to support regional economic growth is developing, with the MBIE unit in place to support this work, the Regional Economic Development Unit, being established this year. The Unit operates the Provincial Growth Fund, which was launched in February this year, and is a major tool through which Government is pursuing regional growth.
39. You have signalled that one of your priorities is to develop more regionalised immigration policy by, for example, developing regional skills and labour shortages lists (in consultation with regions, businesses and workers), to improve the matching between the skills that New Zealand needs and the skills that New Zealand gets. The development of the regional skills and labour shortages lists will need to be aligned with the work being done by the Regional Economic Development Unit. The draft International Education Strategy includes specific commitments to spread the benefits of international education across New Zealand's regions.
40. There may be potential to support regional economic growth goals through, for example, changing immigration settings to be more favourable for international students that study in particular regions. s 9(2)(f)(iv)

s 9(2)(f)(iv)

Kiwibuild

41. The work around Kiwibuild is still being scoped, including how a potential Kiwibuild visa might be used to support addressing skills shortages facing the building and construction sector. You recently received a report, *Current immigration settings relating to the construction*

workforce, and initial advice on the KiwiBuild visa [2010 17-18 refers] which provides initial advice.

42. There may be opportunities for the international education industry to support growth of certain industries, once the Kiwibuild work has been further developed.

High level options for change to in-study work rights

43. You agreed to commence a review of in-study work rights in October 2018, once decisions had been made about post-study work rights. At their February meeting, International Education Ministers indicated it would be ideal to provide some certainty to the sector in August 2018 at the New Zealand International Education Conference (NZIEC) about likely changes to both post-study and in-study work rights.
44. Currently, in-study work rights are available for up to 20 hours.⁸ Table 4 sets out the current policy settings for in-study work rights.

Table 4: Current settings for in-study work rights

Most international students are allowed to work for up to 20 hours per week while they study, and full-time during official study breaks (e.g. over summer and term breaks).

To be eligible for 'work rights', they must be enrolled in a full-time programme of study that meets one of these requirements:

- any course that leads to a qualification that would get points under the Skilled Migrant Category (SMC) for permanent residence (at level 4 or above on the New Zealand Qualification Framework (NZQF))
- a two-year long course, or
- a one-year long student exchange programme, or
- a six-month long English language course, and the student meets a set level of language ability, or
- a 14-week long English language course at a university or a high-performing education provider

Master degree and PhD students do not have a limit on hours of work during term time.

45. In-study work rights influence potential students' decision making about whether to come to New Zealand. This has been supported by analysis of I-Graduate Surveys (undertaken between 2014-2017⁹) where most students (ranging from 74 percent of University students to 92 percent of ITP and PTE students) said that opportunities to work were important when deciding where to study.
46. In-study work rights help make international study more affordable, and can be a practical way to improve English language skills (where this is relevant) while working in the local community. Making changes that lead to reductions in the amount of in-study work rights afforded to international students are likely to have a significant impact on the number of bona fide students selecting New Zealand as a destination (more so than changes to post-study work rights).
47. This is underscored by what is known of international student behaviour. The majority of international students leave New Zealand on completion of their studies but while they are in-study, a significant proportion work. I-Graduate results show that around a third of University

s 9(2)(g)(i)

⁹ The International Student Barometer (ISB) is an international benchmarking survey that captures the experiences of international students studying in tertiary institutions worldwide. The 2015 and 2017 ISB surveyed students at Universities and Institutes of Technology and Polytechnics. The 2014 and 2016 surveys were focused on students at PTEs and English Language Schools. The results of the ISB can provide an indication of trends over time, but there are limitations due to: the hidden nature of employment below minimum standards and potential for international students to be unaware of minimum employment rights; the reluctance of those who are being exploited or in breach of their visa conditions to participate in research; and reluctance to participate in surveys due to language difficulties.

students and between 61 to 63 percent of Institutes of Technology and Polytechnics (ITP) and Private Training Establishment (PTE) students work while studying.

s 9(2)(f)(iv)

Consultation

53. We recommend targeted consultation on the recommended proposals to change post-study work rights be undertaken directly with tertiary industry peak bodies and student associations. This will include seeking feedback on timings for the introduction of any changes.
54. To ensure that a wider range of groups and individuals provide feedback, a targeted online survey will also be carried out and publicised through existing networks.
55. Once you have indicated your preferred options, we will prepare consultation material for your approval by 19 April. Officials will report back on findings of the consultation by the end of May so that you will be able to discuss with International Education Ministers at the 11 June meeting and confirm decisions in time to make an announcement at the New Zealand International Education Conference taking place on 9 and 10 August.
56. You are also receiving advice on dependent children and partners of international students [2422 17-18 refers]. If you agree, consultation can be carried out on changes to post-study work rights and dependent children and partners at the same time.

Next steps

57. The next International Education Ministers meeting is scheduled for 9 April. It is recommended that you discuss your plans for post-study work rights at this meeting,

including whether broader Cabinet consideration is required before commencing consultation. The table below provides indicative timeframes, however, further discussion is needed to understand whether you intend taking this process through Cabinet.

| Date | Action |
|------------------------|--|
| 9 April 2018 | International Education Ministers Meeting to discuss and agree preferred options for consultation on post-study work rights |
| 19 April 2018 | Draft consultation document for consideration and agreement |
| 8 May – 2 June 2018 | Targeted consultation with international education peak bodies and student associations, and via an online survey carried out through existing networks (four weeks) |
| 7 June 2018 | Briefing summarising submissions and final recommendations |
| 11 June 2018 | International Education Ministers Meeting to discuss feedback from public consultation and final recommendations |
| 18 June - 25 June 2018 | Draft Cabinet paper with final changes for departmental consultation |
| 28 June – 5 July 2018 | Cabinet paper with final changes for Ministerial consultation |
| 19 July 2018 | Cabinet paper lodged for DEV |
| 25 July 2018 | Cabinet paper considered by DEV |
| 30 July 2018 | Cabinet consideration and decisions |
| 9/10 August 2018 | Changes to post-study work rights announced by Ministers (note this could be announced as soon as Cabinet has agreed to decisions) |

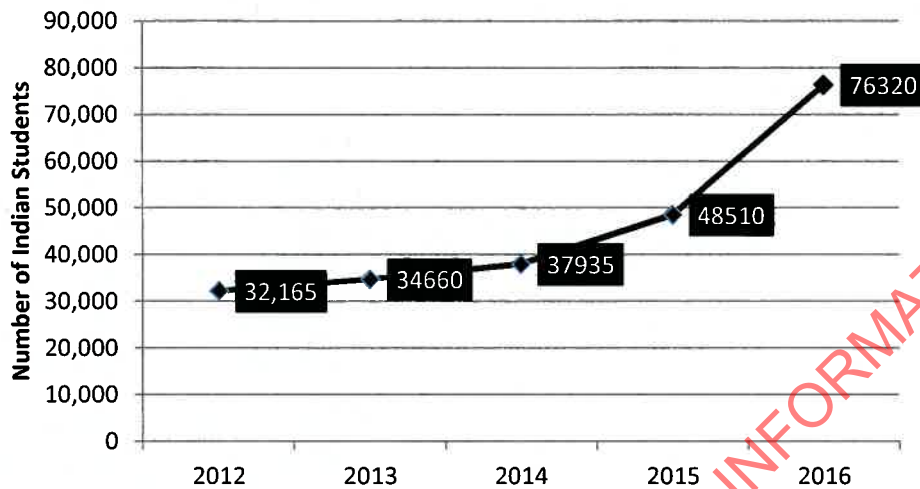
Annexes

- Annex One: Case study on Canadian international education growth – How other countries settings impact the outcomes of New Zealand export education industry.
- Annex Two: Some key findings from the Immigration and Labour Market Outcomes of International Tertiary Students report.
- Annex Three: Education New Zealand's 2017 International Student Enrolment Summary.

Annex One: Case study on Canadian growth – How other countries' settings impact the outcomes of New Zealand export education industry

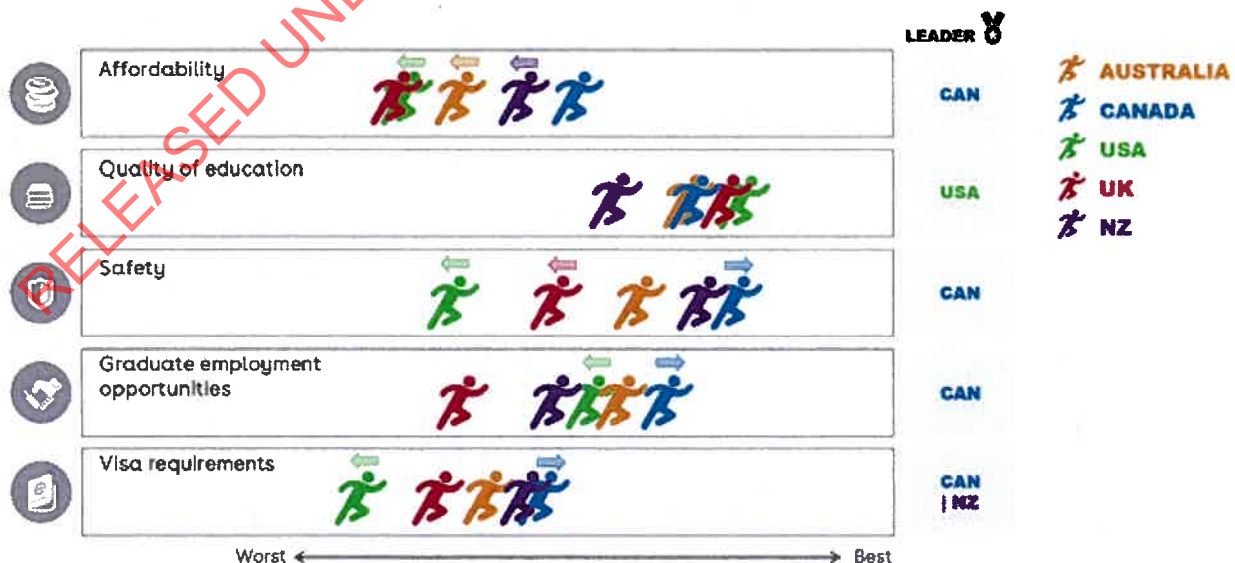
Canada has also been experiencing significant growth in international education. Like New Zealand, Canada's biggest markets are China and India, which accounted for almost half of all new student entries in 2016. According to Immigration, Refugees and Citizenship Canada (IRCC), India was the biggest single source of growth with an increase of 27,810 (57 percent) students with a valid permit as of December 2016 (when compared to December 2015).

Figure 3: Growth of Indian International Students in Canada



According to IDP International Education Specialists' 2017 research on International Student Buyer Behaviour, perceptions of Canada as a study destination improved, with students seeing Canada as a safe and affordable destination with good post-study work opportunities. As a result, although students' perceptions of New Zealand were mostly unchanged, Canada's positive momentum meant New Zealand lost some of its relative brand strength. The figure below highlights that when prospective international students are considering their options, they don't look at New Zealand's policy settings in isolation, but as one of a multitude of options available to them.

Figure 4: Overall attractiveness of leading study destinations as ranked in a survey of current and prospective students engaged with IDP.



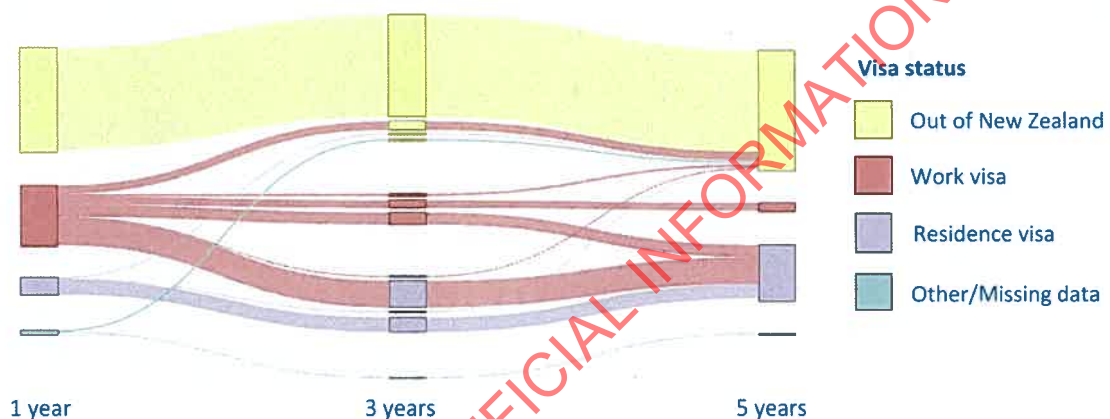
Source: IDP International Education Specialists

Annex Two: Some key findings from the *Immigration and Labour Market Outcomes of International Tertiary Students* report

You are due to receive the report *Immigration And Labour Market Outcomes Of International Tertiary Students* (the Outcomes Report) at the end of March [2311 17-18 refers]. This paper provides key findings from research into the common visa pathways and labour market outcomes of former international students in New Zealand. It is important to note that this data is based on students that finished study on 2011, so does not necessarily show pathways that existing students take.

While the majority of international students leave New Zealand after study (see figure 5) when broken down further, interesting pictures emerge of very different pathways. For example, looking at visa pathways five years after their final student visa, almost all students from the USA will be out of New Zealand compared to 62 percent of Chinese students, and 44 percent of Indian students.

Figure 5 Visa pathways of international tertiary students who left study in 2010 and 2011



Source: Migration spells dataset

The Outcomes Report also confirmed that students who studied sub-degree and post-degree level certificates and diplomas were more likely to stay in New Zealand than students who studied at other levels. This is not unexpected assuming that the growth in the market was the result of international students being influenced by undertaking the shortest level of study they qualify for in order to gain the maximum number of points required to become eligible for residence.

Annex Three: Education New Zealand's 2017 International Student Enrolment Summary

2017 International Student Enrolment Summary – as at 31 August 2017

The planned market rebalancing is well underway and sector value is holding



There were 106,021 international students enrolled between 01 Jan to 31 Aug 2017



Enrolments are down 7% on the same period in 2016



The major change was a decline in enrolments in the unfunded PTE sector, which was down 30% on 2016

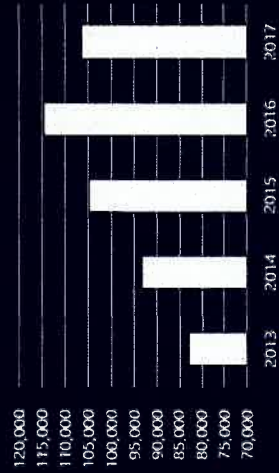


But this was offset by a 7% enrolment growth in the University sector



Enrolments in Auckland were down 10%, but enrolment growth in other regions was generally positive.

International Student Enrolments



| Market | % of Total Enrolments | Trendline 2013-2017 |
|-------------|-----------------------|--|
| China | 33% | [Line graph showing fluctuating trend] |
| India | 17% | [Line graph showing fluctuating trend] |
| Japan | 8% | [Line graph showing fluctuating trend] |
| Korea | 6% | [Line graph showing fluctuating trend] |
| USA | 3% | [Line graph showing fluctuating trend] |
| Thailand | 3% | [Line graph showing fluctuating trend] |
| Brazil | 2% | [Line graph showing fluctuating trend] |
| Philippines | 2% | [Line graph showing fluctuating trend] |

50% Of all students came from China and India



Enrolments from India declined by 29%

University sector enrolments grew from both China and India

Projected 2017 international education sector value¹

\$4.4 billion

Education New Zealand ThinkNew

2017 International Student Enrolment Summary – as at 31 August 2017

PTES

Both India and Philippines declined by 47% in Unfunded

74% of English Language students studied in Auckland

China

41% of School sector students were from

China

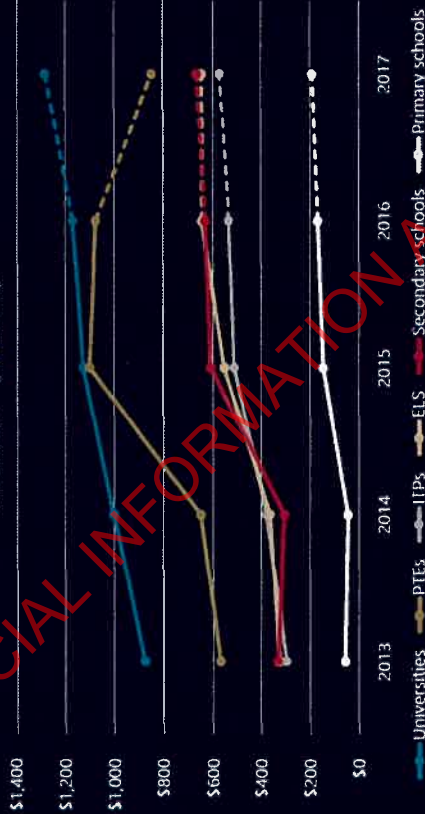
61% of Funded PTE students studied Level 5-7 Certificates / Diplomas

More students studied at Universities in the first two trimesters of 2017 than in the whole of 2016

ITP

sector enrolment growth came from Level 4 Certificates and Level 7 Graduate Certificates & Diplomas

Value of New Zealand's international education by subsector¹ (millions)



Auckland's student number trendline since 2013



60%

Auckland's proportion of total international students has declined by 2% to



This data is for the first two trimesters of 2017. Increases and decreases for this year are comparing the same period in 2016. All sparklines are for the period 2013-2017. This summary combines the data sources from the Ministry of Education: the Export Education Levy and Single Data Return (SDR) data. Offshore students are included if classified as offshore in the SDR. Link to data source: www.educationcounts.govt.nz. The numbers of students by region and by qualification level will not add up to the total number because students study in multiple regions for multiple qualifications. 1. Infometrics method updated with data from 2017. Prediction for 2017 is a forecast only and should not be treated as final. Further revisions may occur.

