



AIDE MEMOIRE

Options to implement the manifesto commitment for 10% allocation for Critical Workers

Date:	9 November 2020	Priority:	Medium
Security classification:		Tracking number:	2021-1249

Action sought		
	Action sought	Deadline
Hon Chris Hipkins Minister for COVID-19 Response	Discuss the attached slide pack with officials	11 November 2020
Hon Kris Faafoi Minister of Immigration	Discuss the attached slide pack with officials	11 November 2020

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Privacy of natural persons	Manager, Managed Isolation and Quarantine	n/a	Privacy of natural persons	✓
	Policy Director, Employment, Skills and Immigration Policy	Privacy of natural persons		✓

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 Withdrawn |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



AIDE MEMOIRE

Options to implement the manifesto commitment for 10% allocation for Critical Workers

Date:	9 November 2020	Priority:	Medium
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Purpose

To provide background information and initial options to support a discussion with officials on achieving your manifesto commitment to allocate 10% of Managed Isolation space to critical workers.

Executive summary

The border is currently closed to almost all travellers to stop the spread of COVID-19. Travellers can enter New Zealand if they are New Zealand citizens and residents, or have a critical purpose for travelling to New Zealand such as a critical worker.

The Government has committed to allocating 10% of Managed Isolation space to critical workers. If you wish a Cabinet paper could be prepared before Christmas to confirm the policy settings to deliver this commitment. Officials have identified some key questions and initial options (which could be sequenced), for discussion with Ministers in order to advance the policy work to develop detailed advice and prepare a Cabinet paper.

Officials also wish to discuss your preferred timing for a Cabinet paper.

Recommended action

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

- a **Discuss** the attached the slide pack prepared by MIQ and Immigration officials regarding the Government's commitment to allocate 10% of MIQ spaces to critical workers, noting there are options on how to reserve and allocate spaces in MIQ and who could be included as a 'critical worker' within the allocated spaces
- b **Note** that establishing and implementing ring-fenced allocations within the Managed Isolation Allocation System will require IT changes, and better data and identification of foreign workers' entry into New Zealand
- c **Note** that Immigration officials will be reporting back to the Minister of Immigration with advice on the current border exception framework for economic migrants (how the definition of 'critical worker' could be revised; and other high impact economic groups that could be included in the framework that are currently not catered for) and broader aspects of the regime for the development of a Cabinet paper in December 2020

Noted

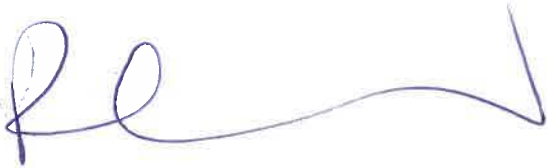
Noted

d **Discuss** your preferred timing for a paper to Cabinet on the Managed Isolation and Quarantine for Critical Workers.

M-S-Black

Melleny Black
General Manager
Managed Isolation and Quarantine Policy
MBIE

..... / /



Ruth Isaac
General Manager
Employment, Skills and Immigration Policy,
MBIE

9 / 11 / 20



Hon Chris Hipkins
Minister for COVID-19 Response

14 / 11 / 2020

Hon Kris Faafoi
Minister of Immigration

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Background

1. The New Zealand border is currently closed to almost all travellers to help stop the spread of COVID-19. A small number of people can travel to New Zealand. These people include New Zealand citizens and residents, as well as people who have been recognised as having a critical purpose to travel such as critical workers.
2. The Managed Isolation and Quarantine facilities (MIQ) system can allocate 4,500 rooms per fortnight, which equates to around 6,200 spaces (this assumes an average of 1.38 people per room). This excludes rooms offline for cleaning or emergency capacity. Currently MIQ capacity is assigned through an online booking allocation system.
3. The Labour Party Manifesto included a commitment to allocate 10% of all Managed Isolation and Quarantine (MIQ) spaces to critical workers. Early discussion with Ministers is needed in order to refine the policy work to develop a proposal to take to Cabinet.

Slide paper to support a discussion on the allocation of MIQ places for critical workers

4. The slide pack attached has been created to outline the options available to deliver the Government's manifesto commitments to "enable a 10% MIQ quota for critical workers" who will assist with the delivery of the Government's wider policy objectives.
5. The slide pack seeks Ministerial discussion and direction on:
 - a. how the Government wants to reserve and allocate spaces in managed isolation facilities (some options, which can be sequenced, are included for discussion); and
 - b. who should be included as a "critical worker" within the 10% quota.
6. Officials consider these decisions can be looked at separately given the wider issues involved in the immigration questions.

Timing for Cabinet consideration

7. Officials understand that you wish to take a paper to Cabinet prior to Christmas and would like to discuss your preferences on timing for this.

Option One – Cabinet paper in late November

8. This option would focus the Cabinet paper on the MIQ allocation policy decisions and allows the paper to be considered in a quicker timeframe as follows:

Steps	Time
Discussion with Ministers	Week of 9 November
Further policy advice for Ministers	Week of 23 November
Cabinet paper lodged	Before Christmas

9. An earlier deadline will be difficult to meet given the policy and implementation issues to be worked through.

Option Two – Cabinet paper in February, which would accompany a separate paper on the border exception regime more broadly

10. The development of the Cabinet paper could be aligned with the timing associated with further policy work underway on the review of the current border exception framework for economic migrants (how the definition of ‘critical worker’ could be revised; and other high impact economic groups that could be included in the framework that are currently not catered for) and broader aspects of the exceptions regime (e.g. family and humanitarian categories).
11. Advice following the review is proposed to be provided to the Minister of Immigration in December for consultation and discussion with other Ministers (such as the Ministerial Group on Class Exceptions) for further development of a Cabinet paper in February. Timing for this work is yet to be discussed and agreed with the Minister of Immigration.

Next steps

12. Officials will work with your Offices to schedule a time to discuss both the attached slide pack with you and your timing preferences for a Cabinet paper.

Annexes

Annex One: Slide pack: “Critical Worker” allocation of MIQ places

Annex One: Slide Pack

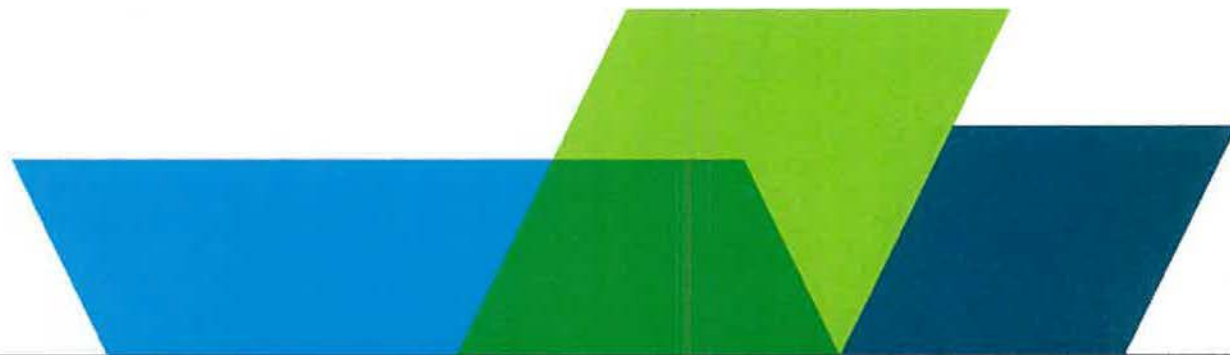
See attached



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HIKINA WHAKATUTUKI

Allocation of MIQ Places for “Critical Workers”

Prepared by:
Managed Isolation and Quarantine Policy
Immigration Policy
9 November 2020



Purpose

Context

- This pack outlines options to deliver the Government’s manifesto commitment to:
 - “enable a 10% quota [in MIQ] for critical workers” who can help deliver the Government’s wider policy objectives.

Immigration

We seek Ministers’ direction on:

MIQ Allocation

- How the Government wants to reserve and allocate spaces in managed isolation facilities (MIQ settings)
- Who should be included as a “critical worker” within the 10% quota (Immigration Policy settings)



Background: The NZ border under Covid-19

During Covid-19 our border manages the entry of two groups of people – New Zealanders and non-New Zealanders.

Context
Immigration
MIQ Allocation

New Zealanders

- Includes permanent residents, Australian citizens living in NZ and other “border exemptions”
- Most have the legal right to enter New Zealand, which cannot be unreasonably limited
- We have no control over how many New Zealanders want to return home
- The system needs to facilitate New Zealanders crossing the border without undue delay

Non-New Zealanders

- Other visa holders including critical workers and family members
- The Government uses immigration settings (border exceptions) to prioritise who (what groups) are able to come to New Zealand;
- The Government can broadly control these numbers by selecting what groups to grant a border exception to, but take up and timing is largely determined by travellers;
- Non-New Zealanders can form a queue or backlog around the MIQ capacity needed for returning New Zealanders, as only some will be highly time-sensitive entries.



Note: data for October is part, rather than whole, month

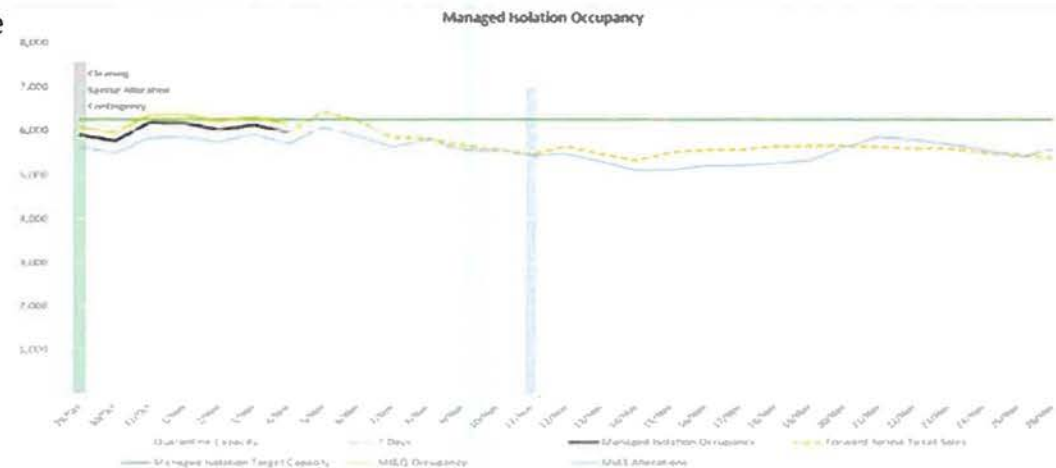
Background: Current allocation of MIQ places

Context

Immigration

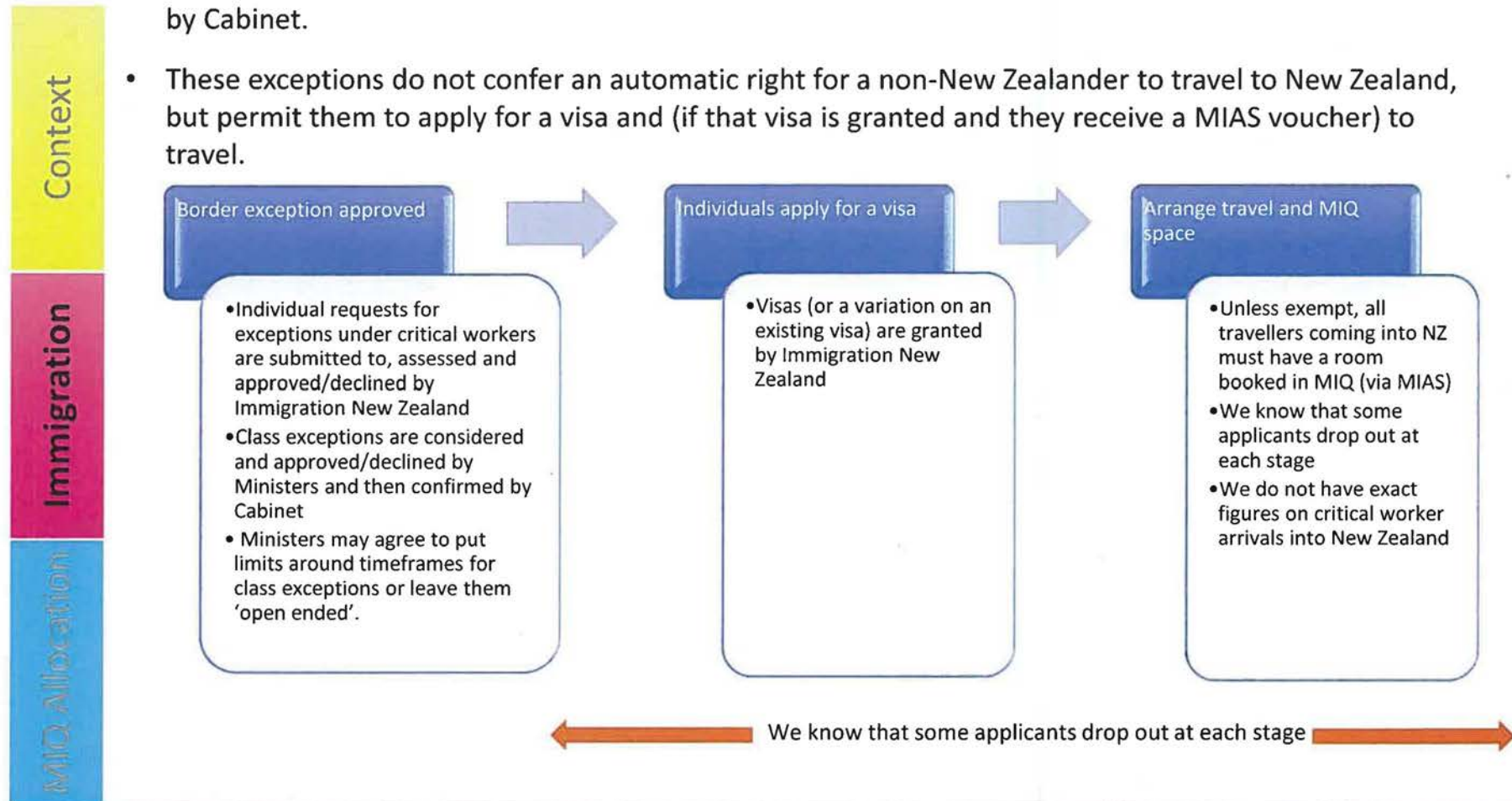
MIQ Allocation

- Prior to Covid-19, more than 1 million people crossed the New Zealand border each month. Our Covid-19 border measures, which include MIQ, have significantly constrained people flows.
- The MIQ system can allocate 4,500 rooms per fortnight, which equates to around 6,200 spaces (this assumes an average of 1.38 people per room). This excludes rooms offline for cleaning or emergency capacity.
- The majority of managed isolation rooms are bookable online via the Managed Isolation Allocation System (“MIAS”), and are allocated on a “first come, first served” basis, without distinguishing between New Zealand citizens and others. A small number of rooms (150-200) are held aside and manually prioritised to time critical travellers.
- The next version of the MIAS will include the ability to distinguish between New Zealanders and non-New Zealanders (expected by the end of 2020).
- The remaining 20% of MIQ capacity is held
- Since MIQ began operation in April 2020, about 43% of MIQ capacity has been used for arrivals from Australia. Establishing a trans-Tasman safe zone would free up some of this capacity.



Who: Critical worker exceptions process

- Critical worker exception settings are agreed by Cabinet. Class exceptions (exceptions for groups that sit outside of current settings) are agreed by the Ministerial Group on Border Exceptions and confirmed by Cabinet.
- These exceptions do not confer an automatic right for a non-New Zealander to travel to New Zealand, but permit them to apply for a visa and (if that visa is granted and they receive a MIAS voucher) to travel.



Who: Current definition of “critical worker”

- Currently a “critical worker” is someone who:
 - “is undertaking a time-critical role, and has unique experience/technical skills OR is undertaking work that is significant (either a named project/event or has significant wider benefit to the regional/national economy)”
 - If staying longer than 6 months, worker must also earn 2x median wage (ie \$106,000 plus), work in a science programme or be essential for a major event or significant programme.

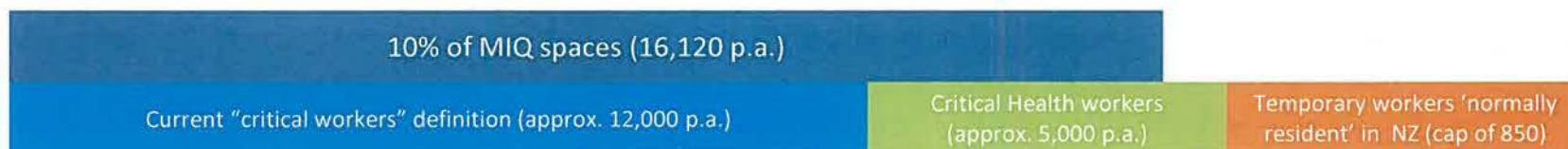
Context

- This definition is deliberately narrow, to prioritise MIQ places for New Zealanders returning to New Zealand. Other exception categories that cover workers are ‘essential health workers’ and temporary work visa holders who are ‘normally resident’ in New Zealand.
- Most are able to bring their partners and dependent children.

Immigration

- On these definitions, 4,000 critical workers have been approved to apply for a visa since June (along with a further 3,000 critical health workers since March).
- A 10% quota of MIQ spaces for critical workers would equate to 450 rooms per fortnight (around 16,000 critical workers per year, or up to 20,000 with double bunking), illustrated below against current volume trends (noting that these numbers are based on approvals of border exception request, do not take account of ‘conversion’ rates from border approvals and visa approvals and actual arrivals in New Zealand).

MIQ Allocation

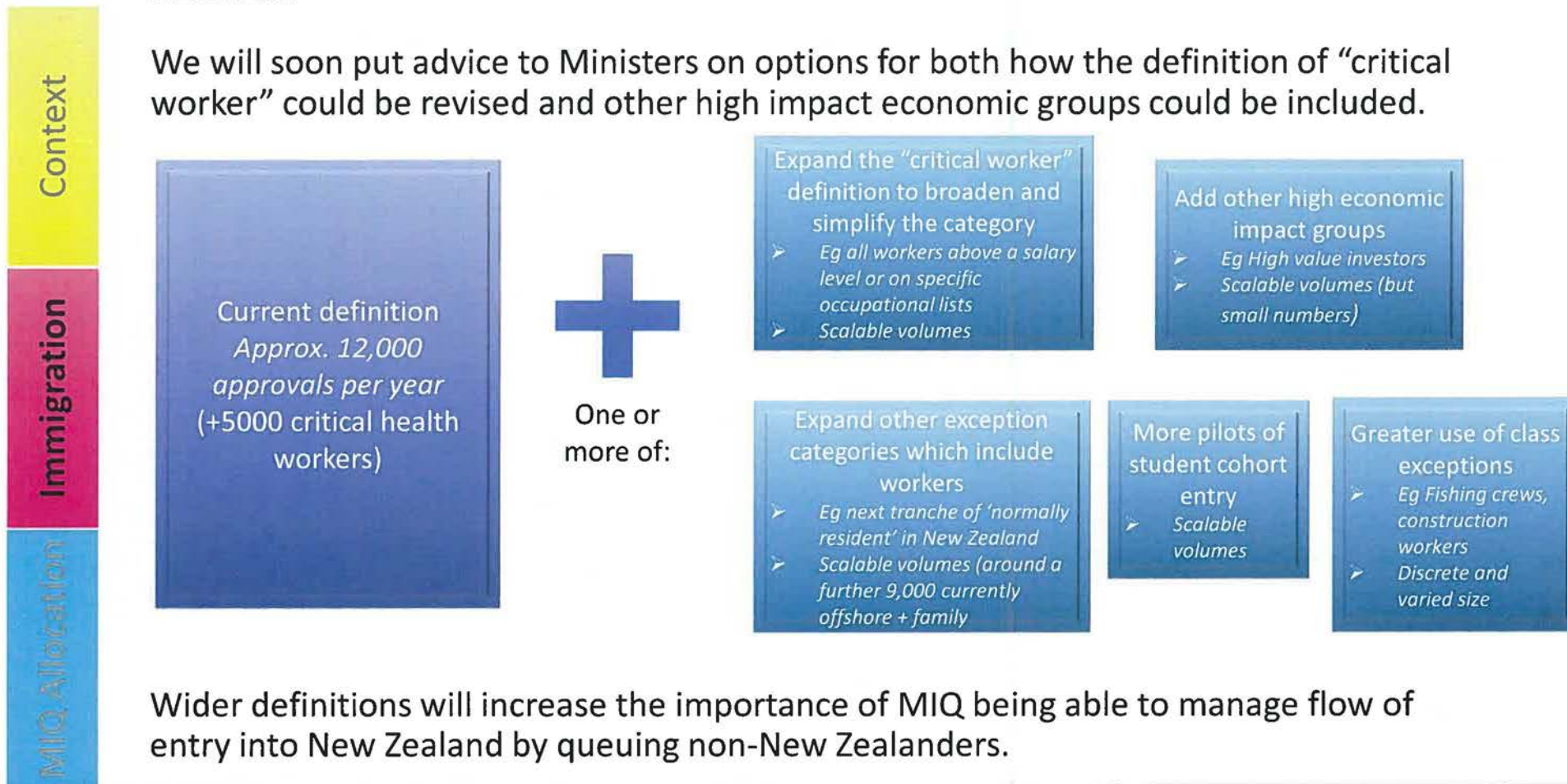


While there is currently significant pressure on MIQ capacity prior to Christmas, a Trans-Tasman safe zone would free up MIQ capacity and it would likely mean a higher number of critical workers could enter New Zealand.

Who: Updating the “critical worker” definition

The manifesto also indicated that the current criteria for a “critical worker” would be reviewed.

We will soon put advice to Ministers on options for both how the definition of “critical worker” could be revised and other high impact economic groups could be included.



Wider definitions will increase the importance of MIQ being able to manage flow of entry into New Zealand by queuing non-New Zealanders.



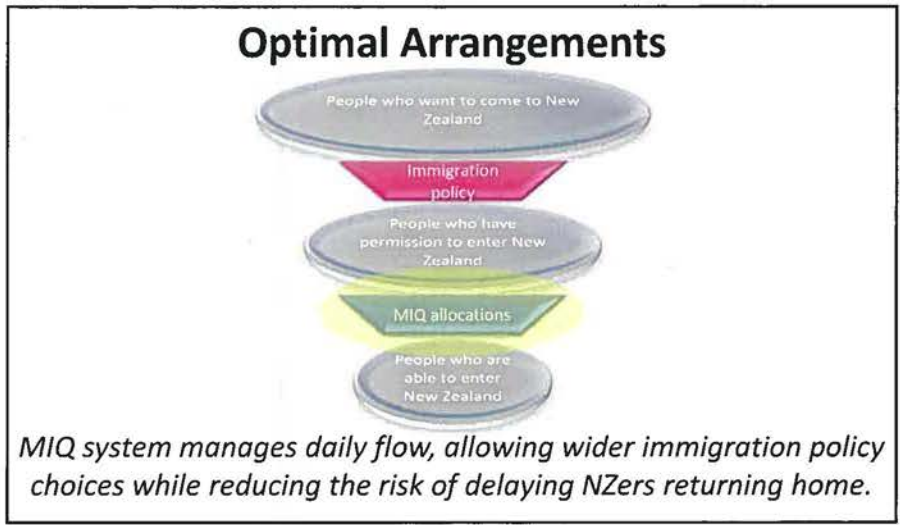
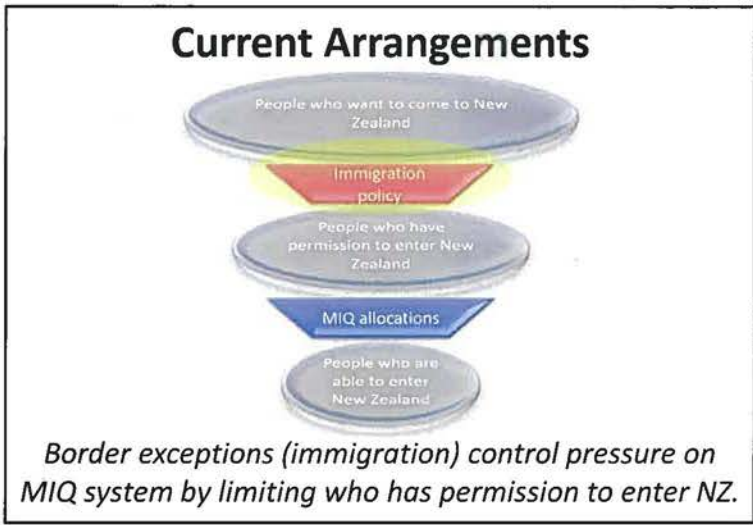
How: Issues with the current allocation approach

Context

Immigration

MIQ Allocation

- The “first come, first served” approach limits the MIQ system’s ability to allocate places; both in support of Government’s obligations and priorities, and to safeguard against the risk that New Zealand citizens and permanent residents, who have a legal right to return to New Zealand, are unduly delayed.
- Reserving some places for manual allocation gives some ability to respond to time sensitive situations (eg urgent travel). This manual allocation process also acts as an important safeguard against the risk that New Zealand citizens and permanent residents are unduly delayed.
- This risk is currently managed by setting immigration policy narrowly – controlling the number of people who have permission to enter New Zealand to reduce the risk of non-New Zealanders “crowding out” New Zealanders from MIQ spaces.
- This makes it more difficult to deliver the 10% quota for “critical workers” with the current allocation system.
- Reserving allocations of some MIQ places would improve the MIQ system’s ability to manage the flow of both New Zealanders and non-New Zealanders, while mitigating legal risks. This helps focus the system on managing people into MIQ spaces as they become available.



How: Key design questions

Context

Immigration

MIQ Allocation

- To implement the government’s commitment to a 10% quota, particularly given the significant impact of potential changes (eg a potential Trans-Tasman safe zone), we seek guidance on the following key design questions.
- Do Ministers wish to implement the 10% quota as:
 - A **ring-fenced allocation** of 10% of MIQ spaces (available capacity) – reserving a given number of spaces in MIQ for critical workers at any given time? This would: ensure greater access for critical workers, but may limit access for New Zealanders at high pressure times, or other groups of non-New Zealanders.
- OR
 - An **operational target** of 10% of MIQ spaces being used by critical workers – a commitment to be met over any given period (eg quarterly)?
 - This would: allow MIQ more flexibility to queue critical workers behind New Zealanders, but reduces the guarantee of access we can give to critical workers.
- Do Ministers wish to implement the 10% quota as a minimum - critical workers should take at least 10% of spaces, and more if space is available?
 - This would support maximising the utilization of MIQ spaces and the economic benefit critical workers (or other high economic impact individuals/groups) can bring.
 - 10% would potentially be too low if a trans-Tasman safe zone is in place.
- To deliver the quota through either option, further work will be required, in conjunction with Immigration New Zealand, to provide an accurate and timely breakdown and tracking of how many “critical workers”, as opposed to other non-New Zealanders, enter the country.



Option 1: 60% of MIQ places for New Zealanders

- 60% of MIQ places made available online for New Zealanders only.
- 20% of MIQ places made available online on a “first come, first served” basis for travellers of any nationality.

Context

Potential Implications

- Creates greater certainty than the status quo that MIQ space will be available for New Zealanders – and creates a larger number of spaces that New Zealanders could use as there is no explicit ring fenced allocation for critical workers (vs. Option 2).
- Assumes the remaining 20% “first come, first served” allocation creates sufficient capacity for non-New Zealanders to meet all other government priorities.
- Supports a 10% quota as an operational target, but does not allow for a ring-fenced allocation for critical workers.
- Option 1 is a simpler option (fewer ring-fenced allocations) which gives the greatest operational flexibility to let MIQ adjust the split to meet changing demand and reduce risk of underutilization.
- Will require IT changes to implement and better data and identification of foreign workers’ entries into MIQ.

Immigration

MIQ Allocation



Note: the percentages given in these slides for the two 10% offline allocations are indicative. Operational decisions may be made to allocate some of these places online when MIQ places are close to fully allocated.

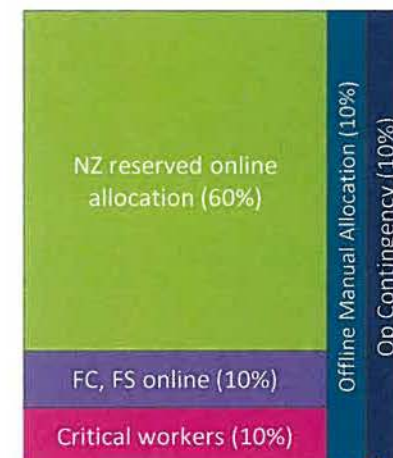


Allocation Option 2: NZ Quota + 10%

- This option would see the 80% of MIQ places available online through MIAS allocated as:
 - a reservation of 60% for New Zealanders.
 - A reservation of 10% for “critical workers”.
 - A final 10% of capacity would remain on a “first come, first served” basis for travellers of any nationality.

Potential Implications

- Creates greater certainty than the status quo that MIQ spaces will be available for New Zealanders – supporting wider immigration policy decisions while managing the risk of unjustified delays to New Zealanders ability to enter.
- Explicitly delivers Government’s 10% critical workers allocation commitment.
- Will require IT changes to implement and better data and identification of foreign workers’ entries into MIQ.
- May require legislative change to enable a reserved allocation for non-New Zealanders, which would delay implementation. Further legal advice is pending.



Note: the percentages given in these slides for the two 10% offline allocations are indicative. Operational decisions may be made to allocate some of these places online when MIQ places are close to fully allocated.

Context

Immigration

MIQ Allocation



A sequenced approach is recommended

Context

Immigration

MIQ Allocation

- The status quo (first come first served) does not protect the rights of New Zealanders, or ensure some MIQ spaces are allocated to critical workers to advance the Government's wider objectives
- Both Option 1 and Option 2 would address this risk
- Option 1 (60% for New Zealanders) could be implemented more quickly and could be an interim step towards Option 2 (NZ Quota and 10% critical workers)
- Option 1 does not establish a 10% ring fence for non-New Zealanders. However it is not known what proportion of the 20% first come-first served places would go to non-New Zealanders and this could fluctuate
- Further legal advice has been requested to determine whether a change to primary legislation would be required before option 2 could be implemented



Next steps

Context

Immigration

MIQ Allocation

1. Seek initial direction from Ministers on options and/or sequencing of options for implementation (this pack).
2. Detailed joint advice provided to Ministers (Covid-19 / Immigration / other Ministers as necessary)
 - a. This will include advice on timing to deliver IT changes and detailed immigration reporting.
3. Cabinet paper agreeing the preferred MIAS approach/option:
 - a. Options include a Cabinet paper prior to Christmas or a paper timed to align with a planned Cabinet paper in February on the review of border exception policy settings (including the “critical worker” exception category)
4. Advice on determining ‘who counts’ as a critical worker as part of further advice on the review of current critical worker policy settings:
 - a. Briefing to Ministers in December for a Cabinet paper in February 2021

