



COVERSHEET

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List of documents that have been proactively released

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Office of the Minister of Immigration
Cabinet Social Wellbeing Committee

Immigration Rebalance - options for employer-assisted workers and partners

Proposal

- 1 On 12 July 2021 Cabinet agreed to a rebalance of immigration settings that would pursue a lower overall volume of migrants and improved composition of temporary and skilled migrants, compared to the pre-COVID-19 trajectory [CAB-21-MIN-0279 refers]. This is referred to as the Immigration Rebalance (the Rebalance).
- 2 I was invited to report to the Cabinet Economic Development Committee (DEV) on proposed changes to settings for migrant workers, partners, students, onshore migrants, and skilled residence pathways. I am bringing this paper to this Committee given its alignment to the Reconnecting New Zealanders paper which is also being considered.
- 3 This paper sets out detailed principles and objectives of the Rebalance and seeks decisions on a recommended package of changes for migrant workers, partners, and skilled residence pathways. I will report back to DEV on further detailed design decisions in March 2022.

Relation to government priorities

- 4 The Immigration Rebalance proposals support our economic recovery from COVID-19 by outlining the new and enduring temporary work visa and work rights immigration settings that will be in place once New Zealand reconnects with the world and border restrictions are removed. Our immigration settings need to support the transition to a more productive and sustainable economy, including supporting our efforts to combat climate change and transition to the future of work.
- 5 This package will be put into place as we are progressing Reconnecting New Zealanders plans which open our borders by making changes to current border restrictions, and reopening visa categories for people who are offshore in a gradual and safe way. The Rebalance is the final step for a return to standard immigration settings for migrant workers. It will create the new normal for access to migrant labour for the future of the New Zealand economy.

Executive Summary

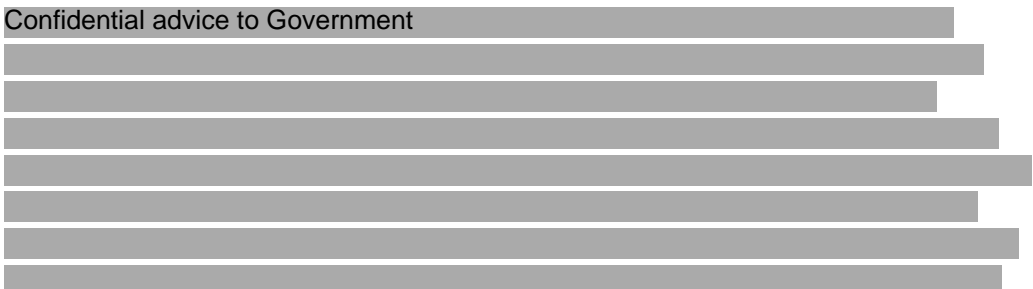
- 6 In recent years, the Government has made several significant changes to immigration settings aimed at improving labour market outcomes for New

Zealanders, reducing migrant exploitation, and ensuring that businesses can access the skills they need. These changes support better alignment between the immigration, welfare, education, and training systems, allowing better signalling of and planning for workforce needs nationally, regionally and by industries and firms. This supports more effective provision of training and skills development.

- 7 The Government has also pursued policies across a range of portfolios to support the economy to become more productive, sustainable, and inclusive. These shifts require (among other things) increased capital investment and intensity, including use of technology and automation, and a reduced reliance on low-cost labour.
- 8 Our approach to border exceptions and retaining our onshore migrant workforce has sought to reinforce these elements of our employment and economic strategy, while protecting New Zealanders and the Pacific from COVID-19. The 2021 Resident Visa has helped secure up to 110,000 migrant workers as permanent contributors to the New Zealand economy.
- 9 In this context, the Immigration Rebalance addresses both an opportunity and a need; to ensure that immigration settings get the balance right for New Zealand once we move from near-zero inward migration to open borders for migrant workers.
- 10 The pandemic has shown us how sectors have responded to very low flows of new migrants, contributing to decreasing under- and unemployment. We have seen new ways of working adopted to address shortfalls, like increased wages to attract existing labour pools to move to where it is needed most, and labour reallocated from declining to growing sectors. However, we have also seen some sectors make limited progress on training and workforce planning and hoping to hold out till things return to 'normal'. My assessment is that there is still scope for positive adjustments.
- 11 Our immigration settings need to be fit for purpose for this environment. This means maintaining a healthy tension between providing access to migrant labour to fill genuine skill and labour shortages and ensuring there are opportunities for the domestic market. There also needs to be some flexibility for when economic conditions loosen or deteriorate.
- 12 For all parts of the economy, the experience of the pandemic means that demand for migrant labour in the future is different than if things had continued from 2019. More migrants are permanently settled here and will form an ongoing part of our economy, increased work has become available to New Zealanders, and the economy has continued growing without the same influx of migrants. The baseline is different now and the assumption of unchecked growth off a high base has been broken.
- 13 Once it is safe to reopen borders, some access to further migrants will be needed assuming ongoing growth and a tight labour market, and to grow a more productive future economy. As we consider options for tightening work and student visa settings, we should be mindful that any opening is positive

relative to the status quo. Any changes will have less negative impact than if they were made at any other time because our firms and sectors have by necessity been operating with a lower reliance on increasing numbers of migrants since March 2020. Most of the current migrant workforce also has more certainty and security than ever before, with the 2021 Resident Visa.

- 14 The proposals in this paper build from this base to ensure that as we reopen our borders, we are attracting the right balance of skilled migrants, and limiting access to migrants in low-skilled roles. This will ensure that immigration settings continue to support the gains realised during border restrictions, and future migrant labour strikes the right balance of needed skills, without exceeding our absorptive capacity.
- 15 The settings I propose here, and in a forthcoming paper on entry and work settings for international student visas will work in concert with our ongoing work to address migrant exploitation and implement the temporary work visa reforms (including the introduction of the new Accredited Employer Work Visa). There will also be further changes to skilled residence settings in 2022, as part of the Rebalance.
- 16 There will be work required on the shape of our immigration system longer-term, in response to matters raised by the Productivity Commission inquiry into immigration settings. An interim report was released in November 2021 and the findings support the direction of the Rebalance, noting the opportunity to address challenges caused by the rapid increase in temporary migrants prior to the pandemic, especially those filling lower-skilled roles. Recommendations to the Government will be made in April 2022.
- 17 Across my proposals here and in forthcoming papers, there are six significant principles I am seeking to give effect to (once borders open):
 - 17.1 That in most cases, where employers wish to employ migrants at lower pay and lower skill levels, they should utilise the temporary migrant workforce available onshore with open work rights and looking for work, who are already here temporarily for other reasons (e.g., working holiday makers, students).
 - 17.2 That, as a result, employer-assisted work visas should be limited to higher skilled and higher paid roles in most cases, and as much as possible where the migrant intends to make a life in New Zealand in that type of role for the longer term. We will also investigate how we can improve pathways to residence in order to incentivise higher skilled and higher paid migrants making New Zealand home.
 - 17.3 Confidential advice to Government
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- 17.4 That the onus of proof and assessment of need shifts more towards sector workforce needs as a whole, and how industry is already working to meet this need where sector coordination is feasible. This is compared to job-by-job assessments of individual employers' recruitment efforts, particularly at lower skill and pay levels, and was the approach taken for border exceptions. This sector perspective helps avoid an immigration system that responds to the immediate labour needs of employers who are unwilling to attract or train New Zealanders (rewarding the worst employers).
 - 17.5 That employing any migrant, regardless of the type of visa they are on, is a privilege that can be lost, if abused, and that all employers should therefore prove they meet minimum standards to do so.
 - 17.6 That any changes to immigration settings should fit with the temporary work visa reforms (including the Accredited Employer Work Visa framework), which put New Zealanders first for jobs, and seek to simplify visa settings wherever possible for ease of understanding, ease of administration and faster decision-making. The system should utilise broad system rules and limit the number of sector or occupation-based exceptions.
- 18 I propose six key policy changes:
- 18.1 Introducing a **median wage pay threshold** that employers must meet to hire a temporary migrant for a role on an employer-assisted visa, unless the role is on the 'green' list or covered by a sector agreement.
 - 18.2 **Easier access for migrants taking up specified roles that are either hard-to-fill nationally or highly skilled**, by exempting them from most job-based assessment (e.g., pay thresholds and labour market testing requirements) and giving access to streamlined or fast-track paths to residence respectively. This green list would take into account attraction needs as well as being an updated, augmented version of the current Long-Term Skills Shortage List, that covers critical workforce gaps paid both below and above the median wage. I expect this would have 20-30 roles on it, cover roles like doctors, nurses, personal care assistants, auto trades (like heavy diesel mechanics and auto-electricians), and construction trades (like electricians and plumbers). Work to determine whether these roles are on the green list is underway and some may be considered for sector agreements if the risks of green list placement are too high.
 - 18.3 Confidential advice to Government


Confidential advice to Government

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- 18.4 **Removing open work rights for partners** of most temporary work visa holders. These partners will still be able to work but would need to qualify for an employer-assisted visa first, meaning the roles they fill will need to be paid at the median wage or above, and with an accredited employer. Unlike other employer-assisted visa applicants, partners would not need to have a job offering at least 30 hours per week, in recognition of the constraints on secondary earners and lower welfare risks associated with secondary earners. Partners of New Zealanders, green list migrants and migrants paid at 200 percent or more of the median wage would retain open work rights. Work is underway to determine whether partners of students should also be included in the group that retains open work rights.
- 18.5 Creating a very **limited number of sector-specific agreements** that allow certainty of some additional access to migrants in exchange for workforce improvements and other conditions. This could include commitment to support Pacific labour mobility or recruitment. Industry Transformation Plans will also provide valuable insight about roles that are candidates for sector agreements or the green list.
- 18.6 **Requiring employer accreditation to hire any migrants** (including open work rights holders) – I propose signalling this change as part of the Rebalance but that it not be introduced until mid-2023.
- 19 The Rebalance package will provide certainty for employers about whether they can recruit additional migrant workers when they look to expand their workforce in the future or replace migrant workers as their visas expire. The package provides a clear signal for those employers who need to change recruitment strategy to no longer rely heavily on migrant labour and will also reduce the creation of inflated migrant jobs designed simply to meet visa requirements, creating more opportunities for New Zealanders.
- 20 This will impact on sectors in different ways, depending on their workforce needs and how they have previously been employing migrant workers. Sectors that have proportionally more employees paid below the median wage, like retail, tourism, and hospitality, will be most affected. All sectors will retain access to open work rights holders like working holiday makers and students.
- 21 The Rebalance package does not remove or reduce the existing onshore migrant workforce, many of whom are now eligible for residence via the 2021 Resident Visa. The Rebalance only constrains the future choices of

businesses. This package will constrain the growth of the temporary migrant workforce (which increased at speed in the years leading to the pandemic) and improve the balance towards higher-skilled migrant workers.

- 22 This package will take some time to implement – some elements require further detailed policy decisions and design, and some are able to be incorporated into our new systems more easily than others. I am also seeking agreement to consultation with select stakeholders to be limited and focus on finalising elements of the Rebalance. I expect we will be able to introduce the Rebalance changes from mid-2022.
- 23 Broader decisions about Step 3 are being made separately and may be in place from 30 April. Timing decisions for when we reopen borders will have impacts on the timing of the Rebalance which can be in place from July 2022.
- 24 It remains critical that we do not allow a return to pre-COVID access to lower skilled workers before the Rebalance changes are in place. To ensure that we prevent this occurring before the Rebalance, in this paper I am also seeking agreement that any immigration settings which open borders to workers in advance of July 2022 include:
- 24.1 opening entry to temporary workers if they are taking up any roles paid at 1.5 times the median wage (i.e., removing the very tight border criteria around ‘unique or specialist skills for a time critical role that are not readily obtainable’). I propose that the highly skilled family reunification border exception criteria also match this;
 - 24.2 continuation of class exceptions, but extended to approve seasonal and other roles below 1.5 the median wage, and expanding border exceptions to include wider groups of sports, events and other government programmes;
 - 24.3 larger exceptions for international students at a capped volume and in line with student visa Rebalance decisions to be taken in March.
- 25 I am also seeking agreement that the reopening borders to workers in this way will not make them eligible for the 2021 Resident Visa.

Background

Recent immigration changes have worked, with broader policy shifts, to support increased productivity and improved working environments

- 26 A range of recently agreed or implemented changes, to support investment in skills, improve the quality of jobs available, and improve access to highly skilled migrants, have formed the landscape in which the Rebalance is occurring:
- 26.1 *The temporary work visa reforms* (also referred to as the Accredited Employer Work Visa) agreed by Cabinet in 2019, will be implemented fully in July 2022. These introduce minimum standards for employers,

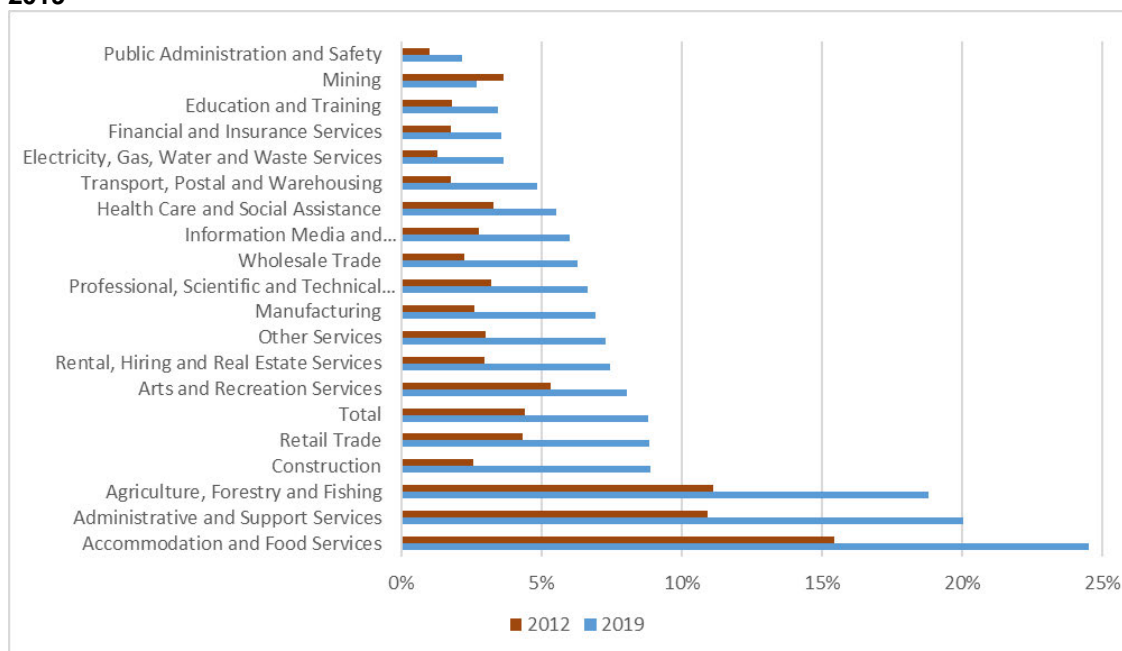
and better links between migrants recruited and the skills/experience required for New Zealanders in the equivalent role. These changes are intended to allow migrant workers to be recruited only for genuine shortages and incentivise employers to hire and train more New Zealanders.

- 26.2 *Legislative, policy and operational changes to reduce migrant exploitation*, announced in July 2020, and includes a new visa to enable migrant workers to quickly leave exploitative situations even where the migrant may be complicit – which we accept is often the case.
- 26.3 *Changes made while border restrictions are in place*, to ensure that businesses can access labour for critical shortages (through the border exception regime) and that the onshore migrant workforce is retained (through visa extensions and introducing a one-off residence pathway, the 2021 Resident Visa).
- 27 These changes integrate with wider policy changes to support better alignment between the immigration, welfare, education and training systems – supporting the more effective provision of training and skills development, and workforce planning at the sector and firm level. The Government has also pursued policies across a range of portfolios to support the economy to become more productive, sustainable, and inclusive. These shifts require (among other things) increased capital investment and intensity, including use of technology and automation, and a reduced reliance on low-cost labour.
- 28 We have been clear that we expect action led by firms and industries to attract, retain, and develop their workforces from onshore, to introduce higher productivity business models and technology, and for investment to shift to higher productivity businesses.

COVID-19 has disproved the assumption that economic growth is dependent on unchecked growth in lower skilled migrants from an already high base

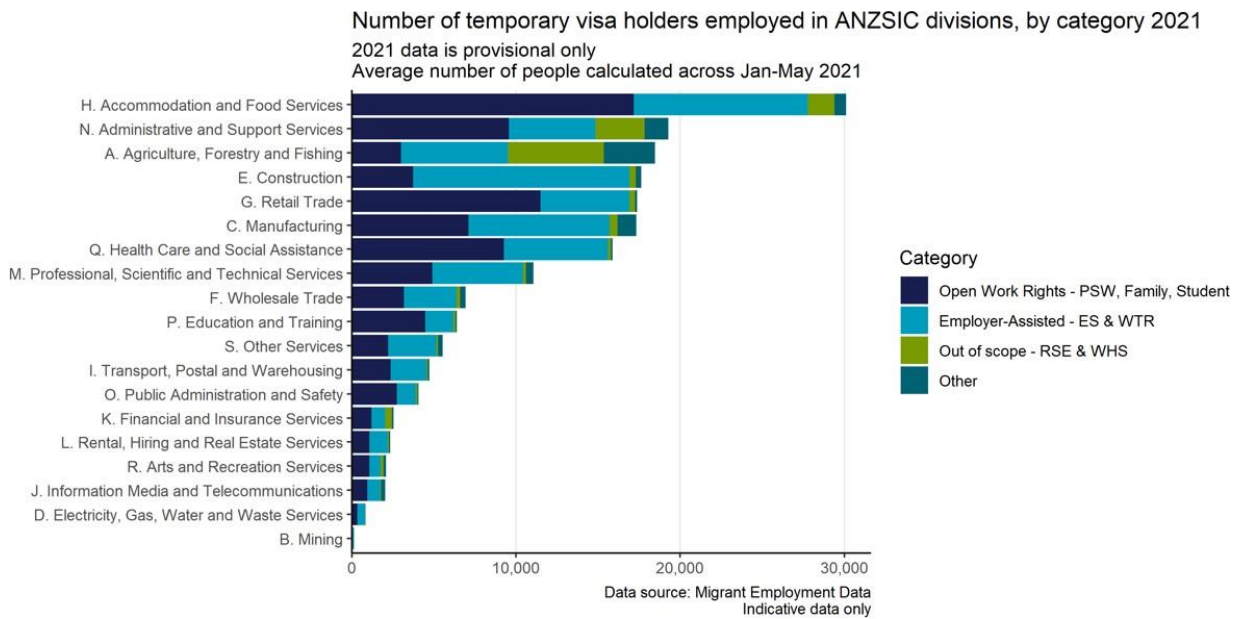
- 29 The Rebalance addresses both an opportunity and a need. It ensures that immigration settings get the balance right for New Zealand as we move from near-zero inward migration to open borders.
- 30 Prior to the pandemic, largely unchecked growth in migrant volumes (and a growing proportion of lower skilled workers) was not sustainable. Increasing shares of sector workforces were made up of migrants, both those attached to employers and a large reliance on those with open work rights such as students and working holiday makers particularly in lower skilled roles. (Migrant workers saw an increase of 144 percent from 2012 to 2019 compared to 20 percent for the New Zealand workforce.)

Figure One: Annual average proportion of jobs held by temporary migrants, by industry (2012-2019)



- 31 Working Holiday Schemes, seasonal or specific purpose work visas (such as SSE and RSE), and visitor visas are excluded from the scope of the Immigration Rebalance, owing to either ongoing reviews or the genuinely transient nature of these visas [CAB-21-MIN-0279 refers].
- 32 The visa groups in scope for the Rebalance accounted for 80 percent of temporary migrant workers in New Zealand in July 2019. Broken out by each visa group, in July 2019 there were:
 - 32.1 68,000 people working on employer-assisted work visas (the highest growth area, up from 20,000 in July 2012), accounting for 34 percent of the temporary migrant worker population;
 - 32.2 23,000 people working on student visas, accounting for 12 percent of the temporary migrant worker population;
 - 32.3 33,000 people were working on post study work visas, accounting for 17 percent of the temporary migrant worker population;
 - 32.4 34,000 working partners, accounting for 17 percent of the temporary migrant worker population.

Figure Two: Breakdown of temporary migrant worker use by visa type and industry



- 33 This pattern of growth was not sustainable. While this reliance may be seen as evidence of a tight domestic labour market over the period, there remained pockets of the labour force with greater potential for participation and utilisation, and many areas where migrant recruitment became the standard approach to growth. Our settings allowed easy access to low skilled migrants with lower reservation wages, which reduced the pressure to meet the domestic market or make productivity enhancements and grow real wages. It created pressure on our infrastructure, limited employment opportunities for New Zealanders and prompted an over-reliance on temporary migrant workers.
- 34 Prior to COVID-19, many employers said that further inroads into unemployment and underemployment were not possible, and despite the unconstrained migrant growth, there were still skill shortages and mismatches. What has happened since March 2020 shows that better outcomes are possible.
- 35 The Productivity Commission’s initial report on immigration endorses these concerns about the growth rate and impacts on New Zealand’s absorptive capacity, and initial recommendations include taking a more integrated view of the impacts of migration volumes and evaluating visa categories including those with open work rights. The recent inquiry into the Seafood sector also recommended capping the proportion of the migrant workforce and noted concerns about the impact of the availability of open work rights holders on workplace conditions and found that migrant labour is likely to prop up some of the poorer firms whose exit would be in the industry and national interest.
- 36 The COVID-19 border restrictions have broken these trends, while generally jobs have been filled, and the economy grew.

- 37 The border restrictions saw the flows of new migrants into New Zealand drop to near-zero. But this did not mean there was no migrant labour – it was just the ability to replace any who did depart that was limited. Most of the onshore migrant workforce stayed through the pandemic¹ and are now set to become a part of our permanent workforce through the 2021 Resident Visa. There was a reduction in the availability of working holiday makers as they departed, which provided particular challenges for some employers reliant on these workers, particularly in lower skilled and more casual roles.
- 38 Border exemptions have allowed a modest flow of the highly skilled and some critical seasonal and other workforces where a sector wide need could be demonstrated. While administratively burdensome, they have introduced a higher threshold for skills and provided useful experience with class exceptions taking a sector wide perspective on workforce needs and efforts to recruit and train locally.
- 39 We have seen economic growth in most sectors despite these restrictions. In response to these restrictions and fewer workers onshore prepared to fill the lower-skilled, lower-paid roles, some sectors and employers adopted new ways of working. This included improving wages and working conditions or reducing barriers to access like shift patterns. However, we have also seen some sectors make limited progress on training and workforce planning, with the hope of holding out until things return to ‘normal’. Confidential advice to Government
- 40 Unemployment and underemployment are down. However, we still have high underutilisation (with approximately 525,000 workers reporting they want more work), fewer hours being worked overall and average hours per worker down, and mixed evidence of wage growth to respond to apparent shortages. In this context, and with these outcomes in part due to wage subsidies which will reduce, a liberal reopening of the border with previous settings for accessing migrants would risk reducing these gains.
- 41 The message is clear, that employers can cope and do more. The borders will reopen, and we want to improve access to skilled workers to support growth. Our immigration settings need to be fit for purpose for this environment. This means maintaining a healthy tension between providing access to migrant labour to fill genuine skill and labour shortages and ensuring there are opportunities for the domestic workforce. There also needs to be some flexibility for when economic conditions loosen or deteriorate.

Analysis

The aims of the Rebalance

- 42 The Rebalance is intended to ensure that, as we reopen the borders, we:

¹ The number of onshore temporary migrants in work has only reduced by about 10,000 since the pandemic began, from nearly 200,000 in July 2019 to 190,000 in July 2021.

- 42.1 attract highly skilled migrants and those able to fill long-term skill shortages to New Zealand with better links to streamlined residence pathways;
- 42.2 support sector growth where it is nationally important, skilled, and productive;
- 42.3 further limit employer access to, and therefore growth of, migrants for lower-skilled, lower-paid roles;
- 42.4 support increased training and recruitment of New Zealanders, improved workforce planning by employers and sectors, and investment in productivity improvements;
- 42.5 address areas of weakness in our system settings (for both students and workers) that enable high growth of migrants that counteract our objectives, particularly where demand-side checks and balances are weak and regulatory controls are ineffective in limiting 'backdoors' opening up;
- 42.6 support the temporary transition of sectors or provide ongoing access to lower skilled migrants in narrower circumstances where there is a well-evidenced need and limited risks or opportunities for alternatives; and
- 42.7 enable a managed regrowth of migrant flows so that temporary migrants do not exceed the absorptive capacity of the economy or create a larger pool of lower skilled and settled onshore migrants than our future residence programme will ever support.

Recommended package of reforms

- 43 To achieve these goals, I propose the following package of reforms:
 - 43.1 introducing a median wage pay threshold for employer-assisted work visas;
 - 43.2 providing preferential treatment of migrants for roles that are nationally important and hard-to-fill, or highly skilled;
 - 43.3 Confidential advice to Government
 - 43.4 creating a very limited number of sector-specific agreements;
 - 43.5 requiring partners of most temporary workers to qualify for work rights in their own right (i.e. through employer-assisted work visas); and
 - 43.6 extending employer accreditation requirements.
- 44 This package will be the new normal for New Zealand immigration post-COVID. There may be need for interim settings as the border starts to reopen so we don't revert to pre-COVID flows. It creates more attractive offers for

migrants able to fill highly-skilled or hard-to-fill roles, and imposes a broad restriction on accessing migrants for lower-skilled roles as a default, with a few narrow exceptions on a sector or occupational basis. This provides an appropriate balance of an administratively simple restriction on lower skilled and paid jobs, while allowing flexibility to insert a limited number of transitional or ongoing exceptions as safeguards against unwanted economic or other impacts.

Figure Three: The Rebalance package that limits access to lower skilled lower paid roles outside occupational and sector exceptions

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Introducing a median wage pay threshold

- 45 I propose **introducing a pay threshold** that requires employers to pay at or above the median wage to hire an employer-assisted migrant, unless the role is on the green list or covered by a sector agreement (see below).
- 46 This reduces reliance on lower-skilled, lower-paid migrant labour by raising the cost of hiring a migrant. Employers will either need to pay above the threshold to employ a migrant, attract New Zealanders to the role, or make productivity improvements to lessen the need for the role. This provides both an increased number of job opportunities and potentially better wages for New Zealanders in these roles (employers already raise wages to respond to shifts in the median wage to retain migrants, and these rates must be offered to New Zealanders first). As of 11 September 2021, approximately 25 percent of onshore Essential Skills visa holders (the main temporary work visa) are paid below the median wage.
- 47 The wage threshold will have the greatest impact on the ability of the hospitality, tourism and retail sectors to source migrants to meet future increases in labour demand, as these sectors are some of those that have the greatest proportion of migrant labour paid below the median wage. Indicatively, 39 percent of the essential skills visa holders in the ANZSCO accommodation and hospitality sector (which also includes tourism), and 29

percent in the retail sector were paid below median wage (as at 2019/20 median wage). These sectors will still have access to migrants with open work rights (like working holiday makers and students) for these roles.

- 48 The sectors and occupations which have a high proportion of migrant labour already paid at median or above will be largely unaffected by this proposal and will be able to recruit migrants much like before COVID-19 border closures. This includes the health sector, where indicatively 89 percent of essential skills visa holders are paid at or above median, many occupations in the digital sector some of which have around 90 percent of migrants paid at or above median, and much of the primary industries, where 80 percent are paid median wage or above.

Preferential treatment of migrants for roles that are nationally important and hard-to-fill, or highly skilled

- 49 I propose attracting more highly skilled migrants and those able to fill critical skills shortages by introducing a green list of nationally significant roles that are either hard-to-fill nationally or highly skilled. Nationally significant roles are key for the wellbeing of New Zealanders; to fulfil strategic Government objectives; or are pivotal roles which would cause collapse of a key value chain without being filled. Migrants could be hired for these roles with less stringent pay thresholds (e.g., a living wage threshold might be appropriate), would be exempt from most job-based assessment (e.g., labour market testing requirements), and will receive access to improved paths to residence. For the highly skilled migrants, this would be a fast-track pathway that could be accessed from offshore, and for migrants taking up hard-to-fill roles, a guaranteed residence path provided they stay working in the sector for a time.
- 50 This list will be an updated and augmented version of the Long-Term Skills Shortage List (LTSSL). It will be relatively short, focused on those key nationally significant occupations where it is critical to attract migrants, or where there is a clear long-term and significant skill shortage that cannot be met locally despite significant effort from the sector. (The list will not replicate the extensive list of scarce occupations eligible for the 2021 Resident Visa). The list will be identified centrally and likely updated only every three years reflecting that listed occupations represent long-term priorities.
- 51 Further work is underway to determine the roles to be considered for the list, and the precise offer for fast-tracked residence or supporting recruitment into hard-to-fill roles. This will be a list determined by government, rather than based on applications. I will report back in March 2020 with the initial list and design details for Cabinet agreement.
- 52 This list will cover roles paid both below and above the median wage, and could include:
- 52.1 highly skilled roles paid above the median wage, like doctors, highly skilled construction roles (e.g., engineers), IT roles;

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- 52.2 highly skilled and nationally important roles paid below the median wage at entry level, for example where the employee is a recent graduate like nurses, teachers;
 - 52.3 hard-to-fill roles that are paid below and above the median wage depending on a range of factors, such as personal care assistants, auto trades (like heavy diesel mechanics and auto-electricians), and construction trades (like electricians and plumbers).
- 53 My view is that roles where there are skills or labour shortages but also clear opportunity to improve wages or conditions to resolve the shortage will not be contenders for the green list.

Confidential advice to Government



Creating a very limited number of sector-specific agreements

- 58 I propose creating a very limited number of sector agreements that provide certainty and access in addition to the new rules by, for example, allowing capped volumes of employer-assisted workers for roles paid below the median wage and/or prioritising Pacific nationals for appropriate roles to support labour mobility. These variations would be in exchange for sector workforce improvements and increased training of New Zealanders and would increase certainty for sectors.
- 59 Sector agreements linked to capped migrant workforce allowances could be utilised where:
- 59.1 a 'sinking lid' on the size of the migrant workforce allows for a managed transition path for a sector to reduce reliance on lower skilled migrant workers over time; or
- 59.2 a capped proportion of migrant workers allows a growing sector to expand its workforce while maintaining pressure to recruit onshore.
- 60 Like the occupation lists, the sectors where we will enter into agreements will be centrally decided. Any sector considered will similarly need to include roles that are key for the wellbeing of New Zealanders; that fulfil strategic Government objectives; or are pivotal and would cause collapse of a key value chain without being filled. They will also need to have enduring skill shortages despite considerable efforts to attract New Zealanders and improve working conditions and feature a high degree of sector coordination to enable engagement and operationalise workforce caps and other immigration mechanisms.
- 61 Sector agreements are also a useful opportunity to coordinate across relevant government efforts to support and transform industry or sectors where immigration has been playing a large or growing role in the workforce. Industry Transformation Plans (ITPs) should inform and support the change being sought through sector agreements. I expect that work to develop sector agreements will be coordinated between MBIE and the relevant portfolio agency, and include education, employment, and training agencies.
- 62 To avoid undermining the broader changes, sector agreements need to be very limited in number and provide very tightly targeted variations only. I expect there to be no more than four or five sector agreements, at this stage using the early-formed criteria outlined here, this could be with the:
- 62.1 construction sector, enabling access to migrants for key trades roles paid below the median wage (like electricians, carpenters, plumbers, scaffolders);
- 62.2 meat processing sector, enabling access to migrants to fill halal slaughterer roles paid below the median wage;

- 62.3 aged care sector, enabling access to migrants for vital roles paid below the median wage – unless the green list suffices; and
- 62.4 seafood sector, to provide greater certainty about access to crew for deep-sea fishing roles, and to take account of the findings of the Ministerial Inquiry on the Seafood Sector.
- 63 Work on the potential sectors to receive a sector agreement continues, and I will seek agreement to final list of candidates for sector agreements and more detail on the immigration mechanisms that may be employed in March 2022. This will be followed by work to prepare agreements for approval in June 2022. Work on ITPs may indicate where conditional migrant workforce access or benefits make a sector a good candidate for a sector agreement (or the green list).
- 64 The sector agreements concept was introduced as part of the temporary work visa reforms, and this proposal is a change in approach now that they will be developed in the context of the Rebalance. Previously the aim was to reduce numbers coming in over time by tightening rules and seeking a plan from the sector for managing with lower numbers over time. Now, the starting point is flipped. The new agreements will be more squarely focused on sectors making the case for certainty of access to additional migrants in the context of wider workforce improvements, rather than simply demonstrating a gap.
- 65 In light of this changed context, the sector agreements will be finalised after a short period of consultation with relevant sector organisations, outlining the intent of the agreement and allowing for feedback. This is a less consultative approach than previously planned. There could also be potential to agree additional flexibility for higher paid roles within sector agreements, where this would be valued by the sector.

Requiring partners of most temporary workers to qualify for work rights in their own right

- 66 To limit the pool of open work rights holders that employers can continue to access for lower-skilled roles, I propose requiring partners of temporary workers to qualify for work rights in their own right (i.e., removing open work rights for partners). This would be on the same basis as employer-assisted visa holders, except no minimum hours' requirement would be imposed in recognition of the lower welfare risks associated with secondary earners and the higher likely caregiving responsibilities.
- 67 Open work rights holders tend to work in lower-skilled, lower-paid jobs. Requiring partners to meet the same criteria as principal applicants to get work rights greatly reduces the pool of migrants that employers can access to fill lower-skilled, lower-paid roles. Employers will need to either attract New Zealanders to the role or remove the need for it through productivity enhancements.
- 68 There is a risk of deterring migrants for highly skilled and hard-to-fill roles from coming to New Zealand if partners work rights are reduced, as this is a less

generous approach than in comparator countries. Therefore, partners of green list migrants and migrants paid at 200 percent or more of the median wage would retain open work rights. Partners of New Zealanders would continue to retain open work rights recognising that they are likely on a pathway to residence. Work is underway to determine whether partners of students should be included in this group that retain open work rights.

Extending employer accreditation

- 69 I propose requiring all employers who hire migrants (including those who hire open work rights holders) to be accredited, building on the upcoming accreditation for employer assisted visas from July 2022. This will increase the obligations on employers if they want to hire any migrant, further mitigating against migrant exploitation and encouraging small-volume employers of migrants to make adjustments to attract and hire New Zealanders. This may be preferable to going through the accreditation process. This was always an option we intended to pursue at a later date when we created the new Accredited Employer system. I propose that this decision be signalled as part of the Rebalance but will not come into effect until mid-2023, after the rest of the package.

Considerations of an alternative package

- 70 I considered a less impactful 'fine tuning' alternative package that could drop the broad pay threshold and rely on a wider restriction list to limit the use of migrants in specific roles. However, I do not consider this would achieve our Rebalance goals without extensive restriction lists that would be administratively burdensome to maintain and hard to hold the line on. Keeping the green list and sector agreements limited is also critical if we are to have a significant impact on volume growth and composition, alongside changes to student visas and not expanding working holiday schemes.

Complementary changes are also being developed

Potential for bespoke Pacific programmes and access

- 71 The Rebalance provides an opportunity to support this Government's wider Pacific objectives, by creating mechanisms to enable or incentivise employers to preferentially hire migrants from the Pacific to work in New Zealand. I propose we include this in the development of sector agreements allowing particular skills that will complement Pacific development to be targeted, noting that there is also potential for broader application. Sectors that may be candidates for such arrangements include construction, seafood, and aged care.

- 72 Confidential advice to Government

Confidential advice to Government

Confidential advice to Government

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

- 73 I do not recommend providing a general exemption for Pacific workers to fill roles below the median wage or to introduce open work rights. While this would likely increase access to New Zealand employment and remittance support back to the Pacific, it would undercut the transformative goals of the Rebalance, and does not align with a skill development focus for circular labour mobility strategies.
- 74 The extent of this sort of programme and the roles migrants from the Pacific could fill will need to align to Pacific policy objectives and be agreed with Pacific nations. In particular, discussions about the priority Pacific nations place on access to remittances and personal capital, versus development of skills that return to the Pacific economy, and how these align with New Zealand's domestic labour market and economic goals. Further work be undertaken on this proposal and incorporated into final proposals for sector agreements in mid-2022.

Changes for international students

- 75 Proposals are also being developed to change entry and post-study settings for international students studying at sub-degree level to help achieve the Rebalance goals and support shifting the sector from volume to value, as set out in the International Education Strategy. I expect to reduce the number of lower skilled workers entering New Zealand as students, by offering post-study work rights only to those sub-degree students who complete programmes of study that are relevant to our labour market needs and limiting eligibility to come to New Zealand for other sub-degree study.
- 76 Together with the Minister of Education, I expect to report back to the Cabinet Economic Development Committee in March 2022, after consulting with the international education sector on the proposals and to align with the March report back on the Rebalance proposals in this paper..

Pathways to residence

- 77 A further stage of the Rebalance will consider the current Residence Programme thresholds and volumes, including a review of the skilled migrant category and consideration of a regularisation programme for unlawful migrants (agreed as part of the Dawn Raids Apology [CAB-21-MIN-0222.01

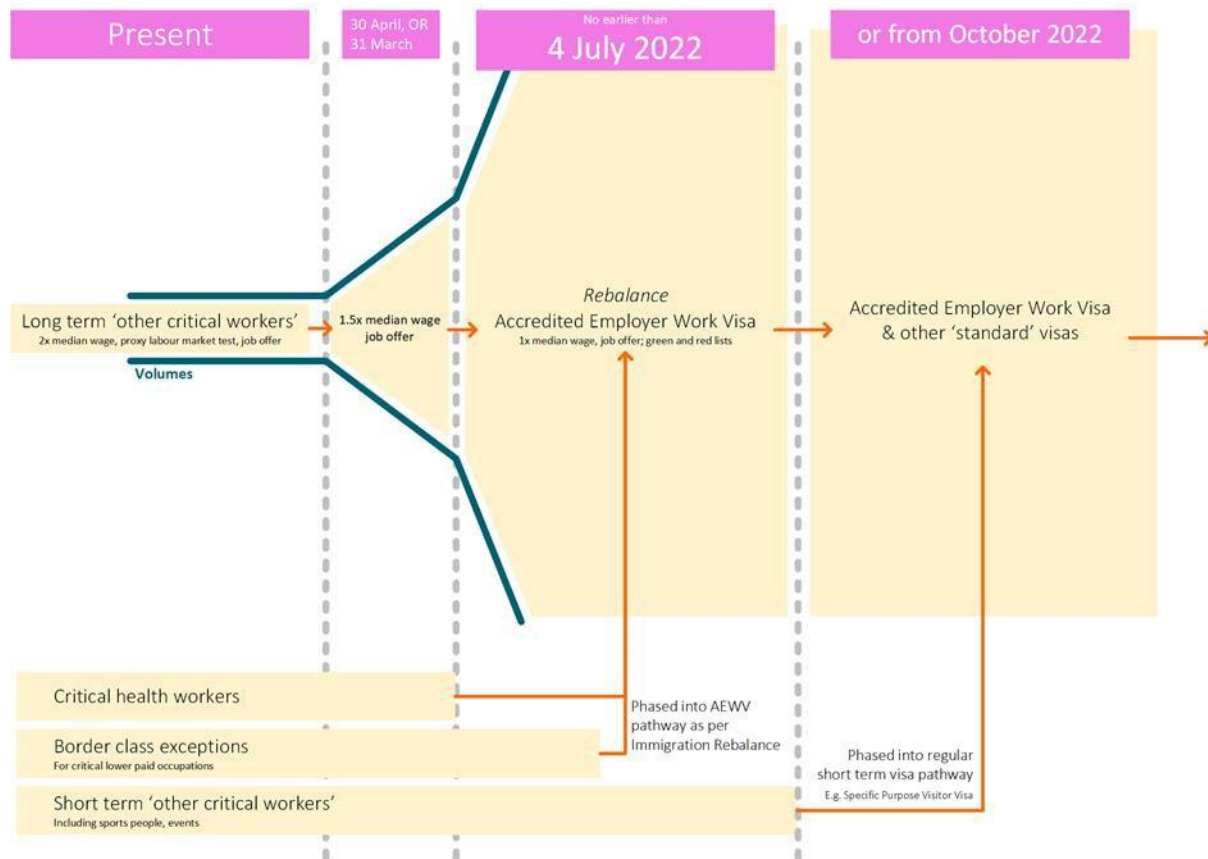
refers]). Proposed changes for skilled residence settings will be presented by mid-2022, with a regularisation report to follow in due course.

- 78 Migrants and employers want more certainty that skilled workers coming to New Zealand will be able to settle here longer-term. We can only take decisions on skilled residence that increase the proportion of workers able to stay if we are successful in lifting the overall skill level of temporary migrants (so we are locking in only skills the economy needs longer-term), and reducing the annual growth in numbers (to lessen the pressure on infrastructure).
- 79 If we don't achieve the shift, then we will need to take other action to increase certainty that migrants will need to leave (such as the standdown period which currently requires those paid below the median to leave after 3 years). This is to prevent families with no realistic prospect of residence from becoming well settled and subject to exploitation based on promises of residence or with limited access to longer-term social supports.

Transitioning to this Rebalance package while we are Reconnecting New Zealanders

- 80 The Immigration Rebalance will take time to develop and have systems in place. This will not be before July 2022, possibly after Step 3 of 'Reconnecting New Zealanders' plans. The Rebalance will be the fully reopen border setting for migrant workers and could be staged for later in 2022 if delaying a return to fully open borders for temporary work visa holders is necessary.
- 81 I propose that the Rebalance is in place from July 2022 (subject to reopening plans). This will complete the border reopening for migrant workers and be the enduring state for our new immigration settings to support our economy.
- 82 It is critical for the Rebalance opportunity that we do not return to the more open pre-COVID immigration settings that allowed large volumes of lower skilled workers to enter before the changes are in place. The way this could work with Reconnecting New Zealanders plans is shown in Figure 3.

Figure four: Migrant worker pathways for entry through Reconnecting New Zealanders



83 Separate decisions are being made on the timing of Reconnecting New Zealanders Step 3, which may be in place from 30 April. To ensure we prevent a return to looser immigration settings before the Rebalance, in this paper I am also seeking agreement that immigration settings for any plans to open borders more widely to workers ahead of July 2022 include:

- 83.1 restricting entry to temporary workers if they are taking up roles paid at 1.5 times the median wage (I propose that the highly skilled family reunification border exception criteria also match this);
- 83.2 extending existing class exceptions for seasonal and other critical roles below 1.5 the median wage; and
- 83.3 larger exceptions for international students at a capped volume and in line with student visa Rebalance decisions to be taken in March 2022.

84 I am also seeking agreement that these interim settings do not provide eligibility for the 2021 Resident Visa.

85 There will also be an omnibus of changes to border exceptions in early 2022 to adjust who can enter New Zealand under those settings – e.g., sports professionals, entertainment and event professionals, government programmes to the Antarctic, etc.

- 86 The core components of the Rebalance can be in place for July alongside the Accredited Employer Work Visa. I have provided more detail on how implementation timing will work later in this paper.

This package will bring New Zealand more in line with our comparator countries' limits on lower skilled roles

- 87 New Zealand's pre-COVID-19 settings were comparatively open, allowing freer access to migrants for lower-skilled roles. The Rebalance package, while stricter in some respects, is more in line with comparator country settings:
- 87.1 Employers must already meet wage thresholds in both Australia and the United Kingdom to employ a migrant on general temporary work visas, although these are set below the median wage in each country.
- 87.2 While Canada does not limit eligibility by pay, roles paid below the median wage are subject to labour market testing and the proportion of an employer's workforce that can be lower-wage visa holders is capped at 20 percent, and Confidential advice to Government
- 87.3 There is a wider use of occupation lists in the United Kingdom. Applicants must be filling a role on an occupation list to be eligible for a visa. Australia also has a skills shortage list which gives longer visa durations, which is less generous than the proposed green list.
- 87.4 Partners of temporary workers are already required to get a temporary work visa to gain work rights in Canada. In Australia and the United Kingdom partner visa holders have open work rights, although the United Kingdom does have a "minimum income requirement" for the couple to meet to be eligible for a partner visa (which increases with dependent children) – New Zealand also has a minimum income requirement to be able to sponsor a partner or dependent children.

Impacts of the package

Impact on employers and sectors

- 88 This package will not reduce a business' current workforce, but it will reduce access to lower skilled roles going forward, and incentivise employers to adapt, making their business more productive and/or attractive to the domestic labour market. In exchange, there will more attractive residence pathways for some key occupations.
- 89 The Ministry of Business, Innovation and Employment estimates that, compared to pre-pandemic levels, this package combined with the proposed reforms to student and post-study work visas will restrict future inflows by about a quarter. That is, for the additional 20,000 temporary migrants entering

New Zealand each year pre-pandemic, employers would only be able to access about 15,000 of them with these changes.²

- 90 The largest degree of adaptation will be needed in those sectors and regions with the greatest reliance on low-pay, low-skill migrant labour to meet their workforce needs. At a sector level, this is tourism, hospitality and retail, [REDACTED]
Confidential advice to Government
Additionally, tourism is in the (comparatively unique) position of re-growing to their pre-COVID baseline, given the impacts of the pandemic.
- 91 Sectors most likely to benefit through relevant occupations on the green list are potentially include health, construction and some primary industries roles (e.g. vets). More indicative sector-level detail is attached as **Appendix One**.
- 92 There are regional labour markets, and sectors in some rural or remote areas often claim there are no New Zealanders available to fill roles despite best efforts. I do not propose introducing further regional settings (no city areas will already be exempted from the labour market test for roles above the median) to keep the system simple. However, the primary location of most roles may be a consideration for additions of occupations to the green list or for sector agreements.
- 93 Government action can support businesses to adapt and improve access to skill pipelines, but we cannot be expected to solve the recruitment problems of some businesses. We expect sectors and businesses to take the lead in attracting and recruiting primarily from the onshore workforce or improving use of capital or changes to resource use and business activity where labour constraints cannot be solved.

Impact on migrant workers and potential migrants

- 94 For the migrants considering coming to New Zealand to work on an employer-assisted visa, they will be limited to jobs above the median wage or as allowed under the green list or a sector agreement. For those with partners, their decision may be affected by the shift in partner work rights, making New Zealand a less attractive destination. However, the 'green list' and high pay exceptions and offerings will offset this for the most important roles we want to attract.
- 95 Currently onshore migrant workers who do not become residents prior to implementation of the Rebalance would need to be eligible for a visa under these new conditions to be able to stay once their current visa expires. If they are not, they would have to leave New Zealand.

² This assumes the economy will resume the level of demand for migrant worker growth and ignores any effects of reduced flows due to the gradual reopening of the borders, pent up demand employers may have initially, and the one-off granting of residence through the 2021 Resident Visa. Deviations from these assumptions are likely, so actual migrant growth numbers will likely differ from these estimates.

Impact on the economy

- 96 The Rebalance package aims for longer-term productivity gains and resilience that will result from a higher-paid, higher-skilled migrant population. Reduced flows of migration (compared to before the pandemic) will also contribute to lessening pressure on housing and infrastructure. This will contribute to New Zealand's transition to a more productive and sustainable economy.
- 97 Migrant workers will be considerably more accessible in coming months, as we progress through Reconnecting New Zealand, and as the Rebalance is implemented, compared to the largely closed borders currently in play.
- 98 One perspective is that this package will mean that the labour market will be tighter once we reopen the borders compared to the pre-pandemic labour market. There will be theoretically greater competition for labour, resulting in higher wage costs and higher staff turnover as firms bid over the limited pool of workers, compared to pre-pandemic settings. This may result in some upward pressure on prices compared reopening under pre-pandemic settings. However, these impacts would likely to be more concentrated in certain sectors such as hospitality where previous settings have been too loose. However, the pay-off is a drive for productivity improvements, better quality jobs, and reduced infrastructure pressures.

Impacts on other government work programmes

- 99 The Rebalance proposals will see a shift in immigration settings that can deliver desirable outcomes for the wider employment, education and training system. However, optimally delivering on these possible outcomes will require cross-government action and coordination. This includes working with existing industry workforce and transition plans, such as the Tourism Industry Transformation Plan.
- 100 As we explore Industry Transformation Plans with various sectors, we can identify areas for a sector agreement or to add green list roles where relevant. This aligns with the analysis put forward in a recent paper by the Minister of Finance which noted that there is scope to better align and improve the coherence of policy levers across our industry strategy to drive further progress toward our goals of a high wage low emissions economy [CAB-21-MIN-0467 refers].
- 101 The changes are compatible with both the goals and the mechanisms of the incoming Accredited Employer Work Visa changes. However, the restriction on roles below the median wage will remove the need for a lot of labour market testing of a lot of individual employer job offers and this will need to be worked through during implementation, including with the Ministry of Social Development's work on labour market testing. . Jobs above the median in cities will still need to be clearly advertised to New Zealanders, and Immigration New Zealand will still check a migrant has the skills the employer required when granting all visas. Employer accreditation will still be required, and for more roles, increasing the number of employers who will need to be accredited.

- 102 Relevant agencies will be involved in developing proposals to inform the development of the green list and to establish sector agreements (and appropriate conditions).

International relations

[REDACTED]

Next steps and implementation

- 104 I propose that we conduct limited stakeholder consultation on the Rebalance package with selected peak bodies from January 2022. This will support finalising the design and detail of the Rebalance package before we progress to implement it. This decision will impact on implementation timelines.
- 105 Following agreement to the proposals in this paper, a range of report backs, and further work is required, including:
- 105.1 decisions on the design detail and occupations for the initial **green list**, **Confidential advice to [REDACTED]**, and the **potential arrangements for sector agreements**, will be sought in March;
 - 105.2 work on specific **sector agreements** will be led by MBIE working with relevant sector agencies by June 2022. I will also work with Employment, Education and Training Ministers and relevant portfolio Ministers to include further advice as part of or alongside the agreements on:
 - 105.2.1 whether any additional education, training or employment system supports, or programmes should be put in place on top of what the Government is already doing to support these sectors;
 - 105.2.2 progress on wider workforce planning and training, industry support measures, and Industry Transformation Plans in these sectors.
 - 105.3 options for international students – final decisions sought from Cabinet in quarter one 2022;
 - 105.4 determining the potential role that the proposed **Confidential advice to [REDACTED]** can play in the domestic education and training system and alongside other skill lists. I propose that the Ministry of Business, Innovation and Employment and the Ministry of Education review the

alignment between these systems, and report back to the Ministers of Immigration and Education before June 2022 on opportunities to strengthen the alignment. The Productivity Commission is also expected to provide further recommendations on the use, development and integration of skill lists in its final April 2022 report which can be considered in this work.

- 106 I am proposing that the Rebalance package is implemented in conjunction with the launch of the new Accredited Employer Work Visa, from July 2022 if public health conditions mean this can progress under reopening plans and following directly on from Reconnecting New Zealanders Step 3. There will be implementation details to work through to progress these workstreams in parallel.
- 107 I intend that implementation of the Rebalance package outlined in this paper occurs in three parts:
- 107.1 The median wage threshold, Confidential advice to [REDACTED] and the green list can be introduced at the same time as the launch of the new Accredited Employer Work Visa in July 2022.
- 107.2 Introduction of sector agreements, and new residence pathways for green listed applicants can commence from October 2022.
- 107.3 Extending the requirement to be accredited to all employers in 2023.
- 108 Work is underway to determine how the removal of the hourly requirement for partners will be implemented and the precise timing.

Financial Implications

- 109 The new settings proposed in this paper will be fully funded by visa application fees. There is likely to be some impact on the volume of applications and the amount of work involved in each step of this framework once changes are implemented. The fee setting process for the Accredited Employer framework has taken this into account as far as is possible, however there still considerable uncertainty about the degree of the impact.
- 110 Further work to explore the potential future impact on fees will continue and be further signalled in the March report. These are the fees that will apply when different elements of the scheme go live in May and July 2022, but these will need to be monitored and reviewed after implementation, given the uncertain impact of these proposals and the continuing impacts of COVID-19.

Legislative Implications

- 111 Subject to decisions taken, some proposals may require legislative change to implement (for example, the expanded accreditation and any changes to fees). These will be covered in more detail in the March 2022 report. The decisions sought in this paper have no direct legislative implications.

Impact Analysis

Regulatory Impact Statement

112 This paper does not require a Regulatory Impact Assessment as it has no direct legislative implications.

Climate Implications of Policy Assessment

113 This paper does not require a Climate Implications of Policy Assessment (CIPA) as there will not be any direct emissions impacts from these proposals and decreasing greenhouse gas emissions is not a key objective of this paper.

Population Implications

114 The intended positive impacts of these changes include better employment opportunities and conditions for groups that are over-represented in under- and unemployment statistics. For example, the Māori unemployment rate in the June 2021 quarter was 7.8 percent (above the national rate of 4.0 percent), a 1.2 percent increase on the year prior. Increased job opportunities should benefit Māori proportionally more than the wider population.

115 Women tend to be on partner visas more often than men, so will be more affected by the changes proposed to partner visa settings. We will need to work through implications for women, particularly in situations of financial dependence in the context of the changes and this will be considered as we work through detailed policy and implementation.

116 Pacific migrants have high representation in the temporary migrant workforce and are likely to be significantly impacted by these proposals. However, Pacific migrants will benefit from the proposal that aims to ensure employers meet minimum standards to mitigate exploitative behaviours. Potential Pacific access settings would benefit migrant workers from the Pacific and would reflect New Zealand's special relationship with the Pacific region.

117 Disabled people are more than twice as likely than non-disabled people to be unemployed. The June 2021 unemployment rate for disabled people aged 15–64 years was 9.6 percent, compared with 4.0 percent for non-disabled people of the same age group. Employment is a key outcome area for the New Zealand Disability Strategy (2016-2026), and New Zealand has obligations under the United Nations Convention on the rights of Persons with Disabilities to safeguard and promote disabled peoples' right to work.

Human Rights

118 This paper is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 119 The following agencies were consulted in the development of this Cabinet paper: the Department of the Prime Minister and Cabinet, the Ministry for Ethnic Communities, Ministry of Education, the Ministry of Foreign Affairs and Trade, the Ministry of Health, the Ministry of Housing and Urban Development, the Ministry of Transport, the Ministry for Pacific Peoples, the Ministry for Primary Industries, the Ministry of Social Development, the Office for Disability Issues, and the Treasury. Tourism Policy within the Ministry of Business, Innovation, Employment has also been consulted.

Communications

- 120 The Ministry of Business, Innovation and Employment will develop a detailed communications and engagement plan and related collateral material to support the Rebalance package, in consultation with relevant agencies. I expect to announce changes after decisions are taken in March 2022.

Proactive Release

- 121 I intend to delay the proactive release of this Cabinet paper until final decisions have been taken in March 2022, after which time it shall be proactively released subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Immigration recommends that the Committee:

- 1 **note** that on 12 July 2021, Cabinet:
 - 1.1 agreed to a rebalance of immigration settings by pursuing a lower overall volume of migrants and improved composition of temporary and skilled migrants, compared to the pre-COVID-19 trajectory;
 - 1.2 invited the Minister of Immigration to report to the Cabinet Economic Development Committee (DEV) on settings for lower-skilled migrant workers, partners and currently onshore migrants, and on skilled residence pathways in November [CAB-21-MIN-0279 refers];
- 2 **note** that on 6 September 2021 Cabinet agreed to implement the 2021 Resident Visa, addressing issues relating to onshore migrants [CAB-21-MIN-0359];
- 3 **note** that the Rebalance proposals will give effect to six significant principles, which are that:
 - 3.1 employers wishing to employ migrants at lower pay and lower skill levels, should recruit from amongst the temporary migrant workforce available onshore with open work rights;

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- 3.2 offshore recruitment should be primarily limited to higher skilled and higher paid roles where the migrant intends to make a life in New Zealand;
 - 3.3 Confidential advice to Government
 - 3.4 the onus of proof and assessment of need shifts from job-by-job assessments to sector workforce needs as a whole, and the actions of industries in meeting this need where sector coordination is feasible
 - 3.5 employing any migrants is a privilege that can be lost if minimum standards are not met;
 - 3.6 any changes to immigration settings should fit with the Accredited Employer Work Visa framework which puts New Zealander first for jobs (employer gate, job gate, migrant gate), and seek to simplify visa settings wherever possible for both ease of understanding and faster decision-making;
- 4 **agree** to an Immigration Rebalance package, including six key policy changes:
- 4.1 a new pay threshold set at the median wage for employer-assisted visas (unless an occupation is exempted);
 - 4.2 a green list which will facilitate easier entry for specified high skilled or hard to fill and high national importance roles;
 - 4.3 Confidential advice to Government
 - 4.4 a new framework for sector agreements in a small number of sectors where there is a short-term or ongoing need for capped access to lower skilled migrants;
 - 4.5 restricting work rights of most partners of migrant workers to roles they qualify for in their own right, but allowing them to work less than 30 hours a week;
 - 4.6 requiring all employers to be accredited to employ any migrant workers including open work rights visa holders;
- 5 **agree** that Industry Transformation Plans will inform future iterations of the green list and sector agreements where there are relevant immigration levers;
- 6 **note** that in order to achieve the Rebalance goals, work is also progressing on:
- 6.1 creating bespoke Pacific programmes and access;

I N C O N F I D E N C E

- 6.2 changing international student visa settings (for joint report-back with the Minister for Education in March 2022); and
- 6.3 improving and aligning skilled residence pathways;
- 7 **note** that decisions about Step 3 of the Reconnecting New Zealanders plans will determine timing of the Rebalance;
- 8 **agree** that the Rebalance package is in place no earlier than July 2022, and subject to Reconnecting New Zealanders plans;
- 9 **agree** that if decisions are taken to open borders to an increased number of workers and students ahead of July 2022, that immigration settings before July will include:
- 9.1 expanding entry to temporary workers if they are taking up roles paid at 1.5 times the median wage;
- 9.2 extending class exceptions for seasonal and other critical roles below 1.5 the median wage; and
- 9.3 larger exceptions for international students at a capped volume, and in line with decisions about student visas to be taken as part of the Rebalance in March 2022;
- 10 **agree** that when we expand the border exception criteria for critical workers to 1.5 times the median wage, this will also become the threshold for family reunification exceptions;
- 11 **agree** that workers entering under these settings are not considered to be critical workers eligible for the 2021 Resident Visa;
- 12 **note** that there are a number of implementation details to work through to introduce the Rebalance and the parallel temporary work visa changes from July, including introduction of the Accredited Employer Work Visa;
- 13 **note** that some of the previously agreed elements of the Accredited Employer Work Visa will no longer be required, such as the strengthened Labour Market Test to be implemented by MSD [DEV-19-MIN-0229 and CAB-19-MIN-0439 refer];
- 14 **agree** that limited stakeholder consultation will be conducted with selected peak bodies to support further development of this package from January 2022;
- 15 **invite** the Minister of Immigration to report back to DEV:
- 15.1 in March 2022 with detailed proposals and named occupations for the green **Confidential advice to Government**, proposed industries to pursue sector agreements for, and updated implementation plans for the Rebalance settings;

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- 15.2 in June 2022 with specific sector agreement proposals, and recommendations on skilled residence pathways;
- 16 **note** that the Ministry of Business, Innovation and Employment will need to work with relevant portfolio agencies to prepare detailed proposals and progress sector agreements;
- 17 **direct** the Ministry of Business, Innovation and Employment and Ministry of Education to report the Ministers of Immigration and Education on the role of skill shortage lists in domestic skills development and training by 30 June 2022.

Authorised for lodgement

Hon Kris Faafoi

Minister of Immigration

Appendix One: Indicative summary of impacts on sectors with heavy reliance on migrant workers, particularly in low-paid, low-skilled roles

Sector	Impact of median wage threshold on Essential Skills migrants	Potential for ^{Confidential advice to Government} green list or sector agreements	Potential impact of changes to partner work rights and reforms to international student sector	Key concerns raised in agency consultation
Health and aged care <ul style="list-style-type: none"> Some green list roles for high-skilled occupations (e.g., doctors and nurses) Sector agreement or green list for aged care 	Minimal impact – About 90 percent of Essential Skills migrants in this sector are already paid above the median wage, including 90 percent of personal care assistants. However only 70% of aged or disabled carers are paid above median. ^{Confidential advice to Government}	Likely to include a number of scarce registered healthcare roles in the green list (eg doctors and nurses). Given the importance and growing need to attract aged carers either green list or sector agreement (if conditions on local and Pacific workforce attraction).	The sector has heavy use of post-study work and partner visa holders. ^{Confidential advice to Government}	^{Confidential advice to Government}
Construction <ul style="list-style-type: none"> Some green list roles for high-skilled occupations (e.g., engineers) Potential sector agreement 	Some impact on ability to grow – about a quarter of Essential Skills construction roles pay below the median wage. This restriction will mean that the sector will have to look elsewhere to recruit more labourers and lower-paid trades.	Some highly-skilled roles and potentially skilled trades likely to be included in the green list (as per the Long Term Skill Shortage List). There may be a case for a sector agreement, and potential Pacific preference options for lower skilled or training roles.	Reasonably low reliance on these visa types.	^{Confidential advice to Government}
Primary sectors (dairy, meat, seafood, horticulture, and forestry) <ul style="list-style-type: none"> Some green list roles for high-skilled occupations (e.g., veterinarians who may be hard to attract and are vital in multiple sectors). Potential sector agreement for meat sector, and seafood sector but further work to be done. 	Dairy is by far the largest user of Essential Skills (about 3,500 of the 5,500 on this visa) and 84 percent of dairy cattle farmers and farm workers on this visa are paid above the median wage – this means that it is likely that the sector will be able to continue recruiting for these roles. Other primary sectors employ Essential Skills migrants in much smaller numbers, and at pay rates both above and below the median wage. The median wage threshold would mean that businesses would have to recruit from other sources for these roles if they are unable to pay at or above the median wage. Seafood process workers appear to be paid particularly poorly, with 75 percent paid below the median wage. Meat workers tend to be paid reasonably poorly, with 45 percent paid below median wage.	Meat workers might be included in sector agreements – further work to be done to understand the needs of this sector. Seafood may be a good candidate for Pacific preference work and there is potential for a sector agreement for deep sea fishing crew. Some green list roles for high-skilled occupations (e.g., veterinarians who may be hard to attract and are vital in multiple sectors).	Likely to be some impact given the location of partners working outside the main metropolitan areas.	^{Confidential advice to Government}
Road Freight / Transport	Truck drivers (the largest occupation in this sector) are not a concern, with over 80 percent being paid above the median wage. Bus drivers (approximately 50) are paid below the median wage.	No sector agreement or green list placement.	A large proportion of the migrants working in this sector are partner and post-study work visa holders.	^{Confidential advice to Government}
ICT	Some Essential Skills workers are in very well paid occupations (developer programmer and software engineer) but also some high volume occupations do not pay so well: telecoms technicians (39 percent below median wage), ICT customer support officers (28 percent below median), ICT support technicians (37 percent below median), Hardware technician (46 percent paid below median).	No sector agreement or green list placement.	A large number of migrant workers in this sector are on post-study work visas.	
Tourism and Hospitality <ul style="list-style-type: none"> ^{Confidential advice to Government} 	One of the lowest paying sectors, with 40 percent of Essential Skills workers paid below the median wage. This will mean that this sector will need to find new ways to recruit labour as demand for its services grows again in coming years. The following roles all pay predominantly below the median wage: cook, commercial housekeeper, kitchen hand, bar attendant, fast food cook, outdoor adventure guides and hospitality workers.	^{Confidential advice to Government}	Migrants on student, PSW and partner visas made up over half of this sectors migrant workforce of 39,000 in July 2019. This means that this sector will have to look primarily domestically for labour or change its business models as demand for its services grows again in coming years.	^{Confidential advice to Government}
Retail <ul style="list-style-type: none"> ^{Confidential advice to Government} 	Retail jobs feature heavily amongst Essential Skills visa, although the majority of retail managers and retail supervisors appear to be well-paid. However, the sector would have to increase wages or look elsewhere for roles in these occupations that pay below median wage. Sales assistants tend to be paid below the median wage.	^{Confidential advice to Government}	Retail leans heavily on student, PSW and partner visas, forming over two thirds of the migrant workforce of 20,000 in 2019 (vs. 25 percent on Essential Skills visas). This means that this sector will have to increasingly look domestically for labour or change its business models as retail seeks to expand.	^{Confidential advice to Government}

Appendix Two: Summary of Rebalance mechanisms based on preliminary analysis

This table summarises material from across the Cabinet paper.

Further detailed analysis is required to determine the list and consult with other government agencies.

A final list (and supporting analysis) will be provided for Cabinet confirmation in March 2022.

Rebalance mechanism focusing on specific occupations	Features	Example list of jobs based on preliminary analysis
<p>Green list</p> <ul style="list-style-type: none"> To provide easier access for migrants taking up specified roles and giving access to streamlined or fast-track paths to residence respectively In some cases allow access to migrants for roles paid below the median wage 	<ul style="list-style-type: none"> hard-to-fill nationally or highly skilled take into account existing Long-Term Skills Shortage List take into account attraction needs including the volume of migrants previously recruited through employer-assisted visas 	<ul style="list-style-type: none"> highly skilled roles paid above the median wage, like doctors, highly skilled construction roles (e.g., engineers), IT roles highly skilled and nationally important roles paid below the median wage at entry level, for example where the employee is a recent graduate like nurses, teachers hard-to-fill roles that are paid below and above the median wage depending on a range of factors, such as personal care assistants, auto trades (like heavy diesel mechanics and auto-electricians), and construction trades (like electricians and plumbers) <p><i>Note: Some of these may end up in sector agreements, depending on the level of risk around placing them on the green list</i></p>
<p>Sector agreement</p> <ul style="list-style-type: none"> To allow certainty of some additional access to migrants below the median wage in exchange for workforce improvements and other conditions Can include capped access to migrants 	<p><i>Similar to green list features but there are some mitigations are required to ensure that sector-level action is taken to improve conditions, training pipelines, etc</i></p>	<ul style="list-style-type: none"> construction sector, enabling access to migrants for key trades roles paid below the median wage (like electricians, carpenters, plumbers, scaffolders) meat processing sector, enabling access to migrants to fill halal slaughterer roles paid below the median wage aged care sector, enabling access to migrants for vital roles paid below the median wage – unless the green list suffices seafood sector, to provide greater certainty about access to crew for deep-sea fishing roles, and to take account of the findings of the Ministerial Inquiry on the Seafood Sector
<p>Confidential advice to Government</p> <p>[Redacted]</p>	<p>Confidential advice to Government</p> <p>[Redacted]</p>	<p>Confidential advice to Government</p> <p>[Redacted]</p>